

MINUTES AND PROCEEDINGS OF A REGULAR MEETING OF THE BUTLER COUNTY BOARD OF SUPERVISORS HELD ON FEBRUARY 8, 2011.

Meeting called to order at 9:00 a.m. by Karl Nelson with members Ken Oldenburger and Tom Heidenwirth present.

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

Present were Nelson, Oldenburger & Heidenwirth. Also present were John Zimmerman, Recorder Janice Jacobs, and Butler County Economic Development Director Jeff Kolb.

Minutes of previous meetings read and approved.

Recorder Janice Jacobs gave the Board an update on the hiring process for a Clerk in her office.

Board reviewed a proposed Ordinance on Assessment of Wind Energy Conversion Property. Assessor Deb McWhirter and Economic Development Director Jeff Kolb were present and explained that the adoption of such an Ordinance would allow the County to assess values on wind energy conversion properties instead of the State of Iowa centrally assessing them. It would further adopt special valuations as established in Iowa Code Chapter 427B.26. Moved by Oldenburger, second by Heidenwirth to set a Public Hearing on said Ordinance for Tuesday, March 1, 2011 at 10:00 a.m. Motion carried.

Economic Development Director Jeff Kolb reported that Kim Dix, on behalf of the Kesley Businessmen, had inquired of the County Engineer whether Secondary Roads could facilitate the removal of the concrete slab and other rubble from the Kesley Cooperative Creamery demolition to use for bank stabilization. Kolb indicated the Kesley Businessman could reduce their Community Foundation Grant Application if the county agreed to assist as outlined. The Board agreed to allow the County Engineer to assist as he saw fit in the removal of any rubble that could be utilized by his department.

Approved claims as submitted.

Jim Norton, Clarksville, Iowa was present.

Board met with County Engineer John Riherd. Riherd stated that he would like to withdraw Item 1 – Resolution Quit Claiming County’s Interest in certain streets upon the recommendation of County Attorney Greg Lievens. He did update the Board on the Shell Rock bridge project, as well as a recent conversation with Bill Croell wherein he indicated his interest in the County vacating Newell Avenue near his business.

The Board held a Public Hearing on a number of road vacations. Present were County Engineer John Riherd, Zoning Administrator Steve Busse, Assistant County Attorney Martin Petersen and the following interested parties: Chris Staudt, Karla Peters, Nick Peters, Gordon Lewis, JoAnn Lewis, Andrew Marzen, Myrna Mobley, Attorney Joe Danielson, Doug Mulder, Carolyn Mulder, John Zimmerman and Jim Norton.

The first matter taken up was the proposed vacation of that part of 110th Street (originally established as Robinson Alteration) running between Section 6 and 7 in Township 93 North, Range 18 West of the 5th P.M. Fokkena reported no written comments were received. Riherd indicated that this portion of 110th Street is currently a gated Level C road. Chris Staudt indicated he was opposed to the vacation and that he used the road to access his property to remove crops and spread manure. Riherd stated he believed the “public” received no benefit from this roadway and reported that the adjoining landowners have actually been encroaching on the County’s roadway by actively farming parts of it. Marzen indicated he had no opinion on the proposed vacation, but did request that if the roadway was vacated that the culvert be removed and the property lines be clearly demarcated. The Board took no action on said request. Oldenburger inquired of Marzen and Staudt whether the ongoing disputes between them would cease if the road was not vacated and they both stopped farming the county roadway. No clear answer was received. Riherd reiterated his recommendation remained that the Board vacate the roadway. It was moved by Heidenwirth, second by Oldenburger to vacate said portion of 110th Street.

Upon roll call vote: Ayes: Heidenwirth Nays: Oldenburger
 Nelson

Said vacation is approved.

The second matter taken up was the proposed vacation of any and all remaining streets and alleys in the former Village of Eleanor, Section 15, Monroe Township. Fokkena reported receiving written correspondence from Attorney Joe Danielson on behalf of Doug Mulder. Said correspondence indicated Mr. Mulder will suffer damages should Front Street be vacated and he further made a claim for damages in the amount of \$616.49 for relocation of a fence. Riherd reported that these streets and certain discrepancies in property lines came to light during a recent installation of a new septic system. Busse described the need for the county to vacate any remaining streets in this area as they had not been used for years. He further reported the streets, if vacated, would be quit claimed in equal shares to the adjoining property owners and this may cause some issues to parties that have unknowingly been encroaching on county roadways. Riherd informed the parties involved that if all were in agreement, possibly the County could quit claim the properties in a way that more clearly reflected the present assumed ownership. Assistant County Attorney Martin Petersen reported he found no case law either supporting or forbidding such action. Nelson stated he would prefer the County follow the Code and if vacated, quit claim the roadways in equal shares to the adjoining landowner and the landowners could then quit claim to each other any property necessary to reflect the present assumed ownership. Moved by Oldenburger, second by Heidenwirth to vacate said roadways and deny any claim submitted for damages.

