

September 8, 2003

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: Lawrence Rouw, Henry W. VanWeelden, and Greg Gordy.

Also present were the following: Lori Faybik, Ottumwa Courier; Christine Ahrens, KBOE Radio; Jennifer Swanson, Oskaloosa Herald; Greg Life, Attorney, Larry McCurdy, Trustee Fremont Church; Joleen Arnold, Mahaska County CPC; Connie Kitzman, Community Services Director; Jon Lubke, IT/GIS Coordinator; Duane Vos, Carrie Blommers, Jim DeBruin, Bob Wichhart, Don DeHeer, Henry R. VanKooten, and Vernon VanGorp, member of the Taxpayers Against Regional Airport; Jerry Nusbaum, Mahaska County Engineer; Michael Gipple, Mahaska County Conservation Director; Steve Hodges, Housby Mack, Inc.; Kay Swanson, Mahaska County Auditor.

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

It was moved by Rouw seconded by VanWeelden to approve the agenda with the addition for a correction to the description of the Cyphers SD plat. All present voted aye. Motion carried.

It was moved by VanWeelden seconded by Rouw to approve the minutes for August 18th meeting. All present voted aye. Motion carried.

It was moved by VanWeelden seconded by Rouw to approve the bills for August in the amount of \$1,174,937.92 payroll in the amount of \$411,516.49 and \$535.00 denied claims. All present voted aye. Motion carried.

It was moved by VanWeelden seconded by Rouw to approve the Veterans Affairs Commission Monthly Report for July 2003. All present voted aye. Motion carried.

The matter of courthouse space was discussed with Joleen Arnold and Connie Kitzman. A couple of possible sites were discussed.

Greg Life and Larry McCurdy discussed with the board the matter of the taxes for the Fremont United Methodist Church on a property legally described as follows: Lots 1, 16, and the West ½ of Lot 17 of the Subdivision of Lot A of the Subdivision of the Northwest Quarter of the Southeast Quarter of Section Fourteen, Township Seventy-Four, Range Fourteen, except the North Twenty-Six feet of the West Forty feet thereof; subject to the right of ingress and egress over and across an additional strip of ground Twenty-Six feet North and South and Forty feet East and West, lying immediately East of the above described North Twenty-Six feet of the West Forty feet of said Lot A, in Mahaska County, Iowa. The Church had purchased this parcel in October 2002 No action was taken by the board at this meeting.

The following residents of the area where the proposed Regional Airport is being discussed spoke to the board. Duane Vos; Carrie Blommers; Jim DeBruin; Bob Wichhart; Don DeHeer; Henry R. VanKooten; Vernon VanGorp. These people are residents of Black Oak and Richland Townships from the Taxpayers Against Regional Airport group. They discussed the proposed airport being considered between Pella and Oskaloosa. The board took no action on this matter.

The board heard a report from Jon Lubke Mahaska County IT/GIS Coordinator on the summer intern in his department. The intern worked from May 19th thru August 22nd. He helped to accomplish several tasks.

Truck bids were awarded for two (2) Tandem Axle Trucks. It was moved by Rouw seconded by VanWeelden to purchase two Tandem Axle Trucks from Housby Mack, Inc. for \$69,200.00 each. The make and model are Mack CV713 Granite trucks. The bids for the trucks were opened at the August 18th meeting. All present voted aye. Motion carried.

Mahaska County Conservation Director Michael Gipple discussed with the board a transfer of property from the Iowa Natural Heritage Foundation to Mahaska County at Peters Wildlife location. The legal description of this property is: All that part of the NE ¼ of the NW ¼ of Section 26 lying on the northeast side of the center of the present drainage ditch No. 3, the South Skunk River, comprising ten (ten) acres more or less in Township 76 North, Range 16 West of the 5th P.M.. It was moved by VanWeelden seconded by Rouw to approve this transfer of property as the Conservation Board had previously voted to take title to this land. All present voted aye. Motion carried.

