

BOARD PROCEEDINGS
October 8, 2019
REGULAR OCTOBER SESSION

The Board of Supervisors met pursuant to adjournment. Present were: Jack Plathe, Chairman, Galen Casey, Kyle Stecker, Donnie Loss and Roger Tjarks.

Public Discussion was held followed by discussion with Secondary Road Foreman.

Jack Plathe called the meeting to order at 8:30 a.m.

Motion by Loss and 2nd by Tjarks to approve the agenda and the minutes of the previous meeting dated October 1st, 2019. Chairman Plathe called for a roll call vote: Casey: yes, Stecker: yes, Loss, yes, Tjarks: yes, Plathe: yes. Motion carried.

Motion by Tjarks and 2nd by Stecker to approve Resolution #10-08-19-01 which is a resolution regarding settlement agreement between the Board of Directors of County Social Services and the Board of Supervisors of Kossuth County, Iowa and to authorize the Chairman to sign the agreement. Chairman Plathe called for a roll call vote: Casey: yes, Stecker: yes, Loss: yes, Tjarks: yes, Plathe: yes.

RESOLUTION #10-08-19-01

RE: SETTLEMENT AGREEMENT BETWEEN THE BOARD OF DIRECTORS OF COUNTY SOCIAL SERVICES AND THE BOARD OF SUPERVISORS OF KOSSUTH COUNTY, IOWA.

WHEREAS, an arbitration hearing had been scheduled on September 10, 2019, to resolve the issues between County Social Services and Kossuth County, Iowa, regarding a disputed amount owing to County Social Services by Kossuth County; and

WHEREAS, the parties have engaged in good faith settlement negotiations, and, as a result, the parties have negotiated a resolution to the issues and wish to enter into a Settlement Agreement to accomplish same; and

WHEREAS, attached hereto is a copy of the Settlement Agreement.

NOW THEREFORE BE IT RESOLVED That the Settlement Agreement, attached hereto and incorporated herein by this reference, is hereby fully approved in all respects and particulars and the Chairman of the Kossuth County Board of Supervisors and Kossuth County Auditor are hereby authorized and directed to execute this resolution approving same for and on behalf of Kossuth County, Iowa.

It was on motion by Supervisor Stecker, and seconded by Supervisor Tjarks, that the foregoing Resolution be adopted as read. Motion carried. Vote thereon resulting as follows: Casey: yes, Stecker: yes, Loss: yes, Tjarks: yes, Plathe: yes. Resolution declared adopted this 8th day of October, 2019.

Jack Plathe, Chairperson
Board of Supervisors
Kossuth County, Iowa

ATTEST:

Amber Garman, Auditor
Kossuth County, Iowa

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into by and between the Board of Directors of County Social Services ("CSS") and the Board of Supervisors of Kossuth County, Iowa ("Kossuth") on this 8th day of October, 2019.

RECITALS:

- A. Kossuth and 21 other Counties are parties to that certain 28E agreement entitled Intergovernmental Agreement Creating County Social Services and filed with the Secretary of State on June 27, 2014, (the “28E Agreement”).
- B. For fiscal year 2018, CSS made a request to Kossuth, pursuant to the 28E Agreement, to levy taxes for Fund 10 in the amount of \$33.18 per capita. Kossuth instead levied \$26.24 per capita, resulting in a difference of \$105,274.70.
- C. For fiscal year 2019, CSS made a request to Kossuth, pursuant to the 28E Agreement, to levy taxes for Fund 10 in the amount of \$35.18 per capita. Kossuth instead levied \$21.25 per capita, resulting in a difference of \$210,516.00.
- D. The total amount of the difference between what was requested by CSS and what Kossuth levied was \$315,791.00.
- E. Kossuth levied taxes for fiscal year 2020 in the amount of 43.65 per capita. CSS requested a tax levy in the amount of 35.18 per capita. The Kossuth levy, when realized in October of 2019 and April of 2020, will assumedly create an excess amount of \$127,073.00 in Fund 10 from the excess levy. This would leave a remaining deficit in the Fund 10 of \$188,718.00.
- F. An arbitration hearing had been scheduled before Arbitrator Marsha Ternus for 9:00 a.m. on September 10, 2019, to resolve three issues: 1) the obligation of Kossuth to levy for fiscal year 2018 and fiscal year 2019 a per capita amount as requested by CSS; 2) to determine the difference, if any, resulting from a levy for fiscal year 2018 and fiscal year 2019 in an amount less than formerly requested by CSS; and 3) the obligation of Kossuth to forward to the fiscal agent for CSS from the County’s Fund 10 Balance amounts formally requested by CSS in allocation requests.
- G. The parties hereto have engaged in good faith settlement negotiations, and, as a result, the parties have negotiated a resolution to these issues and wish to enter into this Settlement Agreement to accomplish same.

