

January 3, 2011

The Shelby County Board of Supervisors met in an organizational session at 9:00 A.M. in the Supervisors Chambers in the Courthouse with the following members present: Delbert Hull, Roger Schmitz, James Burmeister, and Marsha J. Carter, Clerk.

It was moved by Hull, seconded by Schmitz, to approve James Burmeister as Chairman of the Board of Supervisors for the 2011 calendar year. Motion carried unanimously.

It was moved by Schmitz, seconded by Burmeister, to approve Delbert Hull as Vice-Chairman of the Board of Supervisors for the 2011 calendar year. Motion carried unanimously.

It was moved by Schmitz, seconded by Hull, to approve the agenda. Motion carried unanimously.

It was moved by Hull, seconded by Schmitz, to approve the minutes of December 21, 2010. Motion carried unanimously.

It was moved by Schmitz, seconded by Hull, to approve the Claims of December 30, 2010, as listed in the Claims Register. Motion carried unanimously.

The following elected officials of Shelby County qualified for their respective offices by taking the oath and by giving bond according to Chapter 63.1, Code of Iowa:

Roger Schmitz, Shelby County Board of Supervisor  
Marcus Gross, Jr, Shelby County Attorney  
Carolyn Blum, Shelby County Treasurer  
Linda Fahn, Shelby County Recorder

It was moved by Schmitz, seconded by Hull, that the following resolution be adopted:

RESOLUTION NO. 2011-1  
A RESOLUTION APPOINTING DEPUTY COUNTY OFFICIALS  
FOR THE 2011 CALENDAR YEAR

BE IT RESOLVED, that the following persons shall be appointed deputies for the following offices as recommended by the elected officials according to Chapter 331.903, Code of Iowa:

Marcus Gross, Jr.  
County Attorney

Assistants: Todd Argotsinger  
Judson Frisk  
Jennifer Mumm

Mark Hervey  
County Sheriff

Deputies: Rodney McMurphy, Chief Deputy  
Kelly Lefeber  
Chad Butler  
Edward Craig  
Donavon Dontje  
Jeffrey Trailer  
Glenn Birks

AYES: Burmeister, Hull, Schmitz    NAYES: None

The Board of Supervisors shall meet as required by Chapter 331.213, Code of Iowa, and shall hold their first meeting of each year on the first day in January, which is not a Saturday, Sunday or holiday and shall hold all subsequent meetings of the year as

scheduled by the Board. All meetings of the Board shall be scheduled and conducted in compliance with Chapter 21. Following is the 2011 schedule:

January 3 & 25  
February 1 & 22  
March 1 & 22  
April 5 & 19  
May 3 & 17  
June 7 & 28  
July 5 & 26  
August 2 & 23  
September 6 & 20  
October 4 & 18  
November 1 & 15  
December 6 & 27

It was moved by Hull, seconded by Schmitz, that all claims filed in the Auditor's office by the Wednesday before the second scheduled meeting of each month as listed above will be approved for payment by the Board of Supervisors at that meeting. Motion carried unanimously.

It was moved by Hull, seconded by Schmitz, that the County Auditor be authorized without prior approval of the Board to draw warrants for salaries of county officers, their deputies and clerks; courthouse custodians; and all secondary road employees. The auditor is also authorized to pay the telephone, utilities, freight, deferred compensation, expenses of transporting person(s) to state institutions, health insurance, and authorized expenses incurred by employees while attending training. The Board authorized the County Auditor to issue warrants for County Conservation Commission, County Assessor, Shelby County Solid Waste Agency, Shelby County Veteran Affairs Commission, Shelby County Board of Health, Shelby County Community Services, and Shelby County Emergency Management Agency. Motion carried unanimously.

It was moved by Hull, seconded by Schmitz, to appoint Roger Schmitz as Weed Commissioner for 2011. Motion carried unanimously.

It was moved by Schmitz, seconded by Hull, to approve the appointment of Scott Markham as County Medical Examiner and to accept the proposal of the physicians of Shelby County that the doctor on call will act in the Medical Examiner's absence. Motion carried unanimously.

