

Muscatine County Board of Supervisors
Monday, July 17, 2023

The Muscatine County Board of Supervisors met in regular session at 9:00 A.M. with Chick, Kirchner, Sauer and Sorensen present. Mather was absent. Chairperson Sauer presiding.

On a motion by Sorensen, second by Kirchner, the agenda was approved as presented. Ayes: All.

A Public Hearing was called to order by Chairperson Sauer at 9:01 A.M. on a proposed ordinance assuming jurisdiction and control of certain pioneer cemeteries and/or private burial sites located in Muscatine County. County Attorney Jim Barry stated the proposed ordinance is the fourth revision to include additional cemeteries that have been named by Joe Furlong, Planning and Zoning Administrator Eric Furnas and the Auditor's office.

Mather joined the meeting at 9:02 A.M.

Barry stated the proposed ordinance follows the Iowa Code to protect a private landowner and a citizen who may desire to visit a cemetery on privately owned land. Barry requested if either a party or a citizen have a question/request regarding the proposed ordinance to send an email with the information in writing. Barry stated he has received an email from a local attorney questioning if the county has the authority to take an action to mandate county pioneer cemeteries and/or private burial sites. Barry reviewed the Iowa Code Sections stated in the proposed ordinance which pertain to the county assuming jurisdiction and control. Discussion was held with the Board with questions regarding what is a reasonable amount of time is on private land for visitors and if road or walking access is allowed or can be set by the landowner. Barry stated his goal is to follow the Iowa Code for the proposed ordinance with no expanding on the law and/or no less jurisdiction allowed than the law states.

Mike Fuller, Grandview, Iowa, stated he has property in 76 Township. Fuller questioned when the Iowa Code Section for pioneer cemeteries was enacted. Barry stated approximately 20 years ago. Fuller stated he believes the definition of "relative" in the Iowa Code needs updated as the Iowa Code names great-grandparent as the oldest family member and the pioneer cemeteries have burials from the 1800's to early 1900's which eliminates great-great grandparent relatives. Chick and Sorensen stated his concern should be addressed by state elected officials.

Kelsie Bell, 2570 Burlington Road, stated she is one of the landowners for the Kisor/Eisele Cemetery. Bell questioned if access to the cemetery is by walking only or if a landowner must provide a motor vehicle. Barry stated there is no obligation in the ordinance to provide a motor vehicle, to create an access road or to allow a visitor to park on the property. Bell questioned when is a landowner's access no longer liable for injuries. Barry stated they are protected as soon as a visitor leaves the road right-of-way. Barry stated the details of where to park and enter a property is something that can vary for each landowner. Bell questioned if there is a rain storm the day before they allow visitor access, if they can deny access due to hazardous walking conditions. Barry stated the landowner and visitor should work out the details when communicating about the proposed cemetery visit. Bell stated in past years they have allowed visitor access but recently their attorney and insurance agent has stated they should protect themselves and to not allow access. Bell asked if a signed liability waiver by a visitor can

continue to be requested. Barry stated the ordinance does not prohibit the landowner to do this. Barry stated the Bell's and the other landowner (Lippelgoes) should be commended on their approach/effort to maintain the cemetery even if not everyone is happy with the process. Bell thanked Barry and commented that she has four small children and they do their best with the time allowed. Bell asked if a requestor appears to be a danger to their family if they can deny access. Barry stated the ordinance is written per the Iowa Code, to allow a relative to request access and does not address the danger concern. Barry stated a landowner could research public information to determine if a visitor is a sex offender or to gather other information. Mather stated a visitor is to act in good faith and in a reasonable manner. Mather agrees that a property owner may request a liability waiver signed but it may not always protect the property owner. Chick stated the sheriff department should be called if there is danger or concerns. Bell stated they have had interest from cemetery enthusiasts arriving on their property and they have denied access due to safety concerns. Bell invited the Board to visit their property to see the logging road access and/or to view a video they took of the terrain while driving up the road. Sauer asked Barry if the landowner can designate a certain route to access a cemetery. Barry stated the ordinance does not contain this definition however communication from the landowner and requester is recommended and expected obligations are to be followed. Bell stated her concerns with possible lower property values, with a known cemetery on the parcel, and stated the cemetery was not disclosed to them at the time of purchase.

