

**Marshall County Board of Supervisors
Regular Session September 16, 2008, at 9:00 a.m.
Revised 9/17/2008 3:57 PM**

MINUTES

The Marshall County Board of Supervisors met in regular session on Tuesday, September 16, 2008, at 9:00 a.m. in meeting room #2, 3rd Floor, Northeast corner of the courthouse with all 3 members were present.

1. Zoning Ordinance Amendment No. ZR-08-01, Public Hearing—

At the public hearing, any resident may present objections to or arguments in favor of any part of the Amendment to the Zoning Ordinance.

There are no written comments on file in the Auditor's and Board of Supervisors' Office on the Zoning Amendment. Three individual(s) attended the public hearing, and one individual presented oral comments, questions, or objections. Motion by Goecke, second by Brooks, to close the public hearing.

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

2. Zoning Resolution- Third Reading of Proposed Amendment No. ZR-08-01 to the Zoning Ordinance No. 3 of Marshall County—

Whereas, after recommendation from the Marshall County Zoning Commission, the Marshall County Board of Supervisors is considering the adoption of Amendment No. ZR-08-01 to the Zoning Ordinance of Marshall County.

Now, Therefore, Be It Resolved, by the Marshall County Board of Supervisors that this be considered the third reading of the following proposed amendment: that the Marshall County Zoning Commission has received request #ZR-07-01 which is a request by the Marshall County Planning and Zoning Department to amend the zoning ordinance:

This is a request to amend: Article XVIII, Sec. 3.12, Subsection A (18) by:

18) **Submittal Requirements.** In addition to the submittal requirements defined for Special Use Permit applications, all applications for Non-Commercial WECS must submit the following information (as applicable).

And amend Article VI, Section 2 by:

~~**Subsection B.** Livestock feed lots, livestock confinement facilities, poultry farms and poultry confinement facilities. No feed lot or confinement facility shall be located closer than two thousand (2,000) feet to any dwelling unit other than that of the owner or operator of the feed lot or confinement facility, or two thousand (2,000) feet to any residential District boundary or to the corporate limits of any city or town, or that no residential District shall be closer than two thousand (2,000) feet to any existing feed lot, confinement facility or poultry farm.~~

(Amend. 98-01)

~~Subsection C.~~ **Subsection B.** Other permitted uses after recommendation of the Zoning Commission and approval of the Board.

Reason for the amendment request: To correct a typographical error in the wind turbine rules and to delete an in-applicable livestock regulation.

This would be an amendment to the Marshall County Zoning Ordinance No. 3 pursuant to the procedure set forth in Article XVIII, Sections 3 and Article VI, Section 2 of the Marshall County Zoning Ordinance No. 3.

Be It Further Resolved that such proposed amendments shall not be effective until a public hearing is held at 9:00a.m.on the 16th day of September, 2008 and the Board adopts the third reading of the proposed amendment and the amendment is published.

Notice of the public hearing was published in the Marshalltown Times-Republican, Marshalltown, Iowa and Mid Iowa Enterprise, State Center, Iowa on August 28, 2008,

Dated at Marshalltown, Iowa, this 16th day of September, 2008.

Motion by Brooks, second by Goecke, that this constitutes the third reading and adoption of Amendment No. ZR-08-01 to Zoning Ordinance No. 3.

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

_____	Attest:	_____
Gordie Johnson		Karen Squiers
Board of Supervisors, Chairman		Marshall County Auditor

3. Proposed Marshall County Ordinance No. 30 to: REQUIRE THE USE OF COMPOSTABLE PLASTIC, RECYCLABLE PAPER AND/OR REUSABLE CHECKOUT BAGS BY ALL RETAIL STORES IN UNINCORPORATED AREAS OF MARSHALL COUNTY, AND PROVIDE PENALTIES FOR VIOLATIONS to the Marshall County Code of Ordinances, Public Hearing--

At the public hearing, any resident may present objections to or arguments in favor of any part of the proposed Ordinance No. 30.

There are no written comments on file in the Auditor’s and Board of Supervisors’ Office on the proposed Ordinance No 30. 4 individuals attended the pubic hearing, and 3 individuals presented oral comments, questions, or objections.

