



**Polk County Board of Supervisors**  
Polk County Government Center - County Board Room  
100 Polk County Plaza, Balsam Lake, Wisconsin

**Minutes of the Regular Meeting of the Board of Supervisors**  
**Tuesday, January 21, 2020**

Vice Chairman Luke called the January 21, 2020 regular session of the Polk County Board of Supervisors to order at 7:03 p.m.

Vice Chairman Luke recognized the Clerk for purposes of receiving evidence of proper notice. The Clerk stated that the notice of meeting was properly posted in the Government Center Building, posted on the County website (January 10, 2020), and published in a legal newspaper in accordance with Wisconsin Statute Section 985.02 the week of January 13, 2020. In addition, the Office of the County Clerk distributed on January 10, 2020 copies of such notice of meeting and proposed resolutions to supervisors via e-mail or mail in accordance with Article 3, Section 2 of the County Board Rules of Order.

The County Board received opinion from Corporation Counsel Malone that the initial advance written notice, posted and published as described by the Clerk satisfied the applicable provision of Wisconsin Open Meetings Law and the applicable procedural provisions of the Polk County Board Rules of Order.

Vice Chairman Luke recognized the Clerk for purposes of taking roll call. Eleven County Board Supervisors were present representing a quorum. Chairman Johansen, Supervisor Larsen and Supervisor Bonneprise were absent and excused.

Vice Chairman Luke led the County Board in the Pledge of Allegiance.

Vice Chairman Luke called to the floor for a time of reflection. No time of reflection was offered.

Vice Chairman Luke called to the floor consideration and approval of the Agenda as published. **Motion** (Masters/Arcand) to adopt the Agenda. Vice Chairman Luke called for a voice vote on the motion to adopt the Agenda as published. **Motion** carried by unanimous voice vote.

Vice Chairman Luke announced the appointment of Lisa Ross as County Clerk for the remaining term (to December 31, 2020). Vice Chairman Luke called for a motion to confirm said appointment.

**Motion** to confirm appointment of Lisa Ross as County Clerk for the remaining term. Vice Chairman Luke called for a voice vote on the motion to confirm said appointment. **Motion** to confirm appointment of Lisa Ross as County Clerk carried by unanimous voice vote.

Vice Chairman Luke called to the floor for approval of the Consent Agenda. **Motion** (Demulling/Jepsen) to adopt the Consent Agenda as noticed. Vice Chairman Luke called for a voice vote on the motion to adopt the Consent Agenda. (Note: Scrivener's error on date for 7.c. should be 2020, not 2019). **Motion** to adopt the consent agenda carried by unanimous voice vote. Matters adopted under the Consent Agenda: Minutes from December 21, 2019 County Board session adopted as published, **Resolution No. 01-20**: Resolution Amending the Polk County Smoke-Free Air Ordinance (Ordinance No. 67-10: Polk County Smoke Free Air Ordinance adopted, and confirmation of Emergency Fire Wardens for Polk County for 2020: Jean Smith, Mike Stoddard, and Ron and Patty Fredericks.

Time was given for public comment. Nine public comments regarding Concentrated Animal Feeding Operations (CAFO's) were received by County Board.

The County Board received a report regarding the upcoming Census from Administrator Vince Netherland. Administrator Netherland has been in communication with Bob Gollnik, representative with the United States Census Bureau. A committee has been created in an effort to identify and assist people in Polk County who are unlikely to fill out Census information. Some of the groups involved in the committee are: Aging and Disability Resource Center (ADRC), Veteran's Services Office (VSO), the Sheriff's Department, Behavioral Health Department, and the Salvation Army.

Administrator Netherland addressed the board with the Administrator's Report. Update regarding the new Environmental Services Director, Bob Kazmierski. Report regarding needed Software and Cyber Security updates in the Information Technology (I.T.) Department. Report regarding Wold Architect & Engineers who have been contracted to perform a county functional needs assessment of the county buildings; they expect to have analysis results in April. Report regarding the staffing needs and the interim plan for staffing in the County Clerk office. Administrator Netherland also provided an update to the board regarding the 2019 report from the county's liability insurance company reflecting a total of five claims under \$3,000.

