

**Clay County Board of Supervisors Minutes from Meeting 29 held on August 29, 2017**

The Clay County Board of Supervisors met pursuant to adjournment August 29, 2017 at 8:30 a.m. in the boardroom with Chairperson Matthews presiding and with the following other members present: Supervisors Anderson, Matthews, Skelton, Skow, Swanson, Assistant County Attorney Barry Sackett, and Auditor Marjorie Pitts as clerk for the meeting. Chairperson Matthews led the meeting in the Pledge of Allegiance. Guests: Senator David Johnson,

Unless otherwise indicated, all of the motions offered at this meeting were carried with the following vote: Ayes: Anderson, Matthews, Skelton, Skow and Swanson. Nays: None. Abstentions: None.

Motion by Skelton, seconded by Anderson that the Board meeting agenda for August 29, 2017 be received and placed on file with the County Auditor as approved. Motion carried.

Motion by Swanson, seconded by Skow that the minutes of the Board Meeting #28 held August 15, 2017 are hereby approved as submitted. Motion carried.

Motion by Anderson, seconded by Skow to adopt the following resolution: BE IT HEREBY RESOLVED by the Board of Supervisors approve expenditures and that the County Auditor be hereby authorized and directed to issue warrants, against the various settlement of such claims a allowed August 29, 2017. Ayes: Anderson, Matthews, Skelton, Skow, Swanson. Nays: None. Abstentions: None. Resolution adopted.

Publication List by Vendor

Advanced Systems	Copier Contracts	327.04
Advanced Systems	Copier Contracts	484.56
Alliant Energy	Utilities	80.86
Alpha Wireless Comm	Other	2106.00
Barry Anderson	Employee Travel Expenses	291.21
Atlas Stamp & Seal Co	Office Supplies	23.50
Axon Enterprise	Safety Supplies	1511.84
Ayrshire Farmers Mutual	Telephone	338.14
Black Hills Energy	Utilities	257.00
Bomgaars	Parts	1124.82
Buena Vista Co Sheriff	Sheriff Fees	79.10
Buena Vista Co Treasurer	Land	789.00
Buena Vista Co Emerg Mgt	Education	150.00
Kristi Busse	Flex	70.63
Carpenter Uniform	Uniforms	92.41
CenturyLink	Telephone	578.06
Jim Christensen	Zoning Board & Bd of Adj.	124.80
City of Spencer	Contract Carriers	8015.00
Clay Co Convention & Visitors	Allocation	30000.00
Clay Co Emerg Mgt Agency	Allocation	8752.00
Clay Co Mental Health Fund	Salary-Regular Employees	665.20
Clay Co Sec Road Fund	Fuels	2993.91
Clay County Fair Assn	Allocation	24353.03
Clay County Treasurer	Land	2421.00
U S Postal Service	Postage & Mailing	1000.00
Darr Properties	Rent Payments	395.00
Diamond Mowers	Parts	235.03
Diamond Vogel	Buildings	182.29
Diann Quastad Minion	Employee Travel Expenses	59.50

