

**WOODBURY COUNTY BOARD OF SUPERVISORS AGENDA ITEM(S) REQUEST FORM**

Date: 8/29/2023 Weekly Agenda Date: 9/5/2023

**ELECTED OFFICIAL / DEPARTMENT HEAD / CITIZEN:** Supervisors Matthew Ung & Keith Radig

**WORDING FOR AGENDA ITEM:**

Approval of replacement of Rocky De Witt with Mark Nelson as the County's Commissioner appointed to the Law Enforcement Center Authority

**ACTION REQUIRED:**

Approve Ordinance

Approve Resolution

Approve Motion

Public Hearing

Other: Informational

Attachments

**EXECUTIVE SUMMARY:**

We have both served with Rocky De Witt and this recommendation is not a criticism of his service, but reflects the county board's increasing need to be more informed through a sitting supervisor.

**BACKGROUND:**

Woodbury County moved swiftly on Jan. 10, 2023 to reappoint De Witt to the Authority, as prompted by his resignation from the Board and as required by the prior resolution appointing him, in order to leverage his institutional knowledge of the project. Since then, Supervisor Mark Nelson has been attending as county liaison, but for that reason has not been allowed in several closed sessions.

**FINANCIAL IMPACT:**

None directly as commissioners serve without compensation, but with profound financial impact as it concerns direct oversight of a \$69 million project with unknown impacts of potential legal issues.

**IF THERE IS A CONTRACT INVOLVED IN THE AGENDA ITEM, HAS THE CONTRACT BEEN SUBMITTED AT LEAST ONE WEEK PRIOR AND ANSWERED WITH A REVIEW BY THE COUNTY ATTORNEY'S OFFICE?**

Yes  No

**RECOMMENDATION:**

Article III, Section 3.4 of the Articles of Incorporation states the county's appointee may be removed at any time by a two-thirds vote of the Board of Supervisors. This should be done, followed by the appointment of Supervisor Mark Nelson as the county's replacement to fill the remainder of the term which ends December 31, 2027.

**ACTION REQUIRED / PROPOSED MOTION:**

- a) Remove Rocky De Witt as Woodbury County's appointee to the LEC Authority
- b) Approval of resolution appointing Woodbury County Supervisor Mark Nelson as Woodbury County's appointee to the LEC Authority

**ARTICLES OF INCORPORATION**  
**for the**  
**WOODBURY COUNTY**  
**LAW ENFORCEMENT CENTER AUTHORITY**

The undersigned, acting as the incorporating units of an authority under Iowa Code Section 346.27, adopt the following Articles of Incorporation for the Woodbury County Law Enforcement Center Authority:

**ARTICLE I**

Section 1.1. Name. The name of the Authority is the Woodbury County Law Enforcement Center Authority.

Section 1.2. Incorporating Units. The Authority is incorporated by Woodbury County, State of Iowa, and the City of Sioux City, State of Iowa, which is the county seat of Woodbury County. These Articles of Incorporation have been adopted by the affirmative vote of a majority of the members of the governing body of each incorporating unit.

Section 1.3. Effective Date. The Authority shall become effective at such time as these Articles of Incorporation have been recorded in the Woodbury County Recorder's office (technically known as the Woodbury County Auditor and Recorder's office), filed with the Iowa Secretary of State, and published once in the Sioux City Journal.

**ARTICLE II**

Section 2.1. Purposes. The purposes of the Authority are to acquire, demolish, improve, enlarge, equip, furnish, repair, maintain, and operate a public building and to acquire and prepare any necessary site for the joint use of the incorporating units.

Section 2.2. Powers. The Authority is a body corporate with the power to sue and be sued in any court in Iowa, to have a seal and alter it at its pleasure, and to make and execute contracts, leases, deeds, and other instruments necessary or convenient to the exercise of its powers. In addition, it has and may exercise the following public and essential governmental powers and functions and all other powers incidental or necessary to carry out and effectuate its express powers:

- a. To select, locate, and designate an area lying wholly within the territorial limits of the City of Sioux City as the site to be acquired (the "Building Site") for the construction, alteration, enlargement, or improvement of a public building. The Building Site selected is subject to approval by a majority of the members of the governing body of each incorporating unit.
- b. To acquire in the corporate name of the Authority the fee simple title to real property, including the Building Site, by purchase, gift, devise, or by the exercise

of the power of eminent domain, or to take possession of real estate by lease.

