

**BOARD PROCEEDINGS**  
**May 17, 2011**  
**REGULAR MAY SESSION**

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

Motion by Wymore and 2<sup>nd</sup> by Plathe to approve the agenda. Motion carried.

Motion by Besch and 2<sup>nd</sup> by Elsbecker to approve the minutes of the previous meeting as read. Motion carried.

Years of Service Awards were presented to the following employees: Secondary Road: Scott Ziesman, Matt Schleuger, Mike Phelps, 15 years, Larry Samp, 25 years Treasurer: Nick Rahm, 20 years and Landfill: Lyle Karels, 35 years.

Motion by Wymore and 2<sup>nd</sup> by Plathe to approve the claims. Motion carried.

Albert Lea Medical Center	Services	1000.00	1
Algona Glass Co.	Supplies	30.00	1
Algona Machine & Supply	Repairs	1055.38	1
AMU	Light	4661.88	11
Algona Plumbing & Heating	Repairs	60.00	1
Alg Pub Co	Advertising	875.98	3
Alliant Energy	Services	150.00	1
Aramark	Service	52.97	1
B & W Control Specialists	Supplies	1365.00	1
Bancroft Municipal Utilities	Utilities	280.77	1
Bancroft Reg.	Notices	613.49	2
Barnes Group	Supplies	1100.76	1
Karen Benschoter	Exp	149.74	1
Blacktop Service Co	Service	82426.56	1
BMC Aggregates L.C.	Rock	2453.54	1
Bob Barker Company Inc	Supplies	419.60	1
Bob Becker Const Company, Inc	Supplies	35.46	1
Bob Boland Ford	Vehicle	13243.18	2
Bomgaars	Supplies	5.37	1
Brady Truck & Equipment Co., I	Part	145.00	1
Bremer County Case Management	Services	490.16	1
Briggs Corporation	Services	71.15	1
Bugs N Stuff	Services	167.00	2
Burr Oak Motel	Rent	41.73	1
Buschers Service Center	Supplies	50.60	1
Business Sys	Service	29.18	1
CATCO Parts and Service	Repairs	1759.17	1
CDW Government, Inc	Supplies	110.45	1
Central IA Dist	Supplies	496.13	1
Central IA Juv	Service	3840.00	1
Charm-Tex	Supplies	227.10	1
Chrome Country Inn	Services	1584.00	1
Cintas	Supplies	133.31	2
City Dir.	Supplies	146.00	1
City of Algona	Exp	7770.96	1
City of Swea City	Utilities	30.92	1
Clarion Distributing	Supplies	415.00	1
Cooks	Supplies	211.81	1
County Binders, Inc.	Repairs	7148.10	2
CCMS	Service	65.00	1
Credit Bureau of Kossuth Count	Membership	102.00	1
Crescent Electric Supply Co	Supplies	33.36	1
Custom Countertops & More	Services	105.00	1
Dave D. Lane MAC Tools Distrib	Tools	461.00	1
Des Moines Stamp Mfg	Supplies	29.70	1
Diamond Mowers, Inc.	Repairs	316.26	1