Upon roll call vote: Ayes: Oldenburger Nays: None
Heidenwirth
Nelson

Said vacation is approved.

The third matter taken up was the proposed vacation of certain streets and alleys located in the former Village of Butler Center, Section 18, Jefferson Township. Fokkena reported no written comments were received. No oral comments were received. Riherd and Busse recommended vacation of said roadways. Moved by Oldenburger, second by Heidenwirth to vacate said roadways.

Upon roll call vote: Ayes: Heidenwirth Nays: None
Oldenburger
Nelson

Said vacation is approved.

It was then moved by Heidenwirth and seconded by Oldenburger to approve the said Resolution as follows:

Resolution #726

WHEREAS, The Butler County Board of Supervisors, pursuant to Resolution #724, dated January 11, 2011, a hearing was held on February 8, 2011, at the Courthouse in Allison, Iowa to hear comments on the proposed vacation of the following described roads:

That part of 110th Street (originally established as Robinson Alteration) running between Section 6 and 7 in Township 93 North, Range 18 West of the 5th P.M.,

Main Street lying South of Block 2, Village of Eleanor, Section 15, Township 90 North, Range 17 West of the 5th P.M.,

The alley running thru Block 2, Village of Eleanor, Section 15, Township 90 North, Range 17 West of the 5th P.M.,

Front Street lying West of a line running South from a point on the Southwesterly line of the old railroad right-of-way that is 466' Northwesterly, measured along said Southwesterly line, from the North extension of the line between lots 8 and 9 in Block 5, Village of Eleanor, Section 15, Township 90 North, Range 17 West of the 5th P.M.,

Jackson Street lying between Block 58 and 59 and between Blocks 50 and 51, Village of Butler Center, Section 18, Township 91 North, Range 16 West of the 5th P.M.,

The East ½ of Jackson Street lying on the West side of Block 40, Village of Butler Center, Section 18, Township 91 North, Range 16 West of the 5th P.M.,

The West ½ of Exchange Street from the South line of Block 51 North to the North line of Block 40, Village of Butler Center, Section 18, Township 91 North, Range 16 West of the 5th P.M.,

Main Street from the West line of Block 50 East to the East line of Block 51, Village of Butler Center, Section 18, Township 91 North, Range 16 West of the 5th P.M.,

Jones Street from the centerline of Jackson Street to the centerline of Exchange Street, Village of Butler Center, Section 18, Township 91 North, Range 16 West of the 5th P.M.,

The alleys running thru Blocks 40, 50, 51, 58 and 59, Village of Butler Center, Section 18, Township 91 North, Range 16 West of the 5th P.M., and

WHEREAS, The Butler County Board of Supervisors finds that proper notice of said hearing was published in a newspaper of general circulation in Butler County prior to said Hearing and that proof of publication is now on file in the office of the County Auditor, and

WHEREAS, The Butler County Board of Supervisors finds that proper notice was mailed by certified mail to the adjoining property owners, utility companies, Iowa Department of Transportation and any interested governmental Boards of Commissions, and

WHEREAS, The Butler County Board of Supervisors, has considered all objections offered at said Public Hearing.

NOW THEREFORE BE IT RESOLVED that all of the above described roads be vacated subject to prescriptive rights to utility companies and all other easements of record, and

BE IT FURTHER RESOLVED that the Butler County Board of Supervisors disallows any and all claims for damages, and

BE IT FURTHER RESOLVED that the Butler County Board of Supervisors does hereby Quit Claim Butler County's interest in said roads to the adjoining property owners as follows:

In the matter of the previously described portion of 110th Street (originally established as Robinson Alteration)

To: Andrew G. Marzen

The South 33.00 feet of the East 1/3 of the Southeast 1/4 of the Southwest 1/4 and the South 33.00 feet of the Southeast 1/4, except the East 50.00 feet thereof, in Section 6, Township 93 North, Range 18 West of the 5th P.M. Butler County, Iowa

To: Christopher J. and Shellie R. Staudt one-half interest; David R. and Colette J. Johnson one-fourth interest; Michael A. Netzel, Trustee of the Netzel Revocable Trust one-fourth interest to the following:

The North 33.00 feet of the Northwest 1/4 lying within the former railroad right-of-way; the North 33.00 feet of the East 1/2 of the Northwest 1/4; and the North 33.00 feet of the North 1/2 of the Northeast 1/4, except the East 50.00 feet thereof, all in Section 7, Township 93 North, Range 18 West of the 5th P.M. Butler County, Iowa

To: Donald F. Reser and Joan C. Reser

The South 33.00 feet of the West two-thirds of the East one-half of the Southwest 1/4; and the South 33.00 feet of the Southwest 1/4 lying within the former railroad right-of-way, all in Section 6, Township 93 North, Range 18 West of the 5th P.M. Butler County, Iowa

