

BOARD PROCEEDINGS
June 9, 2015
REGULAR JUNE 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 2nd by Wymoe to approve the agenda and the minutes of the previous meeting dated June 2, 2015. Motion carried.

Motion by Besch and 2nd by Tjarks to open the public hearing for the construction of a Secondary Road Department Maintenance Storage Facility. Chairman McGregor called for a roll call vote: Wymore: yes, Tjarks: yes, Plathe: yes, Besch: yes, McGregor: yes

No comments were received from the public in person or by mail.

Motion by Plathe and 2nd by Wymore to close the public hearing for the construction of a Secondary Road Department Maintenance Storage Facility. Chairman McGregor called for a roll call vote: Wymore: yes, Tjarks: yes, Plathe: yes, Besch: yes, McGregor: yes

Motion by Tjarks and 2nd by Besch that the Board of Supervisors of Kossuth County, Iowa, does hereby authorize and give its permission to Midland Power Cooperative, Jefferson, IA, to provide electric service to new substation. Work will begin on the east side of 160th Avenue going west 2,500' along the south side of 280th Street, then boring north 100' across 280th Street to substation. Work will be in the south right of way of Section 3 and 4, Plum Creek Township. Permit number 06-19-2015 is on file in the Kossuth County Engineer's Office. Motion carried.

Bid Letting for Construction of Secondary Road Maintenance Storage Facility

The following are Contractors and their bid:

Henkel Construction Company	\$629800
Jensen Builders	\$689000
Larson Contracting Central LLC	\$715696
Dean Snyder Construction	\$782000
Woodruff Construction LLC	\$677092

Motion by Wymore and 2nd by McGregor to approve the low bid of Henkel Construction Company in the amount of \$629,800 for the construction of the Kossuth County Maintenance Facility and authorize the chair to sign the contracts and bonds for the project. Chairman McGregor called for the roll call vote: Wymore: yes, Tjarks: yes, Plathe: yes, Besch: no, McGregor: yes Motion carried 4 to 1 with Besch being the NO vote.

Motion by Tjarks and 2nd by Wymore to approve the final reading and to adopt the Kossuth County ATV Ordinance #114 which is an Ordinance regulating the operations of All-Terrain Vehicles and Off-Road Vehicles in Kossuth County, Iowa. The ordinance shall designate the county secondary roads where all-terrain vehicles and off-road utility vehicles may operate. Publication of the notice has been arranged in the official newspapers of the county. (June 10th and June 11th) Chairman McGregor called for a roll call vote: Wymore: yes, Tjarks: yes, Plathe: yes, Besch: yes, McGregor: yes

KOSSUTH COUNTY ORDINANCE NUMBER 114

AN ORDINANCE REGULATING THE OPERATION OF ALL-TERRAIN VEHICLES AND OFF-ROAD VEHICLES IN KOSSUTH COUNTY, IOWA.

SECTION 1 - PURPOSE.

This ordinance shall designate the county secondary roads where all-terrain vehicles and off-road utility vehicles may operate.

SECTION 2 - DEFINITIONS.

The definitions of terms used in this ordinance are:

1. All-terrain vehicle as defined by Iowa Code Section 321I.1 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.
2. Off-road Utility Vehicle as defined by Iowa Code Section 321I.1 means a motorized vehicle with not less than four and not more than eight non-highway tires or rubberized tracks that is limited in engine displacement to less than one thousand five hundred cubic centimeters and in total dry weight to not more than two thousand pounds and 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.
3. Roadway as defined by Iowa Code Section 321I.1 means that portion of a highway improved, designed, or ordinarily used for vehicular travel.

SECTION 3 - OPERATION ON ROADWAYS.

A registered all-terrain vehicle or off-road utility vehicle may be operated on service area level A gravel roadways in Kossuth County pursuant to the restrictions in this ordinance and those restrictions imposed by the Iowa Code. In the event that a person residing on a county blacktop wishes to operate an all-terrain vehicle and/or an off-road utility vehicle on service area level A gravel roadways, said person may operate on the shoulder of the county blacktop for a reasonable distance to reach the permissible county gravel roadway. Such operation shall only be between sunrise and sunset.

SECTION 4 - UNLAWFUL OPERATION.

