

**September 1, 2020**

MET IN REGULAR SESSION

The Board of Supervisors met in regular session at 10:00 A.M. All members present. Chairman Schultz presiding.

PLEDGE OF ALLEGIANCE

## 1. CONSENT AGENDA

After discussion was held by the Board, a Motion was made by Wichman, and seconded by Grobe, to approve

- A. August 25, 2020, and August 27, 2020, Minutes as read.
- B. Renewal of Class B Beer (BB) (Includes Wine Coolers), granting privileges of Class B Beer (BB) (Includes Wine Coolers) / Class C Native Wine Permit (On-Premise) / Outdoor Service / Sunday Sales to Pioneer Trail Orchard and Pumpkin d/b/a Pioneer Trail Orchard and Pumpkin Patch, Council Bluffs.
- C. Renewal of Class E Liquor License (LE), granting privileges of Class B Wine Permit / Class C Beer Permit (Carryout Beer) / Class E Liquor License (LE) / Sunday Sales for Casey's Marketing Company d/b/a Casey's General Store #3204, Minden.

UNANIMOUS VOTE. Motion carried.

## 2. SCHEDULED SESSIONS

After discussion was held by the Board, a Motion was made by Wichman, and seconded by Belt, to approve bid for the CDBG Pottawattamie County Façade Rehabilitation Project as follows: to issue a notice of intent to award bid to Cornerstone Commercial Contractors, Inc., for the Carson and Macedonia façade rehab project. UNANIMOUS VOTE. Motion carried.

After discussion was held by the Board, a Motion was made by Drake and seconded by Wichman, to approve change order in an amount not to exceed \$12,732.59, on unforeseen fire sprinkler system conditions in 911 Communications Center. UNANIMOUS VOTE. Motion carried.

Buildings and Grounds Director Jason Slack, and Director of Planning and Development Matt Wyant appeared before the Board to discuss Public Health's space for winter preparation. This was a discussion only. No action was taken.

After discussion by the Board, a Motion was made by Wichman, and seconded by Belt, to approve and authorize Board to sign **Resolution No. 77-2020**, entitled Resolution Requesting Reimbursement from the Iowa COVID-19 Government Relief Fund. Said Resolution is set out as follows:

### **RESOLUTION NO. 77-2020**

#### **RESOLUTION REQUESTING REIMBURSEMENT FROM THE IOWA COVID-19 GOVERNMENT RELIEF FUND**

A resolution by Pottawattamie County to request reimbursement for eligible costs related to the COVID-19 public health emergency from the Iowa COVID-19 Government Relief Fund.

**WHEREAS**, the United States Congress approved the Coronavirus Aid, Relief, and Economic Security (CARES) Act to provide economic relief related to the COVID-19 pandemic.

**WHEREAS**, Governor Kim Reynolds allocated \$125 million of the State of Iowa's CARES Act funding to local governments for direct expenses incurred in response to the COVID-19 emergency.

**WHEREAS**, local government funding reimbursements may only be used for necessary expenditures incurred due to the COVID-19 pandemic, were not accounted for in the

current fiscal year county budget, were incurred during the time period of March 1, 2020 through December 30, 2020 and have not been reimbursed from other sources.

**NOW, THEREFORE BE IT RESOLVED,** Pottawattamie County requests reimbursement of up to \$1,181,666.33 in eligible expenditures in response to the COVID-19 public health emergency.

**BE IT FURTHER RESOLVED,** Pottawattamie County affirms that the above requests for reimbursement follow all formal published Federal and State of Iowa guidance on how the funds should be spent, and understand if the reimbursements are misrepresented, the local government will be liable for any applicable penalty and interest.

HEREBY RESOLVED but the Board of Supervisors for Pottawattamie County on this 1<sup>st</sup> day of September, 2020.

