Marshall County Board of Supervisors
Regular Session May 25, 2010, at 9:00 a.m.

MINUTES

The Board met in regular session on Tuesday, May 25, 2010, at 9:00 a.m. in meeting room #2, 3rd Floor, northeast corner of the courthouse with 3 members present.

1. Approval or Amendment of Agenda—

Motion by Brooks, second by Grabenbauer to approve the agenda as printed.

Roll call vote:	Grabenbauer-Aye	Brooks-Aye	Goecke-Aye
	Vice Chairman	Member	Chairman

2. Public Hearing- Appelgate G & L, non-permitted Hog Confinement Construction
Expansion, located in Marshall County Iowa, Marietta Township, in the NW ¼ SE ¼ of
Section 19, T-84N, R-18W. Building Description: The proposed expansion will include constructing one confinement building measuring 51'2" x 151'x 8'0" below-ground concrete pit covered by a swine finisher. Capacity: The existing operation is at a non-permitted capacity of 2245(742 AUC) head of hogs with the proposed expansion to 2495(998 AUC) head of hogs.

There was no written comment(s), question(s) or objection(s) on file before the hearing, and no individual(s) voiced comments, questions or objections at the hearing.

Motion by Grabenbauer, second by Brooks to close the public hearing.

Roll call vote:	Grabenbauer-Aye	Brooks-Aye	Goecke-Aye
	Vice Chairman	Member	Chairman

Consent Agenda:

3. **Approve Minutes--** from Regular Session of May 11, 2010.
4. **Accept Independent Auditor's Report**-Quakerdale White's Iowa Institute. Years ending December 31, 2009 and 2008.
5. **Approve Personnel Actions:**
   a) Hire, **Austin Ewalt,** Auditor/Election Office, Equipment Delivery, temporary, at $10.00/hr., effective June 2-June 9, 2010.
   b) Hire, **Judy Wasco,** Auditor/Election Office, Election Clerk, part time as needed, at $10.00/hr., effective May 25, 2010-December 30, 2010.

c) Hire, **Richard Monroe,** Secondary Road Department, summer mowing, temporary part time as needed, $17.78/hr., effective June 1, 2010.

6. **Manure Management Update**-MTM Farms, LLC, id no. 61010, update report received and placed on file with no changes made to the MMP.
7. **File District Court Report-4-10**
   General Supplemental Fund 10% Surcharge - $931.82
8. **Approve Claims –**as audited and authorize the County Auditor to issue payment of same. The listing of claims paid at this meeting will be included with all claims paid for the month of May; the May list of claims will be a part of the first meeting in June.

Motion by Brooks, second by Grabenbauer, to approve the consent agenda as printed above.

Roll call vote:	Grabenbauer-Aye	Brooks-Aye	Goecke-Aye
	Vice Chairman	Member	Chairman

9. Request for Subdivision Variance from Mabel M. Ward, SV 10-01--Discussion and possible action on a request from Mabel M. Ward for property legally described as: 28-85-17 SE SE of the 5th P.M.**,** parcel pin # 04-28-400-004 within Marshall County, Iowa for a subdivision variance from Article III, Section 3 of the Marshall County Platting Subdivision Ordinance of Marshall County.

Motion by Grabenbauer, second by Brooks, to approve the subdivision variance to Article III, Section 3 of the Platting and Subdivision Ordinance and allow a plat of survey to be filed in lieu of a subdivision. The property involved is:
Section 28 Township 85 Range17, SE SE of the 5th P.M., parcel pin # 04-28-400-004 within Marshall County, Iowa.

Roll call vote:	Grabenbauer-Aye	Brooks-Aye	Goecke-Aye
	Vice Chairman	Member	Chairman

Resolution 2010-0015

10. County Attorney Collection Incentive Fund-Resolution to Establish--

The Marshall County Attorney began participating in the court debt collection program authorized under Iowa Code § 602.8107.4, during FY2009, and

Marshall County has been receiving 40% of collections in the General Fund and the State of Iowa receives 60% of collections, and

Marshall County, at the end of FY09 and again at the end of FY10 has reached the $100,000 threshold required for a county with a population between 26,000 and 50,000, and

Once the threshold has been met, the State receives 48%, the General Fund of Marshall County receives 40% and the Marshall County Attorney receives an additional incentive of 12%, which according to Iowa Code § 602.8107.4(d), shall be deposited with the office of the county attorney.