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Discovery House	Allocation	1000.00
Eric Ehlers	Well Closure	500.00
Everttek	Telephone	445.00
FASTENAL	Hardware	106.37
Larry Flaharty	Zoning Board & Bd of Adj.	119.20
Galen's Pro-Mow	Other	116.56
Sandra Geidl	Employee Travel Expenses	652.92
Bill Gerdeman	Zoning Board & Bd of Adj.	121.00
Shirley Goyette	Employee Travel Expenses	299.16
Graves Construction	Buildings	4050.00
Billy Gunnerson	Flex	500.00
Hy-Vee	Inmate Meals	7664.49
IA Assoc Co Medical Examiners	Education	300.00
IA County Atty's Assn	Education	65.00
IA Dept of Justice	Legal Services	200.00
Iowa Lakes Community College	Buildings - Rental	3310.83
IA Lakes Electric Coop	Utilities	4066.75
IA Lakes Regional Water	Water & Sewer	59.49
IA Law Enforcement Academy	Education	150.00
IA Prison Industries	Parts	344.85
Iowa State University	Cover Aggregate/Sand/Mate	250.00
ISSDA	Employee Travel Expenses	125.00
J&T Rentals	Buildings - Rental	1500.00
Jack's Uniforms & Equipment	Uniforms	137.89
Janitors Closet	Custodial Supplies	575.70
Jennifer Jensen	Custodial	1515.00
Clinton Jones	Zoning Board & Bd of Adj.	80.00
David Kaus	Zoning Board & Bd of Adj.	80.00
Kirkham Michael & Assoc	Engineering Services	2919.66
Keith Kruse	Zoning Board & Bd of Adj.	138.50
Lube-Tech & Partners	Lubricants	4852.63
L-3 Com Mobile Vision	Safety Supplies	272.00
Kevin Maassen	Other Premiums	98.32
Mail Services	Mailing	601.98
Mar-Lin Business Supply	Office Supplies	78.34
Mastercard	Office Supplies	78.31
Burlin Matthews	Employee Travel Expenses	555.20
Maxwell Food Equipment	Supplies	18.83
Sharon Mc Keever	Zoning Board & Bd of Adj.	80.00
Menards	Buildings	285.21
Michael Todd & Co	Traffic & St Sign	4637.95
Midwestern Mechanical	Buildings	350.00
Darrell Noll	Safety Supplies	300.00
Northwest Glass Co	Buildings	168.00
NW IA Planning & Devlpmnt	Allocation	1650.00
NW IA Youth Emergency Serv Ctr	Detention	1217.50
John Olson	Zoning Board & Bd of Adj.	85.20
Palo Alto County Sheriff	Sheriff Fees	34.28
Performance Car & Truck	Tools	5.75
Pitney Bowes	Postage & Mailing	183.00
Presto X Company	Buildings	129.00
Proforma	Office Supplies	437.76
William Rabenberg	Employee Travel Expenses	98.00
Rage Inc	Custodial Supplies	85.68
Ramsey County Sheriff	Sheriff Fees	70.00
Eric Ring	Flex	80.00

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Glenn Rouse	Flex	86.42
Royal Telephone	Telephone	1016.37
Darrel Santage	Employee Travel Expenses	28.80
Lisa Seaman	Custodial	85.00
Secretary of State	Office Supplies	90.00
Sherwin Williams	Buildings	9.42
David Simington	Zoning Board & Bd of Adj.	51.20
Sioux Sales Co	Uniform	63.70
Rita Smith	Zoning Board & Bd of Adj.	82.00
Spencer Hospital	Medical & Health Services	4035.40
SMU	Utilities Payments	537.33
Spencer Office Supplies	Office Supplies	1508.12
Spencer Police Department	Safety Supplies	300.00
State Steel Supply Co.	Parts	76.95
Stratford Gravel	Engineering Services	138780.15
Thrifty White Stores	Inmate Medical	653.74
Verizon	Telephone	236.03
Veterans Information Services	Office Supplies	55.00
VISA	Employee Travel Expenses	2826.30
Volunteer Network/Clay County	Allocation	1000.00
Marilyn White	Zoning Board & Bd of Adj.	141.60
Rachel Wilcinot Avera Medical	Medical & Health Services	175.00
David Wyatt	Zoning Board & Bd of Adj.	93.60
Zalaznik Equipment Corp	Construction	100.00
Grand Total		287379.37

Motion by Anderson, seconded by Skelton to approve the following drainage expenditure from Joint Drainage District #61 CD & E of \$76.14 for notice of public hearing on ditch cleanout payable to Armstrong Journal, PO Box 289, Armstrong, IA 50514. County Auditor is instructed to send the billing to Dickinson County for payment after approval. Motion carried.

Motion by Swanson, seconded by Skelton to appoint Supervisor Joe Skow to the Crime Stoppers Committee effective August 29, 2017. Motion carried.

**8:40 a.m.** Assistant County Attorney Barry Sackett gave the Board a departmental update from the civil division of the County Attorney’s office.

**2nd Hearing on the proposed Amendment to the Clay County Ordinance Prohibiting the Unlawful Use of Engine and Compression Brakes**

**Date: August 29, 2017**

**9:00 a.m.** The time having arrived for the second and final hearing and reading on the proposed Amendment to the Clay County Ordinance Prohibiting the Unlawful Use of Engine and Compression Brakes. The purpose of this ordinance is to prohibit the excessive, loud, unusual or explosive use of engine and compressed air braking devices within designated areas in Clay County. The purpose of this amendment is amend Section 6 of the Ordinance as follows:

SECTION 6. Any violation of this section shall be a simple misdemeanor.

