

THE COUNTY AUDITOR'S SIGNATURE CERTIFIES THAT
THIS RESOLUTION HAS BEEN FORMALLY APPROVED BY
THE BOARD OF SUPERVISORS ON _____
DATE _____

SCOTT COUNTY AUDITOR

R E S O L U T I O N

SCOTT COUNTY BOARD OF SUPERVISORS
September 29, 2011

APPROVAL OF ROAD VACATION OF A PORTION OF SCOTT COUNTY ROAD COMMONLY
KNOWN AS 300TH STREET NORTH OF LONG GROVE.

WHEREAS, The Scott County Board of Supervisors held a hearing
on the proposed vacation of a portion of Scott County
Secondary Road, described as follows:

Beginning at a point which is the Northeast corner of Section 14,
Township 80, North of Range 3, East of the 5th P.M. thence South 40 feet on the
East line of said Section 14, thence West 160 rods parallel with the North line of
said Section 14, thence North 40 feet, thence East on the North line of said
Section 14, 160 rods to the place of beginning.

Also, beginning at a point on the North line of Section 14, Township 80, North of
Range 3 East of the 5th P.M. which is the intersection between the Northeast ¼
and the Northwest ¼ of said Section 14, thence South 40 feet, thence West 80
rods parallel with the North line of said Section 14, thence North 40 feet, thence
East 80 rods on the North line of said Section 14 to the place of beginning.

WHEREAS, An order pertaining to the matter of vacating a
portion of 300th Street, has been issued by the
Scott County Board of Supervisors. THEREFORE,

BE IT RESOLVED by the Scott County Board of Supervisors that the
order is approved and by this reference incorporated herein and that
the above described section of road be ordered vacated, subject to
existing utility easements.

Tom Sunderbruch, Chairman
Board of Supervisors

SCOTT COUNTY BOARD OF SUPERVISORS

ORDER PERTAINING TO THE MATTER OF THE VACATION OF 300th STREET

On September 15, 2011, the Scott County Board of Supervisors (hereinafter “the Board”) met pursuant to Iowa Code §306.11 for hearing regarding the proposed vacation of a public roadway, Road #639, commonly known as 300th Street. All members of the Board were present for the hearing. The Board is satisfied that proper notice of hearing has been served in accordance with Iowa Code §306.12. After hearing, the Board makes the following findings and enters this order:

Findings: 300th Street is a service system “B” road that runs east from 162nd Avenue approximately ½ to ¾ of a mile. Scott County’s interest in the roadway is by deed. The roadway serves as access to farm fields.

Road #639, commonly known as 300th Street, is legally described as:

Beginning at a point which is the Northeast corner of Section 14, Township 80, North of Range 3, East of the 5th P.M. thence South 40 feet on the East line of said Section 14, thence West 160 rods parallel with the North line of said Section 14, thence North 40 feet, thence East on the North line of said Section 14, 160 rods to the place of beginning.

Also, beginning at a point on the North line of Section 14, Township 80, North of Range 3 East of the 5th P.M. which is the intersection between the Northeast ¼ and the Northwest ¼ of said Section 14, thence South 40 feet, thence West 80 rods parallel with the North line of said Section 14, thence North 40 feet, thence East 80 rods on the North line of said Section 14 to the place of beginning.

The Board received written notice of objection to the vacation and claims for damages from property owners Scott Madden, Edward J. Noel, and Reid Grunwald through his attorney, Adam Blank. Mr. Noel and Mr. Grunwald were present at the hearing and given opportunity to be heard along with neighboring property owners, including Dan Tuftee. Mr. Madden and attorney Blank were not present at the hearing.

The Board informed the property owners and claimants that it is the Board's intention, should 300th Street be vacated, that an easement for ingress and egress will attach to the vacated property to permit all abutting property owners the ability to continue to reach their farm fields. It is also the Board's intention to offer to sell the property to the abutting landowners.

While some of the claimants had additional concerns, those of Mr. Noel and Mr. Madden were access to the south ends of their farm fields from 300th Street. The Board notes that land to the north of their fields is also owned by them. This land abuts on 305th Street and both Mr. Noel and Mr. Madden have access to their fields across land they already own. Mr. Madden does, however, have one section of his south field that is cut-off from the north field by a creek. While 300th Street does not sever his property, it is the most convenient access to that southeast corner of property that is cut-off by the creek. The Board finds that this property would still have adequate access to that portion through an easement in place of 300th Street.

Mr. Noel also stated he may someday decide to build a subdivision on the south property and would need the access of 300th Street. Planning and Zoning Director Tim Huey informed the Board that such a subdivision is not permitted in the Agricultural Preservation district in which Mr. Noel's property is located. The Board finds that building a subdivision is not permitted and doing so in the future is speculative at best.

The main complaint to the vacation of 300th Street is that of Reid Grunwald. It is Mr. Grunwald's intention to build a farmhouse on the farmland he owns, such farm house is exempt under Iowa Code 335.2 from County Zoning Codes and under Iowa Code 331.304(3)(b) from County Building Codes. As 300th Street exists, as a service system "B" road with minimum maintenance, it is not serviceable as a road to an occupied homestead. A substantial amount of upgrading to the road, along with an upgraded maintenance schedule, would be required before it

would serve as an adequate road to a home. Simply put, the expense of upgrading this road and maintaining it in the future so that it can serve as a driveway to one resident is not fair to the other taxpayers in the county. The expense of doing so should fall on the homeowner.

The Board recognizes that, although this is a low maintenance road, there is still expense involved to the taxpayers of Scott County in maintaining it. Over the past year, there have been an increasing number of calls for additional snow plowing on this road. The Board is of the opinion that the general public is not served by continuing to keep this section of roadway open to the public. It also appears to the Board that it is in the general interest of economy and public welfare to vacate the roadway commonly known as 300th Street. Further, the Board finds that those farm fields that are now accessed by 300th Street can just as easily be accessed by an easement for ingress and egress.

Mr. Madden, Mr. Noel, and Mr. Grunwald submitted letters claiming damages if 300th Street is vacated. None of the claimants offered any proof of damages at the hearing. In fact, the issue of damages was not brought up by the claimants and a dollar amount claimed as damages was never mentioned at hearing. There are no homesteads on the properties currently served by 300th Street. The claimants have not set forth any evidence that would permit a claim as defined in Iowa Code §306.14.

Order: The Scott County Board of Supervisors does hereby vacate and close Road #639, commonly known as 300th Street, located in Scott County, Iowa. There has been no showing of damages by property owners Scott Madden, Edward J. Noel, and Reid Grunwald at hearing, therefore, no damages to the claimants is allowed.

A copy of this Order shall be filed with the Scott County Auditor.

Dated this _____ day of _____, 2011.

Tom Sunderbruch, Chair of the Board
Scott County Board of Supervisor

ATTEST: Roxanna Moritz
Scott County Auditor