

**BOARD PROCEEDINGS**  
**April 8, 2014**  
**REGULAR APRIL SESSION**

The Board of Supervisors met pursuant to adjournment. Present were: Don McGregor, Chairman, Don Besch, Jack Plathe, Roger Tjarks and Pam Wymore.

Public Discussion was held followed by Discussion with Secondary Road Foreman.

Motion by Besch and 2<sup>nd</sup> by Wymore to approve the agenda and the minutes of the previous meeting dated April 1, 2014. Motion carried.

Scott Curtis was present to give the monthly report for Kossuth Regional Health Center.

Motion by Plathe and 2<sup>nd</sup> by Besch to appoint David L. Penton the Administrator of the Kossuth County Floodplain Management Ordinance. Motion carried.

Discussion was held in regards to allowing ATV's on Secondary Roads. Adam Dearchs gave a presentation to the Board of Supervisors. Todd Holmes explained to the Board that this action would have to be done through an ordinance. He will prepare one and give it to the Board to review.

Motion by Tjarks and 2<sup>nd</sup> by Wymore to approve the Annual Report for Central Iowa Juvenile Detention Center. Motion carried.

Drainage was held followed by the Exit Interview with Gardiner Thomsen for our FY 12-13 Audit.

Motion by Tjarks and 2<sup>nd</sup> by Wymore to approve the second reading of the following amendment to the Kossuth County Zoning Ordinance. Motion carried.

Motion by Plathe and 2<sup>nd</sup> by Besch to waive the third and final reading of the following amendment to the Kossuth County Zoning Ordinance. Motion carried.

Motion by Wymore and 2<sup>nd</sup> by Tjarks to adopt the following amendment to the Kossuth County Zoning Ordinance. Motion carried.

Before the Kossuth County Board of Supervisors  
Upon Approval of the Kossuth County Planning and Zoning Commission

**AN ORDINANCE AMENDING THE SUBDIVISION REGULATIONS AND ORDINANCE  
OF KOSSUTH COUNTY IOWA**

Long Title

An Ordinance Amending the Subdivision Regulations (the Regulations) of Kossuth County Iowa to:

1. Conform the Regulations to Iowa Code Chapter 354 with regard to the number of lots, plots, sites, parcels, tracts or other divisions of land requiring formal County Subdivision Approval; and
2. Exempt certain divisions of Land from the formal County Subdivision Approval where such divisions:
  - (a) Are made for the purpose of providing a legal description for new lots, plots, parcels, tracts or other divisions of land and where such lots, plots, parcels, tracts or other divisions of land are not to be improved or developed or submitted to any other change in use, and to also permit conveyances thereof, subject to said improvement, development and use change restrictions; and
  - (b) Are initially submitted to the Zoning Administrator in the form of an Exempt Subdivision Plat by the Proprietor and/or Owner thereof for the Administrator's confirmation of conformance with the exemption provision, other provisions of the Regulations, Iowa Code Chapter 354 relating to Plats, and the Zoning Ordinance; and
  - (c) Are recorded with the Kossuth County Recorder in the form of the Exempt Subdivision Plat

as approved by the Zoning Administrator together with a notarized Statement of the Owner and/or Proprietor thereon, or to accompany such Exempt Subdivision Plat, and being made part thereof, as follows:

This Exempt Subdivision Plat is submitted under Section 2 (i) of the Kossuth County Subdivision Regulations. In compliance with the terms thereof, this Exempt Subdivision Plat is made for the purpose of providing a legal description for new lots, plots, parcels, tracts or other division of land and where such lots, plots, parcels, tracts or other divisions of land will not to be improved, developed or submitted to any other change in use, and to also permit the conveyance thereof, subject to said improvement, development and use change restrictions. The Owner and/or Proprietor is bound by the provisions of the Regulations as are all successors in interest. Any improvements, development or changes in use as to any of the individual divisions of land will thus require further hearing and approval by the governing bodies in accordance with the other provisions of the Regulations.

#### Short Title

An Ordinance to:

1. Change the County Subdivision Regulations so that they become applicable to three or more concurrent or subsequent divisions of land; and
2. Exempt certain non-development and non-improvement Subdivision Plats from the hearing and approval requirements of the Subdivision Regulations with requirements.

