

September 21, 2021

MET IN REGULAR SESSION

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

PLEDGE OF ALLEGIANCE

1. CONSENT AGENDA

After discussion was held by the Board, a Motion was made by Wichman, and second by Shea, to approve:

- A. September 14, 2021, Minutes as read.
- B. September 14, 2021, Minutes as read.
- C. Communications – Employment of Logan Thomas Brown as Telecommunicator.
- D. Medical Examiner – Employment of Danielle Easton as Medical Examiner Investigator.
- E. Auditor – Employment of Patricia Henderson, Susan Jensen, Mary Kramer, Kathleen Roenfeld, and Michael Wheeldon as Election Clerk – Seasonal Temp.

UNANIMOUS VOTE. Motion Carried

2. SCHEDULED SESSIONS

Motion made by Wichman, second by Shea, to open Public Hearing on Proposed Development Agreement with JJHP, LLC.

Roll Call Vote: AYES: Belt, Wichman, Grobe, Schultz, Shea. Motion Carried.

Mark Hanwright of 23974 Pioneer Trail, Council Bluffs, appeared before the Board to speak in favor of the proposed development agreement with JJHP, LLC.

Motion by Wichman, second by Shea, to close public hearing.

Roll Call Vote: AYES: Belt, Wichman, Grobe, Schultz, Shea. Motion Carried.

Motion by Schultz, second by Shea, to approve and authorize Board to sign **Resolution No. 102-2021** entitled: Resolution Approving Development Agreement with JJHP, LLC, Authorizing Tax Increment Payments and Pledging Certain Tax Increment Revenues to the Payment of the Agreement.

RESOLUTION NO. 102-2021

Resolution Approving Development Agreement with JJHP, LLC, Authorizing Tax Increment Payments and Pledging Certain Tax Increment Revenues to the Payment of the Agreement

WHEREAS, Pottawattamie County, Iowa (the “County”), pursuant to and in strict compliance with all laws applicable to the County, and in particular the provisions of Chapter 403 of the Code of Iowa, has previously adopted an Urban Renewal Plan for the Heartland Ridge Subdivision Urban Renewal Area (the “Urban Renewal Area”); and

WHEREAS, the Board has adopted an ordinance providing for the division of taxes levied on taxable property in the Urban Renewal Area pursuant to Section 403.19 of the Code of Iowa and establishing the fund referred to in Subsection 2 of Section 403.19 of the Code of Iowa (the “Urban Renewal Tax Revenue Fund”), which fund and the portion of taxes referred to in that subsection may be irrevocably pledged by the County for the payment of the principal of and interest on indebtedness incurred under the authority of Section 403.9 of the Code of Iowa to finance or refinance in whole or in part projects in the Urban Renewal Area; and

WHEREAS, a certain Development Agreement (the “Agreement”) between the County and JJHP, LLC, (the “Developer”) has been prepared in connection with the construction of public infrastructure necessary to support the development of a residential subdivision in the Urban Renewal Area (the “Project”); and

WHEREAS, under the Agreement, the County would provide tax increment payments to the Developer in a total amount not exceeding \$4,000,000; and

WHEREAS, the Board of Supervisors, pursuant to Section 403.9 of the Code of Iowa, has published notice, has held a public hearing on the Agreement on September 21, 2021, and has otherwise complied with statutory requirements for the approval of the Agreement; and

WHEREAS, Chapter 15A of the Code of Iowa (“Chapter 15A”) declares that economic development is a public purpose for which a County may provide grants, loans, tax incentives, guarantees and other financial assistance to or for the benefit of private persons; and

WHEREAS, Chapter 15A requires that before public funds are used for grants, loans, tax incentives or other financial assistance, a Board of Supervisors must determine that a public purpose will reasonably be accomplished by the spending or use of those funds; and

WHEREAS, Chapter 15A requires that in determining whether funds should be spent, a Board of Supervisors must consider any or all of a series of factors; and

WHEREAS, pursuant to the Plan and Chapter 403 of the Code of Iowa, the County may undertake projects and initiatives for the promotion of economic development;

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

Section 1. Pursuant to the factors listed in Chapter 15A, the Board hereby finds that:

(a) The Project will add diversity and generate new opportunities for the Pottawattamie County and Iowa economies;

(b) The Project will generate public gains and benefits, particularly in the creation of new jobs and housing opportunities, which are warranted in comparison to the amount of the proposed property tax incentives.

Section 2. The Board further finds that a public purpose will reasonably be accomplished by entering into the Agreement and providing the incremental property tax payments to the Developer.

Section 3. The Agreement is hereby approved and the Chairperson and County Auditor are hereby authorized and directed to execute and deliver the Agreement on behalf of the County, in substantially the form and content in which the Agreement has been presented to this Board of Supervisors, and such officers are also authorized to make such changes, modifications, additions or deletions as they, with the advice of bond counsel, may believe to be necessary, and to take such actions as may be necessary to carry out the provisions of the Agreement.

