

BOARD PROCEEDINGS
December 27, 2016
REGULAR DECEMBER 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.

Motion by Besch and 2nd by Wymore to approve the agenda and the minutes of the previous meeting dated December 20, 2016. Motion carried.

Motion by Tjarks and 2nd by Plathe to open the public hearing on proposal for exchange of real estate – Siems Park. Chairman McGregor called for a roll call vote. Wymore: Yes, Tjarks: yes, Plathe: yes, Besch: yes, McGregor: yes.

No public comments were received by mail or at the hearing.

Motion by Plathe and 2nd by Besch to close the public hearing on proposal for exchange of real estate – Siems Park. Chairman McGregor called for a roll call vote: Wymore: yes, Tjarks: yes, Plathe: yes, Besch: yes, McGregor: yes.

RESOLUTION
#12-27-16-01

RE: For the exchange of a 0.25 acre tract of land, labeled Parcel 1 in Plat of Survey of an Exempt Subdivision of Part of the SE¼ SW¼ Section 9, T-95-N, R-30-W, Kossuth County, Iowa, for a 0.08 acre tract of land adjacent to the Siems Park, labeled Parcel 2 in Plat of Survey of an Exempt Subdivision of Part of the SE¼ SW¼ Section 9, T-95-N, R-30-W, Kossuth County, Iowa.

WHEREAS, the Kossuth County Conservation Board is in the process of making improvements to Siems Park which will require additional land, a 0.08 acre tract labeled Parcel 2 in Plat of Survey of an Exempt Subdivision of Part of the SE¼ SW¼ Section 9, T-95-N, R-30-W, Kossuth County, Iowa, which is currently owned by an adjacent landowner; and

WHEREAS, Kossuth County currently owns a 0.25 acre tract of land, labeled Parcel 1 in Plat of Survey of an Exempt Subdivision of Part of the SE¼ SW¼ Section 9, T-95-N, R-30-W, Kossuth County, Iowa, that the adjacent landowner would like to acquire; and

WHEREAS, the Kossuth County Board of Supervisors recognizes that the improvement of Siems Park is beneficial to the County for many reasons; and

WHEREAS, the exchange of the Parcel 1 for Parcel 2 would be advantageous to Kossuth County; and

WHEREAS, the Code of Iowa sets forth the procedure for the sale or exchange of property by a county; and

WHEREAS, pursuant to Section 331.361(2), Iowa Code, the Kossuth County Board of Supervisors held a public hearing on December 27, 2016, at 8:35 a.m. on the following proposal:

Parcel 1, legally described as:

A parcel of land located in the Southeast Quarter of the Southwest Quarter (SE¼ SW¼) of Section 9, Township 95 North, Range 30 West of the 5th P.M., Kossuth County, Iowa and being more particularly described as follows:

Commencing at the Southeast (SE) corner of the Southwest Quarter (SW¼) of said Section 9; thence along the South line of said Southwest Quarter (SW¼) on a previously recorded bearing of North 88°57'00" West a distance of 982.24 feet to the West line of a parcel described in Book 2016, page 3589; thence along said West line and the East line of an unrecorded survey dated July 24, 1970, North 00°00'35" West a distance of 831.69 feet to a southerly line of said unrecorded survey; thence along said southerly line, South 88°57'00" East a distance of 23.76 feet to an existing fence line, the Point of Beginning; thence continuing along said line, South 88°57'00" East a distance of 117.74 to the West line of said unrecorded survey; thence along said West line, North 00°00'00" West a distance of 95.14 feet;

thence South 89°57'55" West a distance of 114.98 feet to the said existing fence line extended northerly; thence along said extended line, South 01°41'32" West a distance of 92.97 feet to the Point of Beginning.