The parties agree as follows:

- 1. For all future fiscal years, Kossuth will levy for taxes at a minimum the per capita levy amount requested by CSS, as provided for in the 28E Agreement.
- 2. Kossuth will resolve the current deficit of \$315,791.00 in Fund 10 maintained by Kossuth but under the control of CSS, in accordance with the 28E Agreement and Iowa law, in the following manner:
 - a) In the event that Kossuth leaves CSS at the end of fiscal year 2020, Kossuth will transfer all tax dollars from its Fund 10 levies as realized in October, 2019, and April, 2020, into Fund 10. Additionally, when the calculation provided for in Article X: Withdrawal and Dissolution (b) of the 28E Agreement has been completed, with the Fund 10 balance valued on the accrual basis of accounting, CSS will retain that portion of Kossuth’s withdrawal amount necessary to satisfy any remaining unpaid balance of the original amount of \$315,791.00 and pay the remainder of said withdrawal amount to Kossuth.
 - b) In the event that Kossuth does not withdraw from CSS at the end of fiscal year 2020, Kossuth will follow the same procedure with regard to fiscal year 2021 tax levy dollars and future tax levy dollars as set forth in paragraph 1 above and, in addition, will at the request of CSS levy additional amounts in any future years for so long as it takes to satisfy any remaining balance of the original amount of \$315,791.00.

- c) In the event that Kossuth leaves CSS at the end of fiscal year 2020, and in the event that there are insufficient funds, after the provisions of paragraph (a) above, to provide for the satisfaction of amounts owed by Kossuth to CSS, Kossuth will remain obligated to CSS for any remaining deficit from tax levy dollars realized by Kossuth in future years and will satisfy said obligation to CSS on or before June 30, 2023.

3. As required by the 28E Agreement, Kossuth will transfer to the CSS fiscal agent all amounts requested by CSS in future allocation requests, when requested, from Fund 10 maintained by Kossuth in an account which is under the control of CSS.

4. In accordance with Iowa law, CSS will not request any amount the result of which would cause the Fund 10 balance maintained by Kossuth to be a negative amount, taking into account current and future expenses, salaries, and costs.

5. Kossuth shall have its status returned to that of being in good standing and the suspension of voting rights and services pursuant to Article IX of the 28E Agreement shall be lifted immediately upon the signing of this agreement, subject to future Board action in this regard should the provisions of this Settlement Agreement not be followed by Kossuth.

6. Each of the parties will pay their own costs and legal expenses and will pay one-half of any invoices from Arbitrator Marsha Ternus.

7. The parties understand and agree that the transfers contemplated herein are being given in consideration of the disputed claims between the parties at issue in this matter.

8. This settlement constitutes a global release and each party, in all fiduciary and individual capacities, and their respective agents, representatives, successors, assigns or any person acting on their behalf, hereby irrevocably and unconditionally release and forever discharge the other party, in all fiduciary and individual capacities, and their respective agents, representatives, successors, assigns or any person acting on their behalf, from and against any and all actions, causes of action, suits, debts, charges, complaints, claims, liabilities, obligations, judgments, damages and expenses, whether known or unknown, which the party, in all fiduciary and individual capacities, and/or their respective agents, representatives, successors, assigns or any person acting on their behalf, has now, or has ever had against or concerning the other party, in all fiduciary and individual capacities, and/or their respective agents, representatives, successors, assigns or any person acting on their behalf, arising from or in any manner relating to this matter, whether based in tort or contract, in equity or law, whether related to the Arbitration, contractual relationships and claims or otherwise, except for the right of either party to enforce the terms of this Settlement Agreement through any remedy provided by contract or law.

