

**State of Iowa
City Development Board
Meeting Minutes of March 9, 2022
Iowa Economic Development Authority
1963 Bell Avenue, Suite 200, Helmick Conference Room
Des Moines, Iowa**

Call to order 1:01 p.m.

Present

Dennis Plautz, Board Chairperson
Jim Halverson, Board Vice Chairperson*
Mari Bunney*
Chris McKee* (Left mtg. at 2:23 p.m.)
Mackenzie O'Hair*

Others Present

Matt Rasmussen, Administrator, City Development Board
Betty Hessing, Administrative Assistant, City Development Board
Emily Willits, Iowa Department of Justice
Vicky Clinkscales, IT Department, IEDA
John Fatino, Whitfield & Eddy Law, City Attorney for Van Meter
Frank Smith, Attorney representing RWRAA, Inc. & GW Development LC
Kyle Michel, on behalf of the City of Van Meter*
Sarah Ames, City Administrator, City of Van Meter*
Kate Lehman, LEH Property Owner, Van Meter
Maggie Murray, Planning & Community Devl. Director, City of Bondurant
Emily Rizvic, Associate Planner, City of Bondurant
Kesha Billings, Associate Planner, City of Marion
Marsha Thomas, City Clerk, City of Desoto*
Dan Van Langen, Public Works Director, City of Desoto*
Chrissi Wiersma, City of Hudson*
Connie Rogers, City Clerk, City of Hepburn*
Ted Nellesen, IDOM*
Scott Suhr, IDOT*
Lori Judge, IDOT*
Anthony Volz, IDOT*
Nathan Aronson, IDOT*
Michael Totenhagen, Hallett Materials*
Jeff Tucker, Liberty Ready Mix*
Gerald Graves, Guest*
Josh Ehlen, Guest*
Leslie Ehlen, Guest*
DuWayne Dalen, Guest*
Kurt Boevers, Guest*
Curt K., Guest*
Nate, Guest*
Andrea, Guest*

*Participated via Teams Webinar

Introduction by Chairperson, Dennis Plautz

Roll Call by Matt Rasmussen, Board Administrator

All Board Members were present.

Request for amendments to agenda

Matt Rasmussen proposed swapping NC22-10, Van Meter with UA22-11, Desoto on the agenda, as there may be lengthy discussion on the Van Meter annexation. Chairperson Plautz asked if anyone objected to that change on agenda and no one did.

Motion by	Chris McKee
Motion	I move to approve the agenda as amended under Matt Ramussen's proposal.
Second	Mackenzie O'Hair
Roll Call	All ayes. Motion approved.

Consideration of February 9, 2022, Business Meeting Minutes

Motion by	Jim Halverson
Motion	I move the Business meeting minutes of February 9, 2022 be approved as printed and distributed.
Second	Mari Bunney
Roll Call	All ayes. Motion approved.

New Business

D22-01 Hepburn	Matt Rasmussen explained this was a request for a discontinuance of the small town of Hepburn, Iowa. Matt Rasmussen explained this began with a phone call from the City Clerk of Hepburn in August of 2021. She explained to Matt Rasmussen that there was not a lot of interest in maintaining the City and it was hard to keep people on the City Council, etc. Mr. Rasmussen sent her some examples of what it would take to discontinue. They followed the process of discontinuing by adopting a Resolution of Intent to Discontinue and then calling for a public hearing. They held the public hearing and then passed a Resolution to Discontinue. After that resolution is passed, there is a thirty-day period within which a resident or group of residents can request that the discontinuance be put to a vote; no such request was received. The City would be officially discontinued as of today if the City Development Board approves the discontinuance. The City Development Board would then sit in the financial position of the City for a period of six months. We would publish a couple of notices in a local newspaper stating that if anyone has any claims against the City, they need to send them to the City Development
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Board for adjudication. After the six-month period is expired, all records then go to the County Auditor and any money left in the account would go to the County Treasurer. In this case, the City does not own a cemetery, they do not own any other property and there are no pending lawsuits. We did receive a check from the City for \$10,897.16, which was the balance in their account.

Mr. Rasmussen reported that the City of Hepburn has done their due diligence and Connie Rogers, City Clerk for Hepburn, participated to answer questions, but no questions were asked.

Motion by
Motion

Jim Halverson

I move the City Development Board find the City of Hepburn to be discontinued under Iowa Code Section 368.3 and direct staff to carryout procedures to complete the discontinuance of the City pursuant to Section 368.12, Code of Iowa, and to take the appropriate steps to complete the process for adjudication of claims.

Second

Mackenzie O'Hair

Emily Willits stated the Code Section is 368.21. Jim Halverson amended his motion to say 368.21 and Mackenzie O'Hair agreed with the amended motion for the second.

Roll Call

All ayes. Motion approved.

UA22-07
Hudson

Matt Rasmussen explained that UA22-07 & UA22-08 are going to look a lot alike. Originally when it was submitted, Hudson did not realize it was two non-contiguous parcels so we had them split it up into two actions.

This is a 100% voluntary annexation proposal for the City of Hudson. It is for a 3.34 acre lot on the south side of Rancho Road. The lot is adjacent to Hudson city limits and the owner desires to voluntarily annex the property into the City of Hudson. The purpose of this annexation is to provide additional land for further residential housing and economic development which benefits the city's tax base. Should the annexation be granted, two or three R-6 Residential lots would be created on the parcel. City services would be provided to the proposed annexation area. This is not subject to a moratorium agreement. There is county-owned right-of-way included and this packet does appear to be complete and properly filed. Matt Rasmussen noted that on the map, there is a Parcel A and a Parcel B and this is for Parcel A.