It was moved by Hull, seconded by Schmitz, to approve the appointment of the following persons as members of the Compensation Board for the Condemnation of Private Property for Shelby County for 2011, as required by Chapter 472.4, Code of Iowa:

FARM OWNER - OPERATORS

Walter Staiert  
Elk Horn, Iowa

Don Schomers  
Earling, Iowa

Doug Robinson  
Shelby, Iowa

CITY PROPERTY OWNERS

Kayla Jacobs  
Harlan, Iowa

Maurice Knudsen  
Elk Horn, Iowa

Paul Leinen  
Harlan, Iowa

David Boettger  
Harlan, Iowa

Michael Cain  
Harlan, Iowa

Ken Schneider  
Portsmouth, Iowa

Todd Langenfeld  
Earling, Iowa

Dave Wahling  
Shelby, Iowa

Richard Leinen  
Portsmouth, Iowa

Charles Wooster, Jr.  
Manilla, Iowa

Donald Holdsworth  
Harlan, Iowa

REAL ESTATE BROKERS

PERSONS HAVING KNOWLEDGE OF  
PROPERTY VALUES IN SHELBY COUNTY

Kirk Petersen  
Harlan, Iowa

Terry Knapp  
Harlan, Iowa

Norman Mathiasen  
Harlan, Iowa

Ben Plumb  
Harlan, Iowa

Martin Nelson  
Elk Horn, Iowa

Rowland Burton  
Irwin, Iowa

Jerry Lapke  
Harlan, Iowa

Randy Ouren  
Harlan, Iowa

Tim Meyers  
Harlan, Iowa

Jan Arkfeld  
Defiance, Iowa

John Wells  
Defiance, Iowa

Dave Robinson  
Shelby, Iowa

Terry Bails  
Harlan, Iowa

It was moved by Hull, seconded by Schmitz, to approve the Harlan Tribune or the Harlan News Advertiser and the Danish Villages Voice as official newspapers for 2011, as defined in Chapter 618.3 and Chapter 349, Code of Iowa. Motion carried unanimously.

It was moved by Schmitz, seconded by Hull, that the following resolution be adopted:

RESOLUTION NO. 2011-2  
RESOLUTION CONCERNING NON-DISCRIMINATION

BE IT RESOLVED, by the Board of Supervisors of Shelby County, Iowa, that no person shall be excluded from the receipt of services or benefits, and Shelby County shall not refuse to hire, accept, register, classify, or refer for employment, or discharge any employee, or otherwise discriminate in employment against any applicant for employment, because of the age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability of such applicant or employee, unless based upon the nature of the occupation.

AYES: Burmeister, Hull, Schmitz      NAYES: None

It was moved by Hull, seconded by Schmitz, that the following days shall constitute paid holidays for all eligible employees as stated herein for the 2011 year. Motion carried unanimously.

New Year's Day - Friday, December 31, 2010 (January 1 is on Saturday)  
Presidents' Day - Monday, February 21  
Memorial Day - Monday, May 30  
Independence Day - Monday, July 4  
Labor Day - Monday, September 5  
Veterans' Day - Friday, November 11  
Thanksgiving Day - Thursday, November 24  
Friday after Thanksgiving - Friday, November 25  
Christmas - Monday, December 26 (Christmas is on Sunday)

The Board also established the following policy: If a holiday falls on Saturday, the preceding Friday will be a paid holiday; when a holiday falls on Sunday, the following Monday will be a paid holiday. This policy is in effect for all holidays mentioned except Christmas Eve afternoon.

It was moved by Schmitz, seconded by Hull, that The Agency, Harlan, IA, be the broker for bonding for Shelby County for 2011. Motion carried unanimously.