Note: Tract contains 0.25 Acres, and is subject to all easements of record.

shall be exchanged for

Parcel 2, legally described as:

A parcel of land located in the Southeast Quarter of the Southwest Quarter (SE¼ SW¼) of Section 9, Township 95 North, Range 30 West of the 5th P.M., Kossuth County, Iowa and being more particularly described as follows:

Commencing at the Southeast (SE) corner of the Southwest Quarter (SW¼) of said Section 9; thence along the South line of said Southwest Quarter (SW¼) on a previously recorded bearing of North 88°57'00" West a distance of 982.24 feet to the West line of a parcel described in Book 2016, page 3589; thence along said West line, North 00°00'35" West a distance of 670.00 feet to the North line of said parcel, the Point of Beginning; thence continuing North 00°00'35" West along the East line of a parcel described on an unrecorded survey dated July 24, 1970, a distance of 161.69 feet to a southerly line of said parcel; thence along said southerly line, South 88°57'00" East a distance of 23.76 feet to an existing fence line; thence along said existing fence line, South 01°41'32" West a distance of 161.68 feet to the North line of said parcel described in Book 2016, page 3589; thence along said North line, North 88°57'00" West a distance of 18.96 feet to the Point of Beginning.

Note: Tract contains 0.08 Acres, and is subject to all easements of record.

NOW, THEREFORE, BE IT RESOLVED, that, upon conclusion of the public hearing on the matter, the Kossuth County Board of Supervisors hereby approves the exchange of Parcel 1 for Parcel 2 pursuant to Section 331.361(2) Iowa Code.

It was on motion by Supervisor Wymore, and seconded by Supervisor Tjarks, that the foregoing resolution be adopted as read. Vote thereon resulting as follows: Chairman McGregor Called for a roll call vote: Wymore: yes, Tjarks: yes, Plathe: yes, Besch: yes, McGregor: yes. Resolution declared adopted this 27th day of December, 2016.

Don McGregor, Chairperson
Board of Supervisors
Kossuth County, Iowa

ATTEST:

Amber Garman, Auditor
Kossuth County, Iowa

Motion by Plathe and 2nd by Wymore to approve the Second and Final Reading of Ordinance #1-2016 which is an Ordinance Readopting the existing County Code of Kossuth County, Iowa. Chairman McGregor called for a roll call vote: Wymore: yes, Tjarks: yes, Plathe: yes, Besch: yes, McGregor: yes.

KOSSUTH COUNTY ORDINANCE NUMBER 1-2016

TITLE: AN ORDINANCE READOPTING THE EXISTING COUNTY CODE OF KOSSUTH COUNTY, IOWA:

BE IT ENACTED by the Board of Supervisors of Kossuth County, Iowa:

Section 1. Purpose. Code of Iowa Section 331.302(9) requires that once every five years a County shall compile its Code of Ordinances. This ordinance readopts ordinances already in effect, adopts ordinances that became effective after the last readoption and repeals any ordinance deemed no longer necessary to the operation of Kossuth County, Iowa, or to the health, safety, and welfare of its citizens.

Section 2. Readoption of Current Code. The following ordinances have been previously adopted and enacted into law and were duly published as the law provides. They are stated herein by number and subject matter and by the authority of the Kossuth County Board of Supervisors, comprise Kossuth County Code of Ordinances:

SECONDARY ROADS

- Ordinance No. 101(A): An ordinance to protect and regulate secondary road right of way and debris on secondary roads.
(Formerly Ordinance No. 1)
- Ordinance No. 103(A): An ordinance that establishes the policy and level of service in respect to clearance of snow or ice and maintenance of this county's secondary roads during the winter months.
(Repeals Ordinance No. 3)
- Ordinance No. 112: An ordinance establishing the Area Service "C" Road Maintenance Classification.
(Formerly Ordinance No. 12)
- Ordinance No. 113: An ordinance establishing the Area Service "B" Road Maintenance Classification.
(Formerly Ordinance No. 13)
- Ordinance No. 114: An ordinance regulating the operation of All-Terrain vehicles And off-road vehicles in Kossuth County, Iowa.