Dump-It Inc.	Services	246.00	2
Duncan Heights	Services	8147.27	1
Ed Roehr Safety Products	Supplies	743.14	1
Ed's Service	Fuel	216.00	1
Elbert Chev	Service	8.75	1
Election Systems & Software	Services	619.32	1
Electronic Specialties	Supplies	583.60	1
Ernie Williams Ltd	Parts	32.75	1
Exceptional Opportunities	Services	60.00	1
Fareway	Supplies	163.76	2
Farm Plan	Parts	1031.37	1
Fast Oil	Services	52.39	1
Fastenal Company	Supplies	580.60	1
Fenton Coop Telephone	Phone	23.97	1
Galls	Supplies	1044.94	2
Jordan Grimm	Well Closing	225.00	1
H & H Parts	Supplies	16.68	1
Hancock Concrete Products,LLC	Pipe	952.32	1
Hancor, Inc.	Pipe	2198.53	1
Mary Beth Hanson, LISW Behavior	Services	375.00	1
Heartland Power Company	Lights	48.00	1
Kevin Heinen Construction	Repair	18300.00	1
HicktoryTech	Phone	86.86	1
Holiday Inn Ames Conf Center	Lodging	89.55	1
Holiday Inn Conference Center	Lodging	154.56	1
Humb Co REC	Lights	633.31	2
Hutzells	Supplies	147.20	2
Interstate Battery of Upper IA	Batteries	291.70	1
IA Lakes EC	Lights	70.28	1
IOS	Supplies	479.73	7
Iowa One Call	Service	27.90	1
Iowa Transit	Equipment	1896.17	1
ISAC	Registration	622.80	2
Jacks OK Tire Service	Service	737.51	2
Jan. Closet	Supplies	372.99	1
J B Mertz & Son	Repairs	845.60	1
Johnston Autostores	Repairs	196.33	1
K & H	Fuel	41461.74	2
Kemco Tires Inc	Repairs	616.52	1
Kemna GM Center	Services	2785.50	1
KLGA	Ad	118.00	1
Kmart	Supplies	84.55	1
KRHC	Service	3042.50	2
KC Sec Road	Fuel	4738.46	2
KC Sheriff	Service	225.00	5
Kossuth Saddle Club	Grant	3500.00	1
Lexis Nexis	Services	156.00	1
Lone Rock CO-OP Tel Co.	Phone	119.90	1
Looft's On 9	Fuel	347.78	1
Louscher Family Dentistry Dr.	Services	222.00	1
Clint Ludwig	Rent	175.00	1
N Marlow	Exp.	108.63	1
Marshall County Sheriff	Services	45.00	1
Martin Marietta Aggregates	Rock	2234.99	1
Matt Parrott & Sons	Supplies	57.33	1
MaxYield Cooperative	Fuel	6219.30	1
McEnroe Farms Tim McEnroe	Well Closing	225.00	1
Mercy Medical Center N I	Services	734.01	1
Mid American Specialties Dept.	Supplies	420.19	1
Mid-Iowa Sales Co.	Repairs	417.36	1
Midwest Alarm Services	Services	2225.00	1
Midwest Building Materials	Supplies	314.13	2
Midwest Electronic Recovery	Recycling	982.65	1
NAPA	Repairs	17.98	1
North Iowa Lumber & Design	Supplies	11.11	1
NIVC	Service	80.34	1
North Kossuth Auto & Farm	Repairs	73.82	1
Paul Northrup Trust	Well Closing	225.00	1
Office of Vital Records-MS	Medical	16.00	1

Opportunity Village	Services	5166.63	1
Pathology Assoc of Mason City	Services	4800.00	1
Phil's Auto & Truck Repair	Services	74.75	1
Pitney Bowes	Services	538.40	1
Prairie Energy Cooperative	Lights	25.75	1
ProBuild	Supplies	361.89	2
Quill Corporation	Supplies	127.99	1
Ray O'Herron Co Inc	Supplies	103.99	1
Rockler Woodworking & Hardware	Supplies	109.50	1
Rockmount Research/Alloys	Repairs	743.02	1
RSM McGlad.	Service	466.00	1
Ruhnke Bros	Service	131.50	1
Candila Schickel	Services	60.00	1
D Schulz	Exp.	45.90	1
Schum Elev Co	Service	309.00	1
SOS	Service	30.00	1
Secure Shred Solutions	Services	140.50	1
Solutions	Service	838.61	2
Stanley Security Solutions	Supplies	302.01	1
Streicher's	Supplies	275.95	2
Swea City Herald Press	Notices	450.13	1
Terracon	Services	10000.00	1
TestAmerica Laboratories, Inc.	Monitoring	343.25	1
Water Conn	Service	125.00	2
Thompson Farm Drainage	Service	150.00	1
Titonka-Burt Communications	Service	137.74	2
Trans IA Equip	Repairs	2237.84	1
Trupke	Tools	708.57	1
US Cellular	Service	858.91	8
US Bank	Supplies	298.97	1
W & H Coop Oil Co	Fuel	23223.98	1
Wallace Water Conditioning	Service	12.00	1
Waste Management	Fuel Adjustment	5823.86	1
Waste Management of WI-MN	Service	41737.32	3
Webster County Sheriff	Services	18.50	1
Wellmark BC & BS	Services	105193.29	1
Welp & Geffe Law Office	Services	103.50	1
Westman Freightliner	Repairs	494.49	1
Whittemore Truck & Trailer	Repairs	74.65	1
Winnebago County Sheriff	Services	32.34	1
Pam Wymore	Exp	122.40	1
Ziegler Inc	Repairs	10948.04	1
Grand Total		468028.61	

The Board of Supervisors acknowledged the safety committee meeting minutes from May.