A person shall not operate an all-terrain vehicle and/or off-road utility vehicle under any of the following conditions:

1. At a rate of speed greater than reasonable and/or proper under existing circumstances, having due regard to the traffic, surface and any other condition existing, but not greater than 35 miles per hour
2. In a careless, reckless or negligent manner so as to:
 - a. Endanger any person, including the operator;
 - b. Cause injury or damage to person or property;
 - c. Create unnecessary skidding or sliding or cause any wheel or wheels to unnecessarily lose contact with the ground.
3. Without a lighted headlamp, a lighted rear lamp, and equipped with at least one mirror so located as to reflect to the operator a view to the rear of the vehicle a distance of 200 feet.
4. With a firearm in the person's possession unless it is unloaded and enclosed in a carrying case. However, a non-ambulatory person may carry an uncased and unloaded firearm while operating or riding on an all-terrain vehicle or off-road utility vehicle.
5. In any tree nursery or planting in a manner which damages or destroys growing stock.
6. On public land, ice or snow in violation of official signs prohibiting such operation.
7. In any park, wildlife area, preserve, refuge or game management area, gravel pit or any other property owned by Kossuth County.
8. Upon any portion of a meandered stream or the bed of a non-meandered stream which has been identified as a navigable stream or river by the Department of Natural Resources and which is covered by water. This provision does not apply to designated riding areas; designated riding trails; the use of crossings for agricultural purposes; the use of construction vehicles engaged in lawful activity; and/or the operation of all-terrain vehicles on ice.
9. On snowmobile trails except where designated by Kossuth County and the primary snowmobile trail sponsor.
10. Upon an operating railroad right-of-way. An all-terrain vehicle may be driven directly across a railroad right-of-way only at established crossings. This provision does not apply to a law enforcement officer or railroad employee with authority to enter upon the railroad right-of-way in the lawful performance of their duties.
11. With more persons on the vehicle than it was designed to carry.

12. On any riding area or trail, unless the trail is designated by sign as open to all-terrain and off-road utility vehicle operation.
13. Unless the operator is at least 16 years of age, has a valid driver's license, the vehicle is duly registered, and the operator has proof of insurance.
14. Without wearing a properly adjusted and fastened seatbelt if the all-terrain or off-road utility vehicle is so equipped.
15. Without the all-terrain or _____ off-road utility vehicle bearing 16 square inches of red and white reflective tape or a slow moving vehicle sign affixed to the rear of the vehicle so that it is clearly visible.
16. On any county gravel roadway not identified as a service area level A gravel roadway.

SECTION 5 - REQUIREMENTS.

No person shall operate an all-terrain or off-road utility vehicle on any county graveled roadway, for any purpose, unless the operator possesses the following:

1. Proof that the all-terrain or off-road utility vehicle is registered with the Iowa DNR.
2. Proof of ownership, including but not limited to bill of sale, registration and/or other documentation.
3. Proof that the operator is at least 16 years of age and possesses a valid driver's license.
4. If the operator was born after 1995, proof of passing an Iowa DNR approved ATV Education Course.
5. Proof that the owner and operator have liability insurance covering operation of the all-terrain or off-road utility vehicle on County graveled roadways in the amount required by the Code of Iowa.

SECTION 6 - EXEMPT VEHICLES.

The Registration requirements of this ordinance shall not apply to the following described all-terrain or off-road utility vehicles:

1. All-terrain or off-road utility vehicles owned by the United States, this state, or 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.
2. All-terrain or off-road utility vehicles used in accordance with section 321.234A, subsection 1, paragraph "a".
3. All-terrain or off-road utility vehicles used exclusively as farm implements.

SECTION 7 - PENALTIES.

Violation of the Ordinance shall constitute a county infraction punishable by a fine of \$65.00 to \$625.00 plus the applicable court surcharges and costs.

An owner or operator who produces to the clerk of court prior to the date of the person's court appearance as indicated on the citation the necessary proof that the requirements set out in Section 5 were in effect at the time the person was stopped and cited shall not be convicted of a county infraction and the citation issued shall be dismissed by the court. Upon dismissal, the court or clerk of court shall assess the costs of the action against the defendant named on the citation.

SECTION 8 - EFFECTIVE DATE.