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The Board determined that proper notice of the public hearing was accomplished and finding there to be no oral or written objections. The Chairperson opened the hearing to oral comments and discussion of the proposed ordinance. There being no discussion by Board members and hearing attendees, it was moved by Supervisor Skow, seconded by Supervisor Skelton to close the hearing and place the proposed ordinance on file and read it for the second and final time.

The Clay County Ordinance Prohibiting the Unlawful Use of Engine and Compression Brakes was read and voted upon by the Board of Supervisors for the second and final time, and it passed by a vote of the majority of the Board of Supervisors. Those voting for passage: Supervisor Skelton, Swanson, Anderson, Skow, and Matthews. Those voting against passage: None.

Board Member Anderson introduced the following resolution and moved its adoption, seconded by Board Member Swanson.

### **Resolution 2017-31**

**WHEREAS**, the Clay County Board of Supervisors deems it necessary for the purposes of promoting the health, safety, and general welfare of Clay County, Iowa and its citizens to enact this ordinance, and

**WHEREAS**, the Clay County Board of Supervisors have made recommendations in relation to the Amendment to the Clay County Ordinance Prohibiting the Unlawful Use of Engine and Compression Brakes, and

**WHEREAS**, the Board of Supervisors has considered the proposed ordinance and has held public hearings thereon the 15<sup>th</sup> day of August, 2017 and the 29<sup>th</sup> day of August 2017; and

**WHEREAS**, the Clay County Board of Supervisors supports the adoption of the proposed amendment to the ordinance;

### **NOW THEREFORE BE IT ENACTED AND ORDAINED:**

#### **Supplement No. #6 Amendment to Ordinance No. 5.2**

#### **CLAY COUNTY ORDINANCE PROHIBITING THE UNLAWFUL USE OF ENGINE AND COMPRESSION BRAKES ("Jake Brake Ordinance")**

SECTION 1. The purpose of this ordinance is to prohibit the excessive, loud, unusual or explosive use of engine and compressed air-braking devices within designated areas in Clay County.

SECTION 2. For the purposes of this ordinance the following words and phrases are defined as follows:

1. "Engine retarding brake" means a "Dynamic Brake," "Jake Brake," "Jacobs Brake," "C-Brake," "Paccar Brake," transmission brake or any other engine retarding brake system that alters the normal compression of the engine and subsequently releases that compression.

SECTION 3. It shall be unlawful for the driver of any vehicle to use or operate or cause to be used or operated within designated areas in the unincorporated areas of the County of Clay State of Iowa, any engine brake, Compression brake or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle that results in excessive, loud, unusual or explosive noise from such vehicle,

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unless such use is necessary to avoid imminent danger. Such prohibition shall be applicable only to those public highways or portions specifically below:

- a. 240<sup>th</sup> Avenue, Spencer (Highway 71 bypass)
- b. State Highway 10 and 125<sup>th</sup> Avenue, Peterson
- c. 440<sup>th</sup> Street and 430<sup>th</sup> Street, Gillet Grove.
- d. 365<sup>th</sup> Street between M38 & Hwy 71 to city limits of Spencer
- e. 200<sup>th</sup> Avenue from 365<sup>th</sup> Street North to B24

SECTION 4. Signs stating “VEHICLE NOISE LAWS ENFORCED” or “ENGINE BRAKE ORDINANCE ENFORCED” may be installed at locations deemed appropriate by the Board of Supervisors to advise motorists of the prohibitions contained in this ordinance, except that no sign stating “VEHICLE NOISE LAWS ENFORCED” or “ENGINE BRAKE ORDINANCE ENFORCED” shall be installed on a state highway without a permit from the Iowa Department of Transportation. The provisions of this ordinance shall be in full force and effect even if no signs are installed.

SECTION 5. Emergency vehicles shall be exempt from the application of this ordinance.

SECTION 6. Any violation of this section shall be a simple misdemeanor.

SECTION 7. Should any part of this ordinance be held invalid, the remaining part shall be severable and shall continue to be in full force and effect.

