

MINUTES AND PROCEEDINGS OF A REGULAR MEETING OF THE BUTLER COUNTY BOARD OF SUPERVISORS HELD ON OCTOBER 27, 2015.

Meeting called to order at 9:00 a.m. by Chairman Tom Heidenwirth with members Rex Ackerman and Rusty Eddy present. Also present was Fern Myers, Allison, Iowa.

Minutes of the previous meeting were read and approved as read.

Board approved claims as submitted.

Board acknowledged receipt of Manure Management Plan Annual Updates for DC Farms and David Brinkman.

Board held Public Hearing on Ordinance No. Title VI, No. 13 Providing for the Division of Taxes Levied on Taxable Property in the Logistics Park Urban Renewal Area. Present were Engineer John Riherd and Fern Myers, Allison, Iowa. Auditor reported no written or oral comments received. At the close of the Public Hearing, it was moved by Heidenwirth, second by Eddy to adopt said Ordinance as follows:

ORDINANCE NO. Title VI, No. 13

AN ORDINANCE AMENDING ORDINANCE TITLE VI, NO. 9, AND ORDINANCE NO. VI, NO. 10-B PROVIDING THAT GENERAL PROPERTY TAXES LEVIED AND COLLECTED EACH YEAR ON PROPERTY LOCATED WITHIN THE AMENDED BUTLER COUNTY LOGISTICS PARK URBAN RENEWAL AREA, IN BUTLER COUNTY, STATE OF IOWA, BY AND FOR THE BENEFIT OF THE STATE OF IOWA, BUTLER COUNTY, WAVERLY-SHELL ROCK COMMUNITY SCHOOL DISTRICT, AND OTHER TAXING DISTRICTS, BE PAID TO A SPECIAL FUND FOR PAYMENT OF PRINCIPAL AND INTEREST ON LOANS, MONIES ADVANCED TO AND INDEBTEDNESS, INCLUDING BONDS ISSUED OR TO BE ISSUED, INCURRED BY THE COUNTY IN CONNECTION WITH THE AMENDED BUTLER COUNTY LOGISTICS PARK URBAN RENEWAL AREA (MENARDS AND PART OF SINCLAIR PROPERTY)

WHEREAS, the Board of Supervisors of Butler County, State of Iowa, has heretofore, in Ordinance Title VI, No. 9, adopted May 18, 2010, provided for the division of taxes within the Butler County Logistics Park Urban Renewal Area, pursuant to Section 403.19 of the Code of Iowa (Original Area) ; and

WHEREAS, the Board of Supervisors of Butler County, State of Iowa, has heretofore, in Ordinance Title VI, No. 10-B, adopted July 31, 2012, provided for the division of taxes within the Butler County Logistics Park Urban Renewal Area, pursuant to Section 403.19 of the Code of Iowa (Amendment No. 1 Area); and

WHEREAS, additional territory now has been added to the Butler County Logistics Park Urban Renewal Area by the adoption of Amendment No. 3 to the Butler County Logistics Park Urban Renewal Plan; and

WHEREAS, indebtedness has been incurred by the County, and additional indebtedness is anticipated to be incurred in the future, to finance urban renewal project activities within the amended Butler County Logistics Park Urban Renewal Area, and the continuing needs of redevelopment within the amended Butler County Logistics Park Urban Renewal Area are such as to require the continued application of the incremental tax resources of the amended Butler County Logistics Park Urban Renewal Area; and

WHEREAS, this TIF Ordinance covers/includes only the Menard's property and part of the Sinclair property; the County anticipates that as other parcels in the Amendment No. 3 Area develop (increase in value) in the future, the County will adopt separate TIF ordinance(s) on other parcels/areas within the Urban Renewal Area; therefore, it is likely that the various TIF ordinances in the Amendment No. 3 Area will have different frozen bases and different expiration dates.

