August 25, 2020

MET IN REGULAR SESSION

The Board of Supervisors met in regular session at 10:00 A.M. All members, except Schultz present. Chairman Pro-Tem Wichman presiding.

PLEDGE OF ALLEGIANCE

1. CONSENT AGENDA

After discussion was held by the Board, a Motion was made by Drake, second by Grobe, to approve

A. August 18, 2020, Minutes as read.

UNANIMOUS VOTE. Motion carried.

2. PUBLIC HEARINGS

Motion by Belt, second by Drake, to open public hearing to approve preliminary plat approval of Hadleigh Acres and **Planning and Zoning Resolution No. 2020-10**. Roll Call Vote: AYES: Drake, Belt, Wichman, Grobe. Motion carried.

Motion by Belt, second by Drake, to close public hearing. Roll Call Vote: AYES: Drake, Belt, Wichman, Grobe. Motion carried.

After discussion by Board motion by Drake, second by Belt, to approve preliminary plat approval of Hadleigh Acres and **Planning and Zoning Resolution No. 2020-10**. Said Resolution is set out as follows:

PLANNING AND ZONING RESOLUTION NO. 2020-10

WHEREAS, the proposed preliminary plat and supporting documents for **Hadleigh Acres**, a subdivision situated in **Garner Township**, has been filed with the Pottawattamie County Planning and Zoning Commission for its study and recommendation under **Case #SUB-2020-04**; and

WHEREAS, said Commission conducted a public hearing on **July 27**, **2020**, in accordance with Chapter 9.04 of the Pottawattamie County, Iowa, Code and Chapter 354, Code of Iowa, and has given all parties an opportunity to be heard; and

WHEREAS, after careful study and being thoroughly familiar with the involved real estate and the surrounding area, said Commission has submitted its written recommendation to this Board to approve the preliminary plat; and

WHEREAS, this Board conducted a public hearing on **August 25**, **2020** in accordance with the above-noted Ordinance and Statute, and has examined the proposed preliminary plat; and

WHEREAS, after careful study, and due consideration this Board has determined that the proposed preliminary plat conforms to the requirements of Chapter 9.01-9.30. Subdivision Ordinance of the Pottawattamie County, Iowa, Code; the Pottawattamie County, Iowa, Land Use Plan and Chapter 354, Code of Iowa, and has deemed it to be in the best interest of Pottawattamie County, Iowa, to concur with the County's Planning and Zoning Commission's recommendation:

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF POTTAWATTAMIE COUNTY, IOWA: That the proposed preliminary plat of **Hadleigh Acres**, be, and the same is hereby approved as the preliminary plat of said subdivision.

Provided however, that this Resolution shall not be construed as being a final acceptance or approval of said Plat with the meaning of Chapter 9.01-9.30, Subdivision Ordinance, of the Pottawattamie County, Iowa, Code and Chapter 354, Code of Iowa; that after completion of all improvements and satisfaction of all requirements for final plats required by the State and County Ordinances and this Resolution, the final plat shall be submitted to this Board for its consideration.

Dated this 25th day of August. ROLL CALL VOTE ABSTAIN ABSENT AYE NAY 0 0 0 0 Justin Schultz, Chairman 0 0 0 0 Tim Wichman 0 Ο 0 0 Scott Belt \bigcirc \circ \bigcirc \cap Marilyn Jo Drake 0 0 0 0 Lynn Grobe ATTEST: Melvyn Houser, County Auditor

Roll Call Vote: AYES: Drake, Belt, Wichman, Grobe. Motion carried.

Motion by Belt, second by Grobe, to open public hearing for first consideration of **Ordinance No.** 2020-03, an Ordinance to adopt Chapter 12, All-terrain and Off-road Vehicles, an ordinance to identify regulations regarding all-terrain vehicles and/or off-road utility vehicles operation on all approved county roads. Roll Call Vote: AYES: Drake, Belt, Wichman, Grobe. Motion carried.

Motion by Belt, second by Drake, to close public hearing. Roll Call Vote: AYES: Drake, Belt, Wichman, Grobe. Motion carried.

After discussion by Board motion by Belt, second by Drake, to approve first consideration of Ordinance No. 2020-03, an Ordinance to adopt Chapter 12, All-terrain and Off-road Vehicles, an ordinance to identify regulations regarding all-terrain vehicles and/or off-road utility vehicles operation on all approved county roads; and to set Second Consideration for September 1, 2020. Said Ordinance is set out as follows:

POTTAWATTAMIE COUNTY, IOWA ORDINANCE NO. 2020-03

AN ORDINANCE to adopt Chapter 12, All-terrain and Off-road Vehicles, an ordinance to identify regulations regarding all-terrain vehicles and/or off-road utility vehicles operation on all approved county roads.

