

# MINUTES AND PROCEEDINGS OF A REGULAR MEETING OF THE BUTLER COUNTY BOARD OF SUPERVISORS HELD ON December 14, 2021.

Meeting called to order at 9:00 A.M. by Chairman Greg Barnett with members Rusty Eddy and Tom Heidenwirth present. Moved by Heidenwirth, second by Eddy to approve the agenda. All ayes. Motion carried.

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

During public comment, Mary Englekes voiced concerns regarding a proposed intersection change at Orchid Lane and Railroad Street in Parkersburg. Riherd explained the purpose of the proposed change is to accommodate tanker truck traffic to the airstrip. Riherd also explained the traffic going through town vs. turning onto Orchid Lane from Hwy 57. Riherd also mentioned the engineers are working with the DNR regarding the wildlife and native wetlands in that area. Barnett said it is the first he has heard of the proposed change, thanked Engelkes for voicing her concerns and offered to continue discussion after the meeting.

Time set for Public Hearing on proposed reclassification of 230<sup>th</sup> St and Cedar Avenue. Motioned by Eddy, second by Heidenwirth to open the public meeting. All ayes. Motion carried. No taxpayers present had comments and no oral or written comments were received prior to the public hearing. Riherd shared he has received a petition signed by all surrounding landowners, and explained the purpose of a gated road and who would have access. Riherd is in favor of gating the described road. With no additional public comments, motioned by Eddy, second by Heidenwirth to close the public hearing. All ayes. Motion carried. Motioned by Heidenwirth, second by Eddy to approve Resolution 1010 to classify road(s) to Area Service Level C (230<sup>th</sup> St and Cedar Avenue). The roll was called and the vote was AYES: Eddy, Barnett, Heidenwirth. NAYS: none; therefore Resolution 1010 was adopted as follows:

## Resolution #1010 Resolution to classify road(s) to Area Service Level C – (230th St & Cedar Ave)

Moved by Heidenwirth and seconded by Eddy to approve the following resolution:

**WHEREAS**, Butler County desires to classify certain roads on the area service system in the County to provide for a minimal level of maintenance and access by means of a gate or barrier; and

**WHEREAS**, the County, after consultation with the County Engineer, has the authority to specify certain roads within the County as Area Level Service “C” roads pursuant to Iowa Code Section 309.57; and

**WHEREAS**, the County has previously adopted Ordinance Title IV, Number 9 Class "C" Roads; and

**WHEREAS**, the County has received a petition, signed by all adjoining landowners, requesting that:

230th Street from the SW Corner of Section 4, T91N, R18W (Madison Twp) east a distance of 0.34 miles; and

Cedar Ave from the SW Corner of Section 4, T91N, R18W (Madison Twp) north a distance of 0.28 miles

be reclassified from an Area Level Service “B” to Area Level Service “C”; and

**WHEREAS**, upon reclassification to Area Service Level C, the only persons who will have access rights to the previously described road(s) shall be:

- The owner, lessee, or person in lawful possession of any adjoining land,
- The agent or employee of the owner, lessee or person in lawful possession of any adjoining land,
- Any peace officer,
- Any magistrate,
- Any public employee whose duty it is to supervise the use or perform maintenance of the road,
- Any agent or employee of any utility located upon the road; and

**WHEREAS**, upon reclassification to Area Service Level C, the minimum level of maintenance on the previously described road(s) shall be as follows:

- Blading. Blading or dragging will not be performed on a regular basis
- Snow and Ice Removal. Snow and ice will not be removed, nor will the road surface be sanded or salted on a regular basis
- Signing. Road shall be identified with a sign at all points of access to warn the public of the lower level of maintenance and except for load limit posting for bridges, other signing shall not be continued or provided
- Weeds, Brush and Trees. Mowing or spraying of weeds, cutting brush and tree removal

will not be performed on a regular basis. Adequate sight distances will not be maintained

- Structures. Bridges and culverts may not be maintained to carry legal loads. Upon failure or loss, the replacement structure will be appropriate for the traffic thereon
- Road Surfacing. There will be no surfacing materials applied to Area Service System C Roads on a regular basis.
- Shoulders. Shoulders will not be maintained on a regular basis
- Crown. A crown will not be maintained on a regular basis
- Repairs. There will be no road repair on a regular basis
- Uniform Width. Uniform width for the traveled portion of the road will not be maintained
- Inspections. Regular inspections will not be conducted; and

THEREFORE, BE IT RESOLVED by the Board of Supervisors of Butler County that this County does hereby establish previously described roads(s) Area Level Service “C” road(s), with restricted access and a minimal level of maintenance.