Joe Furlong, 1672 231st Street, Muscatine, Iowa questioned the Board regarding the statement that a visitor would be required to park on the road if visiting the Kisor/Eisele cemetery. Barry stated he is not requiring anyone to park on the road however a landowner can request this. Furlong asked if a disabled visitor required a motorized vehicle, would this be allowed. Barry stated the ordinance does not mandate this request however a landowner may allow it if requested. Mike Fuller stated his concern with parking on the road instead of on the property of the Kisor/Eisele cemetery and how this could eliminate the ability to visit the cemetery. Barry stated there may be another route of access for each cemetery. Fuller stated he feels the ordinance is leaning toward the landowner's rights. Barry stated the concerns should be expressed to the state legislators as the ordinance follows the Iowa Code. Mather stated the law puts the responsibility for visiting a cemetery on the landowner and the visitor to communicate and come to an agreement.

Furlong stated he believes the Board could make allowances to go beyond the Iowa Code. Furlong stated the Iowa Code is restrictive as only relatives to the deceased can visit the cemeteries and only a great-grandchild is the longest living relative allowed to visit. Barry stated he advises the Board to follow the Iowa Code or the Board could be sued for exceeding their authority. Furlong stated he wishes to help the citizens of the county to allow less restrictive guidelines in order for citizens who are not relatives to visit and document cemeteries and gravestones. Barry stated if Furlong has concerns to contact the state legislators. Mather stated the ordinance does not restrict citizens from reaching a private agreement to visit a cemetery. Furlong stated a landowner could restrict non-relatives from access as he repairs gravestones and documents cemeteries, so he feels restricted per this ordinance. Mather stated he personally approaches the ordinance with the landowner rights. Chick agreed with Mather to not allow

unfettered access to private property. Furlong stated he is not requesting unfettered access but would follow the 10-day written request.

Connie Fuller, Grandview Iowa, stated she is a relative to some of the deceased in Kisor/Eisele Cemetery and stated issues have occurred since 2016 with access to the cemetery. Fuller stated other family members to the deceased who have visited the cemetery in year's past are families with the names of Grosjean, Phillips and Eisele. Fuller stated the prior landowner allowed access. Fuller asked what the cost will be to maintain the cemeteries as she is concerned with maintenance. Sauer stated the definition of maintenance varies on each individual's own definition. Fuller asked what the cost will be maintain a cemetery. Barry stated he wants all to understand that Township Trustees are able to tax and levy to maintain cemeteries, however pioneer and private burial sites in the county are not the responsibility of the Township Trustees. Barry stated the pioneer and private burial cemeteries listed in the ordinance are currently not being maintained by the Township Trustees and the ordinance allows the private landowners to agree to maintain or if they do not want to maintain the cemetery at their own expense, then the county will maintain the cemeteries from the general fund (not by tax levy). Fuller asked if the county will maintain or repair gravestones. Barry stated the taxpayer will not be responsible for gravestone repair however a family member can fund the repair. Fuller read a statement from Mike Phillips, (who stated he is a relative to over half the deceased in the cemetery), which contained information on Kisor/Eisele Cemetery about his family burials, cemetery entrance archway stolen, history of grave robbing and the cemetery is the 2nd oldest in the state, however stated this fact could not be verified. Phillips statement included he felt there has always been a person's right to visit a cemetery. Fuller stated she would like to visit the cemetery three times each year and expressed concern about the cemetery road access. The Board consensus was that this type of request was to be discussed with the landowner and not with the Board. Sauer stated her concerns/requests need to be written requests to all the landowners that are within a 360-degree radius to the cemetery.

On a motion by Sorensen, second by Mather, the public hearing was closed at 10:16 A.M. Roll Call Vote. Ayes: All.

On a motion by Sorensen, second by Chick, the Board approved an ordinance assuming jurisdiction and control of certain pioneer cemeteries and/or private burial sites located in Muscatine County, Iowa on the first of three readings. Roll Call Vote. Ayes: All.

