



BOARD MEETING

August 10, 2011 - 5:30 p.m.

Fort Des Moines Park
Shelter #2
7200 SE 5th Street
Des Moines, Iowa

AGENDA

The information identified on this agenda may be obtained in accessible formats by qualified persons with a disability. To receive information or to request an accommodation to participate in a meeting, hearing, service, program or activity conducted by this office, contact the Polk County Conservation Board Office, 11407 NW Jester Park Drive, Granger, 515-323-5300.

1) Opening Items

- a) Roll Call
- b) Action on the Minutes of the Previous Meeting(s)

2) Consent Agenda Items

Note: These are routine items and will be enacted by one roll call vote without separate discussion unless a Board Member, PCCB employee or member of the public requests an item be removed to be considered separately. Please notify a PCCB Member to have an item removed.

- a) **Action on Bill List:** approve the PCCB/Enterprise Fund June 2011 and July 2011 expenditures.
- b) **Seasonal Employees:** approve the presented list of individuals for seasonal employment with Polk County Conservation.
- c) **Grant Applications:** restates their support for the two grants (1 and 2) that were recently resubmitted to a different funding source, approval for staff sending a letter of intent for grant application #3; states their support and commitment for staff to apply for grants 3, 4, and 5; and that the Board further authorizes the Chair to sign documents stating the Board's support as required in the grant applications.
- d) **Memorandum of Understanding, Global Spectrum:** authorize PCCB Director to sign a Memorandum Of Understanding (MOU) with Global Spectrum and the money from this MOU be used to supplement the Natural Resources unit with additional seasonal staff and supplies.
- e) **Employee Salary Adjustment:** approve a salary adjustment not to exceed 5% of her current salary or the approved maximum salary for Carrie Spain.

3) Swearing in of PCCB Rangers

4) Easter Lake Park, Improvements Update

5) Easter Lake Park, Spillway Repairs

6) PCCB Purchasing Policy

7) Jester Park Golf Course, Advisory Committee

8) Other Power Driven Mobility Devices Used on PCCB Managed Land

9) Jester Park, Cabins



BOARD MEETING

- 10) **FEMA Expenditures**
- 11) **Chichaqua Bottoms Greenbelt, Haying**

PUBLIC COMMENTS
STAFF REPORTS
FINANCIAL REPORTS
DISCUSSION & REMARKS
ADJOURNMENT

1) Opening Items

a) Roll Call

b) Action on the Minutes of the Previous Meeting(s)

The Polk County Conservation Board met in regular session on June 8, 2011 and July 13, 2011. Minutes for the meetings are attached.

2) Consent Agenda Items

a) Action on the Bill List

June 2011 and July 2011 expenditures have been e-mailed to the Board for review.

STAFF RECOMMENDATION: That the Board approve the PCCB/Enterprise Fund June 2011 and July 2011 expenditures.

b) Seasonal Employees

The following is a list of individuals hired for seasonal employment with Polk County Conservation. According to the PCCB's Bylaws their employment is to have Board approval.

<u>Hire date</u>	<u>Name</u>	<u>Position</u>	<u>Area</u>	<u>Hourly rate</u>
June 2011	Ron Naeve	Conservation Laborer 1	EL	\$10.41
July 2011	Andrew Davis	Conservation Laborer 1	CBG	\$10.41
August 2011	Morgan Weaver	Stable Laborer 1	EC	\$ 9.25

STAFF RECOMMENDATION: That the Board approve the presented list of individuals for seasonal employment with Polk County Conservation.

c) Grant Applications

PCC staff applied for two grants through the State Recreational Trail Grant Program. Those two Trails were for (1) the abandoned UP rail line between Bondurant and Des Moines and (2) the first phase of the Easter Lake Trail.

We are also planning additional grant applications for later this year. Those grants will be for a (3) Regional Transportation Enhancement Grant for the UP line and (4) a State Recreational Trail Grant for the UP line (The current application to the State Recreation Trail grant (1) will not fully fund the purchase and we don't know if we will get the TE grant), and for a (5) REAP grant to fund the purchase of the property at Chichaqua currently owned by the Des Moines Airport Authority.

The Board had previously listed its approval for the match monies required for the first two trail grants when previous unsuccessful grant applications were submitted. Staff requests a current motion that recognizes the Boards commitment to the current active applications.

Trail #3 requires a letter of intent to apply in September and will need a motion of support for the application due in November while number #4 will require a motion of support for an application due in October.

Grant #5 will require a motion of support for the application due August 15th.

- Loren Lown
Natural Resources Specialist

STAFF RECOMMENDATION: That the Board restates their support for the two grants (1 and 2) that were recently resubmitted to a different funding source, approval for staff sending a letter of intent for grant application #3; states their support and commitment for staff to apply for grants 3, 4, and 5; and that the Board further authorizes the Chair to sign documents stating the Boards support as required in the grant applications

d) Memorandum of Understanding, Global Spectrum

PCC has been assisting other Polk County departments in the maintenance of their trees for a number of years. The original proposal (circa 1990's) allowed PCC staff to provide the necessary expertise and labor to assist in the maintenance of trees that were beyond the capability of staff in other Polk County departments.

This agreement provided an opportunity to assist other departments which in turn have reciprocated. These relationships have proved to be very beneficial over the years for both parties.

We have now been requested to assist in the maintenance of trees at the Iowa Events Center Complex. These trees still owned by Polk County are a considerable investment that deserves proper care. PCC is very familiar with the complexities of working in this environment and has a vested interest in the maintenance because we installed a majority of the plant material in this complex.

A copy of the Memorandum of Understanding is attached.

- Mark A. Dungan, Natural Resources
Manager

STAFF RECOMMENDATION: That the Board authorize PCCB Director to sign a Memorandum Of Understanding (MOU) with Global Spectrum and the money from this MOU be used to supplement the Natural Resources unit with additional seasonal staff and supplies.

e) Employee Salary Adjustment

According to the PCCB Employee Manual the Board is to approve salary adjustments for employees classified as management/supervisory. Salary adjustments shall not exceed 5% of the employee's current salary or the approved maximum salary. The following employee is due for their annual performance appraisal:

Carrie Spain, Equestrian Center Manager (current salary - \$59,201.76)

STAFF RECOMMENDATION: That the Board approve a salary adjustment not to exceed 5% of her current salary or the approved maximum salary for Carrie Spain.

3) Swearing In Of PCCB Rangers

According to the Code of Iowa (63.10 Other Officers) PCCB ranger staff are to be sworn into duty when hired as Certified Peace Officers of the State of Iowa. This process has been overlooked and PCCB ranger staff will be present at the meeting to be sworn into duty.

4) Easter Lake Park, Improvements Update

In 2007 Polk County Conservation (PCC) was directed by the Polk County Board of Supervisors (BOS) to start work on various improvements on the Easter Lake Master Plan. The funds made available to PCC totaled \$485,056. Various projects were outlined and budgeted accordingly. All projects have been completed except for finishing up the Nature Trail Improvements and the associated way finding and boundary signage that goes with the trail. The balance of the remaining funds total approximately \$104,000.

Recently the BOS Chairman authorized the PCC Director to expend the remaining funds on alternate projects. Previously PCC obtained input from the Easter Lake Neighborhood Association who was supportive of spending the remaining funds as proposed by PCC. The projects that were deemed the most necessary were work on the spillway and control gate that would cost approximately \$22,000 and the remaining \$82,000 will be used for parking lot improvements at the beach and spillway.

STAFF RECOMMENDATION: That the Board approves allocating the balance of the Easter Lake improvement dollars, estimated at \$104,000.00, to work on the spillway and control gate at an approximate cost of \$22,000 and parking lot improvements at the beach and spillway at an approximate cost of \$82,000.

5) Easter Lake Park, Spillway Repairs

The Polk County Conservation Board previously approved staff completing five FEMA Project Worksheets (PW) in the upcoming calendar year. One of those worksheets PCC-04-D was to complete permanent repair work to water control facilities which includes the Easter Lake Spillway. Polk County Conservation is purposing to leverage funds from FEMA and utilize funds from the Easter Lake Improvement Dollars to enhance the spillway repair.

Staff believes by using Class D rip-rap instead of a vegetative cover along the spillway banks they can achieve a long term solution to the erosion problem that has plagued this area. In addition, this work will address and solve issues brought up in the 2007 Easter Lake Dam Report completed by the Iowa DNR.

Staff has solicited bids from local contractors and those bids are shown below. **Note:** Bids that were received were based upon placing 25 load of rip-rap only. Additional loads will need additional compensation.

