

Muscatine County Board of Supervisors  
Monday, May 11, 2020

The Muscatine County Board of Supervisors met at 9:00 A.M. via a Go To Meeting with Holliday, Sauer, Sorensen, Mather and Saucedo present. Chairperson Sorensen presiding.

On a motion by Mather, second by Saucedo, the agenda was approved as presented. Roll call vote: Ayes: All.

Discussion was held regarding the possible appointment of a Muscatine County Attorney to serve through the November 3, 2020 General Election. Mather spoke on behalf of the Ad Hoc Committee stating they are recommending James Barry be appointed as Muscatine County Attorney. Mather stated he has significant amount of experience as a County Attorney, so the committee feels he has all the skills, knowledge and experience requisite for the position. Mather stated Mr. Barry will be the first to say he has red flags in his past as he was removed from Cass County Attorney due to some misconduct that took place with regard to the sheriff and law enforcement. Mather stated he also had his license removed for twelve months. Mather stated the committee carefully reviewed the disciplinary actions against Mr. Barry, spoke to references Mr. Barry provided and ones he did not provide. Mather stated Mr. Barry's employer stated he is the most honest man that she knows. Mather stated he is the only candidate that applied and the ultimate decision will be made by the voters in November. Saucedo stated he had several discussions with his references as well as others not on his list of references. Saucedo stated he is respected and he recognizes he has made mistakes, but that he believes he has reformed. Saucedo stated Mr. Barry passionately wants the job and knowing that the public will be voting on it in November, Saucedo thinks this is the best decision. Sauer stated everyone had an opportunity to apply and there are some hiccups in his past, but with the election coming up in November, he does not have a problem with appointing Mr. Barry. Holliday stated he had his concerns satisfied and it is a temporary appointment. Ed Askew, 2952 155<sup>th</sup> Street, Muscatine, expressed concern about the candidate as he conducted in-depth research of the candidate in Iowa and Missouri and cited three disciplinary actions against him. Liz Araguas, resident of Johnson County, stated she practices law in Muscatine County and has heavy involvement with the Muscatine County Attorney's Office. Araguas expressed grievous concerns on behalf of the Muscatine County Bar Association stating the Executive Board was not notified until Sunday evening that this was happening and no one ever contacted the Bar Association about appointing a County Attorney, so she believes there are other candidates that did not have time to apply. Araguas stated she feels Mr. Barry conducted years of deliberate fraud and is reckless and dangerous. Araguas stated the Bar Association was not given the whole story and Mr. Barry is not the only option. Mather stated there was a senior judge initially in the running, but she declined and withdrew. Mather stated he looked for information on who to contact at the Muscatine County Bar Association and could not find anyone. Henry Marquard, 108 Eagle Watch Road, stated the process is flawed and the County made minimal effort by not contacting the Muscatine County Bar Association to post the position and since the agenda did not name the person being appointed, there was no time for public investigation and comment. Mather stated he notified members of the media approximately 1½ hours after the committee finalized the recommendation which included the name of the recommended appointee. Kris Lee, 2319 Stonebrook Drive, stated she is the President and Owner of Hoffman, Inc. and that Mr. Barry is a changed man who is not reckless or dangerous, but rather he is honest, fair and hardworking.

Mather stated all of the concerns were vetted and at no point does the committee regard any of the past acts as a hiccup, but they have a very well qualified person. Mather stated retired attorney Walter Conlon, who was on the Ad Hoc Committee recommending Mr. Barry for appointment, was also on the committee that recommended Mr. Barry's suspension of his license in 2009. Mather stated Conlon did not recommend the license be suspended at that time. Mather stated Hoffman, Inc. took a chance on him and she has been more than glowing in her recommendations. Mather stated Mr. Barry has considerable experience, is a changed person and Muscatine County needs his strong leadership at this time. On a motion by Mather, second by Saucedo, the Board appointed James Barry to serve as Muscatine County Attorney effective May 11, 2020. Roll call vote: Ayes: All.

Discussion was held regarding a request from the Muscatine County Fair to utilize their remaining FY19/20 debt match allocation in the amount of \$12,437 for operating expenses. Holliday stated he talked to Muscatine County Fair Board Manager Kelsey Morris and the request is because of loss of revenue from cancellation of events in March and April due to COVID-19. Sorensen stated the Fair Board has not been able to hold planned events for their fundraising. On a motion by Saucedo, second by Sauer, the Board authorized the Muscatine County Fair to utilize their remaining FY19/20 debt match allocation for operating expenses in the amount of \$12,437. Roll call vote: Ayes: All.

On a motion by Sauer, second by Saucedo, minutes of the May 4, 2020 regular meeting were approved as written. Roll call vote: Ayes: All.