Time was given for the County Board Chairperson's report. Vice Chair Luke provided information from Chairman Johansen regarding welcoming the appointment of Lisa Ross as County Clerk.

Time was given for Supervisor's reports regarding outside meetings attended. Supervisors Nelson, and Jepsen gave updates on outside meetings attended. Comments received by Supervisor Nelson regarding the transparency for reasons of cancellations of board and committee meetings.

Vice Chairman Luke called to the floor discussion regarding whether to hold the February County Board of Supervisors meeting.

Vice Chairman Luke called for discussion regarding the possible cancellation of the February Board meeting. County Board engaged in discussion regarding the February meeting. **Motion** (Jepsen/Demulling) to hold the February County Board of Supervisors meeting. Supervisor Arcand called for a point of order regarding the motion. **Motion** (Jepsen/Luke) to withdraw the motion to hold the February County Board meeting. Administrator Netherland provided an update to the committee regarding the Spring Primary Election date of February 18 being held on the same day as the county board meeting. **Motion** (Masters/Olson) to reschedule February Board of Supervisors meeting from 6pm on Tuesday, February 18 to 6pm on Thursday, February 20. Vice Chairman Luke called for a voice vote on the motion to reschedule the February County Board Meeting. **Motion** to reschedule February Board of Supervisors meeting from 6pm on Tuesday, February 18 to 6pm on Thursday, February 20 carried by unanimous voice vote. The next County Board meeting will be held at 6:00 p.m. on Thursday, February 20, 2020.

Time was given for Supervisors announcements. No announcements were received.

Vice Chairman Luke called for a motion to adjourn. **Motion** (Masters/Demulling) to adjourn. Vice Chairman Luke called for a voice vote on the motion to adjourn. **Motion** to adjourn carried by unanimous voice vote. Vice Chairman Luke declared meeting adjourned 8:05 p.m.

Respectfully submitted,

Lisa R. Ross, Polk County Clerk

STATE OF WISCONSIN    )  
                                  ) SS  
COUNTY OF POLK        )

I, Lisa R. Ross, County Clerk for Polk County, do hereby certify that the foregoing minutes are a true and correct copy of the County Board Proceedings of the Polk County Board of Supervisor's Session held on January 21, 2020.

  
\_\_\_\_\_  
Lisa R. Ross  
Polk County Clerk



## POLK COUNTY, WISCONSIN

[WWW.CO.POLK.WI.US](http://WWW.CO.POLK.WI.US)

### Notice of Meeting and Agenda

### Polk County Board of Supervisors

100 Polk County Plaza, Balsam Lake, Wisconsin  
Polk County Government Center - County Board Room

**Tuesday, January 21, 2020**

Regular Business Meeting, 7:00 p.m.

Open Session

#### Order of Business:

1. Call to Order
2. Receipt of Evidence and Opinion on Proper Notice
3. Roll Call
4. Pledge of Allegiance
5. Time of Reflection
6. Approval of Agenda
7. Matters Offered For Adoption on Consent Agenda:
  - a. Consideration/corrections to the published minutes from December 17, 2019 County Board Meeting
  - b. Resolution 01-20: Resolution Amending the Polk County Smoke-Free Air Ordinance (Ordinance No. 67-10: Polk County Smoke Free Air Ordinance)
  - c. Confirmation of Emergency Fire Wardens for Polk County for 2019: Jean Smith, Mike Stoddard, Ron and Patty Fredericks
8. Public Comments –3 minutes per person –not to exceed 30 minutes total
9. Presentation From United States Census Bureau – Bob Gollnik
10. County Board Chair Report
  - a. Confirmation of Appointment of Lisa Ross as County Clerk (for Remaining Term to December 31, 2020)
  - b. Supervisor's Reports from Outside Meetings Attended
11. Administrator's Report – Vince Netherland
12. Proposed Resolutions, Ordinances and Other Board Action:
  - a. Discussion and Action Regarding February County Board meeting
13. Supervisors Announcements
14. Adjourn

***This meeting is open to the public according to Wisconsin State Statute 19.83. Persons with disabilities wishing to attend and/or participate are asked to notify the County Clerk's office (715-485-9226) at least 24 hours in advance of the scheduled meeting time so all reasonable accommodations can be made. Requests are confidential.***

January 20, 2020

To: Polk County Supervisors  
Vince Netherland, Polk County Administrator  
Bob Kazmierski, Environmental Services Division Director

From: Lisa Doerr - Town of Laketown

Re: Need for Extension of Polk County Temporary Moratorium on Livestock Facilities

Polk County needs another six (6) months to meet the requirements of Section IV. Purpose and Section VII. Actions During Moratorium as stated in the Polk County Temporary Moratorium on Livestock Facilities.