Company	Bid
RW Excavating and Dozing	\$ 4,330.00
Kinsey Excavating	\$ 6,600.00
Bailey Bailey's Excavating, Inc.	\$ 6,250.00
Brown's Dirt Work	\$15,400.00

- Mark A. Dungan, Natural Resources Manager

STAFF RECOMMENDATION: That the Board approves hiring RW Excavating and Dozing to complete the work at Easter Lake at a cost of \$4,330 and authorizes the director to work with the RW Excavating to negotiate a price if additional work is needed.

6) PCCB Purchasing Policy

Attached is an updated "Draft" of the proposed Purchasing Policy for PCCB for your review. Following review of the proposed policy by supervisory staff, revisions were made with the most significant change being a change to the "amount levels" for supplies and equipment.

The policy has been developed to serve as a guide to employees when making purchases.

Staff continues to work with Polk County Attorney's Office and Polk County General Services while developing this policy. Any additional revisions will be identified at the meeting.

A recommendation will be presented at the meeting.

7) Jester Park Golf Course, Advisory Committee

Barry Vosler had served on the Golf Advisory Committee as liaison to the Board. The golf course management agreement states that at least one member designated by the PCCB will serve on the advisory committee as Board liaison.

The Board is asked to appoint a new member(s) to serve on the Golf Advisory Committee as Board liaison.

8) Other Power Driven Mobility Devices Used on PCCB Managed Lands

Recently, the Department of Justice (DOJ) issued new rules for the use of vehicles other than those previously considered historically as an aid in mobility. This interpretation of the ADA is problematic for agencies that manage natural areas and trails. (See accompanying background information, trail assessment form, and final trail assessments)

The new DOJ rules are quite simple. There is a specific list of assessment factors under which are to be used to determine if Other Power Driven Mobility Devices (OPDMD) will be prohibited or permitted.

Staff has devoted considerable effort to understand the scope of the new rules and what effects they will have on our managed properties. We have done an assessment of each trail within the system based on the DOJ assessment factors to determine the potential for the use of OPDMD's,

determined which devices could be used without jeopardizing safety or natural and cultural resources, and researched how others are addressing the issue.

We are one of the first in the state to address this potential problem and have been asked by other agencies to share our research and recommendations to assist others in developing their own policies.

Staff has prepared a new policy that addresses the use of OPDMD's on PCCB managed lands. Without the adoption of an approved policy addressing this subject, it is assumed that all vehicles will be considered as OPDMD's under the new rules and allowed on our parks and trails as of March 15, 2011. A copy of the proposed policy is attached.

STAFF RECOMMENDATION: That the Board approves the Other Power Driven Mobility Devices Used on PCCB Managed Lands Policy based on staff assessment and direct staff to implement that policy.

9) Jester Park, Cabins

Staff will discuss current funding for this project and the possibility of the need for additional funds.

Board action may be necessary.

10) FEMA Expenditures

Due to the flood in 2010 PCC used several hours of seasonal help staff to perform FEMA related work. The dollar amount reimbursed by FEMA as eligible expenses was \$42,826. The County has agreed to appropriate these funds in PCC's budget for our use to help in the restoration of flood damaged facilities and/or properties that FEMA would not approve for reimbursement.

Polk County has also indicated that they would consider funding PCCB for additional repairs not covered by FEMA to avoid future repair needs if it floods again. As we learn what will be covered by FEMA we will have a better handle on the additional dollars needed and will present them to Polk County at that time.

PCCB will be undertaking several repair & improvement projects that are in response to the 2010 flooding. A majority of these expenses will be reimbursed by FEMA. Polk County has agreed to cover their share (15%) as well as additional costs that may arise as mentioned above.

STAFF RECOMMENDATION: That the Board grant the Director the authority to approve the contracts and purchases required to complete the FEMA related projects subject to the funds available thru FEMA or provided by the County. If additional PCCB funds are required we will obtain prior approval from the Board.

11) Chichaqua Bottoms Greenbelt, Haying

PCC Natural Resources determines on a year to year basis which areas of Chichaqua Bottoms Greenbelt would benefit from the mechanical harvest of hay as a management practice.

That determination is based on the encroachment of woody plants, density of weeds, and the difficulty (dangerous locations) of applying prescribed fire.

Staff prepared documents detailing the parcels (3) designated for hay harvest. Those bids were returned on July 29th.

We received only two bids. Paul Overturff bid on all three units and Bruce Carney bid on only Unit #2. The two bidders had identical bids of \$10 per ton of hay harvested on unit #2.

We sought advice from Polk County Central Purchasing as to how to proceed with the award. They have suggested that it is proper to award two of the units to Overturff and one to Carney. Carney is a neighbor to Chichaqua and a cooperater with us on the grazing project. His operation is smaller and Unit #2 is all the hay he would need.

STAFF RECOMMENDATION: That the Board directs staff to enter a contract with Paul Overturff for Units 1 and 3 and with Bruce Carney for Unit 2 for the harvest of hay from selected areas of Chichaqua Bottoms Greenbelt and that the Board further instructs staff to request the proper insurance documents and notify the two parties that they may begin harvest once those documents are received.

PROCEEDINGS OF THE POLK COUNTY CONSERVATION BOARD

The Polk County Conservation Board met in regular session on Wednesday, June 8, 2011. The meeting was called to order at 5:31 p.m.

#1a – Roll Call

Board Present: Levis, Cataldo, McEnany, Smith
Board Absent: Hadden

#1b – Action on the Minutes of the Previous Meeting(s)

**IT WAS MOVED BY LEVIS THAT THE POLK COUNTY CONSERVATION BOARD SHALL APPROVE THE MAY 11, 2011 MEETING MINUTES AS WRITTEN.
VOTE YEA: LEVIS, CATALDO, MCENANY, SMITH**

#2 – Consent Agenda Item

IT WAS MOVED BY CATALDO THAT THE POLK COUNTY CONSERVATION BOARD APPROVE THE FOLLOWING CONSENT AGENDA ITEMS:

- A) PCCB/ENTERPRISE FUND MAY 2011 EXPENDITURES;**
 - B) THE PRESENTED LIST OF INDIVIDUALS FOR SEASONAL EMPLOYMENT WITH POLK COUNTY CONSERVATION;**
 - C) SALARY INCREASE FOR FULL-TIME AND PERMANENT PART-TIME STAFF, PER ACTIONS TAKEN BY THE POLK COUNTY BOARD OF SUPERVISORS FOR FISCAL YEAR 2011-2012, EFFECTIVE JULY 1, 2011; AND FURTHER EXCLUDE THE DIRECTOR FROM RECEIVING THIS SALARY INCREASE;**
 - D) THE FY 2009-10 PCCB ANNUAL REPORT;**
 - E-1) PURCHASE OF A JOHN DEERE XUV 625i GATOR FROM VAN WALL GROUP FOR A PRICE NOT TO EXCEED \$12,617.28;**
 - E-2) PURCHASE OF A FORD F-350 CAB/CHASSIS TRUCK AND SERVICE BODY FROM CHARLES GABUS FORD NOT TO EXCEED THE PURCHASE PRICE OF \$35,764;**
 - E-3) PURCHASE OF A JOHN DEERE 5095M TRACTOR FROM VAN WALL GROUP NOT TO EXCEED THE PURCHASE PRICE OF \$47,206.68.**
- VOTE YEA: MCENANY, SMITH, CATALDO, LEVIS, MCENANY**

#6 – Insurance

Bob Cataldo, Polk County Risk Manager, appeared before the Board on the PCCB being included under the County's master insurance program.

IT WAS MOVED BY MCENANY THAT THE POLK COUNTY CONSERVATION BOARD SHALL APPROVE CANCELLING PCCB'S CURRENT POLICY WITH JESTER INSURANCE SERVICES, INC. AND BEING INCLUDED UNDER THE COUNTY'S MASTER INSURANCE PROGRAM ADMINISTERED BY RISK MANAGEMENT AND REPROGRAM THE COST SAVINGS TO OTHER PRIORITY NEEDS.

VOTE YEA: CATALDO, MCENANY, SMITH, LEVIS

#3 – Advisory Committee Presentation

Kami Rankin, Community Outreach Supervisor, gave a presentation on PCCB Advisory Committees.

Tiffany Wilson, 2005 E 27th Street, Des Moines; (member of the PCCB Advisory Committee), appeared before the Board on the Advisory Committees.

#4 – Equipment Purchase: Utility Vehicle

IT WAS MOVED BY MCENANY THAT THE POLK COUNTY CONSERVATION BOARD SHALL APPROVE PURCHASE OF A JOHN DEERE XUV 625i GATOR FROM THE VAN WALL GROUP FOR A PRICE NOT TO EXCEED \$11,906.28.