It was moved by VanWeelden seconded by Gordy to approve the following unconditional purchase agreement as long as no Mahaska County property tax dollars are used in the purchase of the property. Two ayes; one nay. Motion carried. The Mahaska County Conservation Board had previously agreed to this purchase.

UNCONDITIONAL PURCHASE AGREEMENT

THIS AGREEMENT shall serve to identify the rights and duties of Iowa Natural Heritage Foundation, an Iowa non-profit corporation, (hereinafter called “the Foundation”), and Mahaska County Conservation Board (hereinafter called the “the Board”), relative to the acquisition of the Bank Iowa Property (herein after called the Property) located in Mahaska County, Iowa, more particularly described as follows:

Fifty-one acres in section 23-T74N-R16W adjacent to the Quercus Wilderness Area. Containing 51 acres, more or less, herein referred to as the Property.

The Board, at its August 7th, 2003 meeting, has agreed to purchase the Property from the Foundation under the terms set forth herein, but does not at this time have funds available to consummate such purchase. By virtue of its budget process, the Board expects to receive funds from Iowa Department of Natural Resources, REAP, Habitat

Stamp Grants, revenue sharing or other sources which it will also use, upon receipt, to pay such Purchase Price.

In order to assist the Board in the purchase of the Property, the Foundation agrees to:

1. Purchase the Property for no more than \$55,000 plus tax proration plus all closing costs.
2. Hold the Property for one year from the date of purchase to permit the County time to obtain funding through its normal budget process, state, federal and private funding sources. If the County has not paid to the Foundation the entire Purchase Price (as defined below) by 10/1/04, the parties shall enter into a real estate contract for the remaining purchase price plus all of the Foundation's costs and expenses with respect to the acquisition and holding thereof, including, but not limited to, interest, abstract, recording, surveying, revenue stamps, attorney's fees, and up to \$1,000 of Foundation expenses associated with the acquisition of said property. (All of the above are herein referred to as the "Purchase Price".)
3. The Purchase Price shall be payable by the Board to the Foundation as follows: \$5,500 of the Purchase Price as a down-payment has been paid by the Board and other donors at the execution of the real estate contract, purchase price balance thereof to be paid in five equal annual installments of principal and interest, the first such installment to be due on October 1, 2004, and the final installment to be due on October 1, 2008. The outstanding principal and accrued interest can be pre-paid at any time without penalty or the Board at its discretion may chose to pay annual interest payments with the principal due at the end date of October 1, 2008. The interest shall not exceed the interest normally charged by Wells Fargo Bank Iowa, N.A. to the Foundation on the date of closing and adjusted annually on the anniversary dates thereafter.
4. Take title to the Property in its name. Under certain conditions, the Foundation may convey legal title thereto to the Board in order to enable the Board to receive reimbursement from certain state or federal costs sharing programs.
5. Promptly transfer possession of the Property to the Board by way of a real estate installment contract immediately following the Foundation's acquiring such property. The Board shall, upon the Foundation's acquiring title to the Property, immediately assume liability, management, improvement, and development responsibilities with respect thereto.

In order to provide assurances to the Foundation that the Board will consummate the purchase of the Property from the Foundation, the Board will:

1. Execute this Unconditional Purchase Agreement.
2. Obtain approval of this Agreement from the Mahaska County Board of Supervisors, pursuant to the Code of Iowa.
3. Timely pay the above down payment.
4. Provide copies of minutes and/or correspondence indicating that the necessary approvals, herein above identified, have been obtained.
5. Examine and approve the title (or abstract) prior to the time the Foundation becomes obligated to purchase the Property, or request the Foundation to do so at cost.
6. Provide a certificate of liability insurance naming the Foundation as a co-insured.
7. Hold the Foundation harmless from any loss, cause, or liability resulting from hazardous waste found on the subject property.

Closing of this Unconditional Purchase Agreement shall occur simultaneously with the closing of the Foundation's purchase of the Property. This Agreement shall be and become null and void if an offer by the Foundation to purchase the subject property is not accepted by the title holder.