**ROLL CALL VOTE**

	AYE	NAY	ABSTAIN	ABSENT
_____ Justin Schultz, Chairman	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
_____ Tim Wichman	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
_____ Scott Belt	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
_____ Marilyn Jo Drake	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
_____ Lynn Grobe	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

ATTEST: \_\_\_\_\_  
Melvyn Houser, County Auditor

Roll Call Vote: **AYES: Drake, Belt, Schultz, Wichman, Grobe. Motion carried.**

After discussion was held by the Board, a Motion was made by Belt, and seconded by Drake, to approve second consideration of **Ordinance No. 2020-03**, an Ordinance to adopt Chapter 12, All-Terrain and Off-Road Vehicles, an Ordinance to identify regulations regarding all-terrain vehicles and/or off-road utility vehicles operation on all approved county roads, and to adopt said **Ordinance 2020-03** into law. Said Ordinance is set out as follows:

**POTTAWATTAMIE COUNTY, IOWA  
ORDINANCE NO. 2020-03**

**AN ORDINANCE** to adopt Chapter 12, All-terrain and Off-road Vehicles, an ordinance to identify regulations regarding all-terrain vehicles and/or off-road utility vehicles operation on all approved county roads.

**BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF POTTAWATTAMIE COUNTY, IOWA**

**SECTION 1 - AMENDMENTS:** That the Pottawattamie County, Iowa, Code, be and the same is hereby amended by adding thereto the following new Chapter to be codified as Chapter 12, All-terrain and Off-road Vehicles to read as follows:

**Chapter 12  
All-terrain and Off-road Vehicles**

<b>Sections:</b>	12.01	Purpose
	12.02	Definitions
	12.03	Operation on Roadways
	12.04	Minimum Equipment Standards for Operation
	12.05	Requirements of Operation
	12.06	Exempt Vehicles
	12.07	Penalties
	12.08	Fees

- 12.01** **PURPOSE:** This ordinance shall identify regulations regarding all-terrain vehicles and/or off-road utility vehicles operation on all approved county roads.
- 12.02** **DEFINITIONS:** below definitions are compliant with 321I of the Iowa Code
- 12.02.01** **All-terrain Vehicle** – means a motorized vehicle with not less than three and not more than six non highway tires that is limited in engine displacement to less than one thousand cubic centimeters and in total dry weight to less than one thousand two hundred pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.
- 12.02.02** **Off-Road Vehicle** - means a motorized vehicle with not less than four and not more than eight non highway tires or rubberized tracks that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control. “Off-road utility vehicle” includes the following vehicles:
- a. (1) “Off-road utility vehicle — type 1” means an off-road utility vehicle with a total dry weight of one thousand two hundred pounds or less and a width of fifty inches or less.
  - b. (2) “Off-road utility vehicle — type 2” means an off-road utility vehicle, other than a type 1 off-road utility vehicle, with a total dry weight of two thousand pounds or less, and a width of sixty-five inches or less.
  - c. (3) “Off-road utility vehicle — type 3” means an off-road utility vehicle with a total dry weight of more than two thousand pounds or a width of more than sixty-five inches, or both.
- 12.02.03** **Roadway** - means that portion of a roadway improved, designed, or ordinarily used for vehicular travel.
- 12.03** **OPERATION ON ROADWAYS:**
- 12.03.01** If an all-terrain vehicle or off-road vehicle is properly registered pursuant to Iowa Code section 321I.3 and is equipped with the minimum level of safety equipment as prescribed in Section 4 of this ordinance, the vehicle may be operated on any County public roadway within Pottawattamie County.
- 12.03.02** The operation under this ordinance applies to those roadways lying outside the city limits of any incorporated city which does not have an ordinance or other regulation in effect allowing such operation. Operation shall be permitted on Farm to Market roadways through cities with a population of less than 2500 population whether an ordinance exists or not.
- 12.03.03** Individuals who operate an all-terrain or off-road vehicle must have a valid state driver’s license, proof of liability insurance, and Iowa Department of Natural Resources registration or registration from the appropriate out of state authority on their persons while operating said vehicle.
- 12.03.04** Operation of all-terrain or off-road vehicles on County public roadways shall be conducted in accordance with all State of Iowa traffic laws and posted signage.
- 12.04** **MINIMUM EQUIPMENT STANDARDS FOR OPERATION:**
- 12.04.01** Vehicles more than 40 inches wide shall be equipped with turn signal lamps and have a manually operated switched controlled by the driver.
- 12.04.02** Vehicle shall be equipped with a properly operating speedometer and odometer calibrated in miles per hour and miles respectively and shall be fully illuminated when the headlamp(s) are activated.
- 12.04.03** Vehicles shall be equipped with an electrically actuated horn, and emit a sound clearly audible from a distance of 200 feet. The horn shall be actuated with a switch easily accessible to the driver when operating the vehicle.
- 12.04.04** Vehicles shall be equipped with a headlamp that shall be in a plane that is perpendicular to a vertical plane through the longitudinal centerline of the vehicle. The headlamps shall be mounted not less than 24 inches, nor more than 54 inches, above the road surface when measured to the headlamp center.
- 12.04.05** Vehicles shall be equipped with tail lamp or lamps mounted on the rear of the vehicle, exhibiting a red light plainly visible from a distance of 500 feet to the rear. The tail lamps shall be mounted not less than 15 inches, nor more than 72 inches, above the roadway.
- 12.04.06** Vehicles shall be equipped with a stop lamp that is actuated by the brake switch to indicate braking of the vehicle.
- 12.04.07** Vehicles shall be equipped with a DOT rated tire which shall display the proper markings on the sidewall of the tire.

