

MINUTES AND PROCEEDINGS OF A REGULAR MEETING OF THE BUTLER COUNTY BOARD OF SUPERVISORS HELD ON October 25, 2022.

Meeting called to order at 9:00 A.M. by Chairman Rusty Eddy with member Greg Barnett present in person. Board member Tom Heidenwirth was present via Zoom.

Moved by Barnett, second by Eddy to approve the agenda. All ayes. Motion carried.

Minutes of the previous meeting were read. Motioned by Barnett, second by Eddy to approve the minutes as read. All ayes. Motion carried.

During public comment County Engineer, John Riherd, shared that the DOT has approved grant funding for the application the County submitted to improve the safety of the crossing by Packard. In the interim, the County has purchased two flashing, LED railroad crossing signs to be installed, until the permanent improvements can be completed. Riherd explained the Sult family was instrumental in securing the grant funding in a timely manner to ensure increased safety measures are installed at that railroad crossing.

Kim Junker, New Hartford, spoke during public comment about the engagement letter being discussed with Ahlers & Cooney for carbon pipeline consulting services. Junker shared that she has spoken with other counties who are also doing this. She feels it is good to have a group with a united legal strategy and shared other counties have indicated Ahlers & Cooney is top notch.

Barnett motioned to open a Public Hearing on proposed updates to the Butler County Zoning Ordinance Title VI, Number 7, second by Heidenwirth. All ayes. Motion carried. County Auditor, Leslie Groen, and Planning & Zoning Administrator, Misty Day, have not received any additional comments on the updates. With no other comments being heard, it was motioned by Barnett, second by Heidenwirth to close the Public Hearing. All ayes. Motion carried.

Board considered the Second Reading of the Butler County Zoning Ordinance Title VI, Number 27. Barnett moved to approve the second reading, second by Heidenwirth. All ayes. Motion carried.

Barnett motioned to open a Public Hearing on a proposed long-term lease agreement for property owned by Butler County, second by Heidenwirth. All ayes. Motion carried. Auditor Groen has not received any comments regarding a long-term lease agreement. With no additional comments, Barnett motioned to close the public hearing, second by Heidenwirth. All ayes. Motion carried.

Board considered Resolution 1050 – Approving a Long-Term Lease Agreement for Real Property owned by Butler County, IA. Engineer Riherd explained the location would be near a County maintenance shed building north of New Hartford. He felt this location provides a safe place for Dumont Telephone to have a fiber optic building and good for the public to have this service in the area. Discussions were held regarding long-term lease terms and Eddy felt it is important to consider Dumont Telephone is a private company. Riherd stated the proposed site is less than 0.10 of an acre and felt if a purchase price was considered, it would be in the range of \$1000-\$2000. Roger Kregel, Dumont Telephone, provided comparable square footage rates from their other locations in the area, which ranged from \$1 to \$3 per square foot. It was determined \$1/square foot would equate to approximately \$3200 and the Board felt a 50-year lease with an initial payment of \$3000 was appropriate. Motioned by Barnett, second by Heidenwirth to approve Resolution 1050 – Approving a Long-Term Lease Agreement for Real Property owned by Butler County, IA. The roll call was taken, and Resolution 1050 was adopted as follows:

**RESOLUTION NO. 1050
RESOLUTION APPROVING A LONG-TERM LEASE AGREEMENT
FOR REAL PROPERTY OWNED BY BUTLER COUNTY, IA.**

WHEREAS, the Board of Supervisors of Butler County, Iowa, proposes a long-term lease agreement for the following real property:

The West 40 feet of the North 130 feet of a tract of land located in Section 28, Township 90N, Range 15W of the 5th P.M described in Book 108 Page 460, Butler County Recorder's office, excluding presently established road right of way.

WHEREAS, Iowa Code 331.361 requires proposals to dispose of interest in county-owned real property shall be set forth in a resolution;

WHEREAS, Iowa Code 331.361 further requires published notice of the time and place of a public hearing for any such proposals, in accordance with section 331.305;

WHEREAS, after the public hearing, the board may make a final determination on the proposal by resolution.