The Foundation shall hold bare legal title to the subject premises for the sole purpose of securing payment to it of the Purchase Price, and equitable title (with all of the benefits and rights of ownership) to such property shall be held by the Board. If the Board fails to fulfill this Agreement, the Foundation may forfeit the same as provided in Chapter 656 of the Code of Iowa, or may, at its option, obtain any other remedy or specific performance and damages.

Upon receiving full payment of the Purchase Price, the Foundation shall relinquish its rights under this Agreement and convey all rights, title and interest held by it in the subject premises to the Board by way of a warranty deed, subject to the same conditions and restrictions, if any, as the Foundation received at the time it took title thereto from the Seller.

The Board agrees to subordinate its interests in the Property to any mortgage placed thereon by the Foundation, reserving to the Board the right to make sufficient payment of the Purchase Price directly to the mortgage to obtain the release of any such mortgage. Any such mortgage shall not be in excess of the Purchase Price nor the balance thereof remaining unpaid at any given point in time.

Informational signs, pamphlets, interpretive and/or promotional materials and property signs used or distributed by the Board regarding the subject property shall make reference to the fact that "Acquisition assistance was provided by the Iowa Natural Heritage Foundation."

The Board shall maintain at least a Guardian (\$100-249) level membership in the Foundation during the term of this Agreement. Such membership will help support the efforts of the Foundation on this and other conservation projects in Iowa.

This Unconditional Purchase Agreement consists of two pages plus attachments.

Mahaska County Conservation Board

s/ Michael Gipple

By: Executive Director
Title

August 7, 2003

Iowa Natural Heritage Foundation

By: Mark C. Ackelson, President

Date: _____

It was moved by Rouw seconded by VanWeelden to approve the following Management Agreement for Union Mills Access that the Conservation Board had previously approved at their August 7, 2003 meeting. All present voted aye. Motion carried.

**MANAGEMENT AGREEMENT
UNION MILLS ACCESS
MAHASKA COUNTY**

THIS AGREEMENT is made and entered into by and between the Iowa Department of Natural Resources, hereinafter called the Department, and Board of Supervisors of Mahaska County, hereinafter called the County.

WHEREAS, the Department and the county have jointly determined that it is in the public interest to transfer the care and maintenance of state-owned real property in Mahaska County, Iowa, locally known as Union Mills Access, containing 12.5 acres, more or less, more particularly described to wit"

A parcel of land located in Section 22, Township 77 North, Range 15 West, Mahaska County, Iowa, more particularly described as follows:

Commencing at the SE corner of the SW ¼ SE ¼ of Section 22, Township 77 North, Range 15 West, thence North 503.25 feet, thence west 162.5 feet, then N 8°40'W 880.5 feet, thence northerly 391.7 feet along a 2685 ft radius curve concave westerly and tangent to the preceding course, thence N 16°30'W 487.8 feet, thence N86°30'W 123.5 feet, to the point of beginning of land herein described; thence S 0°30'W 50.1 feet, along the centerline of present North Skunk River, thence N 86°30'W 1385 feet, thence westerly along the centerline of present river to the west line of the NE ¼ SW ¼ of said Section 22, thence north along said west line to the NW corner of said NE ¼ SW ¼,

thence east along the quarter line to the center of said Section 22, thence south 230 feet, thence east parallel to the quarter line to the center of present Skunk River, thence southerly along the centerline of present river to the point of beginning; containing 12.5 acre, more or less.

AND WHEREAS, this agreement is being entered into by both parties under the joint authorities of Chapters 350.7 and 461A.27 of the 2003 Code of Iowa.