WHEREAS, the following enactment is necessary to accomplish the objectives described in the premises.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF BUTLER COUNTY, STATE OF IOWA, THAT:

Ordinance Title VI, No. 9 and Ordinance Title VI, No. 10-B is hereby amended to read as follows:

Section 1: For purposes of this Ordinance, the following terms shall have the following meanings:

(a) Original Area shall mean that portion of Butler County, State of Iowa, described in the Urban Renewal Plan for the Butler County Logistics Park Urban Renewal Area approved by Resolution No. 692 on the 27th day of April, 2010, which Original Area includes the lots and parcels located within the area legally described as follows:

1. The entire existing county road right-of-way of Butler County Road 220th Street (old Highway #3) lying between Butler County Road T55 (Terrace Avenue) on the West and Iowa Highway #3 on the East.
2. The entire existing county road right-of-way of Butler County Road Willow Avenue lying between 220th Street on the North and the North city limits of the City of Shell Rock, Iowa on the South.

3. The entire existing county road right-of-way of Butler County Road T55 (Terrace Avenue) lying between Iowa Highway #3 on the North and Butler County Road C45 (Butler Center Road) on the South.
4. The entire existing county road right-of-way of Butler County Road Union Avenue lying between Iowa Highway #3 on the North and 220th Street (old Highway #3) on the South.
5. The entire existing county road right-of-way of Butler County Road 212th Street lying between Union Avenue on the West and Vail Avenue on the East, except that portion vacated and described in document recorded as Instrument #2007-2171 with the Butler County Recorder.
6. The entire existing county road right-of-way of Butler County Road Vail Avenue lying between 220th Street on the South and 212th Street on the North.
7. The entire existing county road right-of-way of Butler County Road Utica Avenue lying between Iowa Highway #3 on the North and 212th Street on the South.
8. The entire Section 33, Township 92 North, Range 15 West of the 5th P.M. Butler County, Iowa and all existing county road right-of-way lying inside and adjacent to said Section 33.

(b) Amendment No. 1 Area shall mean that portion of Butler County, State of Iowa, described in Amendment No. 1 to the Urban Renewal Plan for the Butler County Logistics Park Urban Renewal Area approved by Resolution No. 759 on the 31st day of July, 2012, which Amendment No. 1 Area includes the lots and parcels located within the area legally described as follows:

1. The entire existing road right-of-way of Butler County Road C45/T55 (Butler Center Road) between Butler County Road T55 (Terrace Ave) on the West and Butler County Road T55 (Temple Ave) on the East.
2. The entire existing road right-of-way of Butler County Road T55 (Temple Ave) lying between Butler County Road C45 (Butler Center Road) on the North and Butler County Road C55 (290th Street) on the South.
3. The entire existing road right-of-way of Butler County Road C55 (280th Street) lying between Butler County Road T55 (Temple Ave) on the West and Butler County Road T63 (Willow Ave) on the East.
4. The entire Section 32, Township 91 North, Range 15 West of the 5th P.M. Butler County, Iowa and all existing county road right-of-way lying inside and adjacent to said Section 32.

(c) Amendment No.2 added only right of way so no TIF Ordinance was adopted on the Amendment No. 2 Area.

(d) Amendment No. 3 Area (Menards and part of Sinclair) shall mean that portion of Butler County, State of Iowa, described (in part) in Amendment No. 3 to the Urban Renewal Plan for the Butler County Logistics Park Urban Renewal Area approved by Resolution No. 843 on the 6th day of October, 2015, which Amendment No. 3 Area (Menards and part of Sinclair) includes the lots and parcels located within the area legally described as follows:

Sinclair Legal (Partial)

County Auditor's Parcel Letter 'F' located in Lot Seventeen (17) of the Subdivision of the Southwest Quarter (SW¹/₄) of Section Twenty-seven (27), Township Ninety (90) North, Range Sixteen (16) West of the 5th P.M., Butler County, Iowa, more particularly described as follows: Commencing at the Southwest Corner of said Section 27; thence North 00'07'36" East, 1231.50 feet along the west line of said Southwest Quarter; thence South 89'32'50" East, 539.00 feet to the point of beginning; thence continuing South 89'32'50" East, 210.00 feet; thence South 00'27'10" West, 210.00 feet; thence North 89'32'50" West, 210.00 feet; thence North 00'27'10" East, 210.00 feet to the point of beginning, containing 1.01 acres total. Subject to easements.

Menard Legal

A tract of land lying in both the NE ¹/₄ of Section 2, Township 91 North, Range 15 West of the 5th P.M. & the SE ¹/₄ of Section 35, Township 92 North, Range 15 West of the 5th P.M.; more particularly described in Exhibit "A" of Instrument No. 2008-0078 as recorded in the office of the Butler County, Iowa Recorder.