VOTE YEA: MCENANY, LEVIS, CATALDO, SMITH

#5 – Union Pacific Line: STP TE Grant

IT WAS MOVED BY LEVIS THAT THE POLK COUNTY CONSERVATION BOARD SHALL APPROVE STAFF APPLYING FOR THE STP TE GRANT FOR PURCHASE OF THE ABANDONED UNION PACIFIC LINE BETWEEN BONDURANT AND THE NORTH SIDE OF DES MOINES; AND AUTHORIZES THE PCCB CHAIR TO SIGN THE ACCOMPANYING RESOLUTION REQUIRED FOR THAT GRANT.

VOTE YEA: LEVIS, SMITH, MCENANY, CATALDO

#7 – Public Hearings

a. Chichaqua Bottoms Greenbelt, Change of Park Rules on Designated Areas

Chair Smith declared the meeting to be a public hearing on the change of the park rule at Chichaqua Bottoms Greenbelt that prohibits dogs off-leash from March 15 through July 15 at the two sites at Chichaqua designated as dog trialing and training.

As there were no comments, Chair Smith closed the public hearing.

IT WAS MOVED BY MCENANY THAT THE POLK COUNTY CONSERVATION BOARD SHALL APPROVE SECTION 16 OF THE POLK COUNTY CONSERVATION BOARD RULES AND REGULATIONS NOT APPLYING TO THE TWO NEW AREAS DESIGNATED AS DOG TRIALING AND TRAINING AT THE CHICHAQUA BOTTOMS GREENBELT.

VOTE YEA: CATALDO, MCENANY, SMITH, LEVIS

b. Beaver Creek Greenbelt, Change to Area Use Rules

Chair Smith declared the meeting to be a public hearing on changing the rule at the Beaver Creek Greenbelt that restricts public access during nesting season to protect herons.

As there were no comments, Chair Smith closed the public hearing.

IT WAS MOVED BY CATALDO THAT THE POLK COUNTY CONSERVATION BOARD SHALL APPROVE THAT THERE IS NO LONGER A NEED TO RESTRICT PUBLIC ACCESS FOR THE PURPOSE OF PROTECTING THE HERONRY AT THE BEAVER CREEK GREENBELT AND THE BOARD FURTHER INSTRUCTS STAFF TO SIGN THE AREA AS OPEN ON A YEARLONG BASIS UNTIL SUCH TIME AS A HERONRY IS REESTABLISHED.

VOTE YEA: SMITH, LEVIS, CATALDO, MCENANY

c. Easter Lake Park, Sewer Easement

Chair Smith declared the meeting to be a public hearing on granting a sewer easement to Wastewater Reclamation Authority at the PCCB's Easter Lake Park as requested by Polk County Public Works.

As there were no comments, Chair Smith closed the public hearing.

IT WAS MOVED BY LEVIS THAT THE POLK COUNTY CONSERVATION BOARD SHALL APPROVE THAT PROPERTY AS DESIGNATED WITHIN EASTER LAKE PARK IS NO LONGER NECESSARY FOR PARK PURPOSES OR WILL NOT INTERFERE WITH PARK PURPOSES AND FORWARDING THE SAME ON TO THE BOARD OF SUPERVISORS FOR THE CONVEYANCE OF EASEMENT TO

**WASTEWATER RECLAMATION FOR THE PURPOSE OF INSTALLING A SEWER
LINE ON PCCB MANAGED PROPERTY.
VOTE YEA: LEVIS, SMITH, MCENANY, CATALDO**

Discussion

- Parker reported that presentation given to BOS that morning on the Jester Park Golf Course.
- July Meeting: held at Fort Des Moines Park
- Parker updated the Board on the Yeader Creek study taking place.

ADJOURNMENT

The meeting was adjourned at 6:36 p.m.

Prepared by: Cindy Lentz

PROCEEDINGS OF THE POLK COUNTY CONSERVATION BOARD

The Polk County Conservation Board met in regular session on Wednesday, July 13, 2011. The meeting was called to order at 5:30 p.m.

#1a – Roll Call

Board Present: Levis

Board Absent: Hadden, Smith, McEnany, Cataldo

Due to lack of quorum, no business was conducted.

Adjournment

Meeting adjourned at 5:32 p.m.

Prepared by: Cindy Lentz

**Memorandum of Understanding
between
Global Spectrum
and
Polk County Conservation Board**

THIS AGREEMENT by and between Global Spectrum located at Iowa Events Center, 730 3rd Street, Des Moines, IA. 50309, hereinafter known as “Grantee” and the Polk County Conservation Board, located at Jester Park, Granger, Iowa 50109, hereinafter known as the “PCCB”, is effective beginning July 1, 2011 through June 30, 2012.

WHEREAS, it is the mutual desire of the Grantee and the PCCB to utilize the PCCB’s Natural Resources Staff to perform tree/ground maintenance at the Iowa Event Center Complex as requested by the Grantee. Both parties believe that this project will be to their mutual benefit and to the benefit of the people of Iowa.

I. Grantee agrees to:

- A. Provide a contact person to coordinate the timing and requests for tree maintenance per this Agreement.**

Contact Personnel involved include:

**Bill Shaw
Director of Operations
Wells Fargo Arena | Iowa Events Center
515-564-8022 Office
515-564-8003 Fax
bshaw@iowaeventscenter.com**

- B. Acknowledges the support of the PCCB in the maintenance of their trees/grounds.**
- C. Agrees to pay the sum of \$50 an hour for (1) rain garden specialist to perform spraying and weeding of the said areas.**
- D. Agrees to pay the sum of \$100 an hour for (2 seasonal and 1 full-time employee) time spent performing tree maintenance of the said areas.**

II. The PCCB agrees to:

- A. Provide staff to perform said tree/ground maintenance services.**
- B. Not to exceed the yearly funding as set aside by the Grantee for performing said duties (\$ 5, 000 covering period from July 1, 2011 to June 30, 2012).**
- C. Perform all maintenance costs associated with equipment failures that occur while performing tree maintenance services on Grantee’s property.**

D. Follow specifications in the "Tree Care Proposal for Iowa Events Center" a document created by PCCB.

III. It is mutually understood and agreed that:

To the extent permitted by the Iowa Constitution and the laws of the State of Iowa, both parties to this agreement shall hold harmless and indemnify the other party from any and all claims, demands, losses, liabilities or legal expenses which might rise on account of injury to any person or damage to any property occurring in connection with their respective activities to perform the duties covered in this Agreement. The PCCB shall not assume any responsibility for the acts or omissions of the Grantee or its agents. The Grantee shall not assume responsibility for the acts or omissions of the PCCB or its agents.

- A. Payment and billing will occur in a timely manner.
- B. Global Spectrum is not obligated by this Memorandum of Understanding to any minimum charge.
- C. This Agreement will be in force until either party chooses to rescind or review the Agreement. To rescind or review this Agreement, a written notice will be given 30 days in advance of rescission or review.

In Witness Whereof parties have signed their names below:

Polk County Conservation Board

Global Spectrum

By _____
Dennis Parker Date
Director

By _____
Bill Shaw Date
Director of Operations

**PURCHASING POLICY
POLK COUNTY CONSERVATION BOARD**

PURPOSE

The purpose of this directive is to outline guidelines for employees for purchasing supplies, services, equipment, and for public improvements.

APPLICABILITY

This directive is applicable to any employee who is authorized to purchase supplies, services, equipment and public improvements for Polk County Conservation Board (Board) and complies with or exceeds requirements of State Code Statutes.

DEFINITIONS

Authorization to Spend Funds (ATSF) Form: Form identifies purchase; budget coding; how purchase fits within existing PCCB plans/ and documents approvals.

Supplies: Supplies are consumable goods purchased to maintain operations on an annual basis.

Services/Contracts/Agreements: Services are work done or duty performed by outside source and Contracts/Agreements are the written documents that describe the terms for supplying services.

Equipment Purchases: Goods purchased for some purpose; i.e., to do repair or maintenance work, transportation, etc.)

Public Improvements: means a building or construction work which is constructed under the control of a governmental entity and is paid for in whole or in part with funds of the governmental entity, including a building or improvement constructed or operated jointly with any other public or private agency, emergency work or repair or maintenance work performed by employees of a governmental entity.

Notice to Bidders: Notice of time and place for filing sealed proposal; time and place for opening and consideration; general nature of the public improvement; general timeframe for start and completion; bid bond requirements; and any other information deemed pertinent (insurance requirements, pre-bid conference, etc.)