THEREFORE, pursuant to the Code provisions set forth above it is mutually agreed by the parties hereto that the County shall undertake the development, care and maintenance of state-owned real property described above according to the following terms and conditions:

1. **TERM OF AGREEMENT.** This agreement is effective on the date it is signed by the Director of the Department and continues in full force and effect to and including December 31, 2028.
2. **INDEMNIFICATION.** The County agrees to hold harmless and indemnify the State of Iowa, the Department, and any official or employee thereof from any and all claims, demands, losses, liabilities or legal expenses which might arise on account of injury to any person or damage to any property occurring in connection with the care and management by the County of the above-described premises except the County will not assume any responsibility for the acts or omissions of the State of Iowa or its agents.
3. **MANAGEMENT OF PREMISES.** The County agrees to develop, maintain and manage the premises covered by this agreement as an access area for the citizens thereof and for the people of the State of Iowa in substantially the same manner as state owned access areas are developed, maintained and managed by the Department. Construction of the Department's portion of new area boundary fences and fence maintenance shall be the responsibility of the County.
4. **BOUNDARY MANAGEMENT.** The County shall annually inspect the boundary of the premises covered by this agreement and submit a written report to the Department if any changes, encroachments or boundary problems are discovered. The Department shall be responsible for addressing any boundary problems affecting title to said premises.
5. **APPLICABILITY OF LAWS.** All laws, rules and regulations applying to the use of state access areas under the jurisdiction of the Department shall apply to this property insofar as possible, taking into account the terms of this agreement.

6. **DEPARTMENT'S USE OF PREMISES.** The Department reserves the right to enter upon the premises at any time for any purpose in connection with programs of the Department and temporarily use the area in such manner as to not materially interfere with the use of the area by the County.
7. **PRESERVATION OF NATURAL FEATURES.** No trees or other vegetation may be removed or other natural features of the area disturbed without permission of the Department. Removal of vegetation deemed a public hazard is permitted.
8. **IMPROVEMENTS.** No improvements are to be made to the area until the development plans for such improvements have been submitted to and approved in writing by the Department. All improved development shall be the express responsibility of the County.
9. **COMMERCIAL USE OF PREMISES.** The County may conduct agricultural operations for the benefit of wildlife and forest harvest may be conducted with the written approval of the Department. Sale of timber from any such harvest shall be subject to approval of the Department including, but not limited to, the right of the Department to review and disapprove any or all bids for such sale. Receipts from agricultural operations and timber sales shall be retained by the County and shall be used to make improvements to and maintain the premises covered by this agreement. No other commercial use may be made of the premises.
10. **SURRENDER OF PREMISES.** At the expiration of the term of this agreement, or if either party cancels the agreement before expiration, the County will yield possession of the premises to the Department and will, within 90 days after such time, remove all improvements, structures, and equipment thereon from said land. Such premises at the time of such delivery of possession shall be in as good order and condition as when the same was entered upon by the County.
11. **SIGNS.** All Department signs (e.g., boundary, directional, area name or regulation) shall remain in place. The County may add additional signs, as it deems necessary.
12. **EXPENDITURE OF FUNDS.** Nothing in this agreement shall obligate or bind either party to the expenditure of funds in excess of funds available to each party.
13. **PUBLIC USE OF PREMISES.** Nothing in this agreement shall deny the right of the public to enter upon and use the premises for any lawful purpose whatsoever.

14. **NONDISCRIMINATION.** It is agreed that, with respect to use of the premises covered by this agreement, the County will not exclude anyone from participation in, deny anyone the benefits of, or otherwise subject anyone to discrimination because of the person's race, color, national origin, age or disability.
15. **TERMINATION FOR CAUSE.** This agreement may be terminated upon 30 days' written notice to either party should it be determined that either party is failing to comply with the terms of the agreement.
16. **TERMINATION BY MANDATE.** In the event the Iowa Legislature or any other duly elected or appointed body or official mandates that the Department terminates the agreement, this agreement shall terminate upon 90 days written notice to the County.

This agreement is entered into under the authority of a resolution adopted at the regular meeting of the Mahaska County Conservation Board on August 7, 2003, as shown in the minutes thereof.

