

SEPTEMBER 9, 2013

The Board of Supervisors of Clinton County, Iowa, met. Present were Supervisors Staszewski, Davisson and Schmidt. The minutes of the previous meeting were read and approved.

9:15 A.M. FORMAL ACTION: Resolutions and Motions

The following resolution was presented and on motion adopted.

RESOLUTION #2013-246

WHEREAS, the Great River Road is America's greatest drive, encompassing 3,000 miles of interconnected roads that follow the Mississippi River through 10 states, from Lake Itasca in northern Minnesota to the Gulf of Mexico; and

WHEREAS, the Great River Road has been designated a National Scenic Byway for its historical, cultural, recreational, natural and scenic treasures; and

WHEREAS, the Great River Road runs through hundreds of vibrant cities and unique river towns; and

WHEREAS, the Great River Road is the ideal way to discover and experience the rich culture of the Mississippi River region and the heart of America; and

WHEREAS, Iowa boasts 328 miles of the Great River Road National Scenic Byway, linking travelers in Iowa with all the riches of the Mississippi River region; and

WHEREAS, there is no scenic drive in America quite like the Great River Road;

THEREFORE the Clinton County Board of Supervisors does hereby proclaim September 2013 to be Drive the Great River Road Month, letting this proclamation serve as an invitation to all Americans and visitors from around the world to experience America's Greatest Drive.

IN WITNESS THEREOF, we have hereunto set our hand, this 9<sup>th</sup> day of September in the Year of our Lord, Two Thousand and Thirteen.

Signed: Brian L. Schmidt  
Signed: Jill M. Davisson  
Signed: John F. Staszewski  
Clinton County Board of Supervisors

ATTEST:

Eric Van Lancker (Signed)  
County Auditor  
County of Clinton  
State of Iowa

The following resolution was presented and on motion adopted.

RESOLUTION #2013-247

WHEREAS, the Clinton County Five Year Roads Construction Program includes the replacement of a bridge on 278<sup>th</sup> Street east of Big Rock over Rock Creek, and

WHEREAS, the concept statement for BROS-C023(96)—8J-23 has been reviewed and approved by the Iowa Department of Transportation (Iowa DOT), and

WHEREAS, to receive Federal funds in accordance with the Statewide Transportation Improvement Program (STIP) it is necessary for Clinton County and the Iowa DOT to enter into an agreement for administration of the project.

THEREFORE BE IT RESOLVED that the Board of Supervisors of Clinton County, Iowa, shall approve the Iowa DOT Agreement No: 6-13-HBPS-12.

BE IT FURTHER RESOLVED that the Chairman of the Board of Supervisors be authorized to execute said agreement on behalf of Clinton County, Iowa.

Roll Call:  
Schmidt: Yes  
Davisson: Yes

Staszewski: Yes  
John F. Staszewski, Chairperson

The following resolution was presented and on motion adopted.

RESOLUTION #2013-248

WHEREAS, Alicia Bahnsen has accepted the position of Clerk I in the office of the Clinton County Treasurer and will begin employment on September 18, 2013.

THEREFORE BE IT RESOLVED by the Clinton County Board of Supervisors that the County Auditor is hereby authorized to issue payroll checks at the applicable County pay rate for a Clerk I to Alicia Bahnsen, effective September 18, 2013 forward.

Roll Call:

Schmidt: Yes

Davisson: Yes

Staszewski: Yes

John F. Staszewski, Chairperson

GENERAL PUBLIC

Keith Dexter, Lost Nation and Clinton County Farm Bureau member, expressed concerns about the County paying for infrastructure at the Lincolnway Railport site with the proceeds due to the County from the sale of property in the industrial park. He said allowing that could set a bad precedence. He asked that the Board of Supervisors only allow normal closing costs to be subtracted from the County's proceeds.