ELECTION AND TAXATION

- Ordinance No. 205: An ordinance establishing a local option sales and services tax applicable to transactions within the incorporated areas of Algona, Bancroft, Burt, Fenton, Lakota, Ledyard, Lone Rock, LuVerne, Swea City, Titonka, Wesley, West Bend, and Whittemore of Kossuth County.
(Formerly Ordinance No. 5)
- Ordinance No. 205A: An ordinance establishing a local sales and services tax applicable to transactions within the Incorporated areas of Algona and Bancroft in Kossuth County, Iowa.
- Ordinance No. 206: An ordinance establishing a local option sales and services tax applicable to transactions within the unincorporated areas of Kossuth County.
(Formerly Ordinance No. 6)
- Ordinance No. 206A: An ordinance establishing a local sales and services tax applicable to transactions within the Unincorporated Areas of Kossuth County, Iowa.
- Ordinance No. 207: An ordinance providing special property taxation in lieu of the valuation and assessment provisions for wind energy conversion property.
(Formerly Ordinance No. 6-97)

- Ordinance No. 208 (2-2011): An ordinance amending the previous Kossuth County Code to establish new boundary lines for voting precincts within the County of Kossuth.
(Formerly Ordinance No. 208)
- Ordinance No. 209: An ordinance establishing a local office fee for Uniform Commercial Code (UCC) information requests.
(Formerly Ordinance No. 9)
- Ordinance No. 216: An ordinance establishing a School Local Option Sales and Service tax applicable to transactions within the listed school districts of Kossuth County, Iowa.
(Formerly Ordinance No. 16)
- Ordinance No. 223: An ordinance extending the local option sales tax for schools.
(Formerly Ordinance No. 23)
- Ordinance No. 224: An Ordinance providing for the division of taxes levied on taxable Property in the Kossuth County Buffalo Township Economic Development Urban Renewal Area, Pursuant to Section 403.19 of the Code of Iowa.

ZONING

- Ordinance No. 300: County Zoning Ordinance.
(Formerly Unnumbered)
- Ordinance No. 300A: An Ordinance Amending the Kossuth County Iowa Zoning Ordinance imposing a six (6) month moratorium on the processing of any applications to construct commercial wind energy conversion systems or associated facilities anywhere in Kossuth County.
- Ordinance No. 350: County Subdivision Ordinance.
(Formerly Unnumbered)
- Ordinance No. 350A: An Amendment to existing Ordinance No. 350 an ordinance Amending the subdivision regulations and ordinance of Kossuth County, Iowa.

HEALTH, SAFETY AND WELFARE

- Ordinance No. 402: An ordinance prohibiting open burning in Kossuth County during periods when open burning poses a threat to the public health, safety and welfare and providing for a penalty.
(Formerly Ordinance No. 2)
- Ordinance No. 404: An ordinance controlling lead hazards in dwellings, including establishing minimum standards for inspections and providing penalties for violations.
(Formerly Ordinance No. 4)
- Ordinance No. 412: An ordinance establishing flood plain management and control measures for those areas having flood hazards.
(Formerly Ordinance No. 12)
- Ordinance No. 412A: An Amendment to existing Ordinance No 412 an Ordinance amending the Floodplain Management Ordinance with changes per the DNR.
- Ordinance No. 413: An ordinance for the establishment of construction standards for private on-site sewage treatment and water well systems, and the

issuance of permits for these systems; for the proper plugging of abandoned wells; and for providing penalties for violations of provisions of this ordinance.
(Formerly Ordinance No. 13)

Ordinance No. 422: An ordinance defining and providing for the abatement of nuisances.
(Formerly Ordinance No. 22)

Ordinance No. 423: An Ordinance authorizing the County or a City to bid on and purchase delinquent taxes and to assign tax sale certificates of abandoned property or vacant lots.

Ordinance No. 424: An Ordinance authorizing the County Treasurer to separately offer and sell delinquent taxes at a public nuisance tax sale.

CONSERVATION

Ordinance No. 512: An ordinance establishing rules and regulations for the protection, regulation and control of all parks, preserves, parkways, playgrounds, recreation centers and other property of Kossuth County and establishing penalties for violations thereof.
(Formerly Ordinance No. 12)

EMERGENCY MANAGEMENT

Ordinance No. 601: An ordinance establishing model rules for the local board of health relating to quarantine and isolation for communicable and infectious diseases.

Ordinance No. 621: An ordinance regulating the storing, handling and transportation of hazardous materials.

Ordinance No. 631: An Ordinance providing for official street names for all public roads in unincorporated areas of Kossuth County, Iowa and providing for an orderly street and address numbering system.