Discussion was held with the City of Algona in regards to the possibility of moving the Police Department to the Law Enforcement Center. Cole O'Donnell, Kim Weaver, Rick Remy and Steve Kollasch were present.

Public discussion and committee reports were held followed by drainage.

Motion by Besch and 2<sup>nd</sup> by Wymore to approve Resolution #05-17-11-01 which bans the placement of buffer strips and general plantings enrolled in the USDA Conservation Reserve Program on or adjacent to Drainage District Facilities within the boundaries of Kossuth County. Motion carried.

#### RESOLUTION NO. 05-17-11-01

### **Resolution Banning the Placement of Buffer Strips and General Plantings Enrolled in the USDA Conservation Reserve Program On or Adjacent to Drainage District Facilities Within the Boundaries of Kossuth County.**

WHEREAS, the laws of the state of Iowa require the Board of Supervisors of Kossuth County to keep the facilities of permanently established drainage districts under their jurisdiction in repair so as to maintain the efficiency and capacity of drainage outlets upon which owners, tenants and occupants of the land in the county rely.

WHEREAS, Iowa Code Section 468.152 allows landowners “. . . any beneficial use of the land . . . which is occupied by the waste banks of an open ditch when such use does not interfere in any way with the easement or rights of the drainage district.”

WHEREAS, prior to 2009 the USDA Farm Service Agency (FS) routinely granted waivers from program rules to the owners of CRP-enrolled lands which were subjected to vegetative cover damage resulting from the repair or improvement of drainage district facilities, the only condition being that the landowners restore the vegetative cover following the completion of the project as directed by the Natural Resources Conservation Service (NRCS). The waiver policy and guidelines were established by a June 3, 1998, letter to all NRCS and FSA county offices from Leroy Brown, State Conservationist, of Natural Resources Conservation Service and Thomas L. Grau, State Executive Director of Farm Service Agency, a photocopy of which is attached and incorporated by reference.

WHEREAS, many landowners in Kossuth County have enrolled land lying adjacent to and upon the rights-of-way of drainage district facilities into the Conservation Reserve Program (CRP) which is administered by the United States Department of Agriculture (USDA) in good faith reliance upon the waiver policy.

WHEREAS, commencing in 2009/2010 the FSA applied an additional condition upon granting of waivers forbidding the disturbance of the CRP lands during the primary nesting season which is identified as May 15 through August 1 of each year and further provided substantial farm program penalties accruing to the landowners if the CRP areas are disturbed by the drainage district during the described nesting season.

WHEREAS the Board of Supervisors of Kossuth County recognize the benefits of conservation buffers and CRP programs and have long supported the placement of CRP buffers on drainage district facilities, including open ditches and other environmentally sensitive areas, but the nesting season prohibition against disturbance of any kind extends through more than half of the normal construction season and is a clear and obvious interference to the easement and right and to the statutory duties and responsibilities and authority of the Board of Supervisors in keeping the drainage district facilities in good repair.

WHEREAS Iowa Code Section 468.149, 468.150, and other salient sections of the Code of Iowa provide that there is to be no interference with the proper preservation, operation or maintenance of drainage district facilities and further provides that individual counties and joint drainage districts may provide by resolution activities which are deemed nuisances which can be prosecuted as a serious misdemeanor and/or abated by nuisance abatement procedures. It is necessary to adopt a resolution to implement and enforce these code sections.

NOW, THEREFORE, It Is Hereby Resolved by the Board of Supervisors of Kossuth County that:

#### SECTION 1. PROHIBITION OF ENROLLMENT OF LAND INTO THE CRP PROGRAM ON OR ADJACENT TO DRAINAGE DISTRICT FACILITIES

The enrollment of lands into the general CRP or CRP conservation buffers which lie on or adjacent to drainage district facilities is hereby found to be an interference to the easements, rights of way, and with the proper preservation, operation and maintenance of drainage district facilities and is hereby prohibited. Land shall be considered adjacent if it lies within 100 feet of the established centerline or within 80 feet of the top of the nearest bank, whichever is farther, of a drainage district open ditch, or surface drain or settling basin or watercourse and said facility is not separated from the land by a public road or a railroad right of way. The land should also be considered adjacent if it lies within fifty feet of any other drainage district facility.