Invitation to Bid (ITB): Invitation to vendors, through a bidding process, to submit a proposal on a specific project to be realized or product or service to be furnished.

Request for Proposal (RFP): Document that is posted to bring out bids from potential vendors for a product or service. An RFP is part of an organization's procurement process, which begins with an assessment of needs and ends with delivery and/or support of the finished product or service. RFP is typically used when competitive bidding is either not practicable or not advantageous to PCCB.

Request for Qualification (RFQ): RFQ is issued when exploring or seeking to retain the services of an architect, engineer, or other professional. These fees are not statutorily part of the competitive bid/quote process, however, may be used.

DOCUMENTATION REQUIREMENTS

- Copies of quotes/bids shall be scanned and maintained for three years. This information shall be submitted to the Administration office for scanning.
- Documentation of rationale used for selections and submit with ATSF.
- Grant application to Accountant
- Grant Approval Notices (Letters of Award) to Accountant

GRANTS

When working with grants all of the requirements identified in this policy apply unless the conditions outlined in the grant are more stringent in which case those conditions shall apply.

IOWA PREFERENCE

By virtue of statutory authority, preference will be given to products and provisions grown and produced within the State of Iowa.

At the discretion of the Polk County Conservation Board, preference may be given to Polk County vendors who produce goods or maintain an office in Polk County. Notification of this preference will be included in quote/bid solicitation.

Further, it shall be policy to actively solicit and seek out local vendors of goods and services and to encourage local vendors to stock and supply Iowa-made products.

FEDERAL, STATE, AND COUNTY CONTRACTS

Existing contracts available through current Federal, State or County government agencies may be considered, if competitive.

SPLIT PURCHASING (IOWA CODE, CHAPTER 26)

Purchases are not to be broken into smaller quantities to avoid following purchasing guidelines.

SOLE SOURCE PURCHASE

A purchase may be awarded without competition when the Director determines after a good faith review of available sources that there is only one source for the required goods or services. The basis of the determination shall be documented and maintained on file.

EMERGENCIES

In emergency situations (defined as immediate public health and welfare) the Director may spend up to \$20,000 as necessary to meet the needs of the emergency within 48 hours and inform the Conservation Board of any emergency spending as soon as possible.

Emergency expenses of \$5,000 to \$20,000 shall be reviewed by PCCB Accountant.

DISPOSAL OF COUNTY PROPERTY

Items considered for disposal shall be turned into the unit manager of the unit. Unit manager shall work with appropriate staff to determine if item shall be disposed. If it is determined the item shall be disposed of, two things shall occur:

1. Unit manager shall work with appropriate staff to determine which method of disposal shall be used to dispose of the item. Methods of disposal are:
 - a. County Auction (Director and Board approval required)
 - b. Donation (Director and Board approval required)
 - c. Discarded if no value to Conservation (Accountant or Director approval required)
2. Notify Administrative Supervisor of item to be disposed so that item can be removed from inventory and method of disposal recorded.

SUPPLIES

Amount Levels	Process #	Prior Approval Requirements			
		Unit Manager	Accountant or Administrative Supervisor	Director	Board
\$1,000 or Less	S-1	X			
\$1,001 - \$4,999	S-2	X	X		
\$5,000 - 10,000	S-3	X	X	X	
Greater than \$10,000	S-4	X	X	X	X

The following are guidelines for the purchase of supplies:

#S-1: \$1,000 OR LESS

- No bidding procedure is required; however, compare prices as a careful consumer..
- Purchase order shall be obtained prior to making purchase.
- It is the employee's responsibility to get unit manager's approval prior to obtaining purchase order along with the proper expense coding.
- No approval is required by the Director or the Board.

Examples: printer cartridges; general office supplies; hardware; filters; items for cameras; radios; tires; bulk orders for cleaning supplies; ballast

#S-2: \$1,001 - \$4,999

- No formal bidding procedure is required; however, compare prices as a careful consumer.
- Request for purchase shall be made to the Accountant or Administrative Supervisor a minimum of one day prior to purchase.
- Accountant or Administrative Supervisor will complete an Authorization To Spend Funds Form (ATSF) and verify unit manager's approval if unit manager is not employee making the request. (Sample ATSF form attached)
- Accountant or Administrative Supervisor shall generate a purchase order number (PO #) for item and notify employee of the PO #. PO # shall be recorded on ATSF and a copy of ATSF shall be provided to unit manager.
- No approval is required by the Director or the Board.

Examples: ballast, tires, picnic table boards

#S-3: \$5,000 - \$10,000

- Three quotes are required, and when possible and reasonable they should be written quotes. Bid requests shall be in written form, either by letter or email, and it is the bidder's responsibility to quote according to the request so bid request information needs to be specific.
- Request for purchase shall be made to the Accountant or Administrative Supervisor a minimum of one week prior to purchase since Director's approval is required. Unit manager shall submit an ATSF when making a request.
- Upon approval, Accountant or Administrative Supervisor shall generate a PO # and record PO # on ATSF. A copy of ATSF shall be provided to unit manager.
- Quotes/bids shall be submitted to Administration office for scanning.

Examples: seed; chemicals; rock

#S-4: Greater than \$10,000

- To get a particular quality or feature(s) for a product, use an Invitation to Bid. This is not required but is recommended. Director shall make the determination.

- Obtaining three written quotes is required. Bid requests shall be in written form, either by letter or email, and it is the bidder's responsibility to quote according to the request so bid request information needs to be specific.
- Request for purchase shall be made to the Accountant or Administrative Supervisor a minimum of two weeks prior to purchase since Director and Board approval are required. Unit manager shall submit an ATSF when making a request.
- If Director approves, purchase will be placed on agenda of Board's next monthly meeting. Unit manager or designee will prepare written information for the monthly Board packet at least one week prior to the date of the Board meeting.
- Upon approval by the Board, Accountant or Administrative Supervisor will generate a PO # for the purchase and record PO # on ATSF. A copy of ATSF shall be provided to requesting unit manager.
- Quotes/bids shall be submitted to Administration office for scanning.

Examples: playground softfall material

SERVICES/CONTRACTS-AGREEMENTS (INCLUDES PROFESSIONAL CONSULTING SERVICES)

Services

For services that don't fall within service contracts and professional consulting services below, follow the same amount guidelines as identified for supplies.

Examples: public speakers; pest control; repairs to equipment/buildings & grounds by outside sources

Service Contracts

An Invitation to Bidders shall be issued and shall include a purchase description and all contractual terms and conditions applicable to the purchase.

A Public Notice in the newspaper is not required but may be done, if it is considered to be of special interest to vendors or the public. Director shall make the determination.

List of services that shall be handled through the bidding process include: haying ground; cleaning services; refuse disposal services; chemical toilet rental; septic tank/vault toilet/grease trap pumping services; clearing of Shaw property at Chichaqua Bottoms Greenbelt; soft drink supplier.

This list shall be reviewed annually and updated accordingly.

Contracts-Agreements (Includes Professional Consulting Services)

Less than \$10,000

- Request for professional consulting services shall be made to the Accountant or Administrative Supervisor a minimum of one week prior to purchase since Director's approval is required. Unit manager shall submit an ATSF to the Accountant or Administrative Supervisor when making a request.
- Document rationale for selection and include with ATSF.
- Upon approval, Accountant shall retain ATSF to include with signed contract. A copy of ATSF shall be provided to unit manager.
- No Request For Qualifications required.
- Written contract required with Director's signature.
- Original signed contract shall be submitted to Accountant.

Greater than \$10,000

- Request for professional consulting services shall be made to the Accountant or Administrative Supervisor a minimum of two weeks prior to purchase since Director and Board approval are required. Unit manager shall submit an ATSF to the Accountant or Administrative Supervisor when making a request.
- Request For Qualifications (RFQ) may be issued. Director shall make the determination.
- Individuals with known qualifications may be sent a copy of the RFQ or notified in some other manner.
- Public Notice in the newspaper is not required but may be done, if it considered to be of special interest to vendors or the public. Director shall make this determination.
- Document rationale for selection and include with ATSF.
- If Director approves, purchase will be placed on agenda of Board's next monthly meeting. Unit manager or designee will prepare written information for the monthly Board packet one week prior to the date of the Board meeting.
- Upon approval by the Board, Accountant shall retain ATSF to include with signed contract. A copy of the ATSF shall be provided to unit manager.
- Written contract required with PCCB Chair signature.
- Original signed contract shall be submitted to Accountant.