It was moved by Schmitz, seconded by Hull, that the following appointments be approved. Motion carried unanimously:

**Civil Service Commission - 6 year staggered terms - appoint 1 every other year**

Harrison/Monona/Shelby Empowerment Area - Burmeister  
Citizens Advisory Board for Cherokee MHI - Hull  
Shelby-Harrison-Monona Planning Council &  
28E Mental Health Coordinator Board - Hull  
Fourth Judicial District Department of  
Correctional Services Board of Directors - Schmitz  
Juvenile Emergency Service Committee - Schmitz  
Emergency Management Agency Commission - Hull  
E911 Joint Service Board - Bob Seivert, Voting Member; Hull, Non-Voting Member  
Southwest Iowa Planning Council to the Midlands &  
Southwest Iowa Transit Authority Commission - Burmeister  
Planning & Zoning Commission - Carolyn Blum (2014), Jon Noon (2014)  
Rural District Zoning Board of Adjustment - Walt Staiert, Jr (2015)  
Solid Waste Agency Board - Schmitz  
West Central Development Board - Hull  
Shelby County DevelopSource - Schmitz  
Enterprise Zone Commission - Schmitz  
WESCO - Burmeister  
Board of Health - Burmeister  
Rural Conservation & Development Board - Barry Deuel  
Hungry Canyons Alliance -Burmeister  
Workforce Development - Region 13 - Schmitz  
Metropolitan Area Planning Association - Burmeister  
Loess Hills Development & Conservation Authority - John Wendt & Jerry Henscheid  
Conservation Board - Hull  
Hotel/Motel Tax - Tourism Committee - Marsha Carter  
Building & Grounds Oversight - Hull  
Shelby County Roads Task Force - Representative appointed by each Township

It was moved by Schmitz, seconded by Hull, to authorize any member of the Board to sign any documents related to farms belonging to the County and documents relating

to any farm programs the County will be eligible for in the future. Motion carried unanimously.

It was moved by Hull, seconded by Schmitz, to approve the following resolution:

RESOLUTION NO. 2011-3  
ECONOMIC DEVELOPMENT  
PUBLIC PURPOSE STATEMENT

BE IT RESOLVED by the Shelby County Board of Supervisors that the funding of Shelby County DevelopSource and Shelby County Area Wide Chamber and any other economic development project deemed appropriate by the Board is an economic development project as defined in Iowa Code Section 15A.1 and that this expenditure would further a public purpose, that public purpose to be an expansion or retention of jobs in Shelby County. Any business receiving economic development funding from Shelby County will be required to abide by the policies set by Shelby County, including but not limited to, Resolution 2007-32, A Resolution Concerning the Use of the E-Verify Website.

AYES: Burmeister, Hull, Schmitz, NAYES: None

It was moved by Schmitz, seconded by Hull, to approve the following resolution:

RESOLUTION NO. 2011-4  
MASTER MATRIX  
CONSTRUCTION EVALUATION RESOLUTION

WHEREAS, Iowa Code section 459.304(3) sets out the procedure if a board of supervisors wishes to adopt a "construction evaluation resolution" relating to the construction of a confinement feeding operation structure; and

WHEREAS, only counties that have adopted a construction evaluation resolution can submit to the Department of Natural Resources (DNR) an adopted recommendation to approve or disapprove a construction permit application regarding a proposed confinement feeding operation structure; and

WHEREAS, only counties that have adopted a construction evaluation resolution and submitted an adopted recommendation may contest the DNR's decision regarding a specific application; and

WHEREAS, by adopting a construction evaluation resolution the board of supervisors agrees to evaluate every construction permit application for a proposed confinement feeding operation structure received by the board of supervisors between February 1, 2011 and January 31, 2012 and submit an adopted recommendation regarding that application to the DNR; and

WHEREAS, the board of supervisors must conduct an evaluation of every construction permit application using the master matrix created in Iowa Code section 459.305, but the board's recommendation to the DNR may be based on the final score on the master matrix or may be based on reasons other than the final score on the master matrix;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF SHELBY COUNTY that the Board of Supervisors hereby adopts this construction evaluation resolution pursuant to Iowa Code section 459.304(3).