9. This Settlement Agreement will be binding upon each of the parties and will be interpreted according to the laws of the State of Iowa and the 28E Agreement.

BOARD OF DIRECTORS OF
COUNTY SOCIAL SERVICES

/s/

BOARD OF SUPERVISORS OF
KOSSUTH COUNTY, IOWA

By: _____

Jack Plathe, Chairperson

Board of Supervisors

Kossuth County, Iowa

ATTEST: _____

Amber Garman, Auditor

Kossuth County, Iowa

Motion by Stecker and 2nd by Loss to open the public hearing in regards to the 2019 Amendment to the Kossuth County Buffalo Township Urban Renewal Plan. Chairman Plathe called for a roll call vote: Casey: yes, Stecker: yes, Loss: yes, Tjarks: yes, Plathe: yes. Motion carried.

There were no public comments received in the mail or in person.

Motion by Tjarks and 2nd by Loss to close the public hearing in regards to the 2019 Amendment to the Kossuth County Buffalo Township Urban Renewal Plan. Chairman Plathe called for a roll call vote: Casey: yes, Stecker: yes, Loss: yes, Tjarks: yes, Plathe: yes. Motion carried.

Motion by Tjarks and 2nd by Stecker to approve Resolution #10-08-19-02 which is the resolution to approve the 2019 Urban Renewal Plan Amendment for the Kossuth County Buffalo Township Urban Renewal Area. Chairman Plathe called for a roll call vote: Casey: yes, Stecker: yes, Loss: yes, Tjarks: yes, Plathe: yes. Motion carried.

RESOLUTION #10-08-19-02

A resolution to approve the 2019 Urban Renewal Plan Amendment for the Kossuth County Buffalo Township Urban Renewal Area

WHEREAS, the Board of Supervisors of Kossuth County, Iowa (the "County") has created the Kossuth County Buffalo Township Urban Renewal Area (the "Urban Renewal Area") and has approved an urban renewal plan for the Urban Renewal Area; and

WHEREAS, Chapter 403 of the Code of Iowa requires that, before a county adds property or approves any new urban renewal project, a county must amend the existing urban renewal plan to include that property and that new project; and

WHEREAS, an amendment to the urban renewal plan for the Urban Renewal Area has been prepared which describes a project that is intended to be financed with the incremental property tax revenues related to a county road improvement in connection with widening 330th Street; and

WHEREAS, notice of a public hearing by the Board of Supervisors on the proposed urban renewal plan amendment for the Urban Renewal Area was heretofore given in strict compliance with the provisions of Chapter 403 of the Code of Iowa, and the Board has conducted said hearing; and

WHEREAS, copies of the urban renewal plan amendment, notice of public hearing and notice of a consultation meeting with respect to the urban renewal plan amendment were sent to Algona Community School District, and the consultation meeting was held;

NOW, THEREFORE, It Is Resolved by the Board of Supervisors of Kossuth County, Iowa as follows:

Section 1. It is hereby determined by this Board of Supervisors as follows;

A. The 2019 Amendment to the Urban Renewal Plan for the Kossuth County

Buffalo Township Urban Renewal Area conforms to the general plan of the County;

B. The proposed project described in the 2019 Amendment to the Urban Renewal Plan for the Kossuth County Buffalo Township Urban Renewal Area is necessary and appropriate to facilitate the proper growth and development of the County in accordance with the sound planning standards and local community objectives.

Section 2. The 2019 Amendment to the Urban Renewal Plan for the Kossuth County Buffalo Township Urban Renewal Area, in the form that has been presented to the Board, is made part hereof and is hereby in all respects approved.

Section 3. All resolutions or parts thereof in conflict herewith are hereby repealed, to the extent of such conflict

Passed and Approved October 8, 2019

Attest: _____
Jack Plathe, Chairman
Kossuth County Board of Supervisors

Amber Garman, Kossuth County Auditor

Ryan Warmke was present to give the monthly report for Kossuth Regional Health Center.

