

Board of Supervisors Minutes
September 16, 2024

The Tama County Board of Supervisors met at 8:30 a.m. September 16, 2024. Present: 1st District Supervisor, Curt Hilmer; 2nd District Supervisor, Bill Faircloth and 3rd District Supervisor, Dan Anderson. Also, Assistant Tama County Auditor Karen Rohrs, members of the public and Deputy Sheriff Wall.

The Pledge of Allegiance was recited.

Motion by Faircloth, seconded by Anderson to approve the agenda. All voted aye. Motion carried.

Public Comment on Agenda Items: The public had questions about the change to the Open Records Act Ordinance and the update to the courthouse lawn policy that Tammy Wise was able to answer. The public also had comments and concerns about the reading that was happening on the courthouse lawn today and tomorrow.

Motion by Anderson, seconded by Faircloth to approve the minutes of the September 9th regular meeting. All voted aye. Motion carried.

The Board met with Ben Daleske, Tama County Engineer, to get a road projects report.

At 8:50 the Board held the first public hearing/reading on amendment to Ordinance #II.3 Open Records Act Ordinance:

ORDINANCE # 11.3
OPEN RECORDS ACT ORDINANCE
OF TAMA COUNTY, IOWA

WHEREAS, Tama County, Iowa is a "Government body" within the meaning of Iowa Code Section 22.1(1), of the Open Records Act of Iowa Code Chapter 22; and

WHEREAS, Tama County officers and elected officials are defined to be the "lawful custodian" of public records within the possession of the various elected officials, officers and employees elected, appointed and hired to positions within the County under Iowa Code Section 22.1(2); and

WHEREAS, Tama County is obligated to identify and publicly announce the identity of those officials and employees of the County who have assigned responsibilities for complying with the requirements of Iowa Code Chapter 22, as specified in Iowa Code Section 22.1(2); and

WHEREAS, in order to promptly and expeditiously respond to a request for examination and copying of a public record, the requesting person must provide sufficient detail to locate, retrieve and provide such document or copy thereof upon request made in person, in writing, by telephone or by electronic means, pursuant to the provisions of Iowa Code Sections 22.3(1) and 22.4(2) and to provide the person requesting such records of the estimated cost of searching for, retrieving and copying, under the provisions of Iowa Code Sections 22.3 and 22.3A(2)(a)(f); and

WHEREAS, Iowa Code Section 22.7 has seventy-three (73) subsections defining such public records the lawful custodian thereof is required to keep confidential, along with other state statutes not so identified, e.g., Iowa Code Sections 321.11 and 622.10, and other Constitutional provisions defining zones of personal privacy, all requiring a focused and careful examination to avoid disclosure which may subject the County to state or federal liability; and

WHEREAS, the Iowa Supreme Court has emphasized that time is of the essence in complying with the obligations of the Open Records Act and significant monetary (costs and attorney's fees) and other penalties (contempt, removal from office) exist to rectify breaches alleged under Iowa Code Section 22.10.

NOW, THEREFORE, BE IT HEREBY ORDAINED AND ESTABLISHED:

Section 1

- a. Pursuant to Iowa Code Section 22.1(2), the person designated on behalf of Tama County to receive all requests for examination and copying of public records shall be the elected Tama County officer currently in physical possession of the public record or the elected Tama County officer who appointed the Tama County officer in possession of the public record.
- b. The designated person shall assure that at the time any person seeks the inspection and copying of a public record, whether in person, in writing, by telephone or by electronic means, the requesting party shall provide such specificity and detail in identifying so as to reasonably permit:
 1. Identity of the office or other location where such records might be found for inspection and copying;and
 2. To make a reasonably timely, if not immediate, estimate to the requesting party of the actual costs of retrieving and copying such records.
- c. The designated person shall obtain the name, address, telephone number and email address of the requesting person for allowing contact advising of the estimated costs or for advising of difficulties or delays in retrieval and copying. The designated person shall not ask or seek to determine to reasons for the requests made.

Section 2.