Joe Dierickx, DeWitt and Clinton County Farm Bureau member, believes it is better use of County funds to only exclude traditional closing costs from the County's proceeds of land sold in the Lincolnway Railport. He asked the Board of Supervisors to listen to the people in the County. He said anything beyond closing costs would be beyond the intent of the 28E Agreement.

Edith Pfeffer, Clinton, asked the Board of Supervisors to consider developing fracking rules and regulations for the County. She said surrounding Counties have done so and believes Clinton County should begin that process.

DEPARTMENT HEADS, ELECTED OFFICIALS, AND EMPLOYEES

Clinton County Auditor Eric Van Lancker reminded the Board of Supervisors that School Elections are Tuesday and the canvass of the election is Friday, Sept. 13 at 9 a.m.

Nate Mueller, Clinton County Zoning Director, updated the Board on some upcoming conferences for him to attend.

Clinton County Engineer Todd Kinney reported an issue involving a private road that has received County maintenance despite a right of way never being established. He said the County Attorney Mike Wolf suggested the Board of Supervisors schedule a time to discuss the matter.

9:45 A.M. Board of Trustees for Drainage Districts:

- Drainage District #22: Discussion – Berm repair caused by flooding. Possible Action to set Public Hearing date
- Drainage District #5: Repairs – Discussion

Motion was made by Supervisor Schmidt to recess as Board of Supervisors and convene as Board of Trustees for Drainage District #5 and Drainage District #22.

Roll Call:

Schmidt: Yes

Davisson: Yes

Staszewski: Yes

Motion carried. Board of Supervisors recessed and Board of Trustees convened at 9:45 a.m.

Clinton County Engineer Todd Kinney updated the Drainage District #22 berm flood repair. He said FEMA will assist in the payment of the repairs. Kinney said the cost threshold will require a Public Hearing and to have the Engineer prepare a report for the hearing. He said the culvert that was washed out in the area is also eligible for federal aid up to 80% cost of the project. However, he added it will need to be determined what type of culvert

should be installed. A place and time for the Public Hearing will be determined and a resolution setting the Public Hearing will be presented to the Board of Trustees next week.

Kinney also said repairs have been requested in Drainage District #5. He said the damage occurred during two flooding incidents this spring and he has met with FEMA at the site. Kinney said the County has not received a disaster declaration so it is not eligible for funding. He said NRCS does not have a program to assist with the repair. He said FEMA will review the project to see if it will qualify under another disaster declaration and if that repair does not qualify then it will have to be done locally.

Motion was made by Supervisor Schmidt to adjourn as Board of Trustees and reconvene as Board of Supervisors.

Roll Call:

Schmidt: Yes  
Davisson: Yes  
Staszewski: Yes

Motion carried. Board of Trustees adjourned and Board of Supervisors reconvened in general session at 10:05 a.m.

10:05 A.M. Discussion / Possible Action: Lincolnway Railport 28E Agreement – Determination of what are agreeable "costs of sale" for the Rail. One transaction/sale as it related to the distribution of net proceeds between the City of Clinton and Clinton County

Clinton County Attorney Mike Wolf reviewed the three resolutions presented to the Board of Supervisors. The first included "traditional" closing costs. Supervisor Davisson wondered if an addendum could be added to the 28E Agreement that defined "sale proceeds." John Frey, attorney representing the City of Clinton, believes today's vote will set precedence on what will be accepted. However, he believes an addendum could be added with the agreement there may be deals that step outside of that addendum. Wolf believes the sales proceeds definition was left undefined to allow for negotiations.

The following resolution was presented and on motion adopted.

RESOLUTION #2013-249

WHEREAS, the Clinton County Board of Supervisors ("Board") entered a 28E Agreement with the City of Clinton on January 4, 2009 concerning the Lincolnway Railport;

WHEREAS, a provision of the 28E Agreement (Article 2 Section V) states: "The parties anticipate that the County shall be repaid from the sale of property in the industrial park. One-half (1/2) of the sale proceeds from each property sold shall be paid to the County. The remaining one-half (1/2) shall be paid to the City and/or The Clinton Regional Development Company, as the City of Clinton may determine."

