

October 5, 2009

The Mahaska County Board of Supervisors met in regular session on the above date at 9:00 a.m. in the third floor conference room of the Mahaska County courthouse. Present were the following board members: Chairman – Greg Gordy, vice chairman – Lawrence Rouw; member – Henry W. VanWeelden. Also present were the following: Scott Dailey, KBOE Radio; Duane Nollen, Oskaloosa Herald; Don Russell, Mahaska County Sanitarian; Jerome Nusbaum, Mahaska County Engineer and Kay Swanson, Mahaska County Auditor.

This meeting was filmed by Communications Research Institute of William Penn University.

Chairman Gordy called the meeting to order with a moment of silence.

It was moved by Rouw seconded by Van Weelden to approve the agenda with the addition of the Quarterly report for the Auditor. All present voted aye. Motion carried.

It was moved by VanWeelden seconded by Rouw to approve the minutes of September 21st. All present voted aye. Motion carried.

It was moved by VanWeelden seconded by Rouw to approve the bills for September in the amount of \$1,195,465.63. All present voted aye. Motion carried.

It was moved by Gordy seconded by Rouw to appoint David Dixon to the Board of Health to fill the unexpired term of Randy DeGeest. Mr. DeGeest's term expires on December 31, 2010. All present voted aye. Motion carried.

The matter of the unpaid health insurance claims was tabled until later date.

It was moved by Gordy seconded by Rouw to approve the following County Vehicle Usage Policy and Penalties. All present voted aye. Motion carried.

COUNTY VEHICLE USAGE POLICY AND PENALTIES

WHEREAS, various Mahaska County officers, employees, and agents have job functions and duties which require the possession and use of vehicles and other personal property owned by Mahaska County at times and places away from any such officer's, employee's, or agent's assigned county office or other place of work and often require, in the ordinary course of such officers', employees', or agents' duties, that such automobiles and other personal property be readily and immediately available for use at all times for emergency, on- call, or other situations involving Mahaska County governmental functions, duties, and business; and

WHEREAS, the Mahaska County Board of Supervisors has been made aware that, on some occasions, some of those Mahaska County officers, employees, and agents

who have been entrusted with the personal possession of Mahaska County vehicles and other personal property for their use involving emergency, on-call, or other situations of Mahaska County business have used, and permitted others who are not Mahaska County officers, employees, and agents to use, such vehicles and other personal property for personal and family convenience, business, and other functions and purposes which have no relation to the governmental business of Mahaska County or to the job functions and duties of that officer, employee, and agent; and

WHEREAS, it is a Serious Misdemeanor for any such Mahaska County officer, employee, or agent to knowingly use, or permit any other person to use, the vehicles or other personal property entrusted to the personal possession of any officer, employee, or agent for any private purpose or for any personal gain and to the detriment of Mahaska County, Iowa under the provisions of Iowa Code Section 721.2(5) (2007); and

WHEREAS, Mahaska County, Iowa and such Mahaska County officers, employees, or agents who knowingly use, or permit any other person to use, such vehicles and other personal property for private use or personal gain can be made liable for damages to third persons under the provisions of common law or Iowa Code Chapter 670 for death, personal injury, or property loss; and

WHEREAS, Mahaska County, Iowa seeks to prohibit the wrongful use of its vehicles and other personal property, and to avoid the potential for civil liability for such wrongful use, by setting forth in this Resolution and defining the permissible circumstances of such usage in prescribing the time, place, and purpose for which such vehicles and personal property may be used, as permitted by Briner v. Hyslop 337 N.W.2d 858, 869-870 (Iowa 1983), provide other related county policies, and provide the establishment of penalties for such wrongful use;

NOW THEREFORE, BE IT HEREBY RESOLVED

I.

COUNTY OWNED PROPERTY

A. No Mahaska County, Iowa officer, employee, or agent who is entrusted the possession of any motor vehicle owned by Mahaska County, Iowa shall use such motor vehicle for any other purpose than the governmental business of the County or the specific statutory or other duties defined for that officer, employee, or agent's job functions and duties.