Motion by Stecker and 2nd by Tjarks to approve the renewal of the Flex Spending Account and Dependent Care Flexible Spending Account with a \$2700 maximum. Chairman Plathe called for a roll call vote: Casey: yes, Stecker: yes, Loss: yes, Tjarks: yes, Plathe: yes. Motion carried.

Motion by Stecker and 2nd by Tjarks to approve the sale of Kossuth County Equipment Number 4038, 1999 Sterling Tandem Diesel Dump Truck, VIN 2FZXMJBB5XAA93058 to the City of Bancroft for \$10,000. Chairman Plathe called for a roll call vote: Casey: yes, Stecker: yes, Loss: yes, Tjarks: yes, Plathe: yes. Motion carried.

Motion by Loss and 2nd by Casey to approve the Resolution #10-08-19-03 which is a resolution to approve amendment #2.0 to the Iowa Department of Transportation Secondary Road Construction Program for FY 2020. Chairman Plathe called for a roll call vote: Casey: yes, Stecker: yes, Loss: yes, Tjarks: yes, Plathe: yes. Motion carried.

RESOLUTION TO APPROVE AMENDMENT #2.0 TO THE IOWA DEPARTMENT OF TRANSPORTATION SECONDARY ROAD CONSTRUCTION PROGRAM FOR FISCAL YEAR 2020

Kossuth County Resolution No. 10-08-19-03

WHEREAS, the Kossuth County Board of Supervisors (Board) adopted an amended Iowa Department of Transportation Secondary Road Program for Fiscal Year 2020 on June 11, 2019 (Program), and

WHEREAS, Numerous resurfacing projects were contained in the Program, and

WHEREAS, A Wind Energy Project is being constructed in Kossuth County that interferes with the programed resurfacing projects planned construction dates, and

WHEREAS, An Urban Renewal Project has been approved by the Board of Supervisors

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF KOSSUTH COUNTY that the Iowa Department of Transportation Secondary Road Program for Fiscal Year 2020 be amended as follows:

Move TPMS 37691, FM-C055(B55)--55-55 to Accomplishment Year, FY2020
Move TPMS 36603, FM-C055(P56)--55-55 to Accomplishment Year, FY2020
Move TPMS 36604, FM-C055(B30)--55-55 to Accomplishment Year, FY2020
Move TPMS 37690, LFM-RS22(C10)--55-55 to Accomplishment Year, FY2020
Move TPMS 37692, LFM-RS22(B44)--55-55 to Accomplishment Year, FY2020
Move TPMS 39054, LFM-RS22(B40)--55-55 to Accomplishment Year, FY2020

Add TPMS 39552, LFM-IM(GE)--55-55 to Accomplishment Year, FY2020

Move TPMS 36600, FM-C055(P56)--55-55 to 1st Priority Year, FY 2021

Move TPMS 35188, FM-C055(B58)--55-55 to 1st Priority Year, FY 2021

Move TPMS 35208, FM-C055(R14)--55-55 to 2nd Priority Year, FY 2022

Move TPMS 35211, LFM-RS20(1)--55-55 to 2nd Priority Year, FY 2022

Resolution adopted this 8th day of October, 2019.

Kossuth County Board of Supervisors

Board of Supervisors Chairperson

ATTEST:

Kossuth County Auditor

Motion by Casey and 2nd by Stecker that the Board of Supervisors of Kossuth County, Iowa, does hereby authorize and give its permission to Marvin Thilges, Algona IA, to install 72 feet of 12" Ø Class 3 reinforced concrete pipe by cutting through 190th Street, 2510 feet west of 90th Avenue. Work will be between Sections 17 and 20, Cresco Township, Kossuth County. Permit number 09-33-2019 is on file in the Kossuth County Engineer's Office. Chairman Plathe called for a roll call vote: Casey: yes, Stecker: yes, Loss: yes, Tjarks: yes, Plathe: yes. Motion carried.