(e) Amended Area shall mean that portion of Butler County, State of Iowa, included within the Original Area, the Amendment No. 1 Area and the Amendment No. 3 Area (Menards and part of Sinclair), which Amended Area includes the lots and parcels located within the area legally described as follows:

Original Area

1. The entire existing county road right-of-way of Butler County Road 220th Street (old Highway #3) lying between Butler County Road T55 (Terrace Avenue) on the West and Iowa Highway #3 on the East.

2. The entire existing county road right-of-way of Butler County Road Willow Avenue lying between 220th Street on the North and the North city limits of the City of Shell Rock, Iowa on the South.
 3. The entire existing county road right-of-way of Butler County Road T55 (Terrace Avenue) lying between Iowa Highway #3 on the North and Butler County Road C45 (Butler Center Road) on the South.
 4. The entire existing county road right-of-way of Butler County Road Union Avenue lying between Iowa Highway #3 on the North and 220th Street (old Highway #3) on the South.
 5. The entire existing county road right-of-way of Butler County Road 212th Street lying between Union Avenue on the West and Vail Avenue on the East, except that portion vacated and described in document recorded as Instrument #2007-2171 with the Butler County Recorder.
 6. The entire existing county road right-of-way of Butler County Road Vail Avenue lying between 220th Street on the South and 212th Street on the North.
 7. The entire existing county road right-of-way of Butler County Road Utica Avenue lying between Iowa Highway #3 on the North and 212th Street on the South.
 8. The entire Section 33, Township 92 North, Range 15 West of the 5th P.M. Butler County, Iowa and all existing county road right-of-way lying inside and adjacent to said Section 33.
- and

Amendment No. 1 Area

1. The entire existing road right-of-way of Butler County Road C45/T55 (Butler Center Road) between Butler County Road T55 (Terrace Ave) on the West and Butler County Road T55 (Temple Ave) on the East.
 2. The entire existing road right-of-way of Butler County Road T55 (Temple Ave) lying between Butler County Road C45 (Butler Center Road) on the North and Butler County Road C55 (290th Street) on the South.
 3. The entire existing road right-of-way of Butler County Road C55 (280th Street) lying between Butler County Road T55 (Temple Ave) on the West and Butler County Road T63 (Willow Ave) on the East.
 4. The entire Section 32, Township 91 North, Range 15 West of the 5th P.M. Butler County, Iowa and all existing county road right-of-way lying inside and adjacent to said Section 32.
- and

Amendment No. 3 Area (Menards and part of Sinclair)

Sinclair Legal (Partial)

County Auditor's Parcel Letter 'F' located in Lot Seventeen (17) of the Subdivision of the Southwest Quarter (SW¹/₄) of Section Twenty-seven (27), Township Ninety (90) North, Range Sixteen (16) West of the 5th P.M., Butler County, Iowa, more particularly described as follows:

Commencing at the Southwest Corner of said Section 27; thence North 00°07'36" East, 1231.50 feet along the west line of said Southwest Quarter; thence South 89°32'50" East, 539.00 feet to the point of beginning; thence continuing South 89°32'50" East, 210.00 feet; thence South 00°27'10" West, 210.00 feet; thence North 89°32'50" West, 210.00 feet; thence North 00°27'10" East, 210.00 feet to the point of beginning, containing 1.01 acres total. Subject to easements.

Menard Legal

A tract of land lying in both the NE ¹/₄ of Section 2, Township 91 North, Range 15 West of the 5th P.M. & the SE ¹/₄ of Section 35, Township 92 North, Range 15 West of the 5th P.M.; more particularly described in Exhibit "A" of Instrument No. 2008-0078 as recorded in the office of the Butler County, Iowa Recorder.

Section 2: The taxes levied on the taxable property in the Amended Area, legally described in Section 1 hereof, by and for the benefit of the State of Iowa, County of Butler, Iowa, Waverly-Shell Rock Community School District, and all other taxing districts from and after the effective date of this Ordinance shall be divided as hereinafter in this Ordinance provided.

Section 3: As to the Original Area, that portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts taxing property in the Original Area upon the total sum of the assessed value of the taxable property in the Original Area as shown on the assessment roll as of January 1, 2009, being the first day of the calendar year preceding the calendar year in which the County first certified to the Auditor an amount of loans, advances, indebtedness or bonds payable from the division of property tax revenue under Iowa Code Section 403.19. The taxes so determined shall be referred herein as the "base period taxes" for such Original Area.