Therefore, Be It Resolved that special revenue fund, 0041, be established and named County Attorney Collection Incentive Fund.

Dated at Marshalltown, Iowa, this 25th day of May, 2010.

Motion by Brooks, second by Grabenbauer to adopt this Resolution.

Roll call vote:	Grabenbauer-Aye	Brooks-Aye	Goecke-Aye
	Vice Chairman	Member	Chairman

Attest:

Ronald D. Goecke
Board of Supervisors, Chairman

Karen Squiers
Marshall County Auditor

11. Approve Public Event Held on County Property – Clyde Eisenbeis requests permission to hold a patriot rally on the Courthouse grounds on Monday, June 14, 2010(Flag Day), in afternoon/evening.

Motion byGrabenbauer, second by Brooks to approve the use of County property for a patriot rally on Monday, June 14, 2010(Flag Day).

Roll call vote:	Grabenbauer-Aye	Brooks-Aye	Goecke-Aye
	Vice Chairman	Member	Chairman

12. Public Events Held on County Property—Discussion and action on a request from the Hispanic Heritage Festival Committee to use the Courthouse lawn and the Mobile Band Shell beginning at 12:00 p.m. on Saturday, June 5th, no rain date. The celebration will include a food court, entertainment, and booths/workshops in order to learn more about the Hispanic culture. There will be no alcoholic beverages served.

Motion by Brooks, second by Grabenbauer, to approve the use of County property and the Mobile Band Shell by the Hispanic Heritage Festival Committee.

Roll call vote:	Grabenbauer-Aye	Brooks-Aye	Goecke-Aye
	Vice Chairman	Member	Chairman

13. Ordinance No. 32 Assessment of Wind Energy Conversion Property, Public Hearing--The Marshall County Board of Supervisors is considering the passage of Ordinance No. 32 which provides for the special valuation of wind energy conversion property pursuant to Iowa Code Chapter 427B.26 The Ordinance being considered is set out in full for purposes of this public hearing, under agenda item number fourteen below.

At this public hearing, any individual may present objections to or arguments in favor of proposed Ordinance No. 32.

There were no written comments, questions, or objections on file in the County Auditor's office. Of the 5 individuals attending the hearing, no individual(s) presented oral comments, questions or objections.

Motion by Grabenbauer, second by Brooks to close the public hearing.

Roll call vote:	Grabenbauer-Aye	Brooks-Aye	Goecke-Aye
	Vice Chairman	Member	Chairman

14. Ordinance No. 32 -- Assessment of Wind Energy Conversion Property Third and Final Reading and Adoption --

The Marshall County Board of Supervisors is considering the adoption of proposed Ordinance No. 32 of Marshall County, entitled Assessment of Wind Energy Conversion Property Ordinance; and

Whereas the second reading of this ordinance was suspended by majority of the supervisors pursuant to Iowa Code Chapter 331.302(5) at the May 11, 2010 Board of Supervisors meeting; and

Now, Therefore Be It Resolved, by the Marshall County Board of Supervisors, that this be considered the third and final reading and adoption of the proposed Assessment of Wind Energy Conversion Property Ordinance for Marshall County, Iowa.

Marshall County Ordinance No. 32
Assessment of Wind Energy Conversion Property

Be it enacted by the Board of Supervisors of Marshall County, Iowa:

Section 1: Purpose

The purpose of this ordinance is to provide for the special valuation of wind energy conversion property pursuant to Iowa Code Chapter 427B.26.

Section 2: Definitions

For use in this ordinance, certain terms and words used herein shall be interpreted or defined as follows:

1. **NET ACQUISITION COST** means the acquired cost of the property including all foundations and installation cost less any excess cost adjustment.