Motion by Tjarks and 2nd by Casey That the Board of Supervisors of Kossuth County, Iowa, does hereby authorize and give its permission to Northern Natural Gas, Omaha, NE, to: Install test leads to the existing pipeline on 220th Ave, approximately 1900 feet south of 180th Street. Work will be in Section 28 of Prairie Township. Permit number 10-37-2019 is on file in the Kossuth County Engineer's Office. Chairman Plathe called for a roll call vote: Casey: yes, Stecker: yes, Loss: yes, Tjarks: yes, Plathe: yes. Motion carried.

Motion by Tjarks and 2nd by Stecker That the Board of Supervisors of Kossuth County, Iowa, does hereby authorize and give its permission to Mark Bormann, Livermore IA, to install: 72 feet of 18" Ø Class 3 reinforced concrete pipe by cutting through 135th Avenue, 2700 feet south of 150th Street. AND 72 feet of 18" Ø Class 3 reinforced concrete pipe by cutting through 135th Avenue, 5170 feet south of 150th Street. Work will be in Section 7 Sherman Township, Kossuth County. Permit number 09-38-2019 is on file in the Kossuth County Engineer's Office. Chairman Plathe called for a roll call vote: Casey: yes, Stecker: yes, Loss: yes, Tjarks: yes, Plathe: yes. Motion carried.

Motion by Tjarks and 2nd by Casey to approve Resolution #10-08-19-04 which is a resolution that provides for the temporary closing of sections of roadway when necessary because of construction. Chairman Plathe called for a roll call vote: Casey: yes, Stecker: yes, Loss: yes, Tjarks: yes, Plathe: yes. Motion carried.

RESOLUTION #10-08-19-04

WHEREAS, Section 306.41 of the Code of Iowa provides for the temporary closing of sections of roadway when necessary because of construction, and

WHEREAS, the County Engineer has been authorized by a previous resolution of this Board of Supervisors to execute the requirements of Section 306.41 regarding temporary road closures, and

WHEREAS, bridge replacement project L-B681506--73-55 requires 160th Avenue between 250th Street and 260th Street be closed to all traffic, and

NOW, THEREFORE, BE IT RESOLVED, by the Kossuth County Board of Supervisors that the above described roads be closed and proper signs be erected for the duration of the construction project as determined by the County Engineer.

BE IT FURTHER RESOLVED, that upon completion of the construction work, as determined by the County Engineer, the road shall be opened to the traveling public without further action of this board.

October 8, 2019

Dated at Algona, Iowa

ATTEST:

Chairman, Board of Supervisors

Kossuth County Auditor

Discussion was held with Kossuth County Engineer/Zoning Administrator.

Motion by Tjarks and 2nd by Loss to have the Supervisors handle their requests for drainage as follows: Supervisor Stecker, 1 Request (#149) and Supervisor Plathe, 2 Requests (#147 and #148). Chairman Plathe called for a roll call vote: Casey: yes, Stecker: yes, Loss: yes, Tjarks: yes, Plathe: yes. Motion carried.

Motion by Stecker and 2nd by Casey to approve the Change Order #3 in regard to the Improvement Project in Drainage District #84. Chairman Plathe called for a roll call vote: Casey: yes, Stecker: yes, Loss: yes, Tjarks: yes, Plathe: yes. Motion carried.

Motion by Tjarks and 2nd by Plathe to go into closed session per advice of Drainage Attorney, Tom Lipps to discuss strategy with counsel in matters that are presently in litigation or where litigation is imminent where its disclosure would be likely to prejudice or disadvantage the position of the governmental body in that litigation as well as the case law on attorney/client privilege as codified in Iowa Code Section 622.10. Chairman Plathe called for a roll call vote: Casey: yes, Stecker: yes, Loss: yes, Tjarks: yes, Plathe: yes. Motion carried.

There was no decision made following closed session.

Discussion was held in regards to a Moratorium of Wind Energy.

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

On motion adjournment was taken at 11:53 a.m. until October 15, 2019.

Attest:

Amber Garman
Kossuth County Auditor

Jack Plathe, Chairman
Kossuth County Board of Supervisors