- c. To demolish, repair, alter, or improve any building within the Building Site, to construct a new building on the Building Site and to furnish, equip, maintain, and operate the building.
- d. To construct, repair, and install streets, sidewalks, sewers, water pipes, and other similar facilities and otherwise improve the Building Site.
- e. To make provisions for off-street parking facilities.
- f. To operate, maintain, manage, and enter into contracts for the operation, maintenance, and management of buildings, and to provide rules for the operation, maintenance, and management.
- g. To employ and fix the compensation of technical, professional, and clerical assistance as necessary and expedient to accomplish the objects and purposes of the Authority.
- h. To lease all or any part of a building to the incorporating units for a period of time not to exceed fifty years, upon rental terms agreed between the Authority and the incorporating units. The rentals specified shall be subject to increase by agreement of the incorporating units and the Authority if necessary, in order to provide funds to meet obligations.
- i. To procure insurance of any and all kinds in connection with a building. The bidding procedures provided in Iowa Code Section 73A.18 shall be used in the procurement of insurance.
- j. To accept donations, contributions, capital grants, or gifts from individuals, associations, municipal and private corporations, and the United States, or any agency or instrumentality thereof, and to enter into agreements in connection therewith.
- k. To borrow money and to issue and sell revenue bonds in an amount and with maturity dates not in excess of fifty years from date of issue, to provide funds for the purpose of acquiring, constructing, demolishing, improving, enlarging, equipping, furnishing, repairing, maintaining, and operating buildings, and to acquire and prepare sites, convenient therefor, and to pay all incidental costs and expenses, including, but not limited to, architectural, engineering, legal, and financing expense, and to refund and refinance revenue bonds as often as deemed advantageous by the Board of Commissioners of the Authority.
- l. The provisions of Iowa Code Chapter 73A applicable to other municipalities are applicable to the Authority.

### ARTICLE III

Section 3.1. Governance. The Authority shall be directed and governed by the Board of Commissioners, consisting of three commissioners.

Section 3.2. Election of Commissioners. One commissioner shall be elected by the Board of Supervisors of Woodbury County, Iowa, from the area outside of the county seat. One commissioner shall be elected by the City Council of the City of Sioux City, Iowa, from the area inside the City. One commissioner shall be elected by the joint action of the Board of Supervisors and the City Council, and if the governing bodies are unable to agree upon a choice for the third member within sixty days after the election of the first member, then the third member shall be appointed by the Governor of Iowa. Any vacancy in the Board of Commissioners shall be filled by election of the governing body of the incorporating unit or units that elected the prior Commissioner, and the person filling such vacancy shall serve out the remainder of the term of the prior Commissioner.

Section 3.3. Terms. Each Commissioner shall serve for a six-year term, except as set out below:

- a. The first Commissioner elected by the Board of Supervisors of Woodbury County will serve for a term of two years.
- b. The first Commissioner elected by the City Council of the City of Sioux City will serve for a term of four years.
- c. The first Commissioner elected by joint action of the Board of Supervisors of Woodbury County and the City Council of the City of Sioux City (or appointed by the Governor of Iowa) will serve for a term of six years.

Section 3.4. Removal of a Commissioner. A Commissioner may be removed from office by the affirmative vote of two-thirds of the members of the governing body of the incorporating unit or units that elected the Commissioner.

Section 3.5. Officers. The Board of Commissioners shall designate one commissioner to serve as Chairperson, one commissioner to serve as Secretary, and one commissioner to serve as Treasurer. The Board of Commissioners may appoint such other officers as it deems necessary or appropriate.

Section 3.6. Compensation. No commissioner shall receive any compensation in connection with his or her services as a commissioner. Each commissioner shall be entitled to reimbursement for any actual and necessary expenditures in connection with the performance of the commissioner's duties.

## ARTICLE IV

Section 4.1. By-Laws. The Board of Commissioners shall adopt By-Laws and rules of procedures which provide for regular meetings, the proper safekeeping of the Commission's records, and such other matters as the Board of Commissioners deems appropriate. The By-Laws and any amendments to the By-Laws shall be subject to the approval by the affirmative vote of a majority of the members of the governing body of each incorporating unit.

Section 4.2. Amendments. These Articles of Incorporation may be amended, provided, however, that no amendment shall impair the obligation of any bond or other contract. Each amendment shall be adopted by the affirmative vote of a majority of the members of the governing body of each incorporating unit, executed by the Chairperson of the Woodbury County Board of Supervisors and the Woodbury County Auditor and by the Mayor and City Clerk of the City of Sioux City, recorded in the Woodbury County Recorder's office, filed with the Iowa Secretary of State, and published once in the Sioux City Journal.