SECTION 8. If any section, part or provision of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole, or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 9. This ordinance shall take effect and be in full force and effect after its passage and publication as required by law.

The above and foregoing resolution was adopted by the Board of Supervisors of Clay County, Iowa, 29th day of August, 2017 and the vote thereon being as follows: Ayes: Anderson, Matthews, Skelton, Skow and Swanson. Nays: None. Abstentions: None.

/s/ Burlin H. Matthews, Chairperson, Clay County Board of Supervisors

ATTEST: /s/ Marjorie A. Pitts, Auditor

It was moved by Skow, seconded by Anderson to adopt the following resolution:

**Resolution 2017-32**

**WHEREAS**, on June 25, 2013, the Clay County Board of Supervisors approved and ordained the Clay County Code of Ordinances;

**WHEREAS**, new ordinances or regulations and/or amendments to ordinances or regulations continue to be adopted by the Clay County Board of Supervisors which require the Code of Ordinances to be supplemented;

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**WHEREAS**, the new ordinances or regulations and amendments to ordinances or regulations may be copied as a supplement to the Clay County Code of Ordinances and become a part of the Code by resolution pursuant to Iowa Code §331.302(9).

**NOW, THEREFORE BE IT RESOLVED** that the Resolution 2017-31 attachment hereto be approved and adopted as addition to the Clay County Code of Ordinances.

**BE IT FURTHER RESOLVED** that the Clay County Auditor is directed to copy and distribute Supplement No. 6 to the Clay County Code of Ordinances.

The above and foregoing resolution was adopted by the Board of Supervisors of Clay County, Iowa this August 29, 2017 and the vote thereon being as follows: Ayes: Anderson, Matthews, Skelton, Skow and Swanson. Nays: None. Abstentions: None.

/s/ Burlin H. Matthews, Chairperson, Clay County Board of Supervisors

ATTEST: /s/ Marjorie A. Pitts, Auditor

**9:15 a.m. Bluejay Farms 1, LLC Construction Permit Hearing for Section 14 of Lincoln Twp, Clay County, IA** This being the time and place for the public hearing for two new 2500 head deep pit swine finishing confinement buildings for a new swine confinement facility in Clay County submitted by Blue Jay Farms 1, LLC, Clay County, Iowa. The Board determined that notice of the public hearing was published in the Spencer Daily Reporter pursuant to the Iowa Code. Sanitarian McKeever has notified, by letter, the landowners within one mile of the application location. After County Sanitarian Tammy McKeever reviewed with the Board the Master Matrix scoring, the Board asked for comments of the attending audience. After much discussion the public hearing was closed by the Chairperson at 9:59 a.m.

It was moved by Supervisor Skow, seconded by Supervisor Anderson to adopt the following resolution with the contenance of a favorable report from the Iowa DNR site inspection:

**RESOLUTION NO. #2017 - 33**

**Recommending approval of the Bluejay Farms 1, LLC  
Two New 2500 Head Deep Pit Swine Finishing Confinement  
Buildings Applications to the Iowa Dept. of Natural Resources.**

**WHEREAS**, the Clay County Board of Supervisors has adopted the Master Matrix for the purpose of scoring CAFO construction applications to provide an opportunity for local input, and

**WHEREAS**, a construction application for two new 2500 Head Deep Pit Swine Finishing Confinement Building by Bluejay Farms 1, LLC; and

**WHEREAS**, the Clay County Environmental Health Director, has reviewed the application using the Master Matrix, finding a score of 460 points, and has verified all of the elements of the application for accuracy; and

**WHEREAS**, the minimum score set by the DNR is 440 points.

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**WHEREAS**, the Board of Supervisors published a notice of public hearing in the Daily Reporter as required, and, held said public hearing in the Public Meeting Room at the Clay County Administration Building on August 29, 2017 for the purpose of receiving public comment; and

**WHEREAS**, the Board of Supervisors, has assembled their comments and those of the public for submission to the DNR;

**NOW THEREFORE BE IT RESOLVED** that the Clay County Board of Supervisors hereby recommends approval of the construction application of Bluejay Farms 1, LLC.