Passed and Approved this 14th day of December, 2021.

Greg Barnett  
Greg Barnett, Chairman  
Butler County Board of Supervisors

ATTEST:

Leslie Groen  
Leslie Groen  
Butler County Auditor

Date: 12/14/21

Time set for Public Hearing on proposed road vacation of Pearl Avenue. Motioned by Heidenwirth, second by Eddy to open the public meeting. All ayes. Motion carried. Taxpayer Nick Norton, Clarksville, was present is an adjoining property owner and in favor of the road being closed and vacation. No oral or written comments were received prior to the public hearing. Riherd shared that he has a signed petition by the two landowners, there is sufficient public access to the Shell Rock River to the north, and also access to the river at the Packard Bridge and Camp Comfort. Riherd recommended to vacate the road to revert to private property. With no additional public comment, motioned by Eddy, second by Heidenwirth to close the public hearing. All ayes. Motion carried. Motioned by Eddy, second by Heidenwirth to approve Resolution 1011 – Resolution vacating a county road (Pearl Lane aka Pearl Ave). The roll was called and the vote was AYES: Eddy, Barnett, Heidenwirth. NAYS: none; therefore Resolution 1011 was adopted as follows:

Resolution #1011  
Resolution vacating a county road

Moved by Eddy and seconded by Heidenwirth to approve the following resolution:

WHEREAS, a petition, signed by all adjoining landowners, requesting that a portion of Pearl Lane (AKA Pearl Ave) be vacated and closed as a public road; and

WHEREAS, The Butler County Board of Supervisors, pursuant to Resolution #1008, dated November 23, 2021, a hearing was held on December 14, 2021, at the Courthouse in Allison, Iowa to hear comments on the proposed vacation of the following described roads:

That part of Pearl Ave in Section 27 Dayton Township lying NORTH of the Northwest corner of Parcel “D” (Inst. No. 2011-2887) in Lot 2 of the Subdivision of W ½ SE ¼ and SE ¼ SE ¼ (Book A Pages 205-206), and SOUTH of the thread of the Shell Rock River; and

WHEREAS, The Butler County Board of Supervisors finds that proper notice of said hearing was published in a newspaper of general circulation in Butler County prior to said Hearing and that proof of publication is now on file in the office of the County Auditor, and

WHEREAS, The Butler County Board of Supervisors finds that proper notice was mailed by certified mail to the adjoining property owners, and

WHEREAS, The Butler County Board of Supervisors, has considered all objections offered at said Public Hearing.

NOW THEREFORE BE IT RESOLVED that all of the above described road be vacated subject to prescriptive rights to utility companies and all other easements of record, and

BE IT FURTHER RESOLVED that the Butler County Board of Supervisors disallows any and all claims for damages, and

BE IT FURTHER RESOLVED that the Butler County Board of Supervisors does hereby Quit Claim Butler County’s interest in said road to the adjoining property owners as follows:

To: Steve Henning

The part of the West 2 rods of Lot 2 of the Subdivision of the W ½ SE ¼ and SE ¼ SE ¼ (Book A Page 205-206) AND the West 2 rods of Lot 2 of the Subdivision of the SW ¼ NE ¼ of Section 27, Township 93 North, Range 16 West of the 5th P.M., lying NORTH of the Northwest corner of Parcel "D" in Lot 2 of the Subdivision of W ½ SE ¼ and SE ¼ SE ¼ and SOUTH of the thread of the Shell Rock River.

To: Nicholas L Norton & Virginia R Toye

That part of the East 2 rods of the Southwest Quarter (SW 1/4) AND the East 2 rods of Lot 2 of the Subdivision of the NW ¼ (Book A Page 201), all in Section 27, Township 93 North, Range 16 West of the 5th P.M., lying NORTH of the Northwest corner of Parcel "D" (Inst. No. 2011-2887) in Lot 2 of the Subdivision of W ½ SE ¼ and SE ¼ SE ¼ (Book A Pages 205-206), and SOUTH of the thread of the Shell Rock River.

