

MINUTES AND PROCEEDINGS OF A REGULAR MEETING OF THE BUTLER COUNTY BOARD OF SUPERVISORS HELD ON APRIL 30, 2013.

Meeting called to order at 9:00 a.m. by Chairman Mark V. Reiher with members Tom Heidenwirth and Rex Ackerman present. Also present were Engineer John Riherd, Zoning Administrator Mitch Nordmeyer and Fern Myers, Allison, Iowa.

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

Board heard presentation by Merlin Bartz.

Board met to discuss the Winkowitsch encroachment on Felmy & Smith Road Section 24-92-18. Also present were Brian Winkowitsch, Bristow, Iowa and Fred Meyne, Greene, Iowa. After discussion, the County and landowner agreed that Butler County will produce easement to accommodate the width of the road at the landowner's expense.

Board held Public Hearing on Controlled Open Burning Ordinance Title V No. 15. Present were Engineer John Riherd, Zoning Administrator Mitch Nordmeyer, Fred Meyne, Greene, Iowa, Merlin Bartz, Grafton, Iowa and Fern Myers, Allison, Iowa. No written or oral comments were received. At the close of the Public Hearing it was moved by Reiher, second by Heidenwirth to approve the following:

BUTLER COUNTY ORDINANCE TITLE V, NO. 15

AN ORDINANCE PROVIDING FOR THE SAFETY AND WELFARE OF RESIDENTS AND PROPERTY IN BUTLER COUNTY DURING CONTROLLED OPEN BURNING AND TO DEFINE THE PROVISIONS AND PROCEDURES FOR IMPLEMENTING PENALTIES FOR NON-COMPLIANCE

BE IT ENACTED by the Board of Supervisors of Butler County, Iowa:

Section 1. PURPOSE

The purpose of this ordinance is to provide for the safety and welfare of residents and property in Butler County during controlled open burning and to define the provisions and procedures for implementing penalties for non-compliance.

Section 2. DEFINITIONS

For use in this ordinance the following words or terms shall be interpreted or defined as follows:

1. Controlled open burning shall mean the intentional setting of a fire with supervision to dispose of property, or for the maintenance of brush, grass or farmlands, or for any other lawful purpose in Butler County, Iowa outside the corporate limits of cities within Butler County.
2. Person shall mean any individual.
3. Building shall mean any roofed and or walled structure built for temporary or permanent use.
4. Regulatory authority shall mean any Law Enforcement Officer of the Butler County Sheriff's Office, the Fire Chief of the fire district involved, or his designated representative.
5. Penalty shall mean the amount of fine, surcharge and other costs imposed upon any individual found in violation of this ordinance.
6. Recreational fire shall mean a fire no larger than 4 x 4 x 4 feet.
7. Fire suppression shall mean providing ample water supply to spray or dump water directly onto a fire for suppression and control, or having equipment available to impede the progress of a fire. Equipment may be farm machinery, farm implements, or other general equipment or implements capable of creating a firebreak to suppress or control a fire.

Section 3. REGULATORY AUTHORITY

The authorities responsible for implementation and enforcement of this ordinance shall be the Butler County Sheriff's Office, the Fire Chief of the individual fire district in which a fire is located within Butler County, or his designated representative, and these officers are hereby authorized to issue civil citations for the violation of this ordinance. The Butler County Sheriff's Office is designated to receive and disburse funds collected for violation of this ordinance.

Section 4. RESTRICTIONS ON CONTROLLED OPEN BURNING

Any person who intentionally ignites a fire shall provide fire suppression sufficient to control the fire from spreading out of control. The fire supervision and suppression method shall be in place prior to ignition of the fire. Other than the supervised use of outdoor fireplaces, barbecue grills, properly supervised landfills, or the burning of trash incinerators or trash burners made of metal, concrete, masonry, or heavy one inch wire mesh with no openings greater than one inch square, or according to other local ordinances, all persons engaging in open burning shall be required to give notification to the Butler County Sheriff's Office and the local fire department chief prior to the controlled open burn. Notification shall be given as to the name, address,

location and time when the controlled burn is to take place and the fire suppression methods utilized. Any person who fails to give proper notification to the proper authorities prior to the controlled open burn may be found in non-compliance with this ordinance.

Section 5. COMPLIANCE

In the event additional fire suppression is requested or required from the jurisdictional fire department to extinguish any fire that is out of control, the person responsible for the controlled open burn will be deemed to be in non-compliance with this ordinance.