PUBLIC SAFETY

Ordinance No. 707: An ordinance prohibiting the use, possession with intent to use, manufacture, and delivery of drug paraphernalia in Kossuth County.
(Formerly Ordinance No. 7)

Ordinance No. 713: An ordinance placing conditions on the sale of products containing pseudoephedrine in combination with other active ingredients.
(Formerly Ordinance No. 13)

Ordinance No. 714: An ordinance providing for the registration and documentation of retail sales of keg alcoholic beverages and imposing penalties for violations.
(Formerly Ordinance No. 14)

Section 3. Code of Ordinances. Copies of the code as adopted herein shall be on file and available for public inspection in the Office of the County Auditor at the Kossuth County Courthouse.

Section 4. When Effective. This ordinance shall be effective after its final passage, approval, and publication as provided by law.

Adopted and passed by the Kossuth County Board of Supervisors on this 27th day of December, 2016.

Kossuth County Board of Supervisors

Donald McGregor, Chairperson

Don Besch

Roger Tjarks

Jack Plathe

Pam Wymore

ATTEST:

Amber Garman
Kossuth County Auditor

First Reading: **December 20, 2016**

Second Reading: **December 27, 2016**

Approved: **December 27, 2016**

Published: **December 15, 2016**

The Board of Supervisors acknowledged the Safety Committee Meeting Minutes for December.

Motion by Wymore and 2nd by Tjarks to amend the December 6, 2016 version of the proposed Ordinance Regulating the Construction and Operation of Commercial Wind Energy Conversion Systems in Kossuth County, Iowa by;

1. Replacing Section II -Permit application and Review, Paragraph 2 J with "A report prepared by a qualified third-party using the most current modeling software available establishing that no Occupied Residence will experience more than thirty (30) hours per year, or more than thirty (30) minutes per day, of shadow flicker at the nearest external wall based on a "real world" or "adjusted case" assessment modeling.

The report must show the locations and estimated amount of shadow flicker to be experienced at all Occupied Residences as a result of the individual Turbines in the Project.

The owner of an Occupied Residence may waive the shadow flicker limits established above, which waiver must be in a written instrument signed by all owners and included with the Application."

2. Replacing the modification process contained in the ordinance with Section II -Permit application and Review, Paragraph 9. "Modifications. The location of Components may be modified from the FDP when necessary to address exigencies encountered during construction, subject to the following limitations:

(i) any such modification shall remain subject to all setbacks and other requirements set forth in this Ordinance and the Ancillary Agreement;

(ii) the location of Turbines and Project substations can only be modified from the FDP with approval of the Zoning Administrator if the proposed relocation is 300 feet or less; or, for such modifications exceeding 300 feet, with the approval of the Board of Supervisors. Approval of a Turbine or Project substation modification by the Zoning

Administrator or the Board of Supervisors shall be deemed an approved amendment to the FDP and also automatically amend the WECS Permit.

(iii) Within 30 days from the completion of the Project, the Permit Holder shall revise the FDP to show the exact "as-built" coordinates for all Components, including any modifications. Failure to timely provide such coordinates shall be grounds for revocation of the WECS Permit."

3. Changing Section III - Siting and Design Standards, Paragraph 1. Set Back Requirement for adjacent property lines and for public road right of way from 110% of total height to 600 feet

And

4. Changing Section III - Siting and Design Standards, Paragraph 3. (iii) to "No Project shall exceed 250 megawatts of generating capacity."

Chairman McGregor called for a roll call vote: Wymore: yes, Tjarks: yes, Plathe: yes, Besch: no, McGregor: yes. Motion carried 4-1.

Motion by Besch and 2nd by Plathe to authorize and give permission to the Kossuth County Drift Skippers to groom and use snowmobile trails within Kossuth County Secondary Road right of way using the designated routes for the period of December 27, 2016 to March 31, 2017. Motion carried.

Discussion with Kossuth County Engineer/Zoning Administrator was held.

Pam Wymore left the meeting.

Drainage was held followed by Informal Public Hearing for Repairs in Drainage District 84.

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

On motion adjournment was taken until January 3, 2017.

Attest:

Amber Garman
Kossuth County Auditor

Don McGregor, Chairman
Kossuth County Board of Supervisors