On a motion by Sorensen, second by Chick, the Board approved Ordinance #07-17-23-01 amending Ordinance #11- 30-20-01 Regulating the Operations of All-Terrain Vehicles and Off-Road Utility Vehicles in Muscatine County on the third and final reading. Roll Call Vote. Ayes: All.

On a motion by Sorensen, second by Chick, the Board approved Resolution #07-17-23-01 Suspending the Collection of Taxes. Roll Call Vote. Ayes: All.

**RESOLUTION #07-17-23-01
SUSPENDING THE COLLECTION OF TAXES**

WHEREAS, notice from the Director of Human Services has been received regarding the eligibility of Gavino Alanis, Muscatine, Iowa, (the ‘recipient’) for medical and facility care; and

WHEREAS, as such recipient of such assistance is deemed to be unable to contribute to the public revenue pursuant to Section 427.9, Code of Iowa; and

WHEREAS, the recipient is the owner of property described as follows:

Address: 515 E 7th St, Muscatine, IA 52761
Parcel No: 0835288021
Legal Description: 35-77-2W
E 2/3 LOT 4 BLK 148

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Muscatine County Board of Supervisors:

1. That the County Treasurer is hereby ordered to suspend the collection of all taxes, including special assessments, rates or charges, interest, fees and costs for the current year and those unpaid from prior years. As long as the petitioner is authorized by DHS no interest accrues during suspension but payments can be made.
2. If the parcel is sold, passes by bequest or inheritance to any person other than the spouse or minor child of the petitioner, all taxes and special assessments become due and payable by the next semi-annual installment date. Interest at the rate of 1 ½% per month will start on the next delinquency date after the suspended taxes become due.

Passed and approved this 17th day of July, 2023.

ATTEST:

/s/Tibe Vander Linden
Muscatine County Auditor

/s/Scott Sauer, Chairperson
Muscatine County Board of Supervisors

On a motion by Sorensen, second by Chick, the Board approved to disallow previously approved Homestead and Military Tax Credits for those who are not living in the properties presented by County Auditor Tibe Vander Linden. Ayes: All.

On a motion by Mather, second by Sorensen, the Board the Board allowed new 2023 Homestead Tax Credit and/or Military Tax Exemption applications, except those recommended to be disallowed by the Assessor’s Office. Ayes: All.

On a motion by Sorensen, second by Kirchner, the Board approved 2023 Disabled Veteran's Homestead Tax Credit applications as recommended by the Muscatine County Assessor's Office. Ayes: All.

County Auditor Tibe Vander Linden stated her office has received a request from County Attorney Jim Barry to bring the costs to the Board for a civil case. Barry explained the civil and criminal case for a lawsuit filed against Kahla and Charles Jackson, stating the case was to remove approximately 12 animals (10 cats and 2 dogs) on or about May 22, 2023 from their residence. Barry stated in order to seek repayment of fees and costs incurred from Muscatine Humane Society (per day animal care), veterinarian fees, legal fees, court costs, court reporter fees and service fees in the amount of \$3,764.00, the costs will be assessed against the property owned by the Jackson's.

On a motion by Mather, second by Sorensen, the Board approved to order dispositional costs totaling \$3,764.00, plus interest and penalties, assessed against Kahla and Charles Jackson, be placed on the tax book against real property at 3120 Peartree Lane, Muscatine, Iowa. Ayes: All.

County Engineer Bryan Horesowsky presented bids for Project L-(M23-2) – 73-70, locally let as Project L-(M23-2)- 73-70, seal coat at various locations throughout the county as follows: Fahrner Asphalt Sealers LLC, Plover, Wisconsin - \$366,786.60; Brandt Construction Company & Subsidiary, Milan, Illinois - \$369,075.00; Pelling, LL. Co., Inc., North Liberty, Iowa - \$373,591.00. Horesowsky stated the Project is titled Project L-(M23-2)—73-70, locally let as Project L-(M23-2)—73-70 and not as Project L –(M23-3) as shown in one place on the agenda.