To: Thelma Riggins

The South 33.00 feet of that part of the West fractional one-half of the Southwest 1/4 lying west of the former railroad right-of-way, except the West 33.00 ft thereof, in Section 6, Township 93 North, Range 18 West of the 5th P.M., Butler County, Iowa

To: Christie Leighton, Mary Jean Scott, Hudson Leighton, and Arthur Leighton

The North 33.00 feet of that part of the West 1/2 of the Northwest 1/4 lying west of the former railroad right-of-way, except the West 33.00 ft thereof, in Section 7, Township 93 North, Range 18 West of the 5th P.M., Butler County, Iowa

In the matter of the previously described portion of the Village of Butler Center:

To: Roger Mobley

All of Main Street lying North of Block 50

The West 1/2 of Jackson Street from the North line of State Street north to the North line of Main Street

All the alleys within Block 50

All in the Village of Butler Center in Section 18, Township 91 North, Range 16 West of the 5th P.M., Butler County, Iowa

To: Carol J. Rewerts

The South 1/2 of Jones Street lying between the centerline of Jackson Street and the centerline of Exchange Street

The East 1/2 of Jackson Street from the South line of Block 51 north to the North line of Block 40

The West 1/2 of Exchange Street from the South line of Block 51 north to the North line of Block 40

Jackson Street lying between Blocks 58 and 59

Main Street lying between Block 51 and Block 40

All alleys within Blocks 40, 51, 58, and 59

All in the Village of Butler Center in Section 18, Township 91 North, Range 16 West of the 5th P.M., Butler County, Iowa

To: Robert H. and Jessie Wubbena

The North 1/2 of Jones Street lying between the centerline of Jackson Street and the centerline of Exchange Street in the Village of Butler Center in Section 18, Township 91 North, Range 16 West of the 5th P.M., Butler County, Iowa

In the matter of the previously described portion of the Village of Eleanor:

To: Myrna J. Mobley

Alley running thru Block 2

The South 1/2 of Front Street lying north of lots 1 thru 6 in Block 2 and lying west of the northerly extension of the east line of Block 2

The North 1/2 of Main Street south of Block 2

All in the Village of Eleanor in Section 15, Township 90 North, Range 17 West of the 5th P.M.,
Butler County, Iowa.

To: Douglas R. and Carolyn C. Mulder

The South ½ of Main Street lying between Blocks 2 and 3

The Southerly ½ of Front Street lying between the Northern extension of the East line of Block 2
and a line running south from a point on the southwesterly line of the old railroad right-of-way
that is 466 feet Northwesterly, measured along said Southwesterly line, from the North extension
of the line between lots 8 and 9 in Block 5

All in the Village of Eleanor in Section 15, Township 90 North, Range 17 West of the 5th P.M.,
Butler County, Iowa

To: Nick and Karla Peters

The Northerly ½ of Front Street lying west of a line running south from a point on the
Southwesterly line of the old railroad right-of-way that is 466 feet northwesterly, measured along
said Southwesterly line, from the Northerly extension of the line between lots 8 and 9 in Block 5
and also lying south of the south right-of-way line of 300th Street, all in the Village of Eleanor in
Section 15, Township 90 North, Range 17 West of the 5th P.M., Butler County, Iowa.

UPON Roll Call the vote thereon was as follows:

AYES:	Tom Heidenwirth	NAYS: None
	Karl Nelson	
	Ken Oldenburger	

WHEREUPON the Resolution was declared duly adopted this 8th day of February. 2011.

ATTEST: Holly A. Fokkena, County Auditor
Acknowledged receipt of Manure Management Plan Annual Update for Drier Site, N020 and N021.

During the final review of the proposed Fiscal Year 2012 Butler County Budget, Oldenburger stated that he was not in favor of the FY12 budget as proposed and would not be voting for approval at the upcoming Public Hearing. It was moved by Heidenwirth, second by Oldenburger to set said Public Hearing for Tuesday, March 8, 2011 at 10:00 a.m. Motion carried.

Oldenburger then requested Fokkena read a letter which had been submitted to her as the Butler County Auditor, as follows:

Butler County Auditor, Holly Fokkena
428 6th Street
Allison, IA 50602

February 8, 2011

Dear Friends:

I would like to take this opportunity to announce my intent to resign my position as Butler County Supervisor for District 3 effective June 30, 2011.

It has been an honor to serve the citizens of Butler County the past nine years. In that time, Butler County has weathered its share of storms and I appreciate being allowed to help rebuild what I hope is a better Butler County for the future.

I have worked hard to always place the long-term interests of the taxpayers of this great county first and foremost in all my decisions. However, it is now time for me to place the interests of my family first.

With Appreciation to all of My Supporters”

Signed Ken Oldenburger

Moved by Oldenburger, second by Heidenwirth to adjourn to Tuesday, February 15, 2011 at 8:30 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 February 8, 2011.