WHEREAS, the NOTICE OF PROPOSED ACTION ON A LONG-TERM LEASE AGREEMENT FOR REAL PROPERTY OWNED BY BUTLER COUNTY, IA, was published in accordance with section 331.305 in the four newspapers in the County which meet the requirements of Iowa Code Section 618.3 and 618.14 and published on October 12th/October 13th, 2022;

WHEREAS, the "County", pursuant to a resolution of the Board adopted on October 4th, 2022, held a public hearing for the purpose of considering a long-term lease agreement with Dumont Telephone, at the following real property:

The West 40 feet of the North 130 feet of a tract of land located in Section 28, Township 90N, Range 15W of the 5th P.M described in Book 108 Page 460, Butler County Recorder's office, excluding presently established road right of way.

NOW, THEREFORE, Be It Resolved by the Board of Supervisors of Butler County, Iowa, as follows:

Section 1. A long-term lease agreement with Dumont Telephone is approved in substantially the form as presented to this Board. The Chairperson and County Auditor are hereby authorized and directed to execute and deliver the long-term lease agreement.

Section 2. All resolutions and orders or parts thereof in conflict with the provisions of this resolution, to the extent of such conflict, are hereby repealed.

Section 3. This resolution shall be in full force and effect immediately upon its adoption and approval, as provided by law.

UPON Roll Call the vote thereon was as follows:

AYES: Greg Barnett
Rusty Eddy
Tom Heidenwirth

NAYS: None

ABSENT: N/A

WHEREUPON the Resolution was declared duly adopted this 25th day of October, 2022.

Rusty Eddy
Chairman, Board of Supervisors

ATTEST:
Leslie Groen, County Auditor

With discussions previously held regarding long-term lease agreement terms with Dumont Telephone, Barnett motioned by approve a 50-year lease with an initial lease price of \$3000, second by Eddy. All ayes. Motion carried.

Auditor Groen shared information regarding a Development Agreement with Shell Roy Soy Processing, LLC. Ahlers & Cooney and Jeff Kolb have been involved and we are ready to forward. Groen explained the last urban renewal amendment and TIF ordinance updates contain the required information for Shell Rock Soy Processing, LLC; therefore, only the Development Agreement proceedings are needed at this time. Motioned by Eddy, second by Barnett to approve Resolution 1051. A roll was called and Resolution 1051 was adopted as follows:

RESOLUTION NO. 1051

RESOLUTION FIXING DATE FOR A PUBLIC HEARING ON THE PROPOSAL TO ENTER INTO A DEVELOPMENT AGREEMENT WITH SHELL ROCK SOY PROCESSING LLC, AND PROVIDING FOR PUBLICATION OF NOTICE THEREOF

WHEREAS, by Resolution No. 692, adopted April 27, 2010, this Board found and determined that certain areas located within the County are eligible and should be designated as an urban renewal area under Iowa law, and approved and adopted the Butler County Logistics Park Urban Renewal Plan (the "Plan") for the Butler County Logistics Park Urban Renewal Area (the "Urban Renewal Area" or "Area") described therein, which Plan, as amended, is on file in the office of the Recorder of Butler County, Iowa; and

WHEREAS, the Plan has been amended seven times; and

WHEREAS, it is desirable that properties within the Area be redeveloped as part of the overall redevelopment area covered by said Plan; and

WHEREAS, the County has received a proposal from Shell Rock Soy Processing LLC (the "Developer"), in the form of a proposed Development Agreement (the "Agreement") by and between the County and the Developer, pursuant to which, among other things, the Developer would agree to construct certain Minimum Improvements (as defined in the Agreement) on certain real property located within the Urban Renewal Area as defined and legally described in the Agreement (the "Development Property") and consisting of the construction of a soybean crush facility with multiple buildings, structures, rail spur, hard surface parking areas, roadways, together with all related site improvements, as outlined in the proposed Agreement; and

WHEREAS, the Agreement further proposes that the County will make up to ten (10) consecutive annual payments of Economic Development Grants to Developer consisting of 80% of the Tax Increments pursuant to Section 403.19, Code of Iowa, and generated by the construction of the Minimum Improvements, the cumulative total for all such payments not to exceed the lesser of \$4,545,000, or the amount accrued under the formula outlined in the proposed Agreement, under the terms and following satisfaction of the conditions set forth in the Agreement; and

WHEREAS, one of the obligations of the Developer relates to employment retention and/or creation; and

WHEREAS, Chapters 15A and 403, Code of Iowa, (the "Urban Renewal Law") authorize counties to make grants for economic development in furtherance of the objectives of an urban renewal project and to appropriate such funds and make such expenditures as may be necessary to carry out the purposes of said Chapter, and to levy taxes and assessments for such purposes; and