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF POTTAWATTAMIE **COUNTY, IOWA**

SECTION 1 - AMENDMENTS: That the Pottawattamie County, Iowa, Code, be and the same is hereby amended by adding thereto the following new Chapter to be codified as Chapter 12, All-terrain and Off-road Vehicles to read as follows:

Chapter 12 All-terrain and Off-road Vehicles

Sections:	12.01	Purpose
	12.02	Definitions
	12.03	Operation on Roadways
	12.04	Minimum Equipment Standards for Operation
	12.05	Requirements of Operation
	12.06	Exempt Vehicles
	12.07	Penalties
	12.08	Fees
12.01		his ordinance shall identify regulations regarding all-terrain off-road utility vehicles operation on all approved county
12.02	DEFINITION	S: below definitions are compliant with 321I of the Iowa Code
12.02.01	<i>All-terrain Vehicle</i> – means a motorized vehicle with not less than three and not more than six non highway tires that is limited in engine displacement	

to less than one thousand cubic centimeters and in total dry weight to less than one thousand two hundred pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

12.02.02

Off-Road Vehicle - means a motorized vehicle with not less than four and not more than eight non highway tires or rubberized tracks that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control. "Off-road utility vehicle" includes the following vehicles:

- a. (1) "Off-road utility vehicle type 1" means an off-road utility vehicle with a total dry weight of one thousand two hundred pounds or less and a width of fifty inches or less.
- b. (2) "Off-road utility vehicle type 2" means an off-road utility vehicle, other than a type 1 off-road utility vehicle, with a total dry weight of two thousand pounds or less, and a width of sixty-five inches or less.
- c. (3) "Off-road utility vehicle type 3" means an off-road utility vehicle with a total dry weight of more than two thousand pounds or a width of more than sixty-five inches, or both.
- **Roadway** means that portion of a roadway improved, designed, or ordinarily used for vehicular travel.

12.03 <u>OPERATION ON ROADWAYS:</u>

- If an all-terrain vehicle or off-road vehicle is properly registered pursuant to Iowa Code section 321I.3 and is equipped with the minimum level of safety equipment as prescribed in Section 4 of this ordinance, the vehicle may be operated on any County public roadway within Pottawattamie County.
- The operation under this ordinance applies to those roadways lying outside the city limits of any incorporated city which does not have an ordinance or other regulation in effect allowing such operation. Operation shall be permitted on Farm to Market roadways through cities with a population of less than 2500 population whether an ordinance exists or not.
- 12.03.03 Individuals who operate an all-terrain or off-road vehicle must have a valid state driver's license, proof of liability insurance, and Iowa Department of Natural Resources registration or registration from the appropriate out of state authority on their persons while operating said vehicle.
- 12.03.04 Operation of all-terrain or off-road vehicles on County public roadways shall be conducted in accordance with all State of Iowa traffic laws and posted signage.

12.04 <u>MINIMUM EQUIPMENT STANDARDS FOR OPERATION:</u>

- Vehicles more than 40 inches wide shall be equipped with turn signal lamps and have a manually operated switched controlled by the driver.
- Vehicle shall be equipped with a properly operating speedometer and odometer calibrated in miles per hour and miles respectively and shall be fully illuminated when the headlamp(s) are activated.
- Vehicles shall be equipped with an electrically actuated horn, and emit a sound clearly audible from a distance of 200 feet. The horn shall be actuated with a switch easily accessible to the driver when operating the vehicle.
- Vehicles shall be equipped with a headlamp that shall be in a plane that is perpendicular to a vertical plane through the longitudinal centerline of the vehicle. The headlamps shall be mounted not less than 24 inches, nor more than 54 inches, above the road surface when measured to the headlamp center.
- Vehicles shall be equipped with tail lamp or lamps mounted on the rear of the vehicle, exhibiting a red light plainly visible from a distance of 500 feet to the rear. The tail lamps shall be mounted not less than 15 inches, nor more than 72 inches, above the roadway.
- **12.04.06** Vehicles shall be equipped with a stop lamp that is actuated by the brake switch to indicate braking of the vehicle.
- Vehicles shall be equipped with a DOT rated tire which shall display the proper markings on the sidewall of the tire.
- Vehicles shall be equipped with a rear facing mirror and shall provide the operator with a clear view of the rear.
- **REQUIREMENTS OF OPERATION:** Individuals who operate on roadways in Pottawattamie County must adhere to all applicable County Ordinances and provisions of the Iowa Code. In addition to the provisions of Iowa Code Chapters 321 and 321I, the following conditions apply:

Every all-terrain or off-road vehicle operated upon roadways of Pottawattamie County shall be registered annually with the County Recorder and be required to pay a registration fee in such amount established by the Board. The operator of each all-terrain or off-road vehicle shall be required to provide, upon request by any peace officer, proof of ownership including but not limited to bill of sale or registration. This requirement shall be satisfied if an all-terrain or off-road vehicle is in compliance with the registration requirements of any state within the United States of America.

12.05.02 A person shall not operate an all-terrain or off-road vehicle unless the operator has a valid driver's license issued by any state within the United States of America.

A person shall not operate an all-terrain or off-road vehicle unless the operator has proof of insurance complying with that required of an operator of a motor vehicle pursuant to applicable provisions of the Iowa Code, Rules and Regulations, including but not limited to Iowa Code 321.20B and 321A.21.

12.05.04 A person <u>shall not</u> drive or operate an all-terrain or off-road vehicle:

- .01 At a rate of speed greater than the posted speed limit.
- .02 In a careless, reckless, or negligent manner so as to;
- .03 Endanger any person
- .04 Cause injury or damage to person or property
- .05 Create unnecessary skidding or sliding or cause any wheel or wheels to unnecessarily lose contact with the ground.
- .06 While under the influence of intoxicating liquor or narcotics or habit-forming drugs as prescribed under chapter 321J of the Iowa Code.
- .07 In any park, wildlife area, reserve, refuge, game management area, or any portion of a meandered stream, which has been identified as a navigable stream or river by rule adopted by the department and which is covered by water, except on designated riding areas and designated trails.
- .08 Upon operating railroad right-of-way, an all-terrain or off-road vehicle may be driven directly across railroad right-of-way only at an established crossing and, notwithstanding any other provisions of law, may, if necessary, use the improved portion of the established crossing after yielding to all oncoming traffic. This paragraph does not apply to a law enforcement officer or railroad employee of a utility authority to enter upon the railroad right-of-way in the lawful performance of the employee's duty.
- .09 With more persons on the vehicle than designed to be carried or seated.
- .10 The operator and passengers shall wear the seatbelt or harness as so equipped by the manufacturer.

EXEMPT VEHICLES: 12.06 All-terrain or off-road vehicles owned by the United States, this state, or 12.06.01 another state, or by a governmental subdivision thereof, and used for enforcement, search and rescue, or official research and studies, but not for recreational or commercial purposes. Registration shall not be required for all-terrain or off-road vehicles used 12.06.02 exclusively to conduct agricultural operations pursuant to Iowa Code 321I.9(3) All-terrain or off-road vehicles used in accordance with section 321.234A, 12.06.03 subsection 1, paragraph "a". **VIOLATIONS AND PENALTIES:** The penalty for violating the provisions 12.07 of this Chapter shall be as set forth in Chapter 1.75. FEE SCHEDULE: The fee schedule as set forth in Chapter 1.50 is hereby 12.08 established for matters pertaining to this Ordinance.

SECTION 2 - SEVERABILITY: That should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, that decision shall not effect that validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

SECTION 3 – REPEAL OF CONFLICTING ORDINANCES: That all ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 4 - EFFECTIVE DATE: This Ordinance shall be in full force and effect from and after its passage, approval and publication, as by law provided.

PASSED AND APPROVED .				
		ROLL	CALL VOT	E
	AYE	NAY	ABSTAIN	ABSENT
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Justin Schultz, Chairman		O	O	Ü

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Tim Wichman				
Scott Belt	0	0	0	0
Scott Beit	0	0	0	0
Marilyn Jo Drake	· ·	Ū	J	· ·
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Lynn Grobe				
ATTEST:				
Melvyn Houser, County Auditor				
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NOTICE OF PUBLIC HEARING BOARD OF	SUPERVISOI	RS PUBLIS	SHED: Augu	st 13, 2020
BOARD OF SUPERVISORS PUBLIC HEARI	NG:		August 2	25, 2020
FIRST CONSIDERATION:				25, 2020
SECOND CONSIDERATION:				oer 1, 2020
PUBLICATION:			-	oer 10, 2020
RECORD:			Septeml	oer 11, 2020
EFFECTIVE:			_	
			Septeml	oer 11, 2020

Roll Call Vote: AYES: Drake, Belt, Wichman, Grobe. Motion carried.