The above and foregoing resolution failed adoption by the Board of Supervisors of Clay County, Iowa, this 29<sup>th</sup> day of August, 2017 and the vote thereon being as follows:

Ayes: Supervisor Skelton, Anderson.

Nays: Supervisor Skow, Swanson, Matthews.

Abstentions: None.

Resolution failed.

### ***10:15 a.m. Bill Rabenberg - County Engineer***

No Board action taken to accept the Underground Construction Application for Iowa Lakes Electric Cooperative to place power line in Clay County Secondary Roads ROW by boring under 490<sup>th</sup> Street, Sections 21 & 28, Herdland TWP. Engineer Rabenberg will take action and report the outcome to the Board. Engineer Rabenberg discussed his proposal to establish a Parts Manager – Purchasing Agent position and a Mechanic Foreman position. The non-union positions would be filled by Billy J. Gunnerson and James Joenks respectfully effective August 29, 2017. It was consensus of the Board to proceed with the position changes. Further discussion regarded the need for a union position as shop mechanic that would comply with a job description and required notices. The Board and Rabenberg discussed maintenance equipment and possible replacement of equipment based on budget containment and Engineer Rabenberg's judgment.

***10:45 a.m.*** Upper Des Moines Opportunity (UDMO) Executive Director Jamey Whitney gave the Board an update on their programs of activity in Clay County serving over 1,672 individuals in 773 households. Whitney discussed UDMO financial support needs for fiscal year 2019 in the amount of \$20,100 which is an increase of \$1000 over FY2018. Further discussion regarded personnel and facility changes.

***11:00 a.m.*** County Treasurer Sandra Geidl spoke with the Board regarding the change in hours for the DOT license station in the Treasurer's office. The new schedule will be five days a week Monday thru Friday, 8:30 a.m. to 3:30 pm with staff break from 11:00 am to 12:30 pm. Anticipate new hours to begin Tuesday, September 5, 2017.

Motion by Anderson, seconded by Skelton to approve the Certificate of Adjustment # 2281 on receipt #2016-2017-10-04715 MH Tax \$471, for fiscal year 2016/2017 payable on Mobile Home VIN# VP5671ABIN in the name of Randy C. & Martha S. Killmer. The amount to abate is \$471.00.

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The adjustment is made necessary due to the mobile home removed in spring of 2016 and taxes paid at that time. Motion carried.

Motion by Swanson, seconded by Anderson to approve the Certificate of Adjustment # 2282 on receipt #2016-2017-86 MH Tax \$126, for fiscal year 2016/2017 payable on Mobile Home VIN# KE1986A in the name of April Louise Laubenthal. The amount to abate is \$126.00. The adjustment is made necessary due to the mobile home removed out of Iowa to Minnesota in June of 2017. Motion carried.

Motion by Skow, seconded by Swanson to approve the Certificate of Adjustment # 2283 on receipt #15217, for fiscal year 2016/2017 payable on 521 W 4<sup>th</sup> Street, Spencer, Clay, IA in the name of Dennis J Corcoran. The amount to abate is \$840.00. The adjustment is made necessary due to late filing of Elderly Tax Credit. Motion carried.

**11:00 a.m.** The Clay County Cemetery Commission Chairperson Ken Chalstrom gave the Board a progress report. The Zion Methodist Church (Liberty) Cemetery and the Burr Oak Cemetery have been cleared of brush and debris awaiting the remapping and tombstone restoration by the firm of Terry's Cemetery Mapping and Restoration Company from Liscomb, IA.

### ***Marjorie A. Pitts – County Auditor***

Motion by Anderson, seconded by Skelton to approve the list of disallowances, as recommended by the County Assessor, for Homestead and Military Credit Applications for 2017 pursuant to Iowa Code Chapters 425 and 426A. Motion carried.

Motion by Skow, seconded by Swanson to approve an application, as recommended by the County Assessor, for the Disabled Veteran Homestead Tax Credit for 2017 pursuant to Iowa Code Chapters 425.15 and 35.1. Motion carried.

Supervisors discuss/share information from committees and boards they have attended. Supervisors Anderson, Skelton, and Swanson reported on the Joint Drainage District #61 CDE held on August 22, 2017 at the Dickinson County Courthouse. Supervisor Matthews reported on the 2017 ISAC Annual Conference held August 23 – 25, 2017.