WHEREAS, the Board has determined that the Agreement is in the best interests of the County and the residents thereof and that the performance by the County of its obligations thereunder is a public undertaking and purpose and in furtherance of the Plan and the Urban Renewal Law and, further, that the Agreement and the County's performance thereunder is in furtherance of appropriate economic development activities and objectives of the County within the meaning of Chapters 15A and 403, Code of Iowa, taking into account the factors set forth therein; and

WHEREAS, neither the Urban Renewal Law nor any other Code provision sets forth any procedural action required to be taken before said economic development activities can occur under the Agreement, and pursuant to Section 331.301(5), Code of Iowa, it is deemed sufficient if the action hereinafter described be taken and the County Auditor publish notice of the proposal and of the time and place of the meeting at which the Board proposes to take action thereon and to receive oral and/or written objections from any resident or property owner of said County to such action.

NOW THEREFORE, BE IT RESOLVED, BY THE BOARD OF SUPERVISORS OF BUTLER COUNTY IN THE STATE OF IOWA:

That this Board meet in the Butler County Courthouse Basement, Emergency Operations Center, 428 Sixth Street, Allison, Iowa, at 9:00 A.M. on November 22, 2022, for the purpose of taking action on the matter of the proposal to enter into a Development Agreement with Shell Rock Soy Processing LLC.

That the County Auditor is hereby directed to cause at least one publication to be made of a notice of said meeting, in a legal newspaper, printed wholly in the English language, published at least once weekly, and having general circulation in said County, said publication to be not less than four (4) clear days nor more than twenty (20) days before the date of said public meeting.

The notice of the proposed action shall be in substantially the following form:
(One publication required)

NOTICE OF PUBLIC HEARING OF THE BOARD OF SUPERVISORS OF BUTLER COUNTY IN THE STATE OF IOWA, ON THE MATTER OF THE PROPOSAL TO ENTER INTO A DEVELOPMENT AGREEMENT WITH SHELL ROCK SOY PROCESSING LLC, AND THE HEARING THEREON

PUBLIC NOTICE is hereby given that the Board of Butler County in the State of Iowa, will hold a public hearing on November 22, 2022, at 9:00 A.M. in the Butler County Courthouse Basement, Emergency Operations Center, 428 Sixth Street, Allison, Iowa, at which meeting the Board proposes to take action on the proposal to enter into a Development Agreement (the "Agreement") with Shell Rock Soy Processing LLC (the "Developer").

The Agreement would obligate the Developer to construct certain Minimum Improvements (as defined in the Agreement) on certain real property located within the Butler County Logistics Park Urban Renewal Area as defined and legally described in the Agreement, consisting of the construction of a soybean crush facility with multiple buildings, structures, rail spur, hard surface parking areas, roadways, together with all related site improvements, under the terms and following satisfaction of the conditions set forth in the Agreement. One of the obligations of Developer relates to employment retention and/or creation.

The Agreement would further obligate the County to make up to ten (10) consecutive annual payments of Economic Development Grants to Developer consisting of 80% of the Tax Increments pursuant to Section 403.19, Code of Iowa, and generated by the construction of the Minimum Improvements, the cumulative total for all such payments not to exceed the lesser of \$4,545,000, or the amount accrued under the formula outlined in the proposed Agreement, under the terms and following satisfaction of the conditions set forth in the Agreement.

A copy of the Agreement is on file for public inspection during regular business hours in the office of the County Auditor, Courthouse, Butler, Iowa.

At the above meeting the Board shall receive oral or written objections from any resident or property owner of said County, to the proposal to enter into the Agreement with the Developer. After all objections have been received and considered, the Board will at this meeting or at any adjournment thereof, take additional action on the proposal or will abandon the proposal to authorize said Agreement.

This notice is given by order of the Board of Supervisors of Butler County in the State of Iowa, as provided by Sections 331.301(5) and 331.305, Code of Iowa.

Dated this 25th day of October, 2022.

Leslie Groen
County Auditor, Butler County in the State of Iowa

(End of Notice)

PASSED AND APPROVED this 25th day of October, 2022.

Rusty Eddy
Chairperson, Board of Supervisors

ATTEST:
Leslie Groen
County Auditor

Misty Day, Planning and Zoning Administrator, shared the County's current minor subdivision ordinance states the Zoning Administrator may hold a public hearing prior to Board approval/disapproval by resolution. There has been an increase in minor plats and she felt many of them did not require a public hearing. Day explained may other counties already do it this way and she will be moving toward Board resolution approval only vs. having a BOS public hearing; unless there was something controversial or concerning that would warrant a public hearing. She explained the P & Z Commission will continue to review and make recommendations on the minor plats.