#### SECTION 2. DECLARATION OF NUISANCE

The enrollment or re-enrollment of land lying on or adjacent to a drainage district facility into the CRP after the date of the adoption of this resolution is declared to be an interference as above defined and said enrollment or re-enrollment is declared a nuisance.

### SECTION 3. CONTINUATION OF EXISTING ENROLLED LANDS

The land lying on or adjacent to a drainage district facility which is enrolled in the CRP on the date of adoption of this resolution may remain enrolled until the end of the CRP contract or until such time as circumstances require that the board declare the individual CRP enrollment to be a nuisance, and/or order it to be abated pursuant to Iowa Code Section 468.149 the land may not be re-enrolled in the CRP following expiration or cancellation of the existing CRP contract.

### SECTION 4. EXEMPTIONS – APPLICATION AND CONDITIONS

The board may, upon the written application of a landowner, consider and grant an exemption to the general prohibition of the enrollment or re-enrollment of land on or adjacent to a drainage district facility, but said exemption should be only granted for a defined time period of no more than 15 years, or the maximum amount of any CRP program. Said exemption shall be subject to immediate cancellation at the discretion of the trustees as circumstances require. As part of said application the applicant shall agree in writing to not object to the drainage district's decision should it occur upon the CRP during the primary nesting season to maintain, repair, improve, or inspect the drainage district facilities and the landowner further specifically agrees to not seek reimbursement from the drainage district or any of the three counties herein for any CRP forfeitures or penalties or for any related costs that may result from a possible future finding by the trustees that the exempted CRP is a nuisance and/or abatement is ordered. This exemption is intended but not limited to be used to allow the temporary placement of buffer strips on the leveled spoiled piles following major open ditch repairs or improvements. The active enrollment in a CRP shall operate as a waiver by any landowner of any type of reimbursement or claim against the drainage district with or without the application for exemption.

### SECTION 5. DURATION OF RESOLUTION

This resolution is rescinded under the following conditions:

1. The USDA terminates the conservation reserve program and when all CRP contracts on lands adjacent to or on drainage district facilities have expired.

Or in the alternative:

2. When the Board has determined that the FSA has permanently rescinded the prohibition against disturbing CRP lying on or adjacent to drainage district facilities during the primary nesting season (May 15 – August 1) and all existing and future CRP contracts have been amended to reflect this permanent change.

### SECTION 6. EFFECTIVE DATE AND SEVERANCE

This resolution shall become effective upon its adoption and passage. If any section herein shall be found void or improper the remaining sections shall remain in full force and effect. Passed and approved \_\_\_\_\_, 2011.

By: \_\_\_\_\_

\_\_\_\_\_  
Chairman, Kossuth County Board  
Of Supervisors

By: \_\_\_\_\_

\_\_\_\_\_  
Attest: Auditor

Motion by Besch and 2<sup>nd</sup> by Wymore to approve Resolution #05-17-11-02 which sets the program to be followed for weed destruction in Kossuth County. Motion carried.

**RESOLUTION #05-17-11-02**

WHEREAS; Chapter 317.13 of the Code of Iowa requires that each year the Board of Supervisors prescribe and order a program of weed destruction to be followed by landowners and tenants.

WHEREAS; it is the recommendation of the Kossuth County Weed Commissioner that the following weed policy be adopted.

NOW THEREFORE BE IT RESOLVED by the Kossuth County Board of Supervisors to adopt the following noxious weeds policy for all Kossuth County landowners and tenants:

**NOXIOUS WEED POLICY**

Notice is hereby given this 17th day of May, 2011, pursuant to the Code of Iowa, Chapter 317, Weed Law. All owners, occupants, agents, and public officials in charge of lands in Kossuth County shall destroy or eradicate noxious weeds standing, being, or growing on such lands by effective cutting, tillage, cropping, or treating with chemicals or combination thereof, **as often as may be required to prevent the weeds from blooming and maturing seeds.**

GROUP 1 - by June 5 - Leafy spurge, Hoary cress, Sour Dock, Smooth dock, Red Sorrel, Musk thistle, Buckthorn.

GROUP 2 – by June 16 - Canada thistle, Russian knapweed, Buckthorn plantain, Wild mustard.