Section 6. ENFORCEMENT

In the event additional help is requested or required from the jurisdictional fire department to extinguish a controlled fire, an officer of the Butler County Sheriff's Office, or the Fire Department Chief of the fire district or his designated representative, shall be dispatched to the scene of the fire to file a report of the incident. If after investigation and finding that fire suppression was not sufficiently provided for prior to the ignition of the fire, or the fire was out of control, or entered upon another persons property, the person responsible for the fire may be cited for non-compliance with this ordinance.

Section 7. PENALTY

Violations of this ordinance constitute County infractions pursuant to Section 331.307 of the Code of Iowa, and are punishable by civil penalty of not more than five hundred dollars for each violation or seven hundred fifty dollars for each repeat offense.

Penalties collected for non-compliance of this ordinance shall, to the extent provided by law, be payable to the Butler County Sheriff's Office for deposit into a fund for reimbursement to the individual fire departments for their response to the fire scene.

Any fire left unsupervised which causes a fire department to respond may be subject to an assessment/restitution by the responding fire department.

Section 8. REPEALER

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

Section 9. 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 10. WHEN EFFECTIVE

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

Upon Roll Call the vote thereon was as follows:

AYES: Mark V. Reiher	NAYS: None
Tom Heidenwirth	
Rex Ackerman	

Approved and adopted this 30th day of April, 2013.

ATTEST: Lizbeth Williams, County Auditor

It was further moved by Ackerman, second by Heidenwirth to waive the 2nd and 3rd readings of said Ordinance Title V, No. 15 and declare said Ordinance adopted. Motion carried.

Board considered Resolution authorizing the Chairman to sign and the Auditor to attest to an Upper Watershed 28E Agreement. Moved by Heidenwirth, second by Reiher to approve said Resolution as follows:

RESOLUTION #781

A RESOLUTION AUTHORIZING THE CHAIR OF THE BOARD OF SUPERVISORS TO SIGN AND THE AUDITOR TO ATTEST TO AN AGREEMENT BETWEEN ELIGIBLE CONTIES, CITIES, AND THE SOIL AND WATER CONSERVATION DISTRICTS OF THE UPPER CEDAR WATERSHED TO ESTABLISH A WATERSHED MANAGEMENT AUTHORITY WITHIN THE IOWA PORTION OF THE UPPER CEDAR WATERSHED

WHEREAS, two (2) or more political subdivisions, defined under Iowa Code Section 466B as including cities, counties and/or soil and water conservation districts, are enabled under Chapter 28E of the Code of Iowa to enter into agreement to cooperate for the mutual advantage of the government involved; and

WHEREAS, Butler County deems a Watershed Management Authority agreement to be of mutual interest to the County and other parties to this agreement.

NOW, THEREFORE BE IT RESOLVED, that the Butler County Board of Supervisors hereby authorizes the Chair to sign and the Auditor to attest to the 28E Agreement between the eligible counties, cities and the soil and water conservations districts of the Upper Cedar Watershed to establish a Watershed Management Authority within the Iowa portion of the Upper Cedar Watershed.

Upon Roll Call the vote thereon was as follows:

**AYES: Tom Heidenwirth
Rex Ackerman
Mark V. Reiher**

NAYS: None

Passed and approved on this 30th day of April, 2013.

ATTEST: Lizbeth Williams, County Auditor

Board met with Treasurer Vicki Schoneman to consider Resolution to abate taxes. Also present was Economic Development Director Jeff Kolb. After discussion it was moved by Heidenwirth, second by Ackerman to approve the following:

RESOLUTION #782

WHEREAS, the Butler County Treasurer has deemed 360 Networks (USA) Inc. utility property taxes uncollectible, and

WHEREAS, it is deemed that a tax sale or personal judgment is impractical, and

WHEREAS, said Utility line is identified in districts for the Assessed Years 2001, 2002, & 2003 as follows:

ALPA - \$10,312.00	NHNH - \$2,730.00
APPA - \$3,061.00	PBPA - \$2,196.00
BVNH - \$11,206.00	WTAG - \$4,661.00
MNPA - \$10,026.00	WTPA - \$8,738.00

BE IT RESOLVED that the Butler County Treasurer is hereby ordered to abate the total past due amounts and strike any amounts due from the county system as follows:

1. \$52,930.00 – Grand Total Property Taxes due for 360 Networks (USA) Inc.

Upon roll call the vote thereon was as follows

**AYES: Rex Ackerman
Tom Heidenwirth
Mark V. Reiher**

NAYS: None

WHEREUPON the Resolution was adopted on this 30th day of April, 2013

ATTEST: Lizbeth Williams, County Auditor

Board approved claims as submitted.

Board acknowledged receipt of Manure Management Plan Annual Updates for Eberline and Tom Wiarda #1.

Moved by Reiher, second by Heidenwirth to adjourn to Tuesday, May 7, 2013 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 April 30, 2013.