AYES: Burmeister Hull, Schmitz NAYES: None

It was moved by Hull, seconded by Schmitz, to approve the following resolution:

RESOLUTION NO. 2011-5  
RESOLUTION AUTHORIZING A PARTNERSHIP WITH  
SOUTHWEST IOWA HOUSING TRUST FUND, INC.

WHEREAS; The Shelby County Board of Supervisors has found a need for homeownership assistance and housing repairs for lower income individuals and families; and,

WHEREAS; Southwest Iowa Housing Trust Fund, Inc. proposes to provide funding to assist income eligible individuals and families purchase their first-home and repair owner-occupied homes.

NOW THEREFORE, BE IT RESOLVED BY THE SHELBY COUNTY BOARD OF SUPERVISORS, as follows:

SECTION 1: The Shelby County Board of Supervisors is interested in participating in the Southwest Iowa Housing Trust Fund, Inc. housing programs.

SECTION 2: The Shelby County Board of Supervisors will contribute \$1,000.00 per unit assisted in Shelby County lying outside the city limits of Harlan, not to exceed \$10,000.00, in calendar year 2011.

Adopted this 3<sup>rd</sup> day of January, 2011.

AYES: Burmeister, Hull, Schmitz    NAYES: None

It was moved by Schmitz, seconded by Hull, to abate the real estate taxes on Parcel No. 830436201002 in the amount of \$106.00. Motion carried unanimously.

It was moved by Hull, seconded by Schmitz, to approve the following resolution:

RESOLUTION NO. 2011-6  
CANCELLATION/POSTPONEMENT OF SHERIFF'S SALES

WHEREAS, it would be in the public interest for the Shelby County Sheriff to charge an additional fee for the cancellation and/or the postponement of Sheriff's sales. These fees would reimburse the county for paperwork and research done prior to the sale.

NOW THEREFORE, BE IT RESOLVED BY THE SHELBY COUNTY BOARD OF SUPERVISORS that from this date forward the Shelby County Sheriff is authorized to charge a fee of \$50.00 for the cancellation of a Sheriff's sale and a fee of \$15.00 for each postponement of a Sheriff's sale.

Adopted this 3<sup>rd</sup> day of January, 2011.

AYES: Burmeister, Hull, Schmitz    NAYES: None

It was moved by Hull, seconded by Schmitz, to authorize the Chairman to sign the Project Agreement between Shelby County and GeoComm Inc for communications consulting services for the Narrowbanding/Radio Upgrade Project as discussed and set out in the December 14, 2010 meeting. Motion carried unanimously.

It was moved by Hull, seconded by Schmitz, to authorize the County Auditor to notify Harlan Municipal Utilities to cancel the gas surcharge currently being collected in the Western Ventures Business Park. This surcharge was being forwarded to the County to reimburse the County for the expense of the installation of that gas line, which has now been paid back by the Tax Increment Financing District for that area. Motion carried unanimously.

Joel Dirks, West Central Development, appeared before the Board to update them on their activities for 2010 and to make their FY2012 funding request. It was moved by Hull, seconded by Schmitz, to approve the FY2012 request of \$2,000 for West Central Development as presented by Dirks. AYES: Burmeister, Hull, Schmitz, NAYES: None  
It was moved by Hull, seconded by Schmitz, to approve the FY2012 request of \$6,000 for Southwest Iowa Transit Agency as submitted by SWITA. AYES: Burmeister, Hull, Schmitz, NAYES: None

Dan Ahart, the County Engineer, updated the Board on activities of the county road crews and the status of current maintenance and construction projects.

It was moved by Hull, seconded by Schmitz, to approve the following resolution:

RESOLUTION NO. 2011-7  
RESOLUTION TO ADD LOCALLY AND FM FUNDED PROJECT(S) TO  
THE ACCOMPLISHMENT YEAR OF THE 2011 FIVE YEAR ROAD PROGRAM  
SHELBY COUNTY

BE IT RESOLVED: That the Board of Supervisors of Shelby County, Iowa, initiates and recommends that the addition 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 and/or FM funds for the period covering the current secondary road construction program.

