

REGULAR SESSION

November 5, 2012

The Union County Board of Supervisors met in regular session on Monday, November 5, 2012. The meeting was called to order at 9:00 AM with the following members present: Bob Jansen, Dennis Brown, Ron Riley, Lois Monday and Bob Brown.

AGENDA: Motion by Dennis Brown and seconded by Monday to approve the Agenda. All voting aye, motion carried.

MINUTES: Motion by Monday and seconded by Riley to approve the Minutes from October 29, 2012. All voting aye, motion carried.

OPEN FORUM: Bob Deranleau, Karon Finn and Kenny Abel expressed their concern on the DNR approval of the Matrix, and would like to see the Board appeal this decision to the EPC.

SOUTH WEST IOWA COALITION: Lynn Adams, Coordinator from the South West Iowa Coalition, was going to all 16 County's that she services in her region, thanking them for their support of the South West Iowa Coalition. Adams also explained the services that they provide for the 16 County's.

ENGINEER: Larry Latham, Assistant to the County Engineer, presented and discussed the weekly maintenance activity report. **Level B Clearing Agreement:** Motion by Riley and seconded by Monday to approve the Level B Clearing Agreement between Union County and Cody Shay which will cover dozing of the fence line with tree and brush removal in Section 26 of Douglas Township (Eagle Ave). All voting aye, motion carried. **Grading Agreement:** Motion by Riley and seconded by Monday to approve a grading agreement between Union County and J. L. Dillenburg for ditching, along with dozing the fence line with tree and brush removal in Section 10 of Platte Township (Eagle Ave). All voting aye, motion carried.

ATTORNEY: County Attorney, Tim Kenyon, discussed reviewing options that the Board of Supervisors could take after being notified from the DNR of their approval of the Master Matrix and building permit for Taylor Farms for two hog confinements in Highland and Grant Townships. Kenyon read the following statement: Union County has received notification from the Iowa Department of Natural Resources that the initial review of the applications submitted by Taylor Farms has been completed. As reported by area media, the Preliminary Determination was that the applications were approved. The Board of Supervisors, after independent evaluation and analysis by individual board members, after consultation with legal counsel, and after considerable discussion, has determined that the questions before the Board are: 1. What action is available? 2. What is the expected or anticipated result of the proposed action? The master matrix system has been adopted by the Iowa Legislature and is set out in Chapter 459 of the Code of Iowa. It establishes procedures which include *limited* participation by local county government. Union County has followed those procedures and has passed a Resolution recommending that the Applications be **DENIED**. Because the Board has complied with statutory procedures, the Board now has the option to *appeal* the preliminary decision to approve the applications. The available administrative proceedings are **VERY NARROW** in their scope. Within the realm of these DNR proceedings, an "appeal" is an allegation that the agency has not properly followed the objective/mechanical procedures established by the Iowa legislature. *It is not merely an expression of a contrary opinion.* The Board recognizes the limits of participation by a county in the Matrix procedure and that the decision to issue a permit lies completely within the authority of a state regulatory agency – the DNR. After careful and deliberate consideration of the factual and legal information provided to this Board, the Board has determined that Union County has no factual nor legal basis to pursue the very narrow/limited issues available for an appeal (whether the application meets the minimum requirements for the issuance of a permit). Although the Union County Board of Supervisors has previously expressed their position that the applications should be **DENIED**, and Union County has previously expressed a number of identified and articulated considerations (including valid citizen concerns and valid county financial concerns), we recognize that those *opinions* are neither relevant nor material to the narrow procedural processes involving objective, arithmetic calculations associated with the issuance of permits as determined by the DNR. Furthermore, the Board has noted that other counties have attempted to appeal the application process based upon the same or similar considerations. We have confirmed that their efforts have been wholly unsuccessful. **Accordingly, the consensus of the Union County Board of Supervisors is that it would not be appropriate to expend county resources to pursue an appeal**

which, in all likelihood, would not be successful. Regardless of the administrative decision by the DNR that the applications meet the minimum legal requirements to allow the issuance of a permit, *the position of Union County is that construction of the proposed facilities is not in the best interests of the citizens of Union County.*

HANDWRITTEN CLAIM: Motioned by Jansen and seconded by Monday to approve claim for postage in the amount of \$1500.00. All voting aye, motioned carried.

ABATEMENT OF TAXES: Motion by Monday and seconded by Dennis Brown to abate the property taxes from 2007 – 2013 on a mobile home owned by William Robert Atteberry totaling \$1070, and the property taxes from 1998 – 2000 on machinery and equipment owned by Don Barnes totaling \$759.00. All voting aye, motioned carried.

HR CONTRACT: Motion by Monday and seconded by Riley for the chair to sign the HR Contract with Paul Greufe of PJ Greufe & Associates. All voting aye, motion carried.

ADJOURNMENT: There being no further business, the meeting was adjourned at 11:57 AM

ATTEST: _____ BY: _____
SANDY HYSELL, AUDITOR ROBERT G BROWN, CHAIRMAN, BOARD OF SUPERVISORS