B. No Mahaska County, Iowa officer, employee, or agent who is entrusted the possession of any motor vehicle owned by the County for use in that officer, employee, or agent's job functions and duties shall permit any other person to operate, use, or be a passenger in such motor vehicle, except as incident to the legitimate governmental business of that officer, employee, or agent in the ordinary course of such job functions or duties.

C. No Mahaska County, Iowa officer, employee, or agent who is entrusted the possession of any personal property or equipment owned by the County and made available to such officer, employee, or agent for use in the job functions and duties of that officer, employee, or agent shall permit any other person to possess, operate, or use any such personal property or equipment, except as incident to the legitimate governmental

business of that officer, employee, or agent in the ordinary course of such job functions or duties.

D. Any superior, supervisor, or official of any Mahaska County officer, employee, or agent who knowingly permits the unauthorized uses defined in this Section or who, knowing that such uses have occurred and fails to take appropriate disciplinary action (including the Penalties described in Section II below) against such inferior officer, employee or agent, shall subject him or herself to the same Penalties in Section II.

II.
PENALTIES

For any violation of the provisions of Section I:

- 1) The officer, employee, or agent shall be referred to the proper prosecuting authority for possible criminal prosecution under Iowa Code Section 721.2(5) (2003); and
- 2) The employee or agent shall be removed, and, if necessary, terminated, as an employee or agent from any position permitting or requiring the possession or use of any motor vehicle, equipment, or other personal property owned by Mahaska County; and
- 3) The officer, whether elected or appointed, shall be referred to the Iowa Attorney General, pursuant to Iowa Code Section 66.3(1), for a possible action under Iowa Code Chapter 66 for removal from office; and
- 4) Where it appears that a death, personal injury, or property loss is claimed, or may have occurred in violation of the provisions of Section I, Mahaska County shall commence against such officer, employee, or agent that action contemplated by Iowa Code Section 670.8 seeking a determination that such violation constituted a willful and wanton act or omission as to which Mahaska County has no duty to defend or indemnify such officer, employee, or agent for that death, personal injury, or loss, or, alternatively, that Mahaska County is owed restitution by such person.

III.

Upon passage of this Resolution, the policies and penalties herein defined shall be added to the County's Personnel Policies under the separate heading of "County Vehicle Usage Policy and Penalties".

Date _____

Mahaska County Board of Supervisors

Chairman

ATTEST: _____
County Auditor

It was moved by Rouw seconded by VanWeelden to approve the quarterly report for second quarter 2009-2010 for the Auditor. All present voted aye. Motion carried.

It was moved by Gordy seconded by VanWeelden to approve the following resolution number 2009-10-01. All present voted aye. Motion carried.

RESOLUTION

Pursuant to the provisions of Iowa Code Section 309.67, and after consultation with the Mahaska County Engineer, the Mahaska County Board of Supervisors hereby adopts for its county secondary road system, where average daily traffic counts are 400 vehicles per day or less, the

Guidelines for Geometric Design

of Very Low-Volume Local Roads (ADT < 400), (2001)

published by the American Association of State Highway and Transportation Officials, Copyright 2001, as those policies governing design or re-design and construction or reconstruction of Mahaska County Secondary Roads; except that any particular policy, guideline, or suggested standard may be excepted in a particular project when, in the best professional judgment of the County Engineer, a particular policy, guideline or suggested standard should be superseded by application of sound principles of engineering judgment.

s/Greg Gordy _____

Date: October 5, 2009

It was moved by Rouw seconded by VanWeelden to approve the Lease agreement between Mahaska County and Gene Fox for storage building located on Landlord's real estate located in Section 14, Prairie Township, Mahaska County, Iowa for a term of one year beginning on the 1st day of October 2009 for \$2000.00 per year. All present voted aye. Motion carried.

The engineer also discussed the amount of rock that had been put on rural roads so far this year.

It was moved by VanWeelden seconded by Rouw to adjourn. All present voted aye. Motion carried.

Greg Gordy, Chairman
Mahaska County Board of Supervisors

ATTEST: _____
Kay Swanson, Mahaska County Auditor