Section 4. As provided and required by Chapter 403 of the Code of Iowa, the County's obligations under the Agreement shall be payable solely from a subfund (the "JJHP, LLC Subfund") which is hereby established, into which shall be paid that portion of the income and proceeds of the Urban Renewal Tax Revenue Fund attributable to property taxes derived from the property described as follows:

PARCEL "A" BEING A PORTION OF THE SOUTHEAST QUARTER OF SECTION 23 AND A PORTION OF THE SOUTHWEST QUARTER OF SECTION 24, ALL IN TOWNSHIP 74 NORTH, RANGE 43 WEST OF THE 5TH PRINCIPAL MERIDIAN, POTTAWATTAMIE COUNTY, IOWA BEING MORE FULLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 24;

THENCE ON THE NORTH LINE OF SAID SOUTHWEST QUARTER, SOUTH 87 DEGREES 34 MINUTES 51 SECONDS EAST, 1372.59 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF PIONEER TRAIL (G66), SAID POINT ALSO BEING ON A NON-TANGENT CURVE CONCAVE NORTHERLY, TO WHICH POINT A RADIAL LINE BEARS SOUTH 09 DEGREES 29 MINUTES 29 SECONDS WEST, 3324.30 FEET;

THENCE ON SAID SOUTHERLY RIGHT-OF-WAY LINE AND EASTERLY ON SAID CURVE THROUGH A CENTRAL ANGLE OF 06 DEGREES 15 MINUTES 28 SECONDS, 363.07 FEET;

THENCE SOUTH 16 DEGREES 38 MINUTES 25 SECONDS WEST, 1201.92 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHWESTERLY HAVING A RADIUS OF 883.09 FEET;

THENCE SOUTHWESTERLY ON SAID CURVE THROUGH A CENTRAL ANGLE OF 77 DEGREES 31 MINUTES 18 SECONDS, 1194.83 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF THE FORMER WABASH RAILROAD COMPANY (WABASH TRACE TRAIL, BOOK 91, PAGE 21365, POTTAWATTAMIE COUNTY RECORDER'S OFFICE);

THENCE ON SAID NORTHERLY RIGHT-OF-WAY LINE THE FOLLOWING TWO (2) COURSES:

1. NORTH 85 DEGREES 50 MINUTES 17 SECONDS WEST, 1156.90 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHERLY HAVING A RADIUS OF 1385.15 FEET;
2. WESTERLY ON SAID CURVE THROUGH A CENTRAL ANGLE OF 31 DEGREES 00 MINUTES 03 SECONDS, 749.45 FEET TO A POINT ON THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SOUTHEAST QUARTER (SW1/4SE1/4);

THENCE ON SAID EAST LINE, NORTH 02 DEGREES 15 MINUTES 16 SECONDS EAST, 223.04 FEET TO THE NORTHEAST CORNER OF SAID SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER (SW1/4SE1/4);

THENCE ON THE NORTH LINE OF SAID SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER (SW1/4SE1/4), NORTH 88 DEGREES 44 MINUTES 53 SECONDS WEST, 260.77 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF SAID FORMER WABASH RAILROAD COMPANY, SAID POINT ALSO BEING ON A NON-TANGENT CURVE CONCAVE NORTHEASTERLY, TO WHICH POINT A RADIAL LINE BEARS SOUTH 49 DEGREES 16 MINUTES 09 SECONDS, 1385.15 FEET;

THENCE ON SAID EASTERLY RIGHT-OF-WAY LINE THE FOLLOWING TWO (2) COURSES:

1. NORTHERLY ON SAID CURVE THROUGH A CENTRAL ANGLE OF 51 DEGREES 39 MINUTES 19 SECONDS, 1248.78 FEET;
2. NORTH 10 DEGREES 55 MINUTES 28 SECONDS EAST, 181.35 FEET TO A POINT ON THE NORTH LINE OF SAID SOUTHEAST QUARTER (SE1/4);

THENCE ALONG SAID NORTH LINE, SOUTH 89 DEGREES 08 MINUTES 38 SECONDS EAST, 1901.57 FEET TO THE POINT OF BEGINNING

SAID PARCEL "A" CONTAINS AN AREA OF 5,735,794 SQUARE FEET (131.676 ACRES), MORE OR LESS.

Section 5. The County hereby pledges to the payment of the Agreement the JJHP, LLC Subfund and the taxes referred to in Subsection 2 of Section 403.19 of the Code of Iowa to be paid into such Subfund.