Passed and Approved this 14th day of December, 2021.

Greg Barnett

Greg Barnett, Chairman  
Butler County Board of Supervisors

ATTEST:

Leslie Groen

Leslie Groen  
Butler County Auditor

Date: 12/14/21

Riherd opened discussion regarding rail traffic improvements and loadout procedures. Jeff Brunscheon with Farmers Coop Readlyn-Shell Rock was present and explained the coop would like to add a rail spur and weighing to their property west of town and presented maps of their proposal. Brunscheon explained they would avoid hauling to town to load where they can only load 10 cars at a time vs. being able to load 25 cars at a time at the proposed site. Brunscheon said the proposed rail spur would block a gravel road during loading, and they would like to know what road options are possible before moving forward with the 2-million-dollar expansion project. Barnett explained there are additional rail traffic issues due to increased use and crossings are already being blocked in that area. Riherd said there is a potential DOT funding source for making permanent changes to re-route or close some roads to eliminate crossings where possible. Additional discussions were held regarding time frame of the project, the landowners surrounding the proposed rail spur site, and possible land acquisition. Riherd also shared a recent issue with W-SR school bussing issues because railcars were blocking the road. Riherd commented that the reasons to create a permanent plan to address this issue have been adding up in recent months. He would like to setup a workshop with Farmers Coop, Iowa Northern and the City of Shell Rock to discuss options. Bill Magee with Iowa Northern explained his research on the situation that happened with W-SR school bus issue. Riherd is in favor of coming up with a plan to re-route roads and/or close crossings, especially in light of upcoming funding opportunities. Additional discussions were held regarding short-term and long-term options for the road closings. It was decided a short-term solution will involve developing procedures for temporary road closures and long-term the County Engineer's office will speak with surrounding landowners to develop a long-term solution.

Motioned by Barnett, second by Eddy to set date and time for public hearings on Knock Minor Plat, Longhorn Acres, and McDivitt application to rezone to the 9:00 A.M. meeting on December 21, 2021. All ayes. Motion carried.

Barnett explained a recent meeting with the landowner and County Attorney, Dave Kuehner, was not productive in negotiating an agreement. Kuehner stated he made it clear the County was no longer discussing lease agreements, but moving forward with using eminent domain. Eddy stated he can't think of a better reason for government to use eminent domain than to ensure the County's 911 service. Eddy said there have been many opportunities to work through the lease options, but the landowner has chosen a different path. Kuehner explained the next few steps would include getting a survey of the property and consider the tower anchors, room to move equipment around and the setbacks. Kuehner mentioned using Ted Hoodjer to compete the survey and Fred Greder from Benchmark Agribusiness, Mason City, to do the appraisal and avoid local conflict. Motioned by Eddy, second by Heidenwirth to allow Kuehner to contact Fred Greder for the appraisal. All ayes. Motion carried. Kuehner explained after the appraisal is complete a formal offer to purchase the land will be sent to the landowner; therefore, the County will need to determine a purchase price to present.

Motioned by Eddy, second by Heidenwirth to go into closed session for IT Director, Sara Trepp's, annual performance review. All ayes. Motion carried. Following the performance review, it was motioned by Eddy, second by Heidenwirth to go back into open session. All ayes. Motion carried. Motioned by Eddy, second by Heidenwirth to approve a 6.75% increase in the IT Director's current salary of \$74,896, which equates to an increase of \$5,055 in pay beginning FY23. All ayes. Motion carried.

Election Deputy, Matt Wilken shared a reprecinting update including the Temporary Redistricting Committees meeting and proposed reprecinting plan. A public hearing has been set for December 22<sup>nd</sup> at 10:00 AM and copies of the proposed plan and precinct descriptions have been posted. Groen explained the short time frame to complete the process, and the steps that will be needed after the public hearing.

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

Motioned by Eddy, second by Barnett to adjourn the regular meeting at 10:48 A.M. to December 21st, 2021 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 December 14, 2021.

Attest: Leslie Groen  
Butler County Auditor

Greg Barnett  
Chairman of the Board of Supervisors