#### Findings

The Kossuth County Board of Supervisors, upon the recommendation of the Kossuth County Planning and Zoning Commission hereby make the following findings:

1. Iowa Code Chapter 354, Platting -Division and Subdivision of Land, provides in pertinent part: A subdivision plat shall be made when a tract of land is subdivided by repeated divisions or simultaneous division into three or more parcels, any of which are described by metes and bounds description for which no plat of survey is recorded. A subdivision plat is not required when land is divided by conveyance to a governmental agency for public improvements.
2. The Kossuth County Subdivision Regulations presently provide in pertinent part: Subdivision – The division or resubdivision of a tract or a parcel of land into two (2) or more lots, plots, sites, or other divisions of land
3. The provisions in paragraphs 1 & 2 above are inconsistent and such inconsistency has created confusion in the development of land in Kossuth County as compared to that permitted and generally recognized by other jurisdictions as provided by State Statute.
4. Where appropriate, State and County law should be consistent, and this is an appropriate situation for consistency.
5. Iowa Code Chapter 354.11(1)(d), by implication, allows a governing body the right to waive review of a Subdivision Plat.
6. Divisions and subdivisions of land made for the purpose of creating legal descriptions for real estate where any of such real estate will be not to be improved, developed or submitted to any other change in use, and to also permit the conveyance thereof, subject to the restrictions, should not be subjected to the formal process of County subdivision approval for the reasons that such types of subdivisions do not impose upon the public health, safety, welfare or any other home rule or police power objective. As such, the formal approval process for such types of Subdivisions should be waived.

**WHEREFORE**, the following Amendments to the Kossuth County Subdivision Regulations and Ordinance are hereby Amended as follows:

1. Section 2 -Definitions is Amended by adding the following new definition: e. Improved(ment), Developed(ment), Change in Use:
  - (i) The process of improving raw land to support construction. The process may include, but is not limited to planning, acquisition of government permits, zoning changes, subdivision, adding, increasing or constructing additional access points to public right-of-way, construction of access roads, installation of utilities, landscaping, and drainage.
  - (ii) Any addition to the natural state of land which is designed or intended to increase its value or utility, including but limited to buildings, structures, street pavements, sidewalks, access points, crosswalks, water mains, sanitary sewers, septic systems, storm sewers, landscaping, street lighting, street trees, public utilities, paved parking areas and other appropriate items.
  - (iii) Conversion of raw land into construction ready housing, commercial, or industrial building sites. Land development process involves improvements that have indefinite life, such as draining, dredging, excavating, filling, grading, paving, etc.
  - (iv) A change in use of the land from that existing immediately prior to the filing of the exempt Subdivision Plat to some other use of a differing nature where the new use would also require a change in the zoning classification.
  
2. Section 2 -Definitions is Amended by adding the following new definition: i. Exempt Subdivision. The division or resubdivision of a tract or a parcel of land into three (3) or more lots, plots, sites, or other divisions of land where such divisions:
  - (i) Are made for the purpose of providing a legal description for new lots, plots, parcels, tracts or other divisions of land and where such lots, plots, parcels, tracts or other divisions of land are not to be improved or developed or submitted to any other change in use, and to also permit conveyances thereof, subject to said improvement, development and use change restrictions; and
  - (ii) Are initially submitted to the Zoning Administrator in the form of an Exempt Subdivision Plat by the Proprietor and/or Owner thereof for the Administrator's confirmation of conformance with the exemption provision, other provisions of the Regulations and Iowa Code Chapter 354 relating to Plats and the Zoning Ordinance; and
  - (iii) The Exempt Subdivision Plat is recorded with the Kossuth County Recorder together with a notarized Statement of the Owner and/or Proprietor thereon, or to accompany such Exempt Subdivision Plat, and being made part the thereof, as follows:
 

This Exempt Subdivision Plat is submitted under Section 2 (i) of the Kossuth County Subdivision Regulations. In compliance with the terms therewith, this Exempt Subdivision Plat is made for the purpose of providing a legal description for new lots, plots, parcels, tracts or other division of land and where such lots, plots, parcels, tracts or other divisions of land will not to be improved, developed or submitted to any other change in use, and to also permit the conveyance thereof, subject to said improvement, development and use change restrictions. The Owner and/or Proprietor is bound by the provisions of the Regulation as are all successors in interest. Any improvements, development or changes in use as to any of the individual divisions of land will thus require further hearing and approval by the governing bodies in accordance with the other provisions of the Regulations.
  
3. Section 2- Definitions, current paragraph 1. Subdivision is Amended by deleting therefrom the word and number "two (2)" therefrom and replacing those deletions with the word and number "three (3)." Said paragraph will be re-lettered as a result of the additions above.
  
4. Section 3 - Procedure is Amended by adding the following new paragraph A. A. Exempt Subdivision. An exempt subdivision shall not be subject to the provisions of this Section 3.
  
5. Section 11 is hereby created and added:

SECTION 11 - LEGALIZING PROVISION FOR PRE-EXISTING SUBDIVISION THAT QUALIFY AS EXEMPT SUBDIVISION

From April 15, 2014 forward, all pre-existing subdivisions that qualify as exempt subdivisions are hereby legalized provided all of the current owners of any lots, plots, parcels, tracts or any other division of land separately owned executes and records a document containing the notarized statement set for in Section 2i(iii).