Section 6. After its adoption, a copy of this resolution shall be filed in the office of the County Auditor of Pottawattamie County to evidence the continuing pledging of the JJHP, LLC Subfund and the portion of taxes to be paid into such Subfund and, pursuant to the direction of Section 403.19 of the Code of Iowa, the County Auditor shall allocate the taxes in accordance therewith and in accordance with the tax allocation ordinance referred to in the preamble hereof.

Section 7. All resolutions or parts thereof in conflict herewith are hereby repealed.

Dated this 21st Day of September, 2021.

	ROLL CALL VOTE			
	AYE	NAY	ABSTAIN	ABSENT
_____ Scott A. Belt, Chairman	○	○	○	○
_____ Tim Wichman	○	○	○	○
_____ Lynn Grobe	○	○	○	○
_____ Justin Schultz	○	○	○	○
_____ Brian Shea	○	○	○	○

ATTEST: _____
Melvyn Houser, County Auditor

Roll Call Vote: AYES: Belt, Wichman, Grobe, Schultz, Shea. Motion Carried.

Motion made by Schultz, second by Shea, to open Public Hearing on Pottawattamie County’s amendment to current county budget for FY2021-22.

Roll Call Vote: AYES: Belt, Wichman, Grobe, Schultz, Shea. Motion Carried.

Motion by Schultz, second by Grobe, to close public hearing.

Roll Call Vote: AYES: Belt, Wichman, Grobe, Schultz, Shea. Motion Carried.

After discussion was held by the Board, Motion by Schultz, Second by Grobe, to table **Resolution No. 103-2021** for one week. UNANIMOUS VOTE. Motion Carried.

After discussion was held by the Board, motion by Wichman, second by Schultz, to approve Tax abatement for Myrtue Medical Center for property located at 510 N Elm St, Avoca (Parcel No. 773909332009). UNANIMOUS VOTE. Motion Carried.

Motion made by Shea, second by Schultz, to approve funding request of \$1,000 for Beresheim Porch Replacement project to be paid from Gaming. UNANIMOUS VOTE. Motion Carried.

Motion made by Wichman, second by Shea, to approve and authorize Chairman to sign the final voucher for project BRS-SWAP-CO78(195)—FF-78 (G30 Nishnabotna River Bridge in Hancock). UNANIMOUS VOTE. Motion Carried.

Motion made by Schultz, second by Shea, to approve and sign proposal for Engineering Services for Air Handling Unit Replacement/Retrofit Project Engineering Technologies, Inc. (ETI). UNANIMOUS VOTE. Motion Carried.

Motion made by Wichman, second by Grobe, to provide \$80,000 per fiscal year to East and West Pottawattamie County Soil & Water Conservations Districts for the Education Coordinator Position; and

to direct the County Attorney to draft a 28E Agreement to begin in FY22/23. UNANIMOUS VOTE. Motion Carried.

Matt Wyant/Director, Planning and Zoning and Andrea Kathol/Field Day Development appeared before the Board to provide an update on the status of Public Health Building Project. Discussion only. No action taken.

3. OTHER BUSINESS

Motion made by Wichman, second by Schultz, to accept resignation letter of Michael Guzman, MD from the Board of Health. UNANIMOUS VOTE. Motion Carried.

County Attorney Matt Wilber appeared before the Board to discuss options for filling the County Recorder Vacancy. Discussion only. No action taken.

Motion made by Schultz, second by Shea, to create a line item in the Gaming Fund for the Veterans Tiny Home Project. UNANIMOUS VOTE. Motion Carried.

4. RECEIVED/FILED

A. Salary Actions

- 1) Secondary Roads – Payroll Status Change for Dustin Ausdemore
- 2) Communications – Payroll Status Change for Rachele Holt

B. Notifications

- 1) Iowa Utilities Board Notification of Public Informational Meeting for a proposed hazardous liquid pipeline. Meeting to be held Wednesday, October 6th.

5. CLOSED SESSION

Motion by Wichman, second by Shea, to go into Closed Session pursuant to Iowa Code §21.5(1)(c) – Discussion and/or decision on pending litigation.

Roll Call Vote: AYES: Belt, Wichman, Grobe, Schultz, Shea. Motion Carried.

Motion by Wichman, second by Schultz, to go out of Closed Session.

Roll Call Vote: AYES: Belt, Wichman, Grobe, Schultz, Shea. Motion Carried.

Motion by Wichman, second by Schultz, to approve the settlement agreement for Pittillo vs. Pottawattamie County, Pottawattamie County Case Number LACV121009, as discussed in closed session. UNANIMOUS VOTE. Motion Carried.

6. ADJOURN

Motion by Shea, second by Wichman, to adjourn meeting. UNANIMOUS VOTE. Motion Carried. THE BOARD ADJOURNED SUBJECT TO CALL AT 12:40 P.M.

Scott A. Belt, Chairman

ATTEST:

Becky Lenihan, Finance & Tax Officer

APPROVED: September 28, 2021

PUBLISH: X