2. **WIND ENERGY CONVERSION PROPERTY** means the entire wind plant including, but not limited to, a wind charger, windmill, wind turbine, tower and electrical equipment, pad mount transformers, power lines and substation.

Section 3: Authority to Establish

The Board of Supervisors is authorized, pursuant to Iowa Code Chapter 427B.26 to provide by ordinance for special valuation of wind energy conversion property as provided in Section 4.

Section 4: Establishment

Pursuant to Iowa Code Chapter 427B.26, a special valuation of wind energy conversion property is allowed in lieu of the valuation assessment provisions in Iowa Code Chapter ~~442.21(9)(b) and (c)~~ **441.21(8) (a)(b)(c)**, and Iowa Code Chapters 428.24 to 428.29. The special valuation shall only apply to wind energy conversion property first assessed on or after January 1, 1994, and on or after the effective date of this ordinance.

Section 5: Amount of Valuation

Wind energy conversion property first assessed on or after the effective date of the ordinance shall be valued by the county assessor for property tax purposes as follows:

1. For the first assessment year, at zero percent (0%) of the net acquisition cost.
2. For the second through sixth assessment years, at a percent of the net acquisition cost which rate increases by five percent (5%) each assessment year.
3. For the seventh and succeeding assessment years, at thirty percent (30%) of the net acquisition cost.

Section 6: Declaration of Special Valuation

The taxpayer shall file with the county assessor by February 1 of the assessment year in which the wind energy conversion property is first assessed for property tax purposes, a declaration of intent to have the property assessed at the value determined under Section 5 in lieu of the valuation assessment provisions in Iowa Code Chapter 441.21(9)(b) and (c), and Iowa Code Chapters 428.24 to 428.29.

If the taxpayer does not file with the county assessor by February 1 of the assessment year for which the person files a declaration of intent to have the property assessed as provided above, then the declaration of intent shall be considered as a declaration filed for the following year.

Section 7: Reporting Requirements

The following reports shall be filed annually with the county assessor by the taxpayer; in the first year, with the declaration of intent prescribed in Section 6; and by February 1 of each year thereafter:

1. Copy of Asset ledger sheet to IRS;
2. Engineering breakdown of component parts;
3. Tower numbering system;
4. Name of contact person, phone number, FAX number, and mailing address;
5. Report of all leased equipment, the name(s) of the company(s) it is leased from, and the agreement between the lessor and the lessee regarding who is responsible for the property tax on the leased equipment.

Section 8: Repeal of Special Valuation

If in the opinion of the Board of Supervisors continuation of the special valuation provided under Section 4 ceases to be of benefit to the county, the Board of Supervisors may repeal the ordinance.
Property specially valued under section 4, prior to any repeal of this ordinance, shall continue to be valued under Section 4 until the end of the nineteenth (19) assessment year following the assessment year in which the property was first assessed.

Section 9: Repealer

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 10: Severability Clause

If any section, provision, or other part of this ordinance shall be adjudged invalid or unconstitutional, said adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or other part thereof not adjudged invalid or unconstitutional.

Section 11: Penalty

Any person, firm or corporation violating any regulation in or any provision of this ordinance, or of any amendment or supplement thereto, shall be guilty of a simple misdemeanor which is punishable by a fine of not more than One Hundred Dollars ($100.00) or by imprisonment of not more than thirty (30) days and shall be guilty of a County infraction punishable by a civil penalty of not more than One Hundred Dollars ($100.00), or if the infraction is a repeat offense, by a civil penalty not to exceed Two Hundred Dollars ($200.00). Each day that a violation occurs or is permitted by the Defendant to exist, constitutes a separate offense.

Section 12: When Effective

This ordinance shall be in effect upon its final passage, approval and publication as provided by law.

Be It Further Resolved that such a proposed Ordinance shall not be effective until a public hearing is held at 9:00 a.m. on the 25th day of May 2010, with a notice of the public hearing published in the Marshalltown Times-Republican and the Mid Iowa Enterprise, and the Board adopts the third reading of the proposed Ordinance and the Ordinance is published.