Examples of Contracts/Agreements include: project design work; FEMA consulting; master planning

Contracts (Code of Iowa, 573.2)

Make sure truly independent contract. Be sure to not make the person(s) an employee(s). As an aid to determining whether an individual is an employee under the common law rules, 20 factors or elements have been identified as indicating whether sufficient control is present to establish an employer-employee relationship. Go to <http://www.mdc.edu/hr/Operations/AFS/IRSFactorTest.pdf>

EQUIPMENT PURCHASING

Amount Levels	Process #	Prior Approval Requirements			
		Unit Manager	Accountant or Administrative Supervisor	Director	Board
\$1,000 or Less	E-1	X			
\$1,001 - \$10,000	E-2	X	X	X	
Greater than \$10,000	E-3	X	X	X	X

#E-1: \$1,000 OR LESS

- No bidding procedure is required; however, compare prices as a careful consumer.
- Purchase order shall be obtained prior to making purchase.
- It is the employee's responsibility to get unit manager's approval prior to obtaining purchase order and to obtain proper expense coding.
- Equipment costing \$200 or more is to have inventory sheet completed by purchaser. Inventory sheet to be turned into Administrative Supervisor immediately after purchase.
- No approval required by the Director or the Board.

Examples: hand tools; cameras; chain saws; outdoor power products; battery chargers; ladders; binoculars

#E-2: \$1,001 - \$10,000

- Three quotes are required, and when possible and reasonable they should be written quotes. Bid requests shall be in written form, either by letter or email, and it is the bidder's responsibility to quote according to the request so bid request information needs to be specific.
- Request for purchase shall be made to the Accountant or Administrative Supervisor a minimum of one week prior to purchase since Director's approval is required. Unit manager's shall submit an ATSF when making a request.
- Upon approval, Accountant or Administrative Supervisor shall generate a PO # and record PO # on ATSF. A copy of ATSF shall be provided to unit manager.
- Quotes/bids shall be submitted to Administration office for scanning.
- Inventory sheet shall be completed by unit manager. Inventory sheet shall be submitted to Administrative Supervisor immediately after purchase.

Examples: some trailers; ATVs; some mowers; snow blades; some utility vehicles;

#E-3: Greater than \$10,000

- Request for purchase shall be made to the Accountant or Administrative Supervisor a minimum of two weeks prior to purchase since Director and Board approval are also required. Unit manager shall submit an ATSF when making a request.
- If Director approves, purchase will be placed on agenda of Board's next monthly meeting. Unit manager or designee will prepare written information for the monthly Board packet one week prior to the date of the appropriate Board meeting.
- To get a particular quality or feature(s) for a product, use an Invitation to Bid. This is not required but is recommended. Director shall make the determination.
- Obtaining three written quotes is required. Bid requests shall be in written form, either by letter or email, and it is the bidder's responsibility to quote according to the request so bid request information needs to be specific.
- Upon approval by the Board, Accountant or Administrative Supervisor shall generate a PO # and record PO # on ATSF. A copy of ATSF shall be provided to requesting unit manager.
- Quotes/bids shall be submitted to Administration office for scanning.
- Inventory sheet shall be completed by unit manager. Inventory sheet to be turned into Administrative Supervisor immediately after purchase.

Examples: vehicles; tractors; trail maint. equipment; chippers; some mowers; some utility vehicles; some trailers; stumper

PUBLIC IMPROVEMENTS (Chapter 26 and Chapter 573, Code of Iowa)

Amount Levels	Process #	Prior Approval Requirements			
		Unit Manager	Accountant or Administrative Supervisor	Director	Board
Less than \$10,000	PI-1	X	X	X	
\$10,000 - \$50,000	PI-2	X	X	X	X
Greater than \$50,000	PI-3	X	X	X	X

Examples of Public Improvements: new shelter houses; road work/repairs; playscape; trail construction

#PI-1: LESS THAN \$10,000.

- Request for funds for public improvement(s) shall be made to the Accountant or Administrative Supervisor a minimum of two weeks prior to start of project since Director approval is required. Unit manager shall submit an ATSF to Accountant or Administrative Supervisor when making a request.

- Bidding procedure may be used in which written requests for bids are submitted to at least three prospective bidders when possible and reasonable. Director shall make the determination.
- Bid requests shall be in written form, either by letter or email, and it is the bidder's responsibility to quote according to the request so bid request information needs to be specific.
- Quotes/bids shall be submitted to Administration office for scanning.
- Purchase order(s) shall be obtained prior to making any purchases associated with project.

#PI-2: \$10,000 - \$50,000

- Request for funds for public improvement(s) shall be made to the Accountant or Administrative Supervisor a minimum of two weeks prior to start of project since Director and Board approval are required. Unit manager shall submit an ATSF to the Accountant or Administrative Supervisor when making a request.
- A Notice to Bidders shall be published.
- Bid requests shall be in written form, either by letter or email, and it is the bidder's responsibility to quote according to the request so bid request information needs to be specific.
- A performance bond and payment bond are necessary for all projects over \$25,000 for amount of project.
- Retainage up to 5% of the work completed governed by Chapter 573. Early release of retainage based on substantial completion.
- Consult with Polk County's Risk Management Department on Insurance Requirements for each project.
- Place item on agenda of Board's monthly meeting. Unit manager or designee will prepare written information for the monthly Board packet one week prior to the date of the Board meeting.
- Accountant shall retain ATSF and included with budget information. A copy of the ATSF shall be provided to unit manager.
- Bid information shall be submitted to Administration office for scanning.
- Purchase order(s) shall be obtained prior to making any purchase associated with project

#PI-3: Greater than \$50,000

- Request for funds for public improvement(s) shall be made to the Accountant or Administrative Supervisor a minimum of two weeks prior to selection of engineer or architect since Director and Board approval are also required. Unit manager shall submit an ATSF to Accountant or Administrative Supervisor when making a request.

First Step:

- An engineer or architect shall prepare plans, specs and establish the estimated cost. A Request for Qualification (RFQ) may be issued when seeking these services, but is not required. Director shall make this determination. These fees are not statutorily part of the competitive bid/quote. Rationale for making selection shall be documented.
- Director approval of engineer or architect required. If approved, selection will be placed on agenda of Board's monthly meeting for Board approval. Unit manager or designee will prepare written information for the monthly Board packet one week prior to the date of the Board meeting.

Second Step:

- Once engineer or architect selected, they prepare plans, specifications, and establish the estimated cost for the project.
- A public hearing shall be held at a Board meeting on the plans and specifications, form of contract documents and the engineer/architect's established estimated cost of the project.

Public Hearing process:

- * Request for Board to hold a public hearing is brought to a meeting for approval. The Board motion should include the date of the meeting the public hearing will be held.
- * Public Hearing is then held at the designated Board meeting.

* Public Hearing notice shall be published not less than 4 nor more than 20 days from date of Board meeting public hearing will be held.

- Awarding of the contract/bid may occur at the same meeting the public hearing is held.
- An Official Publication shall be published for the Request for Proposal (RFP) or ITB not less than 4 days from date of Board meeting that bids will be presented and bid awarded. Unit manager or designee will prepare written information for the monthly Board packet one week prior to the date of the Board meeting.
- Projects looking to be completed “in house” over \$50,000 shall be priced and are to compete against other quotes when using general obligation funds.
- A performance bond and payment bond are necessary for all projects over \$25,000 for amount of project.
- Retainage up to 5% of the work completed governed by Chapter 573. Early release of retainage based on substantial completion.
- Consult with Polk County’s Risk Management Department on Insurance Requirements for each project.
- A 5% Bid Bond is required.
- Director and Board approval are required. Complete ATSF Form to Accountant, if Director and Board approved.
- Bid information shall be submitted to Administration office for scanning.
- Purchase order(s) shall be obtained prior to making any purchase associated with project.