MAHASKA CONSERVATION BOARD

By: s/Michael Gipple
Executive Director

STATE OF IOWA

COUNTY OF Mahaska County

On this 7th day of August, 2003, before me, a Notary Public in and for the State of Iowa, personally appeared Michael Gipple, who stated that he is the duly appointed and actively serving Executive Director of the Mahaska County Conservation Board, that said Board by majority vote at its meeting on August 7th authorized him to execute the foregoing instrument, and that he executed the foregoing instrument as their voluntary act and deed and as the voluntary act and deed of the Mahaska County Conservation Board.

s/Jody Gott
Notary Public, in and for the State of Iowa

Bids were opened for a work vehicle.

Carriker Ford 2003 Ford Model F350 \$24,248.00

Carriker Ford 2004 Ford Model F350 \$25,379.80

Vannoy Chevrolet 2004 Chevrolet Silverado \$22,617.47

It was moved by Rouw seconded by VanWeelden to accept the bid from Vannoy Chevrolet for \$22,617.47 for a 2004 Chevrolet Silverado pickup. All present voted aye. Motion carried.

It was moved by Rouw seconded by VanWeelden to approve the following Amendment to Plat Certification. All present voted aye. Motion carried.

AMENDMENT TO PLAT CERTIFICATION

STATE OF IOWA
COUNTY OF MAHASKA :SS

I the undersigned, Greg A. Gordy, being first duly sworn on oath, do depose and state that I am chairman of the Mahaska County Board of Supervisors; that acting in that capacity I signed a resolution on July 21, 2003 attached to a plat of Cypher's 2nd Addition as shown and contained on the plat of the same filed July 22, 2003 in Book 9 at page 68 of the Mahaska County records; that said certification contained an erroneous and incomplete legal description of the platted premises for which the plat had been approved by the Mahaska County Board of Supervisors; that the correct certification, which is hereby substituted for said plat, should correctly read as follows:

WHEREAS, the Mahaska County Board of Supervisors, Oskaloosa, Mahaska County, Iowa, has examined the final plat of Cypher's 2nd Addition, a Subdivision of part of Lot 3 of Garner's Addition of a part of the SE ¼ of the NW ¼ of Section 13, Township 75, Range 15, described as Lot "C" of Lot 3 of Garner's Subdivision in the SE ¼ of the NW ¼ of Section 13, Township 75 North, Range 15 West of the 5th P.M. in Mahaska County, Iowa more particularly described as follows: Beginning at the Northeast corner of said Lot 3; thence South 62°04'06" West 110.80 feet along the Northwesterly line of said Lot 3; thence South 58°46'16" West 170.00 feet along said Northwesterly line; thence South 31°13'53" East 105.10 feet; thence South 86°56'21" East 189.03 feet to the East line of said Lot 3; thence North 0°11'04" East 240.00 feet along said East line to the point of beginning, containing 0.871 acres. The East line of said Lot 3 is North 00°00'04" East for the purpose of this description.

NOW THEREFORE, BE IT RESOLVED by the Mahaska County Board of Supervisors, Oskaloosa, Mahaska County, Iowa, that the final Subdivision Plat of Cypher's 2nd Addition be, and the same hereby is, approved. Lot C (0.871 acres) is acceptable as platted with the following exceptions: 1. No residence may be constructed on the property. 2. No building may be constructed on the property unless the property has been purchase by an adjacent property owner.

PASSED AND APPROVED THIS 21ST day of July, 2003.

GREG GORDY, Mahaska County
Board of Supervisors

Subscribed and sworn to before me by the said Greg Gordy, this 8th day of Sept.
2003.

s/Jody Gott
NOTARY PUBLIC

The matter of the Beacon Shop was tabled until September 22, 2003.

During the Work Session with the engineer the bridges needing repairs or
replacements were discussed.

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

Chairman, Mahaska County Board of
Supervisors

ATTEST: _____
Kay Swanson, Mahaska County Auditor