### **11:45 a.m. Break for Lunch**

### **The Board reconvened at 1:00 p.m. to act as trustees for Drainage District 23 & Drainage District 108**

#### ***1:00 p.m. Drainage District 23 Completion Hearing***

The Clay County Board of Supervisors as trustees of Drainage District 23 convened their meeting on August 29, 2017 at 1:00 p.m. Members present: Matthews, Skelton, Skow and Swanson.

Motion by Swanson, seconded by Skelton to appoint Supervisor Matthews as Chairperson and Clay County Auditor Marjorie Pitts as Secretary for this meeting. Motion carried.



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1:00 p.m. The time having arrived for the public hearing to receive and consider any objections or claims for damages to the completed construction report submitted by Bolton & Menk, Inc., for drainage repairs and improvements in Drainage District 23.

The Board determined that proper notice of the public hearing was accomplished and finding there to be one (1) written objection to Open Ditch Improvements in Drainage District #23 from the City of Royal.

Objection filed by the City of Royal was read by Jon Rosengren from Bolton & Menk. Rosengren further explained the completion report and damages worksheet. The Trustees discussed the damages with hearing attendees. Additional requests for damages from the City of Royal, the Thomas McCrill Trust, and John Nalley were submitted and discussed.

After discussion, motion was made by Supervisor Skelton, seconded by Supervisors Skow to close the public hearing. Motion carried.

Motion by Swanson, seconded by Skelton to approve the following request for damages totaling \$7,090.46. Details of the damage claims on file in the County Auditor office. Motion carried.

No Board action taken to compute the balance due and direct the county auditor to issue the final settlement for balances due to KMA Trucking & Excavating LLC within thirty (30) days after acceptance of the work pursuant to Iowa Drainage Law Section #468.103.

The Chairperson recessed the Drainage District #23 meeting at 2:01 p.m.

### ***2:30 p.m. Drainage District 108 Completion Hearing***

The Clay County Board of Supervisors as trustees of Drainage District 108 convened their meeting on August 29, 2017 at 2:32 p.m. Members present: Anderson, Matthews, Skelton, Skow and Swanson. Attendees: Ron Christensen, Sherman Nielsen, Aaron Rutter, Jared Schoelerman, Jon Rosengren

Motion by Skow, seconded by Swanson to appoint Supervisor Matthews as Chairperson and Clay County Auditor Marjorie Pitts as Secretary for this meeting. Motion carried.

**2:30 p.m.** The time having arrived for the public hearing to receive and consider any objections or claims for damages to the completed construction report submitted by Bolton & Menk, Inc., for drainage repairs and improvements in Drainage District 108.

The Board determined that proper notice of the public hearing was accomplished and finding there to be no written objections to Open Ditch improvements commencing in 2016. The DD #108 Open ditch Repair substantially completed on June 19, 2017 with a final construction cost of \$102,720.80. The completion date for the contract as bid was April 28, 2017 and stated liquidation damages at \$200 / day. The work completed fifty-two (52) dates late for a maximum eligible liquidated damage of \$10,400. However, due to additional work requested by the engineer, weather and site conditions the completion of the project took longer than originally anticipated.

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After discussion, motion was made by Supervisor Skelton, seconded by Supervisors Skow to waive the liquidated damages as reported in the completion report. Motion carried.

Motion by Swanson, seconded by Skelton to approve the following request for damages totaling \$5,077.28. Details of the damage claims on file in the County Auditor office. Motion carried.

The Board found the work under contract to Hagedorn Excavating to be completed and accepted.

Motion by Skow, seconded by Skelton to compute the balance due and direct the county auditor to issue the final settlement for balances due to Hagedorn Excavating in the amount of \$10,272.08 within thirty (30) days after acceptance of the work pursuant to Iowa Drainage Law Section #468.103. Motion carried.

The Chairperson recessed the Drainage District #108 at 3:20 p.m. Motion carried.

The Chairperson adjourned the regular board meeting at 3:20 p.m. to convene at the next Auditor's called meeting September 12, 2017 at 8:30 a.m.

/s/Marjorie A. Pitts, County Auditor

/s/Burlin H. Matthews, Chairperson