On a motion by Sorensen, second by Kirchner, the Board approved to award a bid for Project L-(M23-2) – 73-70, locally let as Project L-(M23-2)- 73-70, to seal coat on various roads throughout the county to Fahrner Asphalt Sealers LLC, Plover, Wisconsin in the amount of \$366,786.60. Ayes: All.

On a motion by Sorensen, second by Kirchner, the Board approved the following utility permit: Lumen (Centurylink), West Des Moines, Iowa - bore approximately 250 feet to place conduit and fiber cable and place one new hand hole at 3354 Highway 22, Muscatine, Iowa. Ayes: All.

Horesowsky presented bids for a 2023 rotary mower skid steer attachment as follows: Morning Sun Farm Implement, Inc., Morning Sun, Iowa - \$13,600.00 and Diamond Mowers, LLS, Sioux Falls, South Dakota - \$14,646.00.

On a motion by Chick, second by Sorensen, the Board approved the purchase of one 2023 rotary mower skid steer attachment from Morning Sun Farm Implement, Inc., Morning Sun, Iowa at a cost of \$13,600.00. Ayes: All.

Horesowsky updated the Board on secondary road projects. Horesowsky updated the Board on the American Rescue Plan Act (ARPA) triple box culvert projects that have been completed on 150th Street and Holly Avenue.

On a motion by Sorensen, second by Kirchner, the Board approved Resolution #07-17-23-02 Approval of the Combined Preliminary and Final Plat of Varner Subdivision. Roll Call Vote: Ayes: Chick, Kirchner, Sorensen and Sauer. Mather abstained due to client conflict.

RESOLUTION #07-17-23-02
APPROVAL OF THE COMBINED PRELIMINARY AND FINAL PLAT OF
VARNER SUBDIVISION

WHEREAS, there has been presented before the Board of Supervisors of Muscatine County, Iowa, a dedication and plat of the proposed subdivision “Varner Subdivision”; and

WHEREAS, said plat has heretofore been approved by the Zoning Commission of Muscatine County, Iowa; and

WHEREAS, said dedication and plat fully conform with all laws of the State of Iowa and all ordinances of Muscatine County, Iowa, applicable thereto; and

WHEREAS, the platting of said subdivision is conducive to orderly development within Muscatine County, Iowa, is not in conflict with any extensions of the established road systems of Muscatine County, Iowa, and is in harmony with the comprehensive plan of zoning now in effect within Muscatine County, Iowa.

WHEREAS, the subdivision of said real estate and the plat thereof were accepted and approved by the Muscatine County Board of Supervisors following a public meeting on July 17, 2023.

NOW, THEREFORE, be it resolved by the Board of Supervisors of Muscatine County, Iowa, as follows:

- Section 1. The said subdivision is hereby designated as “Varner Subdivision”, a subdivision in Muscatine County, Iowa, and that the descriptions of lots and parcels of land located therein shall be according to the number and designation thereof as set forth on said plat.
- Section 2. The Chairperson of the Board of Supervisors and the Auditor of Muscatine County, Iowa, are hereby authorized and directed to certify this Resolution in order that the same and all other matters material to said subdivision may be recorded in the Office of the Recorder of Muscatine County, Iowa.

PASSED and APPROVED this 17th day of July, 2023.

ATTEST:

/s/Tibe Vander Linden
Muscatine County Auditor

/s/Scott Sauer, Chairperson
Muscatine County Board of Supervisors

On a motion by Sorensen, second by Mather, the Board approved Resolution #07-17-23-03 Approval of the Combined Preliminary and Final Plat of Parizek's First Addition Subdivision. Roll Call Vote: Ayes: All.

RESOLUTION #07-17-23-03
APPROVAL OF THE COMBINED PRELIMINARY AND FINAL PLAT OF
PARIZEK'S FIRST ADDITION SUBDIVISION

WHEREAS, there has been presented before the Board of Supervisors of Muscatine County, Iowa, a dedication and plat of the proposed subdivision "Parizek's First Addition Subdivision"; and

WHEREAS, said plat has heretofore been approved by the Zoning Commission of Muscatine County, Iowa; and

WHEREAS, said dedication and plat fully conform with all laws of the State of Iowa and all ordinances of Muscatine County, Iowa, applicable thereto; and

WHEREAS, the platting of said subdivision is conducive to orderly development within Muscatine County, Iowa, is not in conflict with any extensions of the established road systems of Muscatine County, Iowa, and is in harmony with the comprehensive plan of zoning now in effect within Muscatine County, Iowa.