Motion by Brooks, second by Grabenbauer to amend proposed Ordinance #32 to replace code # 442.21(9)(b) and (c) under Section 4-Establishment with new code #441.21(8) (a)(b)(c). See changes above.

Roll call vote:	**Grabenbauer-Aye**	**Brooks-Aye**	**Goecke-Aye**
	Vice Chairman	**Member**	**Chairman**

Motion by Brooks, second by Grabenbauer that this constitutes the third and final reading and adoption of proposed Marshall County Ordinance #32 entitled Assessment of Wind Energy Conversion Property, **as amended**. This Ordinance will be effective after publication.

Roll call vote:	Grabenbauer-Aye	Brooks-Aye	Goecke-Aye
	Vice Chairman	Member	Chairman

PASSED AND APPROVED this 25th day of May, 2010.

____________________________ Attest: ____________________________

Ronald D. Goecke
Board of Supervisors, Chairman

Karen Squiers
Marshall County Auditor

15. Secondary Road-West Main Street Asphalt Maintenance--
Discussion and possible action on the approval of hiring Cessford Construction Co. of LeGrand to perform surface patching on West Main St. from the city limits of Marshalltown, west to Knapp Ave. A proposed 2" overlay patch on 2 of the areas and a 4" overlay on very bad area at the west end. Estimated cost is $60,498.67.

Motion by Grabenbauer, second by Brooks to approve hiring Cessford Construction Co. of LeGrand to perform surface patching on West Main St. from the city limits of Marshalltown, west to Knapp Ave. Estimated cost is $60,498.67.

Roll call vote:	Grabenbauer-Aye	Brooks-Aye	Goecke-Aye
	Vice Chairman	Member	Chairman

16. Secondary Road-Certificate of Completion--on the following project: Project HDP-C064(98)—6B-64, a contract with Peterson Contractors Inc. of Reinbeck, IA dated April 17, 2009 consisting of grading 1.15 miles of Highland Acres Rd from 233rd St. to

450' North of Lincoln Way, in Section 4 T-83N, R-18W Timber Creek Township, Marshall County, Iowa.

Original Contract	$886,672.40
Final Cost	$971,265.62

Motion by Brooks, second by Grabenbauer, to accept the Certificate of Completion.

Roll call vote:	Grabenbauer-Aye	Brooks-Aye	Goecke-Aye
	Vice Chairman	Member	Chairman

17. Sheriff's Department-Extension to 28E Agreement Between Marshall County and the City of Albion for Law Enforcement Protection--Discussion and action on the Extension Agreement regarding the 28E Agreement between Marshall County and the City of Albion for law enforcement protection within the corporate limits of the City of Albion. The agreement is extended through June 30, 2011.

Motion by Grabenbauer, second by Brooks, to approve the Extension Agreement between Marshall County and the City of Albion.

Roll call vote:	Grabenbauer-Aye	Brooks-Aye	Goecke-Aye
	Vice Chairman	Member	Chairman

18. Letter of Support to Iowa Congressional Delegation-Retroactively extending the biodiesel tax incentive.

19. Discussion Item-Tax Abatement District-Urban Revitalization Plan-Pickering Heartland Coop—1.5 million expansion. Tax abatement plan is for their area only. A three year abatement.

20. Group Application for Marshall County Life and AD&D Insurance Plan--discussion and action on an application to Hartford Life and Accident Insurance Company for life and AD&D insurance.

Motion by Brooks, seconded by Grabenbauer to complete the application.

Roll call vote:	Grabenbauer-Aye	Brooks-Aye	Goecke-Aye
	Vice Chairman	Member	Chairman

21. Public Forum—There were no comments from the public.

22. Adjournment--The next regular meeting is June 8, 2010, at 9:00 a.m. All business to be acted upon at that session should be submitted to the County Auditor's Office or the Board of Supervisors' Office by June 2, 2010**(PLEASE NOTE DATE CHANGE)**, at 1:00 p.m. There being no further business to come before the Board, the meeting was adjourned at 9:36 a.m.

______________________________ Attest: ______________________________

Ronald D. Goecke
Board of Supervisors, Chairman

Karen Squiers
Marshall County Auditor