Chrissi Wiersma was present to answer questions, but no questions were asked.

Motion by

Mari Bunney

Motion	I move the Board finds UA22-07 as complete and properly filed and in the public interest and that it be approved.
Second Roll Call	Chris McKee All ayes. Motion approved.
UA22-08 Hudson	Matt Rasmussen stated this annexation request is for Parcel B on the map and is 18.19 acres. Everything stated on UA22-07, applies to this one.
Motion by Motion	Chrissi Wiersma was present to answer questions, but no questions were asked. Chris McKee I move the Board finds UA22-08 as complete and properly filed and in the public interest and that it be approved.
Second Roll Call	Mackenzie O'Hair All ayes. Motion approved.
UA22-09 Bondurant	Matt Rasmussen introduced this as a 100% voluntary annexation request for the City of Bondurant consisting of 57.77 acres and does include State and County right-of-way. The City of Bondurant is in the process of purchasing the three annexation parcels owned by Alan & Debbie Knuth, the applicant. The City plans to construct a city campus at this location to house the City's Emergency Services Department and Public Works Department. The Knuth's dwelling is currently located on this land and will be demolished once the city campus project moves forward. An existing City of Bondurant 12" water main and an existing 8" City of Bondurant sanitary sewer main are located adjacent to the parcels. This annexation is not subject to a moratorium agreement and the packet does appears to be complete and properly filed.
Motion by Motion	Maggie Murray, Planning Director for the City of Bondurant, was present to answer questions. No questions were asked. Mackenzie O'Hair I move the Board finds UA22-09 as complete and properly filed and in the public interest and that it be approved.
Second Roll Call	Mari Bunney All ayes. Motion approved.
UA22-11 De Soto	Matt Rasmussen introduced this as a 100% voluntary annexation petition consisting of 90.23 acres for the City of De Soto. The owner of the real estate is proposing additional residential housing for the City of De Soto. The current use of the property is for agricultural use, however, there is residential housing on the west side of the property. The city would provide both water and

Motion by
Motion

sewer services to the proposed annexation property. The proposed annexation is not subject to an existing moratorium agreement and the packet appears to be complete and properly filed. The Board had no questions regarding this annexation proposal.

Chris McKee

I move the Board finds UA22-11 as complete and properly filed and in the public interest and that it be approved.

Second
Roll Call

Jim Halverson

All ayes. Motion approved.

NC22-10
Van Meter

Matt Rasmussen reminded the Board that there were several legal documents that were forwarded to them last week. Mr. Smith is here today and will explain further.

Matt Rasmussen explained this was a voluntary annexation with non-consenting owners for the City of Van Meter and is within two miles of the Cities of West Des Moines and Waukee. The total acreage is 1,368.27 which includes all road right-of-way, State owned property and railroad. The City of Van Meter received four applications to be voluntarily annexed. They are including non-consenting property for the purpose of not creating an island of unincorporated territory and to lend towards more uniform and complete corporate boundaries for the City of Van Meter.

The proposed annexation is proposed to be developed as mixed use development, including heavy industrial, light industrial, low density residential and community uses such as utility facility locations and recreational facilities. Current and proposed services are outlined on the map of water/sanitary improvements in packet. Map does not include services already provided by Xenia Water District or Warren Water District. Existing residential included in this annexation is entirely serviced by either Xenia Water District or Warren Water District. Lauterbach property proposed to be served by the City of Van Meter for both water and sewer. Included in this annexation is County owned highway right-of-way, State owned highway right-of-way, Iowa Interstate Railroad right-of-way and State owned property.

Mr. Rasmussen stated that the city attempted to make calculations and he re-did their calculations. The percent of non-consenting is 8.5% and public land is not included in that calculation.

Matt Rasmussen stated this packet appeared to be complete and properly filed. There are a couple of things that Mr. Rasmussen noticed. First, the calculations were

a little off, but he corrected those. Second, the rules dictate that a voluntary application should include a map, a legal description and it should be signed by all owners of record. In the instance where the owner of record is not a natural person—for example, a corporation—they need to indicate that the person signing is authorized to do so. That is absent from the voluntary applications. That is common in what the Board sees in many cases. Also, there was some minor duplication of a legal description or two, but other than that, Mr. Rasmussen thought it was a good packet and he views it as being complete and properly filed. No questions were asked from Board members.

Chairperson Plautz asked Van Meter's City Attorney, John Fatino, to speak. Mr. Fatino gave an overview of the annexation and why the City thinks it is appropriate and why we would ask the Board to approve it today. First, the applications are of record and staff has indicated it is in proper form for submission to you. The City maintains that the annexation is consistent with the Comprehensive Plan and the land use map for the City of Van Meter. There are, as staff has indicated, certain non-consenting landowners and we have published the appropriate notice. The packet that was submitted to the Board would reflect the planning issues that went into the appropriateness of annexation of all of the ground—specifically, the River Woods area, who Mr. Frank Smith represents. It is the city's position that there are either city services available or that the plat was built to deal with city standards. For instance, there were water mains installed to city standards, including hydrant tees and the City has also acquired adjacent easements for sewer along