Proposed amendments to Polk County's Comprehensive Land Use and Shoreland Protection Zoning ordinances are being presented to stakeholders on January 21, 2020. However, they do not come close to meeting the requirements of either section. A wide range of issues surrounding Concentrated Animal Feeding Operations (CAFO) are not addressed, including, but not limited to:

1. No review of Wisconsin Statute 92.15 as basis for proposed amendments
2. No scientific basis for setbacks that are weaker than current Wisconsin Statute 93.90, ACTP 51 Rule
3. No review of air pollution impacts or American Public Health Association call for national CAFO moratorium
4. No application fee or performance bonds included
5. No review of emergency response capability for outbreak of African Swine Fever (ASF)
6. Towns need time to review the impact of ordinance on A-2 and Shoreland zoned areas

In addition, an extension is needed to clarify the process used to draft the proposed ordinance amendments and add transparency to decision making. The resignation of Nick Osborne and retirement of Tim Ritten combined with the recent addition of Vince Netherland and Bob Kazmierski, has made it especially difficult for staff to provide a thorough review and the public assess progress. For example, a public hearing is scheduled for February 12, 2020 before a full report from staff is completed, making it impossible for the public to know what to testify on.

### Issues That Need to be Addressed During Moratorium Extension

1. No Review of Wisconsin Statute 92.15 as basis for ordinance

No review of Wisconsin's Local Regulation of Livestock Operations Statute 92.15 has been presented despite it laying the statutory basis for both Bayfield County's Livestock Facilities Siting Ordinance and the Town of Trade Lake's Concentrated Animal Feeding Operation Ordinance. Statute 92.15 authorizes local governments to protect the health, safety and welfare of residents and property owners. Trade lake's ordinance includes more than 60 peer reviewed studies on CAFOs. While the Trade lake ordinance was passed recently, Bayfield County's is now five years old and remains in force.

**2. No scientific basis for setbacks that are weaker than current Wisconsin Statute 93.90, ACTP 51 Rule**

Polk County's proposed amendments to existing ordinances rely on Wisconsin's Livestock Facility Siting and Expansion Statute 93.90. Proposed setbacks have no scientific basis and are far weaker than allowed in the statute's current ACTP 51 rule. In fact, the proposal is a weaker version of the one proposed by Polk County staff in September 2019, before the county's moratorium passed in October. It allows manure storage only 100 feet from neighbors down from 350 feet in ACTP 51 and 300 in the September 2019 version. There are no minimum setbacks for thousands of corpses and placentas. (See comparison table.)

Comparison of Existing and Proposed Setbacks

	<b>ACTP 51 Existing Maximum Setbacks From Neighbors</b>	<b>Polk County Sept 2019 Proposed Minimum Setback From Neighbor</b>	<b>Polk County Jan 2020 Proposed Minimum Setback From Neighbor</b>
Manure storage - infinite number of hogs	350 feet	300 feet	100 feet
Livestock Structures - Less than 2,500 hogs	100 feet	75 feet	75 feet
Livestock Structures - 2,500 to infinite hogs	200 feet	150 feet	150 feet
Corpse & Placenta waste - infinite number of hogs	0 feet	0 feet	0 feet

Even more troubling, the setbacks fall far short of the science-based setbacks proposed in the 2019 Final Draft ACTP 51 Rule - see summary pages 12-14. These were based on the OFFSET modeling tool. There is no assessment of the OFFSET tool or Wisconsin's 2019 Livestock Facility Siting Technical Expert Committee report that raised concerns about existing setbacks as its top priority.