WHEREAS, the subdivision of said real estate and the plat thereof were accepted and approved by the Muscatine County Board of Supervisors following a public meeting on July 17, 2023.

NOW, THEREFORE, be it resolved by the Board of Supervisors of Muscatine County, Iowa, as follows:

Section 1. The said subdivision is hereby designated as "Parizek's First Addition Subdivision", a subdivision in Muscatine County, Iowa, and that the descriptions of lots and parcels of land located therein shall be according to the number and designation thereof as set forth on said plat.

Section 2. The Chairperson of the Board of Supervisors and the Auditor of Muscatine County, Iowa, are hereby authorized and directed to certify this Resolution in order that the same and all other matters material to said subdivision may be recorded in the Office of the Recorder of Muscatine County, Iowa.

PASSED and APPROVED this 17th day of July, 2023.

ATTEST:

/s/Tibe Vander Linden
Muscatine County Auditor

/s/Scott Sauer, Chairperson
Muscatine County Board of Supervisors

The Board reviewed a variance granted by the Muscatine County Board of Adjustment on July 7, 2023. Case #23-07-01 is an application filed by Autumn Harris, Record Owner. This property is located in Seventy-Six Township in part of the SE ¼ of Section 27-T76N-R3W, 2656 Burlington Road, containing approximately 1.21 acres, and is zoned A-1 Agricultural District. This request, if approved, would allow the Zoning Administrator to issue a Variance in order to allow a front porch to be extended within 40 foot of the front property line. The porch would be extended an additional two feet from its current location. The extended porch will not change the characteristics of surrounding property and will not obstruct any views on Burlington Road. On a motion by Sorensen, second by Chick, the Board accepted the variance granted by the Muscatine County Board of Adjustment on July 7, 2023. Ayes: All.

Planning and Zoning Administrator Eric Furnas reviewed a Special Use Permit granted by the Muscatine County Board of Adjustment on July 7, 2023. Case #23-06-01 is an application filed by C. Gene or Carla R. Paxton, Record Owners and Nextlink % Megan Croop, Applicant. This property is located in Seventy-Six Township, in parts of the SE ¼ of Section 18-T76N-R3W, Parcel B, containing approximately 74.89 acres, and is zoned A-1 Agricultural District. This request, if approved, would allow the Zoning Administrator to issue a Special use Permit in order to place a 12- foot mono pole for telecommunications and internet on this property for commercial use. Telecommunication Transmission Towers are allowed to be placed on private property in the A-1 Agricultural District with a Special Use permit. The proposed tower will meet the required separation distances and will be enclosed b a fence to meets the minimum requirement. The applicant also provided the required decommissioning affidavit. The Board of Adjustment approved this request.

On a motion by Sorensen, second by Chick, the minutes of the July 10, 2023 regular meeting were approved as written. Ayes: All.

Correspondence:

Mather had a comment from an individual outside the county on improper road embargoes in Fruitland, Iowa

Mather stated for the record, he is representing Orion Energy Systems so he is unable to comment or participate in board discussions involving this company.

Sauer received an email regarding the proposed cemetery ordinance.

Chick received a call from Andy Mueller, 2617 102nd Street, regarding issues with culverts. Chick contacted County Engineer Bryan Horesowsky and Kirchner.

Kirchner received a call from an individual regarding pioneer cemeteries.

Committee & Meeting Reports:

Sorensen, Sauer, Chick and Kirchner attended a meeting with Orion Energy Systems on July 12, 2023.

Sorensen and Chick attended a conference call meeting with Iowa Finance Authority, Community Foundation and the City of Muscatine on July 13, 2023.

Sorensen and Sauer attended a Region 9 Transportation Policy Plan meeting on July 14, 2023.