EFFECTIVE DATE

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

PASSED THIS 8<sup>TH</sup> DAY OF APRIL, 2014

\_\_\_\_\_  
Chairperson, Kossuth County Board of Supervisors

ATTEST:

\_\_\_\_\_  
Kossuth County Auditor

It was moved by Wymore and seconded by Tjarks

That the ordinance be adopted, and, upon roll call, the vote was: Ayes: 5 Nays: 0

STATE OF IOWA                    )  
  ) SS:  
COUNTY OF KOSSUTH        )

I, Amber Garman, hereby certify that I am the secretary of the Kossuth County Board of Supervisors, that the above and foregoing Ordinance is a true and correct copy of the Ordinance with was passed, adopted, and approved by the Kossuth County Board of Supervisors on the 8<sup>th</sup> day of April, 2014.

\_\_\_\_\_  
Amber Garman, Kossuth County Auditor

Motion by Besch and 2<sup>nd</sup> by Wymore to approve and authorize the chair to sign the Annual Financial Assurance Report for Kossuth County Sanitary Landfill for FY 2014. Motion carried.

Motion by Plathe and 2<sup>nd</sup> by Tjarks to approve Resolution #04-08-14-01 which is to Advance Locally Funded Projects from the Priority List to the Accomplishment year of the 2014 Five Year Road Program. Motion carried.

**Resolution to Advance Locally Funded Project(s) from the  
Priority List to the Accomplishment year  
of the 2014 Five Year Road Program  
Kossuth County**

**Resolution #:** \_\_\_\_\_

Unforeseen circumstances have arisen since adoption of the approved Secondary Road Construction Program, and previous revisions, requiring changes to the sequence, funding and timing of the proposed work plan,

The Board of Supervisors of Kossuth County, Iowa, in accordance with Iowa Code section 309.22, initiates and recommends modification of the following project(s) in the accomplishment year (State Fiscal Year (FY)2014), for approval by the Iowa Department of Transportation (Iowa DOT), per Iowa Code 309.23 and Iowa DOT Instructional Memorandum 2.050.

The following approved Priority Year projects shall be ADVANCED to the Program's Accomplishment year:

| Project Number<br>Local ID<br>TPMS # | Project Location<br>Description of work | AADT<br>Length<br>NBIS # | Type Work<br>Fund basis | Prior FY | Accomplishment Year<br>(\$1000's of dollars) |               |
|--------------------------------------|---|--------------------------|-------------------------|----------|--|---------------|
|                                      |   |                          |                         |          | New<br>amount                                | Net<br>change |
| LFM-RS14(3)--7X-55                   | B14: P20 E 8 MI to US 169               | 150                      | HMA Paving              | 2015     | \$1  | \$1           |

|                                   |                 |         |       |  |  |  |     |     |
|-----------------------------------|-----------------|---------|-------|--|--|--|-----|-----|
| B14 Resurfacing<br>TPMS ID: 20516 | HMA Resurfacing | 7.92 MI | LOCAL |  |  |  |     |     |
| <b>Totals</b>                     |                 |         |       |  |  |  | \$1 | \$1 |

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**Recommended:**

April 8, 2014

\_\_\_\_\_

Date

\_\_\_\_\_

County Engineer

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**Approved:**

April 8, 2014

\_\_\_\_\_

Date

\_\_\_\_\_

Chair Board of Supervisors

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**Attested:**

I, \_\_\_\_\_, Auditor in and for Kossuth County, Iowa, do hereby certify the above and foregoing to be a true and exact copy of a resolution passed and approved by the Board of Supervisors of Kossuth County, Iowa, at its meeting held on the 8<sup>th</sup> day of April, 2014

\_\_\_\_\_

County Auditor

Motion by Tjarks and 2<sup>nd</sup> by Plathe that the Board of Supervisors of Kossuth County, Iowa, does hereby authorize and give its permission to Midland Power Cooperative, Humboldt, IA, to construct a new line extension to service a new building. Work will involve installing a pole 333' northease of the intersection of 250<sup>th</sup> Street and Plum Creek Road (150<sup>th</sup> Avenue) in the west right of way and crossing west over Plum Creek Road onto private right of way. The work will be in Section 17 Plum Creek Township. Permit number 04-02-2014 is on file in the Kossuth County Engineer's Office. Motion carried.

Discussion with Kossuth County Engineer was followed by Discussion with Kossuth County Auditor and Board Discussion and Committee Reports.

On motion adjournment was taken until April 15, 2014.

Attest:

\_\_\_\_\_

Amber Garman  
Kossuth County Auditor

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Don McGregor, Chairman  
Kossuth County Board of Supervisors