While the OFFSET model is designed to mitigate the impact of odors from hydrogen sulfide and ammonia air pollution, there are other issues addressed by setbacks, including, but not limited to: particulate, light and noise pollution, and fly infestations.

**3. No review of air pollution impacts or American Public Health Association call for national CAFO moratorium**

At this time, there is no science-based regulation of CAFO air pollution. This leaves local communities to deal daily with hydrogen sulfide, ammonia and particulate pollution. In November 2019, the American Public Health Association called for a nationwide moratorium on new CAFOs due in large part to a lack of air pollution regulation. Recent studies show high rates of all-cause and infant mortality, asthma, low birth weights, kidney disease and tuberculosis in communities near hog factories.

CAFOs are not regulated under Clean Air Act (CAA). In addition, animal feeding operations were exempted in 2008 from reporting air pollution from animal waste under Emergency Planning and Community Right-to-Know Act (EPCRA). After legal action, that exemption was struck down by the U.S. Court in 2017. However, the 2018 Fair Agricultural Reporting Method Act again exempted CAFOs. Rules were finalized in July 2019.

There are ongoing attempts by the US Environmental Protection Agency (EPA) to regulate CAFO air pollution using scientifically sound methods. It is complex because air pollution varies from facility to facility depending on many factors such as the number and type of animal confined, type of feed, manure handling and storage practices, barn ventilation methods, and climate. Monitoring is expensive.

In 2007, dairy, swine and chicken plants participated in a program to monitor pollution at 25 sites in 9 states. The purpose was to collect the data needed to develop scientific models that can estimate pollution and determine how CAFOS should be regulated under CAA and EPCRA. A DRAFT Report was issued in 2012. No action has yet been taken but there are plans to release draft models for ammonia, hydrogen sulfide and particulate matter pollution from swine, chicken and dairy plants in 2020.

While there may be future work done to bring hydrogen sulfide and ammonia emissions from livestock factories into compliance with Wisconsin's Air Toxics Rule NR 445 , at this time, setbacks are the only protection.

#### **4. No application fee or performance bonds included in the proposed CAFO ordinance**

The proposed amendments do not include any application fee or performance bond, leaving all of the expense and risk with taxpayers. While the current ACTP 51 rule only allows towns and counties to charge a \$1,000 application fee (ATCP 51.30 (4)(a)) and prohibits performance bonds (ATCP 51.30 (4)(b)), both of these provisions lack express authority in statute.

As of December 2019, the Department of Agriculture Trade and Consumer Protection (DATCP) is moving to remove both provisions from the rule. DATCP is required to file an Act 108 report by March of odd numbered years. Because the report was already submitted for the rule making process in 2019, legal counsel has contacted state Legislative Counsel to determine how to start an expedited legal process to repeal provisions not specifically authorized for rule making under Chapter 93.

#### **5. No review of emergency response capability for outbreak of African Swine Fever (ASF)**

Millions of hogs have died or been killed globally due to African Swine Fever (ASF), or commonly called, hog Ebola. Experts predict 25 percent of the global herd will perish. The disease is 100% fatal and the pathogen is especially hardy. Asian countries such as China, Vietnam and Korea have been hit hard - Aporkalypse Now. Germany is building a wall along its Polish front to stop the invasion.

In response, the USDA held simulated exercises with 14 states in September 2019 to test our nation's ability to control an outbreak. While the exercises themselves were covered by industry press, there has been almost no coverage of the potential problems identified. Most of the focus is on how much tax payers will have to reimburse these giant corporations for the dead animals.

While Wisconsin was not one of the 14 states that did simulations, DATCP staff did observe the Minnesota exercise. In addition, DATCP has published a 1-1/2 page African Swine fever factsheet.