- a. The costs estimated of locating, retrieving and copying the records requested shall include the actual
 1. The actual hourly salary or wage of that person assigned to locate, produce and copy the requested record and of supervising the person making examination of the record sought, for the times actually expended;
 2. The actual cost to the County of copying such records for the requesting person on county owned copying equipment, excluding charges for depreciation, maintenance, electricity.
- b. In the case of a request of records held in County owned computer systems as defined in Iowa Code Section 22.3A
 1. The person making the request is hereby prohibited from directly or indirectly accessing any county computer or computer network, pursuant to Iowa

Code Section 22.3A(2)(a);

2. The assigned person, the County's information technologist, or outside computer technologists shall determine, from the specialized information provided by the requesting person necessary to access the data requested, the estimated cost of retrieving such data and reproducing it on CD-ROM, thumb drives or paper. The actual hourly salary or wage of the information technologist, the county employee or contract charge of an outside technologist in determining the estimated cost of production and copying to the requesting person shall be included in the estimate to that person.

3. The estimate of costs to the requesting person may include an actual extra charge if the requesting person seeks the requested information in a specially processed format or in a format different from that which in which the County stores that information.

c. Upon determining the number of documents requested and, in the case of request of documents maintained in a County computer system, number of pages within the scope of the computer data request, the designed person shall also obtain an estimate from the County Attorney or other specially retained legal counsel for an additional estimate of charges for examining the individual documents and pages to determine, under Section 22.7, whether such documents and pages or parts of them contain confidential information which is prohibited from dissemination as a public record, other statutes creating privileges against disclosure and other Constitutional provisions erecting privacy rights which, if disclosed, could become actionable against the County criminally or civilly. This shall also include the time and charges for reviewing case decisions relevant to the specific requests made. Such charges shall be based on the actual hourly charges of a private attorney or the actual hourly rate of any county attorney or assistant county attorney based upon that officer's salary.

The estimated charges by legal counsel for review in complying with the foregoing law, and, if possible, with deleting or redacting confidential information to allow public dissemination of the document so affected, shall become a component of the total estimate submitted to the requester. If the estimated legal costs of review are less than estimated, the excess of paid costs greater than estimated shall be returned to the requester. If more, such additional costs beyond those estimated shall be billed to the requester.

d. The person requesting that public documents be located, retrieved and copied, including those from a County computer system, shall be obligated to pay to the County the costs estimated, before receiving the records requested under Iowa Code Section 22.3(1).

Section 3.

Upon payment of the estimated costs by the person making request for records, the person designated to receive requests for public records shall:

- a. Make immediate contact with those offices, department heads, other employees and the information technologists identified as having possession of some or all of such records to begin, as soon as humanly possible, assembling such records as requested;
- b. Upon assembly of all such records requested, immediately provide a copy of

- such copied records to the County attorney or other designated legal counsel to begin the expeditious and thorough review required by Iowa Code Section 22.7, other laws, cases and Constitutional provisions; and
- c. Upon completion of legal counsel review disclose and disseminate to the

requesting person only those documents legal counsel has determined to be public records unaffected by confidentiality, privilege or prohibition.

Section 4.

- a. The designated person shall keep a diary of the date of all steps taken following the prescribed steps in this Ordinance for the purpose of offering evidence to the Court of the steps taken in compliance and the times such steps were taken from the date of receipt of the public records request through and including the date of delivery to the requesting person. Such diary shall note the dates and duration of any delays in processing the request and of the reasons for any delays by any person in processing the public records sought.
- b. The designated person shall inform all elected officials, officers and employees of this Ordinance and that any request for public records made by a person or such other elected officials, officers and employees shall be IMMEDIATELY delivered to the designated person for processing under this Ordinance.

Section 5.

- a. Following notices by publication, three readings of the Ordinance and a voted majority of all Supervisors, upon final publication this Ordinance shall be enrolled in the County's book of ordinances.
- b. This Ordinance shall be posted prominently on the County's website to facilitate access to the public of its requirements in an effort to accelerate the processing of public records requests under this Ordinance.

There were no more public comments about the amendment to the ordinance. At 8:53 am Chairman Hilmer closed the public hearing/reading. Motion by Faircloth, seconded by Anderson to approve the first reading of amendment to Ordinance #II.3. All voted aye. Motion carried. Tammy Wise, HR administrator, asked the board if they would waive the second and third reading of the amendment to the ordinance. Motion by Anderson, seconded by Faircloth to waive the second and third reading of the amendment to Ordinance #II.3. All voted aye. Motion carried.