This ordinance shall become effective upon passage and publication pursuant to Iowa Code Section 331.302(8).

PASSED THIS 9th DAY OF JUNE, 2015

Chairperson, Kossuth County Board of Supervisors

ATTEST:

Kossuth County Auditor

It was moved by Tjarks and seconded by Wymore that the ordinance be adopted, and, upon roll call, the vote was:

Wymore: yes, Tjarks: yes, Plathe: yes, Besch: yes, McGregor: yes

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 which was passed, adopted and approved by the Kossuth County Board of Supervisors on the 9th day of June, 2015.

Amber Garman, Kossuth County Auditor

Motion by Plathe and 2nd by Tjarks to approve the lease as prepared by the Kossuth County Attorney for Catholic Charities space in the Kossuth County Courthouse Annex. Motion carried.

Drainage was held followed by the Bid Letting on Drainage District 80 Lat 80 and others.

Motion by Plathe and 2nd by Besch to open the public hearing for the Assessment of Corrective Actions at the Kossuth County Landfill. Chairman McGregor called for a roll call vote: Wymore: yes, Tjarks: yes, Plathe: yes, Besch: yes, McGregor: yes Motion carried.

No comments were received from the public in person or by mail.

Motion by Tjarks and 2nd by Plathe to close the public hearing for the Assessment of Corrective Actions at the Kossuth County Landfill. Chairman McGregor called for a roll call vote: Wymore: yes, Tjarks: yes, Plathe: yes, Besch: yes, McGregor: yes Motion carried.

Motion by Tjarks and 2nd by Besch to approve the corrective actions to the Kossuth County Landfill as presented. Chairman McGregor called for a roll call vote: Wymore: yes, Tjarks: yes, Plathe: yes, Besch: yes, McGregor: yes Motion carried.

Motion by Plathe and 2nd by Wymore to adopt Resolution #06-09-15-01 which allows the Kossuth County Treasurer to strike the mobile home taxes on homes that have been abandoned, junked, or destroyed from South Oak Estates and Hillcrest Mobile Home Park. Motion carried.

RESOLUTION # 06-09-15-01

WHEREAS, Iowa Code Section 435.25 states as follows: "...When a home is removed from the county where delinquent taxes, regular or special, are owing, or when it is administratively impractical to pursue tax collection through the remedies of this section, all taxes, regular and special, interest, and costs shall be abated by resolution of the county board of supervisors. The resolution shall direct the treasurer to strike from the tax books the reference to that home..."; and,

WHEREAS, there is a mobile home park referred to as "Hillcrest Estates" located at 1408 Hwy. 18, Algona, Kossuth County, Iowa, in which there is one lot and "South Oak Estates" located at 1109 190th Street,

Algona, Kossuth County, Iowa, in which there is 11 lots where the mobile homes have been removed and the collection of the delinquent taxes are administratively impractical.

BE IT HEREBY RESOLVED that the Kossuth County Board of Supervisors in accordance with Iowa Code Section 435.25 directs the Treasurer of Kossuth County to strike from the tax books the reference to the following mobile homes identified by vin number: (South Oak Estates #1-11 and Hillcrest Estates #12)

1. 57-A4814
2. MY0427154V
3. M601964
4. N041912X
5. 60212
6. HU2054F
7. 744701662W
8. ZWK70143140
9. 1W30-0592Z
10. 1W300299D
11. UR50142FBG040298

It was on motion by Supervisor Plathe, and seconded by Supervisor Wymore, that the foregoing Resolution be adopted as read.

Vote thereon resulting as follows:

Ayes:

Nays:

Resolution declared adopted this 9th day of June, 2015.

Don McGregor, Chairperson
Board of Supervisors
Kossuth County, Iowa

Attest: Amber Garman
Kossuth County, Iowa

Motion by Plathe and 2nd by Besch to approve the fireworks permits on file in the Kossuth County Auditor's Office. Motion carried.

Motion by Besch and 2nd by McGregor to approve the allocation of \$140,617 to County Social Services which is the amount needed to close out FY 14-15. Motion carried.

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

On motion adjournment was taken until June 16, 2015.

Attest:

Amber Garman
Kossuth County Auditor

Don McGregor, Chairman
Kossuth County Board of Supervisors