#### Correspondence:

- All Supervisors reported contacts regarding the proposed County Attorney appointment.
- All Supervisors reported contacts regarding the former Jail Administrator.
- Holliday reported a conversation with Kelsey Morris regarding the Fair Board finances and the rescheduling of a race.
- Mather and Saucedo reported multiple conversations with references and employers of the proposed County Attorney candidate.

#### Committee Reports:

- Saucedo attended an Eastern Iowa Mental Health Region electronic meeting May 4<sup>th</sup>.
- Mather attended a Seventh Judicial District electronic meeting May 8<sup>th</sup>.
- Sorensen attended Eastern Iowa Mental Health Region electronic meetings May 4<sup>th</sup> and May 8<sup>th</sup>.
- Sorensen attended Mississippi Valley Workforce Authority electronic meetings May 4<sup>th</sup> and May 7<sup>th</sup>.
- Sorensen attended an EOC electronic meeting May 6<sup>th</sup>.

Emergency Manager Brian Wright updated the Board on COVID-19 in Muscatine County.

County Engineer Keith White updated the Board on secondary road projects.

On a motion by Mather, second by Saucedo, the Board authorized Muscatine County to serve as employer of record for the Mississippi Valley Workforce Area Board's Executive Director with a 3% administration fee. Roll call vote: Ayes: All.

On a motion by Saucedo, second by Sauer, the Board approved the hiring of Matthew McCleary as Jail Administrator at \$84,654 (Grade 16, Step 12) for the Sheriff's Office/Jail. Roll call vote: Ayes: All.

Discussion was held regarding a possible agreement with Alan Ostergren for consulting services. Mather presented a revised draft which would be effective through the November election, but can be cancelled with a 20-day notice and fee amounts would be prorated in that instance. Mather stated he believes \$4,000 a month is reasonable. Saucedo asked if cancellation would be with prior approval of the Board. Mather stated the Board only has the power to allow the County Attorney to hire outside services, but the County Attorney, not the Board of Supervisors, should be the one to cancel the agreement. Schreiber reminded the Board the intent would be to fund this through the fines collection program, so no tax dollars would be used to pay for this service. Edward Askew, 2952 155<sup>th</sup> Street, Muscatine, disagreed with an agreement after just hiring an experienced County Attorney. Henry Marquard 108 Eagle Watch Road, Muscatine, stated this agreement is better than last week, but he still thinks it is premature. Marquard stated he believes Mr. Ostergren may be violating Iowa Attorney ethics rules which prohibit attorney self-dealing as he was a key member of the committee recommending his successor and the successor will then decide if Mr. Ostergren gets paid under this agreement. Mather stated Mr. Ostergren looked into the ethical conflict and did not feel there was a conflict. Mather stated the agreement was initiated before a county attorney was appointed and it is to assist with transitioning to the new County Attorney. On a motion by Saucedo, second by Mather, the Board approved an agreement for consulting services with Alan Ostergren. Roll call vote: Ayes: All.

On a motion by Saucedo, second by Sauer, the Board affirmed acceptance by Sheriff Ryan of a Coronavirus Emergency Supplemental Funding (CVSF) Program grant in the amount of \$58,008.00. Roll call vote: Ayes: All.

On a motion by Sauer, second by Holliday, the Board set a public hearing on proposed amendments to the FY 19/20 Muscatine County budget for Monday, June 8, 2020 at 9:00 A.M. Roll call vote: Ayes: All.

Edward Askew, 2952 155<sup>th</sup> Street, Muscatine, asked when the County Attorney Notice of Intent to Appoint was published in the papers. Administrative Services Director Nancy Schreiber stated it was published in all three official newspapers April 23, 2020. Askew stated on May 4<sup>th</sup>, the Board said they did not know the status of the jailer investigation, but he believes someone knew about it on May 1<sup>st</sup>. Sorensen stated it is a long standing policy of the Board to not comment on personnel matters.

Henry Marquard, 108 Eagle Watch Road, Muscatine, expressed concern about the process for appointing the new County Attorney not allowing any meaningful public comment before making a decision.

Liz Araguas, Attorney, expressed concern about the pandemic with regards inmates, staff, clergy and other visitors to the Jail. Araguas stated she would like to see funds received for COVID-19 be used to improve technology for communication with inmates by video conferencing and to allow for additional staff to help courier paperwork that needs physical signatures.

County Engineer Keith White responded to a question from Sauer, stating the culvert and patching replacement on Hwy 6 will go well into July with sub-drain work beginning the end of July. White stated the road will be closed until the sub-drain work begins at the end of July and then one lane will be open to traffic.

The meeting was adjourned at 10:29 A.M.

ATTEST:

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Leslie A. Soule, County Auditor

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Jeff Sorensen, Chairperson  
Board of Supervisors