Motion by Belt, second by Drake, to open public hearing for Authorization of a Loan Agreement and the issuance of Notes not to exceed \$600,000 in General Obligation Urban Renewal Bonds, in order to provide funds to pay the costs of aiding in the planning, undertaking, and carrying out of urban renewal projects under the authority of Chapter 403 including paving of 192nd St., road improvements in the industrial park, and related storm sewer improvements, for essential county purposes; and to approve and sign **Resolution 80-2020**, instituting proceedings to take additional action. Roll Call Vote: AYES: Drake, Belt, Wichman, Grobe. Motion carried.

Motion by Belt, second by Drake to close public hearing. Roll Call Vote: AYES: Drake, Belt, Wichman, Grobe. Motion carried.

After discussion was held by the Board, a Motion was made by Drake, and seconded by Belt, to approve and Authorization of a Loan Agreement and the issuance of Notes not to exceed \$600,000 in General Obligation Urban Renewal Bonds, in order to provide funds to pay the costs of aiding in the planning, undertaking, and carrying out of urban renewal projects under the authority of Chapter 403 including paving of 192nd St., road improvements in the industrial park, and related storm sewer improvements, for essential county purposes; and to approve and sign **Resolution 80-2020**, instituting proceedings to take additional action. Said Resolution is set out as follows:

RESOLUTION NO. 80-2020

RESOLUTION INSTITUTING PROCEEDINGS TO TAKE ADDITIONAL ACTION FOR THE ISSUANCE OF NOT TO EXCEED \$600,000 GENERAL OBLIGATION URBAN RENEWAL BONDS

WHEREAS, pursuant to notice published as required by law, the Board of Supervisors has held a public meeting and hearing upon the proposal to institute proceedings for the issuance of not to exceed \$600,000 General Obligation Urban Renewal Bonds, for the essential county purposes, in order to provide funds to pay the costs of aiding in the planning, undertaking, and carrying out of urban renewal projects under the authority of Chapter 403 including paving of 192nd St., road improvements in the industrial park, and related storm sewer improvements, and has considered the extent of objections received from residents or property owners as to the proposed issuance of Bonds; and no petition was filed calling for a referendum thereon. The following action is now considered to be in the best interests of the County and residents thereof.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF POTTAWATTAMIE COUNTY, STATE OF IOWA:

Section 1. That this Board does hereby institute proceedings and take additional action for the authorization and issuance in the manner required by law of not to exceed \$600,000 General Obligation Urban Renewal Bonds, for the foregoing essential county purposes.

Section 2. This Resolution shall serve as a declaration of official intent under Treasury Regulation 1.150-2 and shall be maintained on file as a public record of such intent. It is

reasonably expected that the general fund moneys may be advanced from time to time for capital expenditures which are to be paid from the proceeds of the above Bonds. The amounts so advanced shall be reimbursed from the proceeds of the Bonds not later than eighteen months after the initial payment of the capital expenditures or eighteen months after the property is placed in service. Such advancements shall not exceed the amount authorized in this Resolution unless the same are for preliminary expenditures or unless another declaration of intention is adopted.

Dated this 25 day of August, 2020.

	ROLL CALL VOTE			
	AYE	NAY	ABSTAIN	ABSENT
Leadin Orbeita Obeirana	0	0	0	0
Justin Schultz, Chairman	0	0	0	0
Tim Wichman	0	0	0	0
Scott Belt	0	0	0	0
Marilyn Jo Drake	0	0	0	0
Lynn Grobe				
ATTEST: Melvyn Houser, County Auditor				

Roll Call Vote: AYES: Drake, Belt, Wichman, Grobe. Motion carried.

3. SCHEDULED SESSIONS

After discussion by Board motion by Drake, second by Grobe, to approve the Master Matrix and Construction Permit Applicant for Applicant Dan Pederson / Northridge Site. UNANIMOUS VOTE. Motion carried.

After discussion was held by the Board, a Motion was made by Drake, and seconded by Belt, to approve **Resolution 82-2020** to approve project plans, specifications an estimate for project RC-CO78(203)-9A-78 and set bid opening date of October 6, 2020 at 10 A.M. UNANIMOUS VOTE. Motion carried. Said Resolution is set out as follows:

RESOLUTION NO. 82-2020

RESOLUTION ADOPTING PLANS, SPECIFICATIONS, AND ESTIMATE OF THE COST FOR PROJECT RC-C078(203)--9A-78.