GROUP 3 – by July 15 - Field bindweed, Wild carrot, Poison hemlock, Multiflora rose, Horsenettle, Sowthistle, Quackgrass, Velvetleaf, Puncture vine, Cocklebur, Bull thistle, Tall thistle, Wild sunflower, Teasel, and all other thistles of the *Cirsium* or *Carduus* genus, Shattercane, Peppergrass and Purple Loosestrife.

Upon failure to observe this notice, the Weed Commissioner is required to proceed pursuant to the law and have the weeds destroyed, the expense of which shall constitute a lien and be entered as a tax against the land and be collected as other real estates taxes are collected.

DATE: \_\_\_\_\_

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

ATTEST: \_\_\_\_\_

Amber Garman  
Kossuth County Auditor

\_\_\_\_\_  
Jack Bradley  
Kossuth County Weed Commissioner

Motion by Plathe and 2<sup>nd</sup> by Elsbecker to cancel warrant #95772, #103359 and #100795. Motion carried.

Motion by Elsbecker and 2<sup>nd</sup> by Wymore to approve the agreement regarding the installation of an underground irrigation system in the Whittemore gravel pit with Ken Dahlhauser. Agreement is on file in the Kossuth County Engineer's Office. Chairman McGregor called for the roll call vote: Besch: pass, Elsbecker: yes, Plathe: yes, Wymore: yes, McGregor: yes, Besch: yes Motion carried.

Motion by Elsbecker and 2<sup>nd</sup> by Wymore to approve amendment #1 to the Iowa Department of Transportation Secondary Road Budget for Fiscal Year 2011. Motion carried.

Motion by Plathe and 2<sup>nd</sup> by Wymore to approve Resolution #05-17-11-03 which advances locally funded projects from the priority list to the accomplishment year of the 2011 Five Year Road Program for Kossuth County. Motion carried.

**Resolution to Advance Locally Funded Project(s) from the  
Priority List to the Accomplishment year  
of the 2011 Five Year Road Program  
Kossuth County**

**Resolution No. 05-17-11-03**

BE IT RESOLVED: That the Board of Supervisors of Kossuth County, Iowa, initiates and recommends that the advancement of the following project(s) to the Accomplishment year (FY 2011) be approved by the Iowa Department of Transportation (Iowa DOT) for improvement with local funds for the period covering the current secondary road construction program.

Project Number Local ID TPMS #	Description of Work Location Section-Town-Range	AADT Length FHWA #	Type Work Fund basis	Prior FY	Accomplishment year (\$1000's of dollars)		
					Previous Amount	New amount	Net change
<b>LFM-B081310--7X-55</b> 081310 <b>TPMS ID: 9809</b>	A16 / 500 street: N. line 13, Springfield Concrete Slab Bridge S13:T100:R28	180  217460	320 - Bridges County: Farm-to- Market		<b>\$0</b>	<b>\$1</b>	<b>+ \$1</b>
<b>LFM-B971003--7X-55</b> LB971003 <b>TPMS ID: 9810</b>	P66 / 220 AVE: W. Line 10, Lincoln Twp. Concrete Slab Bridge S10:T99:R27	120-120  216810	320 - Bridges County: Farm-to- Market		<b>\$0</b>	<b>\$1</b>	<b>+ \$1</b>
<b>Totals</b>					<b>\$0</b>	<b>\$2</b>	<b>+ \$2</b>

**Recommended :**

\_\_\_\_\_  
County Engineer

May 17, 2011

**Approved:**

\_\_\_\_\_  
Chair, Board of Supervisors

May 17, 2011

**Attested:**

I, Amber Garman, 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 17 day of May, 2011.

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

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Motion by Wymore and 2<sup>nd</sup> by McGregor to approve the purchase of 2 roadside mowers from Tiger Corporation for \$26,764.95. Motion carried.

Motion by Besch and 2<sup>nd</sup> by Elsbecker to authorize the chairman of the Board of Supervisors to sign the Wellmark Blue Cross Blue Shield Renewal Group Binder Agreement for the period of July 1, 2011 to June 30, 2012. Motion carried.

On motion adjournment was taken until May 24, 2011.

Attest:

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Amber Garman  
Kossuth County Auditor

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Don McGregor, Chairman  
Kossuth County Board of Supervisors