Section 4.3. Disposition of Assets. The Authority's assets are dedicated exclusively to and shall be used exclusively for the purposes stated in Section 2.1. In the event of dissolution or liquidation of the Authority, its entire assets remaining after payment or making provision for the payment of all liabilities of the Authority and compliance with mandatory provisions of applicable law shall be distributed exclusively to Woodbury County, Iowa and the City of Sioux City, Iowa, as directed by the Board of Commissioners or by a court of competent jurisdiction if the Board of Commissioners fails to make the selection within a reasonable time.

Section 4.4. Dissolution. In the event all Authority assets are disposed of in accordance with Section 4.3, or in the event that the Authority unsuccessfully submits to the voters the question of whether the authority shall issue and sell revenue bonds on two separate occasions, the incorporating units may adopt Articles of Dissolution adopted by the affirmative vote of a majority of the members of the governing body of each incorporating unit. The Authority shall cease to exist at such time as both incorporating units adopt the Articles of Dissolution and the Articles of Dissolution have been recorded in the Woodbury County Recorder's office, filed with the Iowa Secretary of State, and published once in the Sioux City Journal.



Dated this 23<sup>rd</sup> day of December, 2019.

WOODBURY COUNTY, STATE OF IOWA


(SEAL)

By: [Signature]  
Keith Radig, Chairperson

Attest: [Signature]  
Patrick Gill, County Auditor

STATE OF IOWA            )  
  ) ss:  
WOODBURY COUNTY        )

On this 23<sup>rd</sup> day of December, 2019 before me, the undersigned, a Notary Public in and for said State, personally appeared Keith Radig and Patrick Gill to me personally known, who being by me duly sworn, did say that they are the Chairperson of the Woodbury County Board of Supervisors and County Auditor, respectively, of said political subdivision, that the seal affixed thereto is the seal of said political subdivision, that said instrument was signed and sealed on behalf of said political subdivision by authority of its Board of Supervisors; and that the said Chairperson and County Auditor as such officers, acknowledged the execution of said instrument to be the voluntary act and deed of said political subdivision, by it and by them voluntarily executed.

[Signature]  
Notary Public 

#13,532

RESOLUTION APPOINTING COMMISSIONER TO  
WOODBURY COUNTY LAW ENFORCEMENT CENTER AUTHORITY'S  
BOARD OF COMMISSIONERS

WHEREAS, Woodbury County, State of Iowa (the "County"), is a political subdivision, organized and existing under and by the laws and Constitution of the State of Iowa; and

WHEREAS, the County has approached the City of Sioux City, Iowa (the "City") with a proposal to establish a Joint County and City Building Authority pursuant to Iowa Code Section 346.27 (the "Authority") for the purposes of building and financing a new law enforcement center for joint use by the City and County; and

WHEREAS, the County has now adopted a resolution adopting Articles of Incorporation to form the Woodbury County Law Enforcement Center Authority and has authorized the execution of the Articles of Incorporation: and

WHEREAS, Iowa Code Section 346.27 requires that the Authority be directed and governed by a Board of Commissioners of three members, one to be elected by the Board of Supervisors of the County from the area outside the county seat, one to be elected by the City Council of the City from the area inside the City, and one to be elected by the joint action of the Board of Supervisors of the County and the City Council of the City; and

WHEREAS, the County's appointee Rocky De Witt has resigned from the Woodbury County Board of Supervisors and per the County's Resolution #13,371 his appointment is vacant; and

WHEREAS, the County hereby intends to appoint a Commissioner to the Board of Commissioners of the Authority to serve the remainder of the current six-year term; and

WHEREAS, the following action is now considered to be in the best interests of the County and residents thereof.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF  
SUPERVISORS OF WOODBURY COUNTY, STATE OF IOWA:

Section 1. Appointment. Rocky De Witt, currently residing outside of the City of Sioux City, Iowa, is hereby appointed to serve as the County's Commissioner on the Woodbury County Law Enforcement Authority's Board of Commissioners for a remainder of the current six-year term ending December 31, 2027.



Section 2. Compensation. The Commissioner shall not receive compensation in any actual and necessary expenditures in connection with the performance of the Commissioner's duties.

Section 3. What constitutes vacancy. The appointment shall be vacant if the Commissioner ceases to reside in the area outside of the county seat of Woodbury County, Iowa (i.e. Sioux City, Iowa).

If a vacancy occurs, the Woodbury County Board of Supervisors shall fill the vacancy and the person filling such vacancy shall serve out the remainder of the term of the prior Commissioner.

PASSED AND APPROVED this 10<sup>th</sup> day of January 2023.




---

Matthew A. Ung

Chairperson, Board of Supervisors

ATTEST:



---

Patrick F. Gill

County Auditor