

Motion by Zinn, seconded by Sorenson to adopt the following Resolution #2003-12 on County Drainage Districts. Motion carried.

**RESOLUTION #2003-12**

**WHEREAS**, the Drainage District Board of Trustees are responsible for the maintenance and management of Drainage Districts located within Clay County established under Chapter 468 of the Iowa Code.

**WHEREAS**, Clay County Drainage Districts have been established and constructed with the presumption the drainage of surface water from agricultural lands and all other lands, for the protection of such lands from overflow, is conducive to the public health, convenience and welfare.

**WHEREAS**, certain programs of the State of Iowa and the United States Government have been established to create wetlands within the State of Iowa. The creation of these wetlands is also conducive to the public health, convenience and welfare.

**WHEREAS**, some wetlands may be located within a Drainage District and the creation of the wetlands may potentially compromise the efficiency of the Drainage District improvements.

**WHEREAS**, a procedure is required to promote the establishment of the wetlands and yet protect the improvements of a Drainage District.

**WHEREAS**, the Drainage District Board of Trustees shall be the exclusive governing body to make the decisions affecting the maintenance and management of Drainage Districts within Clay County.

**NOW THEREFORE, BE IT RESOLVED**, a landowner who proposes to establish a wetland in an area in which Drainage District improvements are located, shall file with the Clay County Auditor a Statement of Intent containing the following information:

1. The name of the landowner and farm tenant, if an.
2. A plat of the wetland identifying any Drainage District improvement within the proposed wetland.
3. A report from the engineer who designed the wetland setting forth any proposed manipulation or destruction of drainage district improvements and the resulting effects on existing drainage of lands within the Drainage District.

Upon receipt of the Statement of Intent, the District shall schedule a public meeting before the Board of Trustees to be held not less than twenty (20) days after the date of receipt. The Trustees may continue this meeting from time to time.

The Auditor shall provide notice of the public meeting to affected landowners as directed by the Drainage District Board of Trustees. Prior to the public meeting, the plat of the wetland and engineer's report will be reviewed by the District's Engineer who shall determine the effect to the District if the wetland is created. The Engineer shall consider and address maintenance access, the

potential effect upon the ability of the District to make further improvements, the effect upon the ability of the neighboring landowner(s) to connect to the facility, the effect upon drainage capabilities available to all landowners, future ownership and maintenance issues which should be addressed in an agreement, potential benefits to lands in the District, and other related issues the Trustees deem important. This requirement for an engineer's review can be waived by a majority vote of the Board.

The creation of the wetland shall not reduce the coefficient of drainage for any landowner within the Drainage District. The Drainage District shall incur no costs for the investigation and hearing. The cost of these proceedings, including the cost of engineering, legal and providing notice, shall be paid by the landowner or other entity.

The wetland shall retain the classification established by Sections 468.38 through 468.40 Iowa Code.

In the event the owner of the property no longer wishes to use the property as a wetland, the owner shall restore the system of drainage that was in place prior to the establishment of the wetland or as otherwise allowed by the District.

Ownership, control and maintenance of facilities constructed to convey waters of the District located upstream and downstream of the pool and outlet structure shall be the District's. the landowner is responsible to maintain the pool area, including the excavation of accumulated sediment, the outlet structure, and all other facilities not assumed by the District. (The District may agree to assume part or all of the maintenance responsibilities of the owner.)

If the landowner fails to perform maintenance activities as required under this agreement, the Drainage District may enter the property and perform maintenance seven or more days after giving notice to the landowner to do the maintenance. If the Trustees deem the maintenance to be an emergency, the District may immediately perform the maintenance. The costs thereof shall be assessed to the landowner.

The landowner's request may be approved upon completion of the above conditions, if the Drainage District Trustees are convinced the drainage within the Drainage District will not be adversely affected and the Drainage District will not incur any costs. If such approval is given, the Drainage District Trustees and the landowners shall enter into an agreement incorporating the conditions contained within this resolution, and any other issues the trustees deem worthy.

/s/Marjorie A. Pitts, Clay County Auditor

/s/Kenneth L. Chalstrom, Board Chairman