The Board of Supervisors met in regular session at 8:30AM with Board members Corey Eberling-Chairman Pro-Tem, and Jerry L. Plagge present, Michael Nolte-Chairman absent.

Motion by Plagge, seconded by Eberling, approves the agenda as submitted with one addition: 1) Consider a Permit to Work in County Road Right of Way to Joe Green for mowing and baling on south side of 105th St between Raven and Geneva Avenues. All ayes, motion carried.

Motion by Plagge, seconded by Eberling, approves the minutes of July 30, 2012. All ayes. Motion carried.

The Board reported on committee meetings throughout the week: NIVC Board meeting-concerns with Medicaid funding dollars

Motion by Plagge, seconded by Eberling, approves an Agreement between Covenant Clinic Psychiatry and Franklin County, Iowa, for psychiatric services. Rates effective July 1, 2012 represent a 3% increase over the previous years’ rates. All ayes, motion carried.

Motion by Plagge, seconded by Eberling, approves Resolution 2012-41: Allowing a Subdivision Waiver to Kurt Kelsey and Lynda Peterson for the division of land located in E ½ SE ¼, Sec 22, Ross Township. Said property will not be developed and usage will stay the same. Resolution reads as follows:
WHEREAS, The Franklin County Subdivision Ordinance 6.2 allows waivers to the requirements set therein, and
WHEREAS, Kurt Kelsey has asked for a waiver for the following parcel;
County Auditor’s Parcel Letter “A” located in the east one-half of the Southeast Quarter (E ½ SE ¼) of Section Twenty-two (22), Township Ninety-three (93) north, Range Twenty (20) west of the 5th P.M., Franklin County, Iowa, more particularly described as follows:
Beginning at the southwest corner of said east one-half of said Southeast Quarter; thence south 89˚15'27" east, 227.00 feet along the south line of said east one-half of said southeast quarter; then north 00˚13'01" east, 440.00 feet; thence north 89˚15'27" west, 227.00 feet to a point on the west line of said east one-half of said southeast quarter; thence south 00˚13'01" west, 440.00 feet along said west line to the point of beginning, containing 2.29 acres total including 0.17 acres existing right of way. Subject to easements.
Note: For purposes of this survey, the south line of said east one-half of said Southeast Quarter was determined to bear south 89˚15'27" east, using GPS.
BE IT RESOLVED that The Franklin County Board of Supervisors approves the Subdivision Waiver.
PASSED AND ADOPTED this 6th day of August, 2012.

Motion by Plagge, seconded by Eberling, approves claims for the period ending 8/5/12. All ayes, motion carried.

Motion by Plagge, seconded by Eberling, approves a Permit to Work in County Road Right of Way to Joe Green to mow and bale the road on the south side of 105th Street between Raven and Geneva Avenues. All ayes, motion carried.

At 10:00 AM Gabe Johanns met to update the Board on the Information Technology department. No action taken.

At 10:30 AM the Board reviewed an Amendment to Ordinance 4.1-An Ordinance to Protect and Regulate Secondary Road Right-of-Way. Additions are: Section 2(1) Definitions—“grazing of animals”; Section 4 Administration- The Engineer may request the assistance of other Departments, Agencies and Offices of county government in the investigation and enforcement of this Ordinance.; Section 5(2) Abatement Costs- If any person, firm, co-partnership, corporation or other association of persons, whether acting directly or through employees or agents violates, disobeys, omits or neglects the provisions of this ordinance three (3) or more times in a three (3) year period they shall be deemed a Chronic Offender. Chronic Offenders shall be
issued a citation when the county becomes aware of a violation. A notice shall not be required in the case of Chronic Offenders.

Present was: Supervisors Plagge and Eberling, Auditor-Giddings and Mira Schmitt-Cash-Hampton Chronicle.

Motion by Plagge, seconded by Eberling, waives the First and Second readings and moves directly to the Third and Final Reading. All ayes. Motion carried.

Supervisor Eberling read Ordinance 4.1 as proposed to be amended.

Motion by Plagge, seconded by Eberling, adopts Resolution 2012-40: Amendment to Ordinance 4.1 with full text of said Ordinance listed below:

AN ORDINANCE TO PROTECT AND REGULATE SECONDARY ROAD RIGHT-OF-WAY

Be It Enacted by the Board of Supervisors of Franklin County, Iowa:

SECTION 1. Purpose. The purpose of this ordinance is to restrict Franklin County land owners or their tenants adjoining secondary road right-of-ways from farming, fencing, or otherwise abusing such right-of-way, which will damage the road and its shoulders, cause hazardous obstructions, create potential liability to Franklin County, and unjustly enrich these owners at the expense of the County.

SECTION 2. Definitions. For use in this ordinance terms or words used herein shall be interpreted or defined as follows:

1. “Obstruction” shall mean anything that is placed in a secondary road right-of-way by persons other than persons authorized to do so by the Franklin County Board of Supervisors. It includes but is not limited to property such as fences, growing crops, rocks, trash, corn cobs, piles of brush, abandoned vehicles or machinery, billboards, advertising signs or devices, open ditches, and water breaks, tile and tile outlets, grazing of animals, and includes the cultivation of the right-of-way.

2. “Board” shall mean the Franklin County Board of Supervisors or its designee.

3. “Engineer” shall mean the Franklin County Engineer or his designee.

4. “Attorney” shall mean the Franklin County Attorney or his assistant.

All other terms shall be interpreted and construed in accordance with the provisions of Chapter 4, Code of Iowa, 2007, and generally as an implementation of or in harmony with Chapter 318, Code of Iowa, 2007.

SECTION 3. Violations Generally / Penalty.