WHEREAS, certain expenses, which are specific to each site and prospective buyer, are necessary to sell real property in the Lincolnway Rail Park.

BE IT RESOLVED by the Clinton County Board of Supervisors that Clinton County approves deducting the following expenses from the purchase price associated with the sale of real property to Rail.One USA to determine the county's share of sale proceeds:

Abstract Expense	Actual Cost
Sale Legal Expense	Actual Cost
Recording Fees	\$42
Property Tax Prorate	\$3564.62
Platting (Engineering, Legal)	Actual Cost
Additional Land Purchase (cost)	\$156,300

Roll Call:

Schmidt: Yes  
Davisson: Yes

Staszewski: Yes  
John F. Staszewski, Chairperson

Wolf presented a second resolution to approve the exclusion of sewer, demolition and water well from the sale proceeds to be considered by the County.

Frey said the considerations of these three items assisted in establishing a higher sale price for a second property that was sold.

Wolf said the exclusion of those costs would be appropriate according to the 28E Agreement as it reflects the County's wish to not be involved in the property negotiations. Staszewski asked if these credits were approved, would they then become automatically approved in future deals. Frey said it is possible they are considered for this deal, but not future deals. Wolf said this process allows the Board of Supervisors to review these credits for each sale deal.

Supervisor Schmidt asked how much money was actually being discussed as part of the credits being considered. Frey said the Clinton City Administrator presented those numbers during the last meeting with the County. Schmidt provided the Board of Supervisors with numbers he used. Schmidt said he is not in favor of the credits in the second resolution presented. He said the County did not have a say in those expenses. Schmidt said the 28E Agreement was simple and that is what he is using to determine the sale proceeds. He said the first resolution holds to the spirit of the agreement more than the other two resolutions prepared by the County Attorney.

Davisson said she understands the credits won't be received by neither the City nor County, but she is uncomfortable the County was not a part of the negotiation to approve the deal. She doesn't believe the deal made was part of the understanding included in the 28E agreement. She said she understands both sides of the debate, but she doesn't believe the people of the County expected this deal.

Staszewski said he doesn't have a problem assuming some of the credits in order to close the deal for the sale of the land.

Dierickx said he believes this resolution is for development purposes and not in the spirit of the 28E Agreement like the first resolution that was approved by the Board of Supervisor. Dierickx said he wants economic development, but wants to make sure the County's tax money is used appropriately. Rich Phelan, CRDC representative, said every job will enhance the entire county, not just the City of Clinton. Davisson added that the County is paying for the interest on the bond issue which will amount to more than \$1 million.

Wolf said the County needs to take into consideration it removed itself from the property sale negotiations through the 28E Agreement. He said these credits had to be given to close the sale and that should be seriously considered when considering sale proceeds.

Frey said it isn't a question of not paying back the County's \$6 million, but rather when because the 28E Agreement states it must be paid back within 10 years. Davisson said that's an issue she is concerned about for the tax payers in the City of Clinton.

Davisson said she is voting no to the resolution because it is not within the spirit of the 28E Agreement.

The following resolution was presented and on motion failed.

RESOLUTION #2013-250

WHEREAS, the Clinton County Board of Supervisors ("Board") entered a 28E Agreement with the City of Clinton on January 4, 2009 concerning the Lincolnway Railport;

WHEREAS, a provision of the 28E Agreement (Article 2 Section V) states: "The parties anticipate that the County shall be repaid from the sale of property in the industrial park. One-half (1/2) of the sale proceeds from each property sold shall be paid to the County. The remaining one-half (1/2) shall be paid to the City and/or The Clinton Regional Development Company, as the City of Clinton may determine."

WHEREAS, certain expenses, which are specific to each site and prospective buyer, are necessary to sell real property in the Lincolnway Rail Park.

WHEREAS, Clinton County acknowledges the City of Clinton desired to maintain a precedential sale price that provided credits to the buyer, Rail.One USA. These were site specific costs necessary for the sale of the real property.