October 2019 interviews with DACTP's Rebecca Slater, Emergency Response Coordinator and Dr. Julie McGwin, Veterinarian Specialist, identified multiple issues, including:

- 1.) In the event of an outbreak, thousands of trucks hauling up to a million hogs would be required to comply with a stop movement order for up to 72 hours. Standstills such as this are very hard to enforce. After 72 hours the animals - many of them weanlings - start to die.
- 2.) A 10km quarantine ring would be put around any infected factory, heavily impacting locals.
- 3.) Procedures for handling effluent from the washing of infected trucks and factories are not clear.
- 4.) Procedures for killing tens of thousands hogs in a factory are not clear.
- 5.) Composting and incineration are the recommended disposal techniques for carcasses once herds are killed. Wisconsin lacks sufficient capacity for either method. In addition, the robust pathogen, types of infected materials (metal cages, feeds, etc.) and Polk County's high water table make the efficacy of composting questionable. Impact of compost leachate on ground water is unclear. Landfills did not want avian flu carcasses and concerns about taking so many dead hogs are expected to be even higher.
- 6.) USDA's Disease Response Strategy - African Swine Fever raises many issues about disposal, including this quote from page 15:

"Due to the persistent nature of ASFV (African Swine Fever Virus), options for disposal are limited. For example, composting may not be feasible when there are large amounts of biomass; resources for rendering are currently limited. Burial poses significant challenges with environmental contamination and the ability of the ASFV to persist in the environment. Each option has its own environmental, logistical, and managerial challenges. APHIS and State officials and subject matter experts will collaborate to determine best approaches. "

The impact of these issues has not been identified, studied or addressed during the Polk County moratorium.

#### **6. Towns need time to review the impact of ordinance on A-2 and Shoreland zoned areas**

One of the key parts of the proposed amendments is to target Agricultural 20 districts. However, towns affected by this designation have not had any time to analyze its impact. In addition, recent proposals to amend the Shoreland Protection Ordinance mean additional impacts that towns have not had a chance to address.



Resolution No. 01-20

Resolution Amending the Polk County Smoke-Free Air Ordinance

**TO THE HONORABLE CHAIRPERSON AND SUPERVISORS OF THE COUNTY BOARD OF THE COUNTY OF POLK:**

**Ladies and Gentlemen:**

1 WHEREAS, the Polk County Board of Supervisors has adopted a Smoke-Free Air Ordinance  
2 67-10 in 2010; and

3 WHEREAS, Electronic nicotine delivery systems and electronic smoking devices provide an  
4 alternative smoking experience to tobacco cigarettes, but are not subject to regulation by the  
5 Federal Food and Drug Administration (FDA) and have not been proven safe for either users  
6 or bystanders. The contents of cartridges vary widely and may contain nicotine, traces of  
7 nicotine, carcinogens, formaldehyde, antifreeze and other toxic substances which may pose  
8 health risks for users and bystanders. Electronic smoking devices do not produce a gas or  
9 vapor but rather a dense visible aerosol of liquid submicron droplets consisting of glycols,  
10 nicotine, and other chemicals, some of which are carcinogenic. Packaging does not  
11 consistently include health warnings as required for conventional cigarettes and does not  
12 provide notice of harmful effects, nicotine concentration levels, or the existence or content  
13 levels of toxic substances; and

14  
15 WHEREAS, Electronic smoking devices have been proven to emit nicotine, ultra-fine  
16 particles, volatile organic compounds and other toxins. Nicotine has been found to cause  
17 adverse health effects, particularly in children and adolescents. Exposure to ultrafine  
18 particles are distressing and harmful and may exacerbate respiratory illnesses, such as  
19 asthma and may constrict arteries which could trigger a heart attack. The volatile organic  
20 compounds, such as formaldehyde and benzene, found in electronic smoking device  
21 aerosols, as well as conventional cigarette smoke, are proven carcinogens. Inhalation of  
22 vaporized nicotine in propylene glycol is not FDA approved. Short term exposure to  
23 propylene glycol causes eye, throat, and airway irritation and long term inhalation can result  
24 in developing asthma. Some studies show that heating propylene glycol changes its chemical  
25 composition, producing small amounts of propylene oxide, a known carcinogen. There are  
26 metals in electronic smoking device aerosol, including chromium, nickel and tiny  
27 nanoparticles;

28  
29 NOW, THEREFORE, BE IT RESOLVED the Polk County Board of Supervisors amends the  
30 Polk County Smoke-Free Air Ordinance as follows:

- 31  
32 1. Under Section 2. Definitions, after the definition of Cigarette add:

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34 **Electronic Delivery Device.** "Electronic smoking device" means any device that may be  
35 used to deliver any aerosolized or vaporized substance to the person inhaling from the  
36 device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-  
37 hookah.