SAMPLE

POLK COUNTY CONSERVATION BOARD

Authorization To Spend Funds

PO# _____

Item Name and Description:

Contact Individual:

Fiscal Note:

Fiscal Year	Budget- ed? (Y/N)	Anticipated Expense	Anticipated Revenue	Expense Account Code	Revenue Account Code	Sub Ledger Code (if applicable)	Amendment Required? (Y/N)

If Non-Budgeted Item, Provide Justification for Purchase:

The following requirements apply:

___ Consistent with Capital Improvements Plan or Equipment Replacement Plan

Unit Manager Approval: Yes ___ No ___ Date: _____

Accountant or Administrative Supervisor Approval: Yes ___ No ___ Date: _____

Director's Approval: _____ Date: _____

If Board Approval Required, Indicate PCCB Meeting Date Approval Granted:

_____, 20____.

OPDMD ASSESSMENT

Park/Area	Trail Name	Trail Surfacing	Use	OPDMD Restrictions	Basis for Restriction	Trail Miles
Assessment completed May 2011				NMV=No Motor Vehicles except by permit. Wheel Chairs and Accessibility Scooters Allowed	S= Safety, EC=Ecological Concerns, CR=Cultural Resources	
Jester Park						
	Two Dam Pond	Natural	Hiking/Winter sport	NMV	S,EC	0.50
	Shelter 5 Spur	Natural	Hiking/Winter sport	NMV	S,EC	0.20
	Playscape Spur	Natural	Hiking/Winter sport	NMV	S,EC	0.10
	Campground 4 shortcut	Natural	Hiking/Winter sport	NMV	S,EC	0.10
	Stagecoach	Natural	Hiking/Winter sport	NMV	S,EC	0.20
	Hikory Ridge	Natural	Hiking/Winter sport	NMV	S,EC	0.70
	Lake Shore	Natural	Hiking/Winter sport/Equestrian	NMV	S,EC	5.70
	Fox Run	Natural	Hiking/Winter sport	NMV	S,EC	0.50
	Red Cedar	Natural	Hiking/Winter sport	NMV	S,EC	0.40
	Campers Loop	Natural	Hiking/Winter sport	NMV	S,EC	0.40
	Basswood	Natural	Hiking/Winter sport	NMV	S,EC	0.30
Equestrian Center	Natural	Hiking/Equestrian	NMV	S,EC	3.80	
Easter Lake						
	Lake Shore	Natural/Paved	Hiking/Bicycle	NMV	S,EC	5.10
	Wymore	Natural	Hiking/Winter sport	NMV	S,EC	1.00
	Apple Orchard	Natural	Hiking/Winter sport	NMV	S,EC	0.20
	Shelter 3	Natural	Hiking/Winter sport	NMV	S,EC	0.10
	Lake Access	Natural	Hiking/Winter sport	NMV	S,EC	0.10
Yellow Banks						
	Backpacker	Natural	Hiking/Winter sport	NMV	S,EC,CR	0.30
	Indian Mound	Natural	Hiking/Winter sport	NMV	S,EC,CR	0.10
	Savanna	Natural	Hiking/Winter sport	NMV	S,EC,CR	0.40
	Bluff Overlook	Natural	Hiking/Winter sport	NMV	S,EC,CR	0.10
	Eagle View	Natural	Hiking/Winter sport	NMV	S,EC,CR	0.10
	Pond	Natural	Hiking/Winter sport	NMV	S,EC,CR	0.10
Thomas Mitchell						
	Devotie	Natural	Hiking/Winter sport	NMV	S,EC,CR	0.75

OPDMD ASSESMENT

	Devotie Loop	Natural	Hiking/Winter sport	NMV	S,EC,CR	0.60
Chichaqua						
	Cardinal Flower	Natural	Hiking/Winter sport	NMV	S,EC	0.80
	Otter	Natural	Hiking/Winter sport	NMV	S,EC	2.40
	Jack Pine	Natural	Hiking/Winter sport	NMV	S,EC	1.00
	Wood Duck	Natural	Hiking/Winter sport	NMV	S, EC	0.25
Sycamore MBT						
	Sycamore	Natural	Mountain Biking/Hinking	NMV	S,EC	6.50
Brown's Woods						
	Preparation Loop	Natural	Hiking/Winter sport	NMV	S,EC	0.50
	Wilderness Loop	Natural	Hiking/Winter sport	NMV	S,EC	1.50
	Creek Access	Natural	Hiking/Winter sport	NMV	S,EC	0.10
Fort Des Moines						
	Aspen Ridge	Natural	Hiking/Winter sport	NMV	S,EC	1.30
	Boat Ramp	Natural	Hiking/Winter sport	NMV	S,EC	0.10
	Burr Oak	Natural	Hiking/Winter sport	NMV	S,EC	0.10
	Fish Access	Natural	Hiking/Winter sport	NMV	S,EC	0.10
	Pond Trail	Natural	Hiking/Winter sport	NMV	S,EC	0.20
						36.7
	Great Western	Paved	Hiking/Bicycle/Winter	NMV	S	5.30
	Trestle to Trestle	Paved	Hiking/Bicycle/Winter	NMV	S	3.70
	Gay Lea Wilson	Paved	Hiking/Bicycle	NMV	S	4.10
	Chichaqua Valley	Paved	Hiking/Bicycle/Winter	NMV	S	4.70
	High Trestle	Paved	Hiking/Bicycle/Winter	NMV	S	9.60
						27.4

TRAIL ASSESSMENT WORKSHEET

TRAIL NAME:						Recommendation
LOCATION:						
LENGTH and WIDTH:						
SURFACING:						
GENERAL DESCRIPTION:						
DOJ ASSESSMENT FACTOR (see reverse)						
						i
						ii
						iii
						iv
						v
ATV/OHV						
Utility Vehicle i.e. Gator						
Golf Cart						
Motorcycle or scooter (i.e. moped type)						
Snowmobile						
Car or truck						
Segway						
Misc. powered skateboards, bicycles, etc.						

Concern: High, Medium, or Low H, M, L

Is this trail currently accessible? Yes/No _____

Determination of trail suitability for OPDMD : _____

Name and Date of person conducting the Assessment: _____

TRAIL ASSESSMENT FACTORS FOR THE USE OF “OTHER POWER-DRIVEN MOBILITY DEVICES”

REGULATION 35.137(b)92) provides that the following assessment factors shall also be considered in determining whether a particular OPDMD can be allowed in a specific facility as a reasonable accommodation.

- (i) The type, size, weight, dimensions, and speed of the {OPDMD};
- (ii) The facility’s volume of pedestrian traffic(which may vary at different times of the day, week, month, or year);
- (iii) The facility’s design and operational characteristics(e.g., whether its service, program, or activity is conducted indoors, its square footage, the density and placement of stationary devices, and the availability of storage for the [OPDMD], if requested by the user;
- (iv) Whether legitimate safety requirements can be established to permit the safe operation of the {OPDMD} in the specific facility; and
- (v) Whether the use of the {OPDMD} creates a substantial risk of serious harm to the immediate environment or natural or cultural resources, or poses a conflict with Federal land management laws and regulations.

- I Does the size or speed of the OPDMD present a hazard to other users or to the resource. Is it an appropriate device for the trail in question.
- II Does the use of an OPDMD present a hazard to other users because of high pedestrian numbers on the trail in question.
- III NA for trails (dealing with facilities)
- IV NA for trails (dealing with facilities)
- V Does the use of an OPDMD presents a direct threat to the environment or to existing cultural resources on the trail in question.

Concern factor:

High =H

The reviewer has determined that this class of OPDMD presents an unacceptable risk to other trail users, to trail infrastructure, or natural and cultural resources.

Medium = M

The reviewer has determined that this class of OPDMD presents a moderate risk.

Low =L

The reviewer has determined that this class of OPDMD presents a low risk.

Wheelchairs and scooters designed primarily for individuals with a mobility disability are allowed on all public trails by law. This instrument does not pertain to those mobility aides.

Background information concerning the recent adoption of new rules issued by the Department of Justice concerning the Americans with Disabilities Act

The DOJ has issued new rules which went into effect March 15th of 2011. These rules expand the opportunities for disabled individuals to access public trail resources through the use of “other power-driven mobility devices”.

The rules specifically allow for the use of motorized devices not manufactured as a device for disabled individuals. A key phrase is that the person with the disability must be allowed to use any device whether or not that device is made specifically for persons with disabilities.

The definition of these allowable devices and their use as defined by the new statute will present challenges for law enforcement, for ensuring the safety of other trail users, and for administration.

A text of the rule changes accompanies this communication but the immediately foreseeable problems are as follows:

- The rules do not designate a size, weight, or speed of the power driven mobility device.
- The proposed rule as written would include the use of golf carts, atv's, snowmobiles, motorcycles, 4x4's, etc.
- The proposed rule states that any person who claims they are using the device to assist in their mobility will be allowed to operate any device they wish, even if such devices are prohibited for all other people. Managers are allowed to ask if a device is being used as an aid for mobility purposes, however, they must accept a verbal assurance that it is being used to accommodate a disability and may not inquire as to the nature of that disability.
- It is the responsibility of land managers to evaluate each trail in order to identify the trails, section of trail, and areas where each specific type of other power driven mobility will be prohibited and post all such restrictions.
- It has the potential to dramatically alter trail and park environments, create a difficulty and uncertainty in respect to law enforcement, and require additional administrative effort.
- Safety of all trail users is of primary concern. Motorized vehicles create a major safety concern when used on multi-use recreational trails. The elderly, People walking pets on leash, children, and individuals with limited mobility are at greatest risk.