ER-C083(49)--58-83 Rick Andersen ER Project TPMS ID: 20147

M-56 / : 0.0 to 0.0  
192" Dia. Structural Steel Plate Arch Culvert 150' Length  
S21:T78N:R37W

AADT Length FHWA # 40

Type Work - 331 - Pipe Culverts  
Fund Basis - County: Farm-to-Market

Net Change - +\$12,000

Passed January 3, 2011.

AYES: Burmeister, Hull, Schmitz, NAYES: None

It was moved by Hull, seconded by Schmitz, to approve Amendment No. 1 of the FY2011 IDOT Secondary Road Five-Year Construction Program, which adds Project ER-CO(49)–58-83. AYES: Burmeister, Hull, Schmitz, NAYES: None

It was moved by Hull, seconded by Schmitz, to approve the following resolution:

RESOLUTION NO. 2011-8  
POLICY RELATING TO DITCH CLEANING  
ON SECONDARY ROADS IN  
SHELBY COUNTY

## BACKGROUND:

Road ditches exist, and are used for many reasons. Road use benefits include supplying a source of soil to build the road, supply a ponding area to allow for rapid removal of water from the driving surface, supplying a flowpath for removal of road surface water to natural water courses, or providing an area for snow storage. To achieve these purposes, taxes are levied, collected, and spent by the Secondary Road Department.

Road ditches are also used for other purposes, not relating primarily to road uses. Among these are wildlife cover and field drainage.

Many road ditches, although adequate for road purposes, are requested to be cleaned out or deepened for field drainage, or other reasons. It is recognized that the cost of this work exceeds the benefit to the road. Also, the Code of Iowa requires that Secondary Road funds be spent for road uses and benefits.

It is also recognized that ditch cleaning costs vary from location to location. Where soil must be hauled away in trucks, the costs are much greater than if the soil can be wasted in a nearby field or on the inslope.

## POLICY:

Realizing the above conditions and circumstances, and wanting to be as efficient in the use of road funds as possible, the Board of Supervisors has adopted the following policy.

1. The first priority for the equipment used in ditch cleaning operations is cleaning out the ends of drainage structures, replacing damaged or separated culverts, washouts, and bridges. This type of work and ditch cleaning for areas where is for primarily road use benefits will be scheduled by the road foremen. This work will be paid entirely by the Road Department.

2. Secondary priority for cleaning road ditches by the Road Department will be those areas where cleaning is primarily for field drainage, or other non- road benefiting purpose.

3. Ditch cleaning work done primarily for field drainage or other reasons, will be paid for by the persons(s) requesting the work, and the Secondary Road Fund, on a percentage cost share basis. The Road Department will perform the work if scheduling permits, or the requesting person's may apply for a permit and hire/perform the work themselves. All work by others will be overseen by road foremen.

The cost share percentages shall be established by the Board of Supervisors, based on the recommendation of the Engineer, and shall be determined prior to the start of work. If the share determined by the Board to accrue to the Road Department exceeds 50%, the work will be paid for entirely by the Road Department. (see item 1.)

4. No ditch cleaning operations will commence for the sole purpose of obtaining fill material for other purposes.

5. Excavated spoil material will be placed on adjacent property owner's land unless it is needed for other purposes by the department. Others requesting material may come to the working site to haul own if they wish to do so.



6. In accordance with Iowa Code, no ditch cleaning will be done that changes the natural flow of the surface water, or attempts to create drainage where it has not existed before.

7. All necessary and proper barricades, flares, etc., as per the Manual on Uniform Traffic Control Devices, shall be furnished by and maintained by the applicant. Maximum safety precautions shall be maintained at all times to protect workers, property owners and the traveling public from accidents due to the operations of the applicant.

8. Shelby County shall be indemnified and saved harmless of any damages resulting from the applicant's/contractor's operation.

Adopted this 3<sup>rd</sup> day of January, 2011 by the Shelby County Board of Supervisors.