BE IT RESOLVED by the Clinton County Board of Supervisors that Clinton County approves deducting the following credits from the purchase price associated with the sale of real property to Rail.One USA to determine the county's share of sale proceeds:

Sewer	\$40,000
Demolition	\$19,500 or Actual Cost
New Well	\$45,000

Roll Call:

Schmidt: No  
Davisson: No  
Staszewski: Yes

John F. Staszewski, Chairperson

Wolf presented the third resolution to address roadway engineering and construction. He said there was grant funding used to fund a portion of the road construction. Frey said the road was needed to complete the deal. Frey said the amount of the road construction is split between Rail.One and Nevada Railroad Material, Inc. Wolf agrees the road was necessary to complete the property sale.

The following resolution was presented and on motion failed.

RESOLUTION #2013-251

WHEREAS, the Clinton County Board of Supervisors ("Board") entered a 28E Agreement with the City of Clinton on January 4, 2009 concerning the Lincolnway Railport;

WHEREAS, a provision of the 28E Agreement (Article 2 Section V) states: "The parties anticipate that the County shall be repaid from the sale of property in the industrial park. One-half (1/2) of the sale proceeds from each property sold shall be paid to the County. The remaining one-half (1/2) shall be paid to the City and/or The Clinton Regional Development Company, as the City of Clinton may determine."

WHEREAS, certain expenses, which are specific to each site and prospective buyer, are necessary to sell real property in the Lincolnway Rail Park.

WHEREAS, Clinton County acknowledges the City of Clinton obligated itself to the buyer, Rail.One USA to provide necessary access to the real property. These were negotiated site specific costs necessary for the sale of the real property.

BE IT RESOLVED by the Clinton County Board of Supervisors that Clinton County approves deducting the following expenses from the purchase price associated with the sale of real property to Rail.One USA to determine the county's share of sale proceeds:

Roadway Engineering	\$26,750
South Roadway Construction	\$40,000

Roll Call:

Schmidt: No  
Davisson: No  
Staszewski: No

John F. Staszewski, Chairperson

10:53 A.M. Discussion / Possible Action: Approval of Sale to Nevada Railroad Materials, Inc. (NRM)

Frey said additional land will need to be purchased to complete this sale to NRM.

Staszewski asked for a more clear process for the next process. Frey warned this will likely happen again as each deal is unique.

The following resolution was presented and on motion adopted.

RESOLUTION #2013-252

WHEREAS, the City of Clinton is in the process of approving and finalizing a proposed sale of 18 acres more or less in the Lincolnway Railport to Nevada Railroad Materials, Inc (NRM);

WHEREAS, NRM has signed an Offer to Buy Real Estate and Acceptance on July 19, 2013;

WHEREAS, there is in existence a joint 28E Agreement between County of Clinton and City of Clinton for the Lincolnway Railport project which provides, in part, for prior consent of the County before sale of land in the Lincolnway Railport until the County has been repaid the amount of \$6 million dollars and further provides for payment of one-half (1/2) of the sale proceeds to be paid to Clinton County and one-half (1/2) to the City from each property sold;

THEREFORE BE IT RESOLVED the Board of Supervisors of Clinton County, Iowa, consents to the sale of property by the City of Clinton to NRM upon the terms provided in an offer to Buy Real Estate and Acceptance signed by NRM on July 19, 2013, as well as any amendments thereto agreed upon by the Seller and Buyer.

BE IT FURTHER RESOLVED a determination of the sale proceeds to be divided between Clinton County and the City of Clinton will be decided at a later date following additional discussions between the City and County.

Roll Call:

Schmidt: Yes

Davisson: Yes

Staszewski: Yes

John F. Staszewski, Chairperson

The Board of Supervisors adjourned to meet on Friday, September 13, 2013.

Eric Van Lancker, County Auditor

John F. Staszewski, Chairperson

-APPROVED-

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County Auditor

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Chairperson