There appears to be ways to exclude the use of certain motorized vehicles on certain trails for safety and or environmental reasons. Development of a policy and formulation of rules to govern the use of “other power-driven mobility devices” detailing speed weight, safety features, conditional usage, assessment of rider abilities, and managing pedestrian traffic safety will be required if there is to be regulation of the use of such vehicles. Doing nothing is also an option – in which case all OPDMD's are by default permitted on all trails, and ADA compliance is assured.

We must be sure to point out that we would never want anyone to misconstrue our opposition to other-powered devices as opposition to persons with disabilities. We should be and are committed to providing a means of accommodating anyone with a mobility disability as long as that accommodation

does not endanger other users, destroy trail resources, or fundamentally alter the trail experience for others.

With the adoption of this rule, a land manager must prove that “use of the device is not reasonable or that its use will result in a fundamental alteration of the public entity’s service, program, or activity.” Furthermore, the land manager, “shall not ask a person using a mobility device questions about the nature and extent of the person’s disability.” While this is understandable and desirable in regard to persons with disabilities, what is to prevent anyone who wants to use a “power-driven mobility device” on a trail intended for non-motorized travel from doing so? Experience has proven that disrespectful and harmful misuse of motor vehicles is not uncommon under existing regulations.

Department of Justice Text:

§ 35.104 - Definitions

“Other power driven mobility device means any of a large range of devices powered by batteries, fuel, or other engines—whether or not designed solely for use by individuals with mobility impairments—that are used by individuals with mobility impairments for the purpose of locomotion, including golf carts, bicycles, electronic personal assistance mobility devices (EPAMDs), or any mobility aid designed to operate in areas without defined pedestrian routes.”

“Wheelchair means a device designed solely for use by an individual with a mobility impairment for the primary purpose of locomotion in typical indoor and outdoor pedestrian areas. A wheelchair may be manually operated or power-driven.”

§ 35.137 Mobility devices

(a) Use of wheelchairs, scooters, and manually powered mobility aids. A public entity shall permit individuals with mobility impairments to use wheelchairs, scooters, walkers, crutches, canes, braces, or other similar devices designed for use by individuals with mobility impairments in any areas open to pedestrian use.

(b) Other power-driven mobility devices. A public entity shall make reasonable modifications in its policies, practices, and procedures to permit the use of other power-driven mobility devices by individuals with disabilities, unless the public entity can demonstrate that the use of the device is not reasonable or that its use will result in a fundamental alteration of the public entity’s service, program, or activity.

(c) Development of policies permitting the use of other power-driven mobility devices. A public entity shall establish policies to permit the use of other power-driven mobility devices by individuals with disabilities when it is reasonable to allow an individual with a disability to participate in a service, program, or activity. Whether a modification is reasonable to allow the use of a class of power-driven mobility device by an individual with a disability in specific venues (e.g., parks, courthouses, office buildings, etc.) shall be determined based on:

(1) The dimensions, weight, and operating speed of the mobility device in relation to a wheelchair;

(2) The risk of potential harm to others by the operation of the mobility device;

(3) The risk of harm to the environment or natural or cultural resources or conflict with Federal land management laws and regulations; and

(4) The ability of the public entity to stow the mobility device when not in use, if requested by the user.

(d) Inquiry into use of power-driven mobility device. A public entity may ask a person using a power-driven mobility device if the mobility device is needed due to the person's disability. A public entity shall not ask a person using a mobility device questions about the nature and extent of the person's disability.

The following has been posted on many web sites and was originally written by the Forest Service employee credited below:

ALERT! On March 15, 2011, new Department of Justice rules will allow certain “power-driven mobility devices” to be used on trails by “individuals with mobility disabilities.”
If you manage a trail that is open to the public this rule applies to your trail.

Analysis by Janet Zeller, U.S. Forest Service National Accessibility Program Manager

On March 15, 2011 the Department of Justice (DOJ) revised rules go into effect allowing “other power-driven mobility devices” to be used by “individuals with mobility disabilities.”

This DOJ ruling applies to any place, indoors or outdoors, that is open to the public.

Under the American with Disabilities Act (ADA) Title II this DOJ rule applies to trails on State or local government lands. Also under the ADA Title III it applies to other “public accommodations” that would include trails open to the public on privately or commercially managed lands. Federal agency managed lands are not directly covered under the ADA, however this rule sets legal precedents the Federal agencies must watch. So, the Federal agencies are also reviewing their policies, procedures, and the way in which trails on the land base they manage have been assessed.

What is an “other power-driven mobility device?”

An “other power-driven mobility device” is defined in the rules as: “any mobility device powered by batteries, fuel, or other engines — whether or not designed primarily for use by individuals with mobility disabilities — that is used by individuals with mobility disabilities for the purpose of locomotion, including golf cars, electronic personal assistance mobility devices (EPAMDs), such as the Segway® PT, or any mobility device designed to operate in areas without defined pedestrian routes, but that is not a wheelchair within the meaning of this section. This definition does not apply to Federal wilderness areas; wheelchairs in such areas are defined in section 508(c)(2) of the ADA, 42 U.S.C. 12207(c)(2).

In short an “other power-driven mobility device” is anything with a motor that can be driven, regardless of size or horsepower, if it is driven by a person who has a mobility related disability.

What is NOT an “other power-driven mobility device?”

Any device that meets the following DOJ definition of a wheelchair is not an “other power-driven mobility device” and must be allowed to be used anywhere, with no exceptions.

A wheelchair is: a manually-operated or power-driven device designed primarily for use by an individual with a mobility disability for the main purpose of indoor or of both indoor and outdoor locomotion. This definition does not apply to Federal wilderness areas; wheelchairs in such areas are defined in section 508(c)(2) of the ADA, 42 U.S.C. 12207(c)(2).

Despite the DOJ ADA rules, the U.S. Forest Service wheelchair definition, regulations, and policies remain in place and continue to apply to all persons on the U.S. Forest Service managed lands.

Who is to be allowed to use the other power-driven mobility devices?

The DOJ rules say anyone who has a mobility disability. A person using an “other power-driven mobility device” may be asked to provide a “credible assurance” that the mobility device is required because of the person’s disability. That credible assurance can be showing a valid, State-issued, disability parking placard or card, or other State-issued proof of disability, or if the person doesn’t have any of those with them, they may simply say that the “other power-driven mobility device” is being used for a mobility disability. A person may not be asked if they have a disability or anything about their disability.

Only 8 million people who have mobility limitations use wheelchairs, canes, crutches, etc. Close to 20 million people have a mobility related disability but don’t use wheelchairs, canes, and so forth. However, they still have mobility disabilities that limit the distance they can walk due to heart or breathing disorders, amputations, joint or muscle related disabilities, and the list goes on. Keep in mind that 85% of all disabilities aren’t obvious.

What do you need to do for your trail to be ready for March 15th when the DOJ rules on other power-driven mobility devices go into effect?

The DOJ rules require an entity open to the public to make reasonable modifications in its policies, practices, or procedures to allow the use of other power-driven mobility devices by individuals with mobility disabilities, UNLESS: that entity can document that it has completed an assessment of the facility, trail, route, or area, before the person requesting use of the device arrived onsite, and the entity found that class of other power-driven mobility device could not be used in that location due to one or more of the following DOJ assessment factors:

DOJ Assessment Factors:

- (a) “The type, size, weight, dimensions, and speed of the device;
- (b) The volume of pedestrian traffic (which may vary at different times of the day, week, month, or year);

(c) The design and operational characteristics (e.g., whether its service, program, or activity is conducted indoors, its square footage, the density and placement of stationary devices, and the availability of storage for the device, if requested by the user);

(d) Whether legitimate safety requirements can be established to permit the safe operation of the other power-driven mobility device in the specific facility; and

(e) Whether the use of the other power-driven mobility device creates a substantial risk of serious harm to the immediate environment or natural or cultural resources, or poses a conflict with Federal land management laws and regulations.”

Those are the only factors a public entity or accommodation is to use in determining whether a particular class of other power-driven mobility device may be allowed in a specific location.

If one of those issues prevents the use of a specific class of other power-driven mobility device, that device may be denied use in the section of trail or area where that is an issue.

Post the information:

The information about the devices that may not be used must be posted where the public can easily access it before going to that location. The posted information must include the various classes of devices that may be used, rules related to that use, and who to contact for more information.