Motion by Faircloth, seconded by Anderson to approve the following resolution regarding Ordinance #II.3 Open Records Ordinance of Tama County, Iowa:

RESOLUTION 08-16-2024A

Ordinance #II.3 Open Records Ordinance of Tama County, Iowa

WHEREAS, Tama County, Iowa is a "Government body" within the meaning of Iowa Code Section 22.1(1), of the Open Records Act of Iowa Code Chapter 22; and
WHEREAS, Tama County officers and elected officials are defined to be the "lawful

custodian" of public records within the possession of the various elected officials, officers and employees elected, appointed and hired to positions within the County under Iowa Code Section 22.1(2); and

WHEREAS, Tama County is obligated to identify and publicly announce the identity of those officials and employees of the County who have assigned responsibilities for complying with the requirements of Iowa Code Chapter 22, as specified in Iowa Code Section 22.1(2); and

WHEREAS, in order to promptly and expeditiously respond to a request for examination and copying of a public record, the requesting person must provide sufficient detail to locate, retrieve and provide such document or copy thereof upon request made in person, in writing, by telephone or by electronic means, pursuant to the provisions of Iowa Code Sections 22.3(1) and 22.4(2) and to provide the person requesting such records of the estimated cost of searching for, retrieving and copying, under the provisions of Iowa Code Sections 22.3 and 22.3A(2)(a)(f); and

WHEREAS, Iowa Code Section 22.7 has seventy-three (73) subsections defining such public records the lawful custodian thereof is required to keep confidential, along with other state statutes not so identified, e.g., Iowa Code Sections 321.11 and 622.10, and other Constitutional provisions defining zones of personal privacy, all requiring a focused and careful examination to avoid disclosure which may subject the County to state or federal liability; and

WHEREAS, the Iowa Supreme Court has emphasized that time is of the essence in complying with the obligations of the Open Records Act and significant monetary (costs and attorney's fees) and other penalties (contempt, removal from office) exist to rectify breaches alleged under Iowa Code Section 22.10.

NOW, THEREFORE, BE IT HEREBY ORDAINED AND ESTABLISHED:

Section 1

- d. Pursuant to Iowa Code Section 22.1(2), the person designated on behalf of Tama County to receive all requests for examination and copying of public records shall be the elected Tama County officer currently in physical possession of the public record or the elected Tama County officer who appointed the Tama County officer in possession of the public record.
- e. The designated person shall assure that at the time any person seeks the inspection and copying of a public record, whether in person, in writing, by telephone or by electronic means, the requesting party shall provide such specificity and detail in identifying so as to reasonably permit:
 1. Identity of the office or other location where such records might be found for inspection and copying; and
 2. To make a reasonably timely, if not immediate, estimate to the requesting party of the actual costs of retrieving and copying such records.
- f. The designated person shall obtain the name, address, telephone number and email address of the requesting person for allowing contact advising of the estimated costs or for advising of difficulties or delays in retrieval and copying. The designated person shall not ask or seek to determine to reasons for the requests made.

Section 2.

- e. The costs estimated of locating, retrieving and copying the records requested shall include the actual
 - 1. The actual hourly salary or wage of that person assigned to locate, produce and copy the requested record and of supervising the person making examination of the record sought, for the times actually expended;
 - 2. The actual cost to the County of copying such records for the requesting person on county owned copying equipment, excluding charges for depreciation, maintenance, electricity.
- f. In the case of a request of records held in County owned computer systems as defined in Iowa Code Section 22.3A
 - 1. The person making the request is hereby prohibited from directly or indirectly accessing any county computer or computer network, pursuant to Iowa Code Section 22.3A(2)(a);
 - 2. The assigned person, the County's information technologist, or outside computer technologists shall determine, from the specialized information provided by the requesting person necessary to access the data requested, the estimated cost of retrieving such data and reproducing it on CD-ROM, thumb drives or paper. The actual hourly salary or wage of the information technologist, the county employee or contract charge of an outside technologist in determining the estimated cost of production and copying to the requesting person shall be included in the estimate to that person.
 - 3. The estimate of costs to the requesting person may include an actual extra charge if the requesting person seeks the requested information in a specially processed format or in a format different from that which in which the County stores that information.
- g. Upon determining the number of documents requested and, in the case of request of documents maintained in a County computer system, number of pages within the scope of the computer data request, the designed person shall also obtain an estimate from the County Attorney or other specially retained legal counsel for an additional estimate of charges for examining the individual documents and pages to determine, under Section 22.7, whether such documents and pages or parts of them contain confidential information which is prohibited from dissemination as a public record, other statutes creating privileges against disclosure and other Constitutional provisions erecting privacy rights which, if disclosed, could become actionable against the County criminally or civilly. This shall also include the time and charges for reviewing case decisions relevant to the specific requests made. Such charges shall be based on the actual hourly charges of a private attorney or the actual hourly rate of any county attorney or assistant county attorney based upon that officer's salary.