1. The creation by any person of an obstruction in Franklin County is declared a public nuisance and is prohibited.

2. A person shall not excavate, fill, or make any physical change within the right-of-way of a secondary road without obtaining a permit from the Board. Any work performed under the permit shall be performed in conformity with the specifications prescribed by the Board, including the posting of bond. If the excavation, fill, or physical change within the right-of-way does not conform to the specifications that accompany the permit, the permittee shall be reasonably notified by the Board or Engineer to make such conforming changes. If after twenty (20) days the changes have not been made, the Board or Engineer may make the necessary changes and immediately send a statement of the cost to the permittee. If within ten (10) days after sending the statement the cost is not paid, the Board through the Attorney may institute proceedings in District Court to collect the cost of correction.

3. The Engineer and utility companies are exempt from the provisions of this section.

4. Any person who violates the provisions of this section for a twenty-four (24) hour period shall, upon conviction, be fined $750 for the first offense, $1000 for the second and subsequent offences. Each twenty-four (24) hour period is a separate and distinct violation.

SECTION 4. Administration. It shall be the duty of the Engineer to identify obstructions within the County. Upon such identification, he shall attempt to persuade the person responsible for the obstruction to remove it. If such an attempt is unsuccessful, the Engineer shall proceed under Section 5 of this ordinance. The Engineer may request the assistance of other Departments, Agencies and Offices of County Government in the investigation and enforcement of this Ordinance.

SECTION 5. Abatement Costs.

1. If the Engineer deems an obstruction to constitute an immediate and dangerous hazard, he may without notice or liability in damages, cause the obstruction to be removed and the costs of removal to be assessed against:

   a. The owner of any billboard, advertising sign or device so removed.

   b. The vehicle or machinery owner in the case of abandoned vehicles or machinery.

   c. The abutting property in the case of fences and other obstructions placed by the owner of, or tenant on, said property.

   d. The owner or person responsible for placement of all other obstructions.

2. If the Engineer does not deem an obstruction to be such a hazard, he may, without liability after forty-eight (48) hours’ notice to the person who would be assessed for County costs of removing the obstruction, this notice being served in the manner in which an original notice is served or in writing by certified mail, cause the obstruction to be removed and the costs of removal to be assessed in the same manner as specified in Subsection 1 of this Section. Notice shall be reasonably calculated to apprise the recipient of the impending action and liability. If any person, firm, co-partnership, corporation or other association of persons, whether acting directly or through employees or agents violates, disobeys, omits or neglects the provisions of this ordinance three (3) or more times in a three (3) year period they shall be deemed a Chronic Offender. Chronic Offenders shall be issued a citation when the county becomes aware of a violation. A notice shall not be required in the case of Chronic Offenders.

In case of a violation of any provision of this ordinance, the proper authorities of the County, in addition to other remedies, may institute any appropriate action or proceedings to prevent or abate the illegal act.

3. Upon removal of the obstruction, the Engineer may immediately send a statement of the cost of removal to the person assessed. If within ten (10) days after sending the statement, the cost is not paid, the Engineer through the Attorney may institute proceedings to collect the cost of removal.
SECTION 6. Attorney Authority. Upon request of the Board, the Attorney may bring action to enjoin or abate an obstruction, to collect damages caused by an obstruction, including the costs of removal, and to pursue any other appropriate remedy, including criminal prosecution under Section 2, Subsection 4 of this ordinance or Chapter 716, Code of Iowa, 2007.

SECTION 7. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 8. Severability Clause. If any section, provision, or part 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.

THEREFORE, Amendment to Ordinance 4.1 shall be considered adopted by Resolution 2012-40 per the additions mentioned above and effective upon publication.

PASSED AND ADOPTED this 6th day of August, 2012.

The Board acknowledged receipt of additional information regarding the new construction to the Arends Finisher Farm original received June 26, 2012. NW SW, Sec 15, Osceola Township.

The Board acknowledged Manure Management Plan Renewals for: 1) Scott Ites #63275, owner Scott Ites, site located 241 Olive Ave, Iowa Falls, Sec 28, Grant Township; 2) Ocay Inc #58674, owners Kevin & Carol Borcherding, site located 825 130th St, Hampton, Sec 8, Hamilton Township; 3) Larry J Hansen #3, #61523, owner Larry J Hansen LLC, site located 890 Killdeer Ave, Hampton, Sec 27, Hamilton Township; 4) F121, #57748, owner Christensen Farms Midwest LLC, site located 1861 Swallow Ave, Hampton, Sec 6, Ingham Township; 5) Jordahl Site 6, #63272, owners Jon & Carol Ann Jordahl, site located 725 180th St, Latimer, Sec 18, Marion Township; 6) Caribou Site #63820, owner James Heffelmeier, site located 1757 Mallard Ave, Hampton, Sec 7, Mott Township; 7) Vernon Meinberg #58710, owner Vernon Meinberg, site located 1486 Raven Ave, Hampton, Sec 26, Mott Township; 8) Roots #64058, owners Sheldon, Dean, & Kevin Jurgens and Scott Engebretson, site located 980 240th St, Sheffield, Sec 9, Richland Township.

Motion by Plagge, seconded by Eberling, adjourns at 11:00 AM until August 13, 2012. All ayes. Motion carried.

_________________________     ATTEST: ________________________________
Corey Eberling, Chairman Pro-Tem                                      Michelle Giddings, Auditor & Clerk to Board
SUPPLEMENTAL MINUTES: (Additional items of discussion during 8/6/12 meeting)

Present: Michelle Giddings-Auditor & Board Clerk, John (Jay) Waddingham-County Engineer, Gabe Johanns-IT Director, Mira Schmitt-Cash-Hampton Chronicle.

The Board adjourned at 11:00 AM.

________________________________     ATTEST: _______________________________________
Corey Eberling, Chairman Pro-Tem                             Michelle Giddings, Auditor & Clerk to Board