The DOJ rules regarding other power-driven mobility devices are a portion of the revisions to the ADA Title II and Title III finalized by DOJ on 9/15/2010. Both are available in full on the DOJ ADA website at <http://www.ada.gov/regs2010/ADAregs2010.htm>.

We wish to thank Janet Zeller, U.S. Forest Service National Accessibility Program Manager, for providing this information on the new DOJ rule. Janet has generously offered to field questions for the immediate future. She can be reached via email at jzeller@fs.fed.us or by phone (202) 205-9597.

Rules regarding the use of Other Power Driven Mobility Devices on PCCB managed lands

Polk County Conservation Board

Addressing the Department of Justice (DOJ) Amendment to the American with Disabilities Act (ADA) Regulations Regarding the use of Wheelchairs and Other Power Driven Mobility Devices (OPDMD) 28 CFR part 35

Purpose:

The purpose of this policy is to implement the DOJ regulations regarding the use of wheelchairs and OPDMD's on PCC managed lands as set forth in 28 CFR, part 35.

Wheelchair Definition and Use:

Polk County Conservation (PCC) allows individuals with mobility disabilities to use wheelchairs as defined by the DOJ on all PCC areas open to pedestrian use.

The DOJ defines a wheelchair as:

A manual-operated or power-driven device designed primarily for use by an individual with a mobility disability for the main purpose of indoor or of both indoor and outdoor locomotion.

Other Power Driven Mobility Device Definition and Use:

These devices can include such devices as Segways, electric assisted bicycles, off highway vehicles, motorcycles, etc.

The PCC has assessed our trail system for the potential use of OPDMD using the following criteria as identified by the DOJ.

- i) Size, weight, dimensions, and speed of the device;
- ii) The facility's volume of pedestrian traffic;
- iii) The facilities design and operational characteristics;
- iv) Whether legitimate safety requirements can be established to permit the safe the safe operation of the OPDMD at the facility or land; and
- v) The potential for serious harm to environmental, natural and cultural resources.

Based on the assessment of trails managed by PCC as of the date of March 15, 2011 OPDMD devices may be used by a person with a mobility disability on PCC managed areas and trails as set forth below:

- **Paved and Aggregate Surfaced Trails:** Electric powered assistive mobility devices that are designed to transport a single individual with a disability as a substitute for walking may be used by a person with a mobility disability on all paved and aggregate surfaced trails, sidewalks, and picnic shelters. They shall be operated in a safe and prudent manner. The speed of these devices shall be 5 mph or less when in the presence of other park or trail users and at no time shall they exceed 10 miles per hour. This restriction is designed to ensure safety on PCC managed lands and trails.
- **Designated OHV Trails:** Snowmobile use is allowed on certain trails specifically designated for that use and only when conditions exist that will limit environmental damage (a minimum snow depth of 1 inch). Use of this vehicle is prohibited anywhere not specifically signed as open to snowmobile use. This restriction is to ensure safety and to prevent environmental damage to parkland.
- **Natural Areas, Natural-Surfaced Trails, and Open Parkland:** OPDMD's are not allowed on unsurfaced or natural surfaces within PCC managed lands. These areas are not designed nor maintained for OPDMD'S. This restriction is to ensure safety of the trail users and to prevent damage to natural and cultural resources.

OPDMD Use Documentation and Enforcement:

Only persons with mobility disabilities are allowed to use an OPDMD on PCC managed lands. To be eligible to use an OPDMD, where that device would not be allowed under existing law, an individual must possess a permit issued by Polk County Conservation. A permit will be issued by Polk County Conservation to identify the specific OPDMD and operator. A permit may be obtained at the Polk County Conservation Board administrative office located at 11407 NW Jester Park Drive, Granger, Iowa 50109-9675. A valid handicapped parking permit or letter from a medical professional stating that the individual requesting the permit should be accommodated must be presented when the permit is applied for. The permit must be affixed to the OPDMD in a clearly visible manner. This restriction is to ensure safety of all trail users.

The use of motorized vehicles is permitted for PCC-sanctioned maintenance and staff vehicles and emergency vehicles.

Special use permits are available to be issued for the restricted use of certain off highway vehicles allowing hunters with mobility disabilities to hunt certain areas of the Chichaqua Bottoms Greenbelt. Permits are conditional and limited to certain areas, uses, times, or routes. Permits will not be issued when, in the opinion of the natural resources staff, environmental conditions will not allow the use of such vehicles without unacceptable environmental damage.

2011- 2012 Revenue Budget

- as of 07/31/11 (8.33% of budget year expired)

UNIT #	UNIT	Revenue Budget	Total Revenues Received	Balance Due	%
		Received			
General - Fund 1					
0213	Infrastructure	\$ 3,000	\$ -	\$ 3,000	0.0%
6006	Environmental Ed	\$ 82,800	\$ 3,632	\$ 79,168	4.4%
6009	Natural Resources	\$ 89,000	\$ 23,750	\$ 65,250	26.7%
6101	Administration	\$ 633,675	\$ 9,436	\$ 624,239	1.5%
6103	Community Outreach	\$ -	\$ -	\$ -	#DIV/0!
6110	Parks Advocacy Unit	\$ 406,800	\$ 41,485	\$ 365,315	10.2%
6119	Construction/Maint.	\$ 400	\$ -	\$ 400	0.0%
6124	Equestrian Center	\$ 307,000	\$ 29,158	\$ 277,842	9.5%
Sub-Total - General Fund 1		\$ 1,522,675	\$ 107,461	\$ 1,415,214	7.1%
REAP - Fund 26					
0211	Resource Enhancement	\$ 131,000	\$ -	\$ 131,000	0.0%
Reserve - Fund 50					
0210	Trails, Special Projects	\$ 2,187,900	\$ -	\$ 2,187,900	0.0%
Grand Total - Conservation		\$ 3,841,575	\$ 107,461	\$ 3,734,114	2.8%

2011 - 2012 Expense Budget

- as of 07/31/11 (8.33% of budget year expired)

UNIT #	UNIT	Expense Budget	Total Expended	Balance Remaining	% Expended
General - Fund 1					
0212	Capital's Infrastructure	\$ -	\$ -	\$ -	#DIV/0!
0213	Capital's Equipment	\$ 64,700	\$ -	\$ 64,700	0.0%
6006	Environmental Ed. Salaries	\$ 304,932	\$ 29,621	\$ 275,311	9.7%
	Environmental Ed. Operations	\$ 98,450	\$ 9,265	\$ 89,185	9.4%
6009	Natural Resources Salaries	\$ 632,912	\$ 61,522	\$ 571,390	9.7%
	Natural Resources Operations	\$ 154,790	\$ 9,718	\$ 145,072	6.3%
6101	Administration Salaries	\$ 350,703	\$ 30,433	\$ 320,270	8.7%
	Administration Operations	\$ 978,776	\$ 45,679	\$ 933,097	4.7%
6103	Community Outreach Salaries	\$ 129,526	\$ 11,549	\$ 117,977	8.9%
	Community Outreach Operations	\$ 58,950	\$ 405	\$ 58,546	0.7%
6110	Parks Advocacy Salaries	\$ 406,096	\$ 36,938	\$ 369,158	9.1%
	Parks Advocacy Operations	\$ 34,690	\$ 5,445	\$ 29,245	15.7%
6119	Construction/Maint. Salaries	\$ 693,390	\$ 66,928	\$ 626,462	9.7%
	Construction/Maint. Operations	\$ 181,825	\$ 21,407	\$ 160,418	11.8%
6124	Equestrian Center Salaries	\$ 255,483	\$ 30,541	\$ 224,942	12.0%
	Equestrian Center Operations	\$ 155,930	\$ 15,892	\$ 140,038	10.2%
6011	Haying Operations-CBG	\$ -	\$ 7,854	\$ (7,854)	#DIV/0!
Sub-Total - General Fund 1		\$ 4,501,153	\$ 383,196	\$ 4,125,811	8.5%
General Supplemental - Fund 2					
All Units	Benefits (IPERS/FICA/Ins, Etc.)	\$ 932,218	\$ 77,307	\$ 854,911	8.3%
Risk Management - Fund 3					
6100	Insurance, Med., Work. Comp.	\$ 199,300	\$ 5,651	\$ 193,649	2.8%
REAP - Fund 26					
0211	Resource Enhancement	\$ 262,423	\$ 2,348	\$ 260,075	0.9%
Reserve - Fund 50					
0210	Trails, Special Projects	\$ 2,608,025	\$ 125,535	\$ 2,482,490	4.8%
Grand Total - Conservation		\$ 8,503,119	\$ 594,037	\$ 7,916,936	7.0%