Mather stated the 7th Judicial District Department of Correctional Services Board did not meet as planned. The Board has agreed to meet quarterly.

Kirchner attended a meeting with Andy Mueller at his residence regarding drainage issues at his farm and plugged culverts.

Chick attended a Greater Muscatine Chamber of Commerce and Industry meeting on July 10, 2023

Kirchner attended a Muscatine County Fair Board meeting on July 13, 2023.

Kirchner announced the Muscatine County Fair runs July 19-23, 2023.

On a motion by Sorensen, second by Kirchner the Board authorized the Chair to execute a FY23/24 Methamphetamine Drug Hot Spots Grant Program (CAMP) contract in the amount of \$8,000.00. Ayes: All.

On a motion by Sorensen, second by Kirchner the Board approved Resolution #07-17-23-04 Transferring Funds from the General Basic Fund to the Capital Projects Fund in the amount of \$1,850,000. Roll Call Vote: Ayes: All.

**RESOLUTION #07-17-23-04
TRANSFERRING FUNDS FROM THE GENERAL BASIC FUND TO THE
CAPITAL PROJECTS FUND**

WHEREAS, it is desired by the Muscatine County Board of Supervisors to set aside funds for future projects; and

WHEREAS, said transfers must be in accordance with Sections 331.429 and 331.432 of the Code of Iowa.

NOW, THEREFORE, BE IT RESOLVED by the Muscatine County Board of Supervisors that the Auditor is authorized to transfer \$1,850,000 from the General Basic Fund to the Capital Projects Fund.

PASSED AND APPROVED this 17th day of July, 2023.

ATTEST:

/s/Tibe Vander Linden
Muscatine County Auditor

/s/Scott Sauer, Chairperson
Muscatine County Board of Supervisors

On a motion by Sorensen, second by Mather, the Board approved returning the CDBG Revolving Loan Fund balance of \$78,500 to the Iowa Economic Development Authority (IEDA) for reallocation to the City of Muscatine to be used towards the Community Foundation – Mulberry Corridor American Rescue Plan Act (ARPA) project. Ayes: All. Sorensen stated the funds were from a HUD program from over 25 years ago with the use of the funds have restrictions so the state will swap the funds to be reallocated to the Community Foundation – Mulberry Corridor ARPA project (affordable housing project). Sorensen thanked IEDA and Senator Mark Lofgren for his assistance to accomplish this reallocation. Budget Coordinator Kala Naber stated the CDBG funds will be returned in two installments: The first payment will be sent now for \$63,500 and the second payment will be in May 2024, in the amount of \$15,000.

On a motion by Sorensen, second by Chick, the Board approved the funding amount of \$875,000 for Community Foundation – Mulberry Corridor ARPA project. Ayes: All. Naber stated this action confirms the funding amount of \$875,000 with no reduction due to the reallocation from the CDBG fund return payment. Sorensen thanked Naber and Chick for their work on the fund reallocation.

The Board reviewed the health/dental fund balance as of June 30, 2023. The Board consensus was the fund balance shows premiums are set correctly to cover the expenses.

County Attorney Jim Barry stated earlier this year, the County Attorney's office and the Auditor's office requested a survey of a property on Houser Street, as the parcel had been split during a sale and the legal description was not accurate for taxes and assessment. The proprietors in the transaction have been notified of the survey costs of \$3,100 that the county incurred, as the proprietors did not take the action on their own to have a survey completed. There is a mechanism to recover the cost of the survey therefore the City of Muscatine was notified, as the property is in their jurisdiction, requesting they review and approve the survey or waive the right. Barry stated whatever mechanism to use is yet to be established. Barry stated there will be Board action expected at a future meeting, to present the survey cost be placed on the parcel property taxes. Barry stated at this time the City of Muscatine is reviewing if a subdivision is a requirement. Barry stated he is reviewing this information to the Board today in case there are questions that may arise.

The meeting was adjourned at 10:56 A.M.

ATTEST:

Cathy Ribbink
Elections/Real Estate Administrator

Scott Sauer, Chairperson
Board of Supervisors