WHEREAS, on the 20th day of August, 2020, plans, specifications, and estimate of cost were provided by the County Engineer for the construction of Project RC-CO78(203)--9A-78; an economic development project on 192nd Street in Lewis Township; and

WHEREAS, approval of the project documents is necessary prior to publishing the Notice to Bidders and setting a bid opening date.

NOW, THEREFORE, BE IT RESOLVED BY THE POTTAWATTAMIE COUNTY BOARD OF SUPERVISORS, STATE OF IOWA:

That the plans, specifications, and estimate of cost are hereby approved for Project RC-CO78(203)--9A-78. Furthermore, that the project shall be let for construction at a public bid opening with bids to be opened at 10:00 A.M. on October 6, 2020

Dated this 25th day of August.

		ROLL CALL VOTE		
	AYE	NAY	ABSTAIN	ABSENT
Justin Schultz, Chairman	0	0	0	0

187-20				42-187
	0	0	0	0
Tim Wichman	0	0	0	0
Scott Belt	0	0	0	0
Marilyn Jo Drake			_	0
Lynn Grobe	0	0	0	O
ATTEST:				
Melvyn Houser, County Auditor				

Roll Call Vote: AYES: Drake, Belt, Wichman, Grobe. Motion carried.

After discussion was held by the Board, a Motion was made by Belt, and seconded by Drake, to approve funding agreement for BRS-CO78(199)-FF-78 for the construction of a Reinforced Box Culvert on M16 in Section 4 of James Townships. UNANIMOUS VOTE. Motion carried.

Director of Human Resources Jana Lemrick came before the Board to discuss FY 2020 overtime costs. This was a discussion only. No action was taken.

4. OTHER BUSINESS

After discussion was held by the Board, a Motion was by Belt, and seconded by Drake, to approve and authorize Board to sign **Resolution No. 81-2020**, a Resolution entitled: Resolution for Transfers to the West SWCD/Pott Co Structures Fund and to the East SWCD/Pott Co Structures Fund. Said Resolution is set out as follow:

RESOLUTION NO. 81-2020

RESOLUTION FOR TRANSFERS TO WEST SWCD/POTT CO STRUCTURES FUND AND EAST SWCD/POTT CO STRUCTURES FUND.

WHEREAS, it is desired to transfer money from the Gaming Fund to West SWCD/Pott Co Structures Fund, and from the Gaming Fund to East SWCD/Pott Co Structures Fund; and

WHEREAS, said transfers are in accordance with Section 331.432, Code of Iowa.

NOW THEREFORE BE IT RESOLVED, that the Pottawattamie County Board of Supervisors authorizes the following transfers:

SECTION 1: The sum of **\$15,000.00** is ordered to be transferred from the Gaming Fund to the West SWCD/Pott Co Structures Fund;

SECTION 2: The sum of **\$10,000.00** is ordered to be transferred from the Gaming Fund to the East SWCD/Pott Co Structures Fund;

SECTION 3: The Auditor is directed to correct his/her book accordingly and to notify the Treasurer of these operating transfers.

Dated this 25th day of August, 2020.

ROLL CALL VOTE

	AYE	NAY	ABSTAIN	ABSENT
	0	0	0	0
Justin Schultz, Chairman	0	0	0	0
Tim Wichman	0	0	0	0
Scott Belt	0	0	0	0
Marilyn Jo Drake	0	0	0	0
Lynn Grobe				

ATTEST:	
	Melvyn Houser, County Auditor

Roll Call Vote: AYES: Drake, Belt, Wichman, Grobe. Motion carried.

5. RECEIVED/FILED

- A. Salary Actions:
 - 1) SWI Juvenile Detention Center Payroll Status Change of Falyn Rowell
 - 2) Building & Grounds Payroll Status Change of Tammy Bockert
 - 3) Planning- Payroll Status Change of Angela Walker
 - 4) Conservation-Payroll Status Change of Kimberly Wickersham, Rene Stroud

6. ADJOURN

Motion by Drake, second by Belt, to adjourn meeting. UNANIMOUS VOTE. Motion carried THE BOARD ADJOURNED SUBJECT TO CALL AT 11:35 AM.

	Tim Wichman, Chairman Pro-Tem
ATTEST:	
	Melvyn Houser, County Auditor

APPROVED: September 1, 2020

PUBLISH: X