The estimated charges by legal counsel for review in complying with the foregoing law, and, if possible, with deleting or redacting confidential information to allow public dissemination of the document so affected, shall become a component of the total estimate submitted to the requester. If the estimated legal costs of review are less than estimated, the excess of paid costs greater than estimated shall be returned to the requester. If more, such additional costs beyond those estimated shall be billed to the

requester.

- h. The person requesting that public documents be located, retrieved and copied, including those from a County computer system, shall be obligated to pay to the County the costs estimated, before receiving the records requested under Iowa Code Section 22.3(1).

Section 3.

Upon payment of the estimated costs by the person making request for records, the person designated to receive requests for public records shall:

- d. Make immediate contact with those offices, department heads, other employees and the information technologists identified as having possession of some or all of such records to begin, as soon as humanly possible, assembling such records as requested;
- e. Upon assembly of all such records requested, immediately provide a copy of such copied records to the County attorney or other designated legal counsel to begin the expeditious and thorough review required by Iowa Code Section 22.7, other laws, cases and Constitutional provisions; and
- f. Upon completion of legal counsel review disclose and disseminate to the requesting person only those documents legal counsel has determined to be public records unaffected by confidentiality, privilege or prohibition.

Section 4.

- c. The designated person shall keep a diary of the date of all steps taken following the prescribed steps in this Ordinance for the purpose of offering evidence to the Court of the steps taken in compliance and the times such steps were taken from the date of receipt of the public records request through and including the date of delivery to the requesting person. Such diary shall note the dates and duration of any delays in processing the request and of the reasons for any delays by any person in processing the public records sought.
- d. The designated person shall inform all elected officials, officers and employees of this Ordinance and that any request for public records made by a person or such other elected officials, officers and employees shall be IMMEDIATELY delivered to the designated person for processing under this Ordinance.

Section 5.

- c. Following notices by publication, three readings of the Ordinance and a voted majority of all Supervisors, upon final publication this Ordinance shall be enrolled in the County's book of ordinances.
- d. This Ordinance shall be posted prominently on the County's website to facilitate access to the public of its requirements in an effort to accelerate the processing of public records requests under this Ordinance.

THEREFORE, BE IT RESOLVED upon the final publication of this Ordinance it be enrolled in the County's book of ordinances and in effect on the date of publication.

Roll Call Vote: Hilmer, aye. Faircloth, aye. Anderson, aye. Resolution passed and adopted

this 16th day of September, 2024. Curt Hilmer, Chairman, Tama County Board of Supervisors.
Karen Rohrs, Assistant County Auditor.

Tammy Wise, HR/Insurance Administrator, presented a Courthouse Grounds Policy and a Courthouse Grounds Policy Application. She let the board know that she added into the policy that approval of the bandstand is through the City of Toledo. She stated the deposit fee will be in the amount of \$100 and that the deposit will be returned to the renter if no damage is done or left on the courthouse lawn. There was discussion regarding the policy and application. Motion by Anderson, seconded by Faircloth to approve the Courthouse Grounds Policy and Courthouse Grounds Policy Application. All voted aye. Motion carried.

Emma Peebles was present to discuss a possible tax certificate re-assignment and abatement on certificate #02-0282. Tama County has held tax certificate #02-0282 since 2002. The total amount due, including taxes, interest, special assessment, and other costs is \$5,995.49. Ms. Peebles proposes paying half the taxes due in the amount of \$542 and asking the Supervisors to abate \$542 of the taxes, \$1,828 interest, \$93 miscellaneous fees and \$2,990.49 on a special assessment for the City of Clutier. This would get the property back on the tax rolls. Ms. Peebles stated she needs to approach the City of Clutier to see if they will waive the special assessment fees. There was discussion between the Supervisors and Ms. Peebles. Motion by Anderson, seconded by Faircloth to re-assign Tama County Tax Certificate #02-0282 to Emma Peebles for \$542 (one half of the taxes) and abate the rest of the taxes, interest and miscellaneous fees if the City of Clutier agrees to waive the special assessments. All voted aye. Motion carried.

Motion by Faircloth, seconded by Anderson to approve the claims for payment as presented. All voted aye. Motion carried.

Chairman Hilmer adjourned the meeting at 9:14 am