Motioned by Eddy, second by Barnett to approve Resolution 1052 for Minor Subdivision Plat. A roll call was taken and Resolution 1052 was adopted as follows:

**RESOLUTION # 1052
BUTLER COUNTY BOARD OF SUPERVISORS
APPROVING "MINOR SUBDIVISION PLAT" WITH THE RECOMMENDATION OF THE BUTLER COUNTY
PLANNING AND ZONING COMMISSION**

BE IT RESOLVED by the Butler County Board of Supervisors as follows:

- Section 1. The Butler County Planning and Zoning Commission held a Public Hearing on October 20, 2022, to consider a Minor Subdivision Plat for property owned by Luchtenburg et al.
- Section 2. The area is located in the Southwest (SW¹/₄) of Section 6, Township No. 92 North, Range No. 16 West of the 5th P.M.
- Section 3. The proposed parcels are not for developmental purposes and will remain agricultural use.
- Section 4. The Planning & Zoning Commission has made the recommendation that the Minor Subdivision Plat be approved.
- Section 5. The Board of Supervisors hereby approve the Minor Subdivision Plat located in the Southwest (SW¹/₄) of Section 6, Township 92 North, Range 16 West of the 5th P.M.
- Section 6. This resolution shall take effect immediately.

The vote thereon was as follows: AYES: Rust Eddy NAYS: None ABSENT: None
 Greg Barnett
 Tom Heidenwirth

Passed and approved this 25th day of October, 2022.

ATTEST: Leslie Groen, County Auditor

Motioned by Barnett, second by Heidenwirth to approve Resolution 1053 for Vail Avenue Minor Plat. A roll call was taken and Resolution 1053 was adopted as follows:

**RESOLUTION # 1053
BUTLER COUNTY BOARD OF SUPERVISORS
APPROVING "VAIL AVENUE MINOR PLAT" WITH THE RECOMMENDATION OF THE BUTLER COUNTY
PLANNING AND ZONING COMMISSION**

BE IT RESOLVED by the Butler County Board of Supervisors as follows:

- Section 1. The Butler County Planning and Zoning Commission held a Public Hearing on October 20, 2022, to consider a Minor Subdivision Plat entitled "VAIL AVENUE MINOR PLAT".
- Section 2. The area is located in the Southwest (SW¹/₄) of Section 34, Township No. 90 North, Range No. 15 West of the 5th P.M. and consists of three (3) lots which includes a lot for a proposed residential structure, a lot for the existing residential structure, and a proposed recreational lot.
- Section 3. The Planning & Zoning Commission has made the recommendation that the Minor Subdivision Plat entitled "VAIL AVENUE MINOR PLAT" be approved.
- Section 4. The Board of Supervisors hereby approve the Minor Subdivision Plat entitled "VAIL AVENUE MINOR PLAT" located in the Southwest (SW¹/₄) of Section 34, Township 90 North, Range 15 West of the 5th P.M.
- Section 5. This resolution shall take effect immediately.

The vote thereon was as follows: AYES: Rust Eddy NAYS: None ABSENT: None
 Greg Barnett
 Tom Heidenwirth

Passed and approved this 25th day of October, 2022.

ATTEST: Leslie Groen, County Auditor

Board held additional discussions regarding hiring Ahlers & Cooney to assist the County with a carbon pipeline ordinance and represent the County with the Iowa Utilities Board. Discussions included cost, budget, County residents' concerns and a review of a sample engagement letter from Ahlers & Cooney. Motioned by Barnett, second by Eddy to approve Ahlers & Cooney to draft an engagement letter for Butler County to assist with a carbon pipeline ordinance and representation. All ayes. Motion carried.

Motioned by Eddy second by Barnett to approve claims. All ayes. Motion carried.

Motioned by Barnett, second by Eddy to adjourn the regular meeting at 9:36 A.M. to November 1, 2022 at 9:00 A.M. All ayes. Motion carried.

The above and foregoing is a true and correct copy of the minutes and proceedings of a regular adjourned meeting of the Board of Supervisors of Butler County, Iowa on October 25th, 2022.

Attest: Leslie Groen
Butler County Auditor

Rusty Eddy
Chairman of the Board of Supervisors