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2. Under Section 2. Definitions, replace the Definition of Smoking with the following:

**Smoking.** "Smoking" shall mean inhaling, exhaling, burning or carrying any lighted or heated cigar, cigarette, pipe, or any other lighted or heated tobacco or plant product intended for inhalation, including hookahs and marijuana, whether natural or synthetic, in any manner or in any form. "Smoking" shall include the use of an electronic delivery device which creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this Ordinance.

BY: \_\_\_\_\_

Brad Olson, Supervisor, District #1

\_\_\_\_\_  
Doug Route, Supervisor, District #2

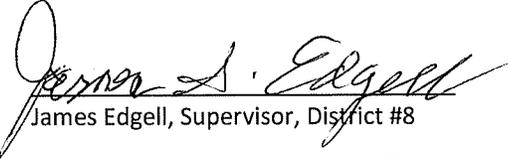
\_\_\_\_\_  
Dean Johansen, Chair,  
Supervisor, District #3,

\_\_\_\_\_  
Chris Nelson, Supervisor, District #4

\_\_\_\_\_  
Tracy LaBlanc, Supervisor, District #5

\_\_\_\_\_  
Brian Masters, Supervisor, District #6

\_\_\_\_\_  
Michael Prichard, Supervisor, District #7

  
James Edgell, Supervisor, District #8

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Kim O'Connell, Supervisor, District #9

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Larry Jepsen, Supervisor, District #10

\_\_\_\_\_  
Jay Luke, 1<sup>st</sup> Vice Chair,  
Supervisor, District #11

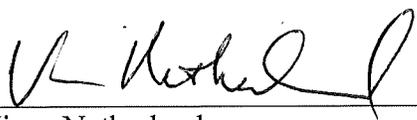
\_\_\_\_\_  
Michael Larsen, Supervisor, District #12

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Russell Arcand, Supervisor, District #13

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John Bonneprise, 2<sup>nd</sup> Vice Chair,  
Supervisor, District #14

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Joe Demulling, Supervisor, District #15

*County Administrator's Note:*  
Matter of policy.

  
\_\_\_\_\_  
Vince Netherland  
Interim County Administrator

*Fiscal Impact Note: none*  
  
\_\_\_\_\_  
Maggie Wickre, Finance Director

Approved as to Form and Execution:

Malia J. Malone (Electronically signed 01/06/2020)

Malia Malone Corporation Counsel

*Legal Impact Note:*

This Resolution would add vaping and electronic cigarettes to the restrictions that currently exist in Polk County's Smoke-Free Air Ordinance. This Resolution effectuates the policy decision made at the December 2019 County Board Meeting.

Excerpt of Minutes

50 At its regular business meeting on the 21 of January 2020, the Polk County  
51 Board of Supervisors acted upon Resolution No. 01-20: Resolution  
52 Amending the Polk County Smoke-Free Air Ordinance  
53 \_\_\_\_\_  
54 \_\_\_\_\_

- Adopted by a majority of the members present by a vote of \_\_\_\_\_ in favor and \_\_\_\_\_ against.
- Adopted by unanimous voice vote.
- Adopted as amended. See Below.
- Defeated
- Other:

Insert amendment to resolution according to minutes:

SIGNED BY:

  
\_\_\_\_\_  
Dean Johansen, County Board Chairperson

ATTEST:

  
\_\_\_\_\_  
Sharon Jorgenson, County Clerk

Executive Summary

This Resolution restricts vaping and electronic cigarettes in the same way as other "smoking" methods within our Smoke-Free Air Ordinance.

**CERTIFIED COPY OF POLK COUNTY RESOLUTION**

STATE OF WISCONSIN

COUNTY OF POLK

I, Lisa R. Ross, Polk County Clerk do hereby certify that the attached hereto and incorporated herein is a full, true and correct copy of Resolution No. 01-20: Resolution Amending the Polk County Smoke Free Air Ordinance adopted by the Polk County Board of Supervisors at its regular business meeting held on January 21, 2020.

 1/21/2020

Lisa R. Ross, Polk County Clerk

Date