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

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

4. Resolution- Second Reading of Proposed Marshall County Ordinance No. 30 to: REQUIRE THE USE OF COMPOSTABLE PLASTIC, RECYCLABLE PAPER AND/OR REUSABLE CHECKOUT BAGS BY ALL RETAIL STORES IN UNINCORPORATED AREAS OF MARSHALL COUNTY, AND PROVIDE PENALTIES FOR VIOLATIONS to the Marshall County Code of Ordinances--

BE IT ORDAINED BY THE MARSHALL COUNTY BOARD OF SUPERVISORS,
an Ordinance amending the Marshall County Code of Ordinances by adding Ordinance
No. 30, Sections 1 through 11 to:

- (1) Require the use of compostable plastic, recyclable paper and/or reusable checkout bags by all retail stores in unincorporated areas of Marshall County, and
- (2) Provide penalties for violations.

SEC. 1. FINDINGS AND PURPOSE

- (a) Globally, the production and use of plastic bags has significant environmental impacts each year, including the use of over 12 million barrels of oil.
- (b) Each year, an estimated 500 billion to 1 trillion plastic bags are used worldwide, which is over one million bags per minute, many of which end up as litter each year.
- (c) Most plastic carry-out bags do not biodegrade, but instead photo-degrade, which means that the bags break down into smaller and smaller toxic bits that enter the food web when animals mistake those materials for food.
- (d) Plastic shopping bags are difficult to recycle and currently contaminate, or will contaminate, material that is processed through Marshall County's recycling programs.
- (e) Polyethylene plastic bags represent an unnecessary use of a nonrenewable resource. Reusable carryout bags represent the sustainable alternative to single use bags of all types.
- (f) Alternatives to plastic bags are readily available and include reusable cloth bags and paper bags. Wholesale/retail stores could do more to provide for sale and encourage their customers to use such bags, making plastic unnecessary.
- (g) Plastic shopping bags create significant litter problems in Marshall County's neighborhoods and also its streets, parks, creeks and open space lands.
- (h). Reusable carryout bags are considered worldwide to be the best option to reduce waste and litter, protect wildlife, and conserve resources. Reusable bags have lower associated greenhouse gas emissions than single use bags and are readily available and affordable for the consumer.
- (i) State law does not prohibit local ordinances from seeking to remedy this problem by banning plastic bags outright in favor of reusable cloth bags or paper bags or adding a surcharge for paper-carry out bags.
- (j) Marshall County has a duty to protect the natural environment, the economy, and the health of its citizens.

It is the intent of the Board to reduce the negative impacts of polyethylene plastic carryout bags and encourage the use of reusable carryout bags through the implementation of this Ordinance.

SEC. 2. SHORT TITLE.

This Ordinance shall be entitled the "Plastic Bag Reduction Ordinance."

SEC. 3. DEFINITIONS.

For the purposes of this Ordinance, the following words shall have the following meanings:

(a) "ASTM Standard" means the American Society for Testing and Materials.

(b) "Compostable Plastic Bag" means a plastic bag that (1) conforms to the ASTM-Standard D6400 Specification for compostable plastics (as amended from time to time), and (2) displays the word "compostable" in a highly visible manner on the outside of the bag.

All bags that meet ASTM D6400 contain some petroleum derived materials (which will biodegrade under composting conditions).

(c) "Checkout bag" means a bag that is provided by a store to a customer at the point of sale or delivery of merchandise received.

(d) "BPI" means Biodegradable Products Institute which is an association promoting the use and recycling of biodegradable polymeric materials via composting. BPI may be contacted at: 331 West 57th Street, Suite 415, New York, NY 10019. Email: info@bpiworld.org Phone: 1-888-274-5646

(e) "Carryout Bag" means any bag provided by a patron/customer used to carry out food or merchandise from a retail or wholesale establishment.

(f) "Highly visible manner" means (1) for compostable plastic bags, displaying the word "Compostable" and "Reusable" either on the front and back of the bag or repeatedly in a band circling the circumference of the bag.

(g) "Person" means an individual, trust, firm, joint stock company, corporation, cooperative, partnership, or association.

(h) "Pharmacy" means a retail establishment where the profession of pharmacy by a pharmacist licensed by the State of Iowa is practiced and where prescriptions (and possibly other merchandise) are offered for sale, excluding such retail uses located inside a hospital.

(i) "Recyclable" means material that can be sorted, cleansed, and reconstituted using available recycling collection programs for the purpose of using the altered form in the manufacture of a new product. Recycling does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.