- 12.04.08** Vehicles shall be equipped with a rear facing mirror and shall provide the operator with a clear view of the rear.
- 12.05** **REQUIREMENTS OF OPERATION:** Individuals who operate on roadways in Pottawattamie County must adhere to all applicable County Ordinances and provisions of the Iowa Code. In addition to the provisions of Iowa Code Chapters 321 and 321I, the following conditions apply:
- 12.05.01** Every all-terrain or off-road vehicle operated upon roadways of Pottawattamie County shall be registered annually with the County Recorder and be required to pay a registration fee in such amount established by the Board. The operator of each all-terrain or off-road vehicle shall be required to provide, upon request by any peace officer, proof of ownership including but not limited to bill of sale or registration. This requirement shall be satisfied if an all-terrain or off-road vehicle is in compliance with the registration requirements of any state within the United States of America.
- 12.05.02** A person shall not operate an all-terrain or off-road vehicle unless the operator has a valid driver's license issued by any state within the United States of America.
- 12.05.03** A person shall not operate an all-terrain or off-road vehicle unless the operator has proof of insurance complying with that required of an operator of a motor vehicle pursuant to applicable provisions of the Iowa Code, Rules and Regulations, including but not limited to Iowa Code 321.20B and 321A.21.
- 12.05.04** A person shall not drive or operate an all-terrain or off-road vehicle:
- .01 At a rate of speed greater than the posted speed limit.
  - .02 In a careless, reckless, or negligent manner so as to;
  - .03 Endanger any person
  - .04 Cause injury or damage to person or property
  - .05 Create unnecessary skidding or sliding or cause any wheel or wheels to unnecessarily lose contact with the ground.
  - .06 While under the influence of intoxicating liquor or narcotics or habit-forming drugs as prescribed under chapter 321J of the Iowa Code.
  - .07 In any park, wildlife area, reserve, refuge, game management area, or any portion of a meandered stream, which has been identified as a navigable stream or river by rule adopted by the department and which is covered by water, except on designated riding areas and designated trails.
  - .08 Upon operating railroad right-of-way, an all-terrain or off-road vehicle may be driven directly across railroad right-of-way only at an established crossing and, notwithstanding any other provisions of law, may, if necessary, use the improved portion of the established crossing after yielding to all oncoming traffic. This paragraph does not apply to a law enforcement officer or railroad employee of a utility authority to enter upon the railroad right-of-way in the lawful performance of the employee's duty.
  - .09 With more persons on the vehicle than designed to be carried or seated.
  - .10 The operator and passengers shall wear the seatbelt or harness as so equipped by the manufacturer.
- 12.06** **EXEMPT VEHICLES:**
- 12.06.01** All-terrain or off-road vehicles owned by the United States, this state, or another state, or by a governmental subdivision thereof, and used for enforcement, search and rescue, or official research and studies, but not for recreational or commercial purposes.
- 12.06.02** Registration shall not be required for all-terrain or off-road vehicles used exclusively to conduct agricultural operations pursuant to Iowa Code 321I.9(3)
- 12.06.03** All-terrain or off-road vehicles used in accordance with section 321.234A, subsection 1, paragraph "a".
- 12.07** **VIOLATIONS AND PENALTIES:** The penalty for violating the provisions of this Chapter shall be as set forth in Chapter 1.75.
- 12.08** **FEE SCHEDULE:** The fee schedule as set forth in Chapter 1.50 is hereby established for matters pertaining to this Ordinance.