AYES: Burmeister, Hull, Schmitz    NAYES: None

It was moved by Hull, seconded by Schmitz, to approve the following resolution:

RESOLUTION NO. 2011-9  
UPGRADE OF LEVEL "B" ROAD AND AGGREGATE SURFACING POLICY  
ON SECONDARY ROADS IN  
SHELBY COUNTY

INTENT

The intent of this policy is to assure relatively uniform treatment of all County residents in providing aggregate surfacing to permanently occupied facilities within the County.

This policy is not intended to provide multiple rocked accesses to permanently occupied facilities or to provide rocked access to agricultural fields or grain storage installations not requiring continuous year-round access. Item 8 of this policy allows for cost sharing methods to achieve aggregate surfacing on these types of roads.

BACKGROUND

There are many miles of dirt roads in Shelby County. Many are little more than flat bottomed ditches or trails. Occasionally someone will purchase a parcel of land or otherwise occupy a previously vacant facility or dwelling, and request that the road accessing that site be rocked. Because of the substantial cost associated with this upgrade, and in the interest of treating all requests uniformly, the following policy is hereby adopted:

POLICY

REALIZING that Shelby County has many miles of unimproved roads, and also many miles of aggregate-surfaced roads; and;

REALIZING that funds to maintain these roads are limited; and;

REALIZING that there is a substantial initial and annual cost associated with upgrading a road to, or maintaining a road as an aggregate surfaced road; therefore;

BE IT RESOLVED by the Shelby County Board of Supervisors that no roads will be upgraded to aggregate surfaces, or maintained as aggregate surfaces except under the following conditions:

1. The road right-of-way is, as determined by the County Engineer, adequate to provide for a safe traveled way and to allow for proper drainage. In all but unusual cases this will require a right-of-way of no less than 66 feet in width.

2. A substantial, permanent, new facility has been constructed and is permanently occupied along the road, or an existing owner demonstrates to the Board's satisfaction either the evidence of a long and continuing occupation of the dwelling or intent to occupy the location for a long term. In all cases, the occupant will be required to sign a binding agreement stating same, prior to the upgrade and aggregate of surfacing the road. In cases where the occupant is not the owner, the owner will also be required to sign the agreement.

3. Although aggregate surfacing will be applied at a rate to be determined by the County Engineer; the normal application rate for new surfaces is 1500 tons/mile.

4. The County is granted, by easements signed by all adjacent property owners, right to occupy adequate right-of-way, remove trees, brush etc., and to re-construct the road to meet the County's requirements. All necessary right-of-way will be provided, without charge, to the County by adjacent property owners.

5. All parties requesting this work or benefiting from this work (including the landowner, where he is different than the occupant) will enter into an agreement that recognizes and agrees with this policy, and binds the parties thereto.

6. The Board reserves the right to discontinue surface maintenance of any road when it determines that the intent of this policy is no longer being satisfied.

7. This policy does not supersede or override the effect of previous agreements with respect to rocking made as a result of previous policies, nor does it disallow the continuance of rocking on existing rocked roads; unless discontinued under item 6 of this policy .

8. This policy also allows for upgrade of level "B" roads and aggregate surfacing, providing the items 1, 2, 4 and 6 of these requirements are satisfied and the benefitting party agrees to pay all costs associated with said improvements. Payment will be made prior to the improvements and aggregate surfacing. The final decision as to whether the level "B" road is upgraded and aggregate surfaced remains at the discretion of the Board.

Adopted this 3<sup>rd</sup> day of January, 2011 by the Shelby County Board of Supervisors.

AYES: Burmeister, Hull, Schmitz    NAYES: None

There being no further business appearing, the Chairman declared the meeting adjourned at 10:32 a.m.

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James Burmeister, Chairman

ATTEST:

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Marsha J. Carter  
Clerk to the Board of Supervisors

NOTE: These minutes are as recorded by the Clerk to the Board of Supervisors and are subject to Board approval at the next regular meeting.