(j) "Recyclable Paper Bag" means a paper bag that meets all of the following requirements: (1) contains no old growth fiber, (2) is 100% recyclable overall and contains a minimum of 40% post-consumer recycled content, and (3) displays the words "Reusable" and "Recyclable" in a highly visible manner on the outside of the bag.

(k) "Retail or Wholesale Store" means any retail or wholesale establishment found within the unincorporated area of Marshall County that sells merchandise and is one of the following: (1) a supermarket (2) a pharmacy and (3) a business holding a food service license issued by the State of Iowa.

(l) "Reusable Bag" means a bag with handles that is specifically designed and manufactured for multiple re-use and is either (1) made of cloth or other machine washable fabric.

(m) "Store" means a retail or wholesale establishment located within the unincorporated area of Marshall County that is a full-line, self-service supermarket which sells a line of dry grocery, canned goods, or nonfood items and some perishable items.

SEC. 4. MANDATORY USE OF RECYCLABLE AND COMPOSTABLE CHECKOUT BAGS.

All retail or wholesale stores shall provide only the following as checkout bags to customers: recyclable paper bags, and/or compostable plastic bags, and/or reusable bags.

- (a) Compostable plastic bags must meet one or more of the following standards:
1. Be approved by the Biodegradable Products Institute;
 2. Provide test data showing that the bags meet all the requirements of ASTM D6400;
 3. Provide test data showing that the bags achieve 90% conversion to carbon dioxide within 365 days or less using ASTM D5988 Standard Test Method for Determining Aerobic Biodegradation in Soil of Plastic Materials or Residual Plastic Materials After Composting.
- (b) In addition, use of a plastic bag claimed to have a biobased or renewable content (such as "made from corn") must provide test data showing compliance with ASTM D6866.
- (c) Violation of the requirements set forth in subsection (a) shall subject a retail store to penalties set forth in Section 6.
- (d) Nothing in this section shall be read to preclude retail stores from making reusable bags available for sale to customers.

SEC. 5. IMPLEMENTATION.

The Board of Supervisors, after a public hearing, may adopt and may amend guidelines, rules, regulations and forms to implement this Ordinance.

SEC. 6. ENFORCEMENT AND PENALTIES.

(a) Any person who violates this Ordinance shall be guilty of an infraction. If charged as an infraction, upon conviction thereof, said person shall be punished by (1) a fine not exceeding \$100.00 for a first violation, (2) a fine not exceeding \$200.00 for a second violation within the same year, and (3) a fine not exceeding \$500.00 for each additional violation within the same year.

(b) The County Attorney may seek legal, injunctive, or other equitable relief to enforce this Ordinance, including without limitation, civil penalties in an amount not exceeding \$200.00 for the first violation, \$400.00 for the second violation, and \$600.00 for each subsequent violation in any given year.

(c) The County may not recover both administrative and civil penalties for the same violation.

SEC. 7. OPERATIVE DATE.

All of the requirements set forth in this Ordinance shall become operative six (6) months after its effective date.

SEC. 8. SEVERABILITY.

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of this Ordinance would be subsequently declared invalid or unconstitutional.

SEC. 9. AREA OF APPLICATION.

This ordinance only applies in the unincorporated areas of Marshall County and not in incorporated municipalities.

SEC. 10. NO CONFLICT WITH FEDERAL OR STATE LAW.

Nothing in this Ordinance shall be interpreted or applied so as to create any requirement, power or duty in conflict with any federal or state law.

SEC. 11. UNDERTAKING FOR THE GENERAL WELFARE.

In undertaking the implementation of this Ordinance, the County is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach caused injury.

BE IT FURTHER RESOLVED, that such Ordinance shall not be effective until a public hearing is held at 9:00 a.m. on the 16th day of September, 2008, with a notice of public hearing published in the Marshalltown Times-Republican on September 6, 2008 and the State Center Enterprise-Record on September 4, 2008 and the Board adopts, by reference, the third reading of the proposed Ordinance No. 30 and it is published.

Dated at Marshalltown, Iowa this 16th day of September, 2008.

Motion by Brooks, second by Goecke, to adopt the second reading of proposed Ordinance No. 30.

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

Motion by Brooks, second by Goecke to reconsider and strike all words after: September 4, 2008.