**SECTION 2 - SEVERABILITY:** That should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, that decision shall not effect that validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

**SECTION 3 – REPEAL OF CONFLICTING ORDINANCES:** That all ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

**SECTION 4 - EFFECTIVE DATE:** This Ordinance shall be in full force and effect from and after its passage, approval and publication, as by law provided.

PASSED AND APPROVED SEPTEMBER 1, 2020.

**ROLL CALL VOTE**

	AYE	NAY	ABSTAIN	ABSENT
_____ Justin Schultz, Chairman	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
_____ Tim Wichman	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
_____ Scott Belt	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
_____ Marilyn Jo Drake	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
_____ Lynn Grobe	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

ATTEST: \_\_\_\_\_  
Melvyn Houser, County Auditor

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 NOTICE OF PUBLIC HEARING BOARD OF SUPERVISORS PUBLISHED: August 13, 2020  
 BOARD OF SUPERVISORS PUBLIC HEARING: August 25, 2020  
 FIRST CONSIDERATION: August 25, 2020  
 SECOND CONSIDERATION: September 1, 2020  
 PUBLICATION: September 10, 2020  
 RECORD: September 11, 2020  
 EFFECTIVE: September 11, 2020

**Roll Call Vote: AYES: Drake, Belt, Schultz, Wichman, Grobe. Motion carried.**

After discussion was held by the Board, a Motion was made by Wichman, and seconded by Belt, to approve Project BRS-SWAP-CO78(199)—FF-78 (PCB culvert replacement – twin box James-05) for construction, and authorization for Chairman to sign cover sheet. UNANIMOUS VOTE Motion carried.

Director of Human Resources Jana Lemrick came before the Board to discuss the compensation philosophy relating to the comp/wage study with Baker Tilly. This was a discussion only. No action was taken.

**3. OTHER BUSINESS**

After discussion was held by the Board, a Motion was made by Drake, and seconded by Belt, to approve Fireworks Display Permit Application filed by Connie Ratliff, for display on September 12, 2020. UNANIMOUS VOTE. Motion carried.

**4. CLOSED SESSION**

Motion by Wichman, seconded by Drake, to go into Closed Session as allowed by Iowa Code 20.17(3), for discussion and/or decision on labor negotiations / collective bargaining matters; and pursuant to Iowa Code 21.9, for discussion and/or decision on matters relating to employment conditions of employees of the governmental body who are not covered by a collective bargaining agreement. **Roll Call Vote: AYES: Drake, Belt, Schultz, Wichman, Grobe. Motion carried.**

Motion by Belt, second by Drake, to go out of Closed Session. **Roll Call Vote: AYES: Drake, Belt, Schultz, Wichman, Grobe. Motion carried.**

**5. RECEIVED/FILED**

A. Salary Actions:

- 1) Attorney – Payroll Status Change of Fabiola Contreras, Brenton Ayotte

- 2) Planning and Development/Environmental Health – Payroll Status Change of Steven Hansen
- 3) WIC – Employment of Claire H. Roach as Part-time WIC Dietitian

B. Reports:

- 1) Sheriff's Reports of Fees Collected and Disbursed for July 1, 2020 – July 31, 2020

**6. ADJOURN**

Motion by Wichman, second by Belt, to adjourn meeting. UNANIMOUS VOTE. Motion carried.

THE BOARD ADJOURNED SUBJECT TO CALL AT 12:20 AM.

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Justin Schultz, Chairman

ATTEST:

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Melvyn Houser, County Auditor

APPROVED: September 8, 2020

PUBLISH: X