As to Amendment No. 1 Area, base period taxes shall be computed using the total assessed value shown on the assessment roll as of January 1, 2011, being the assessment roll applicable to property in such area as of January 1 of the calendar year preceding the effective date of Ordinance VI. No. 10-B.

As to Amendment No. 3 Area (Menards and part of Sinclair), base period taxes shall be computed using the total assessed value shown on the assessment roll as of January 1, 2014, being the assessment roll applicable to property in such area as of January 1 of the calendar year preceding the effective date of this Ordinance.

Section 4: That portion of the taxes each year in excess of the base period taxes for the Amended Area, determined for each sub-area thereof as provided in Section 3 of this Ordinance, shall be allocated to and when collected be paid into the special tax increment fund previously established by Butler County, State of Iowa, to pay the principal of and interest on loans, monies advanced to, or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under authority of Section 403.9 or Section 403.12 of the Code of Iowa, incurred by Butler County, State of Iowa, to finance or refinance, in whole or in part, urban renewal projects undertaken within the Amended Area pursuant to the Urban Renewal Plan, as amended, except that (i) taxes for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to Iowa Code Section 298.2 and taxes for the instructional support program of a school district imposed pursuant to Iowa Code Section 257.19 (but in each case only to the extent required under Iowa Code Section 403.19(2)); (ii) taxes for the payment of bonds and interest of each taxing district; (iii) taxes imposed under Iowa Code Section 346.27(22) related to joint county-city buildings; and (iv) any other exceptions under Iowa Code Section 403.19 shall be collected against all taxable property within the Amended Area without any limitation as hereinabove provided.

Section 5: Unless or until the total assessed valuation of the taxable property in the areas of the Amended Area exceeds the total assessed value of the taxable property in the areas shown by the assessment rolls referred to in Section 3 of this Ordinance, all of the taxes levied and collected upon the taxable property in the Amended Area shall be paid into the funds for the respective taxing districts as taxes by or for the taxing districts in the same manner as all other property taxes.

Section 6: At such time as the loans, monies advanced, bonds and interest thereon and indebtedness of Butler County, State of Iowa, referred to in Section 4 hereof have been paid, all monies thereafter received from taxes upon the taxable property in the Amended Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

Section 7: All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed. The provisions of this Ordinance are intended and shall be construed so as to continue the division of taxes from property within the Original Area under the provisions of Section 403.19 of the Code of Iowa, as authorized in Ordinance Title VI, No. 9; to continue the division of taxes from the property in the Amendment No. 1 Area under the provisions of Section 403.19 of the Code of Iowa, as authorized in Ordinance Title VI, No. 10-B; and to provide for the division of taxes under Iowa Code Section 403.19 from property within the Amendment No. 3 Area (Menards and part of Sinclair) as authorized in this Ordinance. Notwithstanding any provisions in any prior Ordinances or other documents, the provisions of this Ordinance and all prior Ordinances relating to the Urban Renewal Area, as amended, shall be construed to continue the division of taxes from property within the Area to the maximum period of time allowed by Section 403.19 of the Code of Iowa. In the event that any provision of this Ordinance shall be determined to be contrary to law it shall not affect other provisions or application of this Ordinance which shall at all times be construed to fully invoke the provisions of Section 403.19 of the Code of Iowa with reference to the Amended Area and the territory contained therein.

Section 8: This Ordinance shall be in effect after its final passage, approval and publication as provided by law.

UPON Roll Call the vote thereon was as follows:

AYES: Tom Heidenwirth NAYS: None
Rusty Eddy
Rex Ackerman

Passed and Approved this 27th day of October, 2015.

ATTEST: *Lizbeth Williams*, County Auditor

It was further moved by Ackerman, second by Eddy to waive the 2nd and 3rd readings of said Ordinance. Motion carried.

Moved by Ackerman, second by Eddy to adjourn the meeting at 9:40 A.M. to Tuesday, November 3, 2015 at 9:00 A.M. Motion carried.

The above and foregoing is a true and correct copy of the minutes and proceedings of a regular adjourned meeting of the Board of Supervisors of Butler County, Iowa on October 27, 2015.