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

BE IT FURTHER RESOLVED, that such Ordinance shall not be effective until a public hearing is held at 9:00 a.m. on the 16th day of September, 2008, with a notice of public hearing published in the Marshalltown Times-Republican on September 6, 2008 and the State Center Enterprise-Record on September 4, 2008. ~~and the Board adopts, by reference, the third reading of the proposed Ordinance No. 30 and it is published.~~

Motion by Brooks, second by Goecke to adopt the second reading of proposed Ordinance No. 30.

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

Gordie Johnson
Board of Supervisors, Chairman

Attest:

Karen Squiers
Marshall County Auditor

5. Proposed Plans, Specifications, Form of Contract and Estimate of Cost for the Wastewater Treatment Facilities Improvements at Marshall County Law Center(County Jail), Public Hearing—

At the public hearing, any resident may present objections to or arguments in favor of any part of the proposed plans, specifications, form of contract and estimate of cost for the

wastewater treatment facilities improvements at Marshall County Law Center(County Jail).

There are no written comments on file in the Auditor's and Board of Supervisors' Office on the proposed plans, specifications, form of contract and estimate of cost for the wastewater treatment facilities improvements. Six individuals attended the public hearing, and one individual presented oral comments, questions, or objections.

Motion by Goecke, second by Brooks, to close the public hearing on proposed plans, specifications, form of contract and estimate of cost for the wastewater treatment facilities improvements at the Marshall County Law Center(County Jail).

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

6. Approval of Proposed Plans, Specifications, Form of Contract and Estimate of Cost for the Wastewater Treatment Facilities Improvements at Marshall County Law Center(County Jail)—

Motion by Brooks, second by Goecke to approve the proposed plans, specifications, form of contract and estimate of cost for the wastewater treatment facilities improvements at Marshall County Law Center(CountyJail).

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

Consent Agenda:

7. **Approve Minutes**--from Regular Session of September 2, 2008 and Special Session September 3, 2008
8. **Manure Management Update**-Norman Pork, LLC, id no. 59367, annual update report received and placed on file with changes made to the MMP. P-Index has been updated.
9. **Appointment Changes from January 2, 2008 Board of Supervisor Meeting-**
 - j. **Center Associates Board of Directors**-Patrick W. Brooks(formerly held by Ronald D. Goecke)
 - k. **Mid Iowa Community Action**-Ronald D. Goecke(formerly held by Patrick W. Brooks)-fulfilling remaining time of 1 year term
10. **File District Court Report-8-08** - General Supplemental Surcharge-\$600.71
11. **Destruction of Records**—request from County Auditor to destroy the following documents:
 - a) Marshalltown Library Special – April 21, 2006
 - b) Primary Election –June 6, 2006
 - c) School Election – September 12, 2006
 - d) General Election – November 7, 2006
 - e) School Election – September 14, 2007
 - f) City Election – November 9, 2007
 - g) West Marshall Special Election January 10, 2008
12. **Approve Personnel Actions**
 - a. Hire **Mindy Kruse**, Sheriff's Office, Administrative Assistant for Marshall County Sheriff, full time, at \$33,900/yr., effective September 8, 2008.
13. **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 September and will be part of the first meeting in October.

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

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

14. Resolution-Vacated Street and Alley in Bromley—

WHEREAS, on the 12th day of July, A.D. 1962, Frank D. Allen filed in Book E-28 at Page 58 of the records of the Marshall County, Iowa Recorder's Office a Declaration of Vacation which purportedly vacated Part of the former Village of Bromley, Marshall County, Iowa, known as Lots 5 to 8, inclusive; and Lots 21 to 40, inclusive, in Block 3, and Outlots 3 and 4, and Block 5, 6, 7, and 8, and the streets and alleys contained therein and adjoining thereto, including all of Third Street, all of Fourth Street, all of High Street North of Fourth Street, and the alley in Block Three, all in the Village of Bromley, Marshall County, Iowa, and

WHEREAS, on October 16, 1962, certain streets and alleys in the Village of Bromley were vacated by the Marshall County Board of Supervisors as shown in Book 11 at Page 422 of the minutes of said Board of Supervisors including the North and South alley in Block 3 and Fourth Street from the West line of High Street, and

WHEREAS, Section 409.20 of the 1962 Code of Iowa provided that upon such vacation the proprietors of the adjoining real estate may enclose the streets in equal proportions and the adjoining lot owner has assumed possession and control of said streets and alleys since the vacation, and

WHEREAS, it is deemed necessary and advisable for Marshall County, Iowa, to divest itself of its interest in and to the following real estate, to-wit;

The East one-half of the vacated North and South Alley in Block 3 of the Town of Bromley, Marshall County, Iowa, except the South 90 feet of the North 180 feet thereof and the north Half of the East 158 ½ feet of vacated Fourth Street in Block 3 of the Town of Bromley, Marshall County, Iowa

and convey the same to the adjoining property owner. That EDWIN W. BARTINE II is now the owner of all said adjoining real estate;

NOW THEREFORE, BE IT RESOLVED THAT Gordie Johnson, Chairman of the Board of Supervisors of Marshall County, Iowa, be and he is hereby authorized and directed to execute and deliver to EDWIN W. BARTINE II a Quit Claim Deed conveying all of the interest of Marshall County, Iowa, in and to the above described vacated street and alley.

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

Roll call vote:	Goecke-	Johnson-	Brooks-
	Member	Chairman	Vice Chairman

Motion by Goecke, second by Brooks to rescind the original motion and table this item to the next regularly scheduled Board of Supervisor meeting on September 30, 2008 allowing further review from the County Engineer.

Roll call vote: Goecke- Johnson- Brooks-
 Member Chairman Vice Chairman

15. Resolution-Concerning Combining Recorder's Office—

WHEREAS, the Marshall County Recorder is resigning and moving out of state, and

WHEREAS, the office of Marshall County Recorder will be vacant, and

WHEREAS, Iowa law allows combining county offices to promote efficiency through use of technology, achieve tax savings and provide better service, and

WHEREAS, a citizen/taxpayer Petition was filed on August 8, 2008, requiring a question on the November 4 ballot concerning combining the offices of Marshall County Recorder with the offices of the Treasurer and Auditor, and

WHEREAS, the petition contained more than the required number of valid signatures and objections have been timely considered, and

WHEREAS, if the proposed combination occurs the Marshall County Auditor shall be known as the Auditor/Recorder, and

WHEREAS, all requirements of Iowa Code 331.323 have been complied with.

THEREFORE, be it hereby Resolved as follows:

The Marshall County Board of Supervisors supports passage of the ballot question combining the duties and office of the Recorder with those of the Treasurer and Auditor and encourages voters to cast their ballot in favor of this combination. If passed the independent Office of the Recorder would be abolished and a new office created by law to be known as the Auditor/Recorder. Marshall County would still have a Recorder.

Passed by the Marshall County Board of Supervisors on this 16th day of September, 2008.

MARSHALL COUNTY BOARD OF SUPERVISORS

BY: _____
Gordie Johnson, Chairman

Patrick W. Brooks, Vice Chairman

Ronald D. Goecke, Member

Motion by Brooks, second by Goecke to adopt this Resolution concerning combining the Recorder's Office.

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

16. Secondary Road-Highland Acres Road Project Right of Way Contract—

Discussion and action on a contract for a borrow area to increase the sight distance to the west at the intersection with Marshalltown Blvd. and borrow dirt needed for the north grading project with Barns Farms Inc. located in the NEFR ¼, NE1/4, Sec 5 in T83N, R18W of the 5th p.m., Marshall County, Iowa.

Motion by Goecke, second by Brooks, to approve this contract to purchase Right-of-Way and authorize the Chairman to sign the contract.

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

17. Use of the Courthouse Grounds—Discussion and possible action on a request from Franklin Elementary School for use of the Courthouse grounds, Wednesday, September 17, 2008. As part of a culmination activity in their Citizenship Unit, they are taking a field trip and plan to eat lunch on the Courthouse grounds from 12:00-1:00pm.

Motion by Brooks, second by Goecke, to approve this request.

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

18. Marshall County Community Services-Provider and Program Participation Agreement—Discussion and possible action on the program provider agreements listed below that include effective dates:

Name of Provider	New/Renewal Agreement	Effective Date
St. Lukes Hospital Cedar Rapids	New	7-1-08
Mary Greeley Medical Ctr.	Renewal	7-1-09
Region 6-Peoplerides	Renewal	9-1-08
New Hope Village	Renewal	7-1-08

Motion by Goecke, second by Brooks, to approve this request.

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

19. Public Forum—There were no public comments made.

20. Adjournment--The next regular meeting is September 30, 2008, 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 September 25, 2008, at 1:00 p.m. There being no further business to come before the Board, the meeting was adjourned at 9:44 a.m.

Gordie Johnson
Board of Supervisors, Chairman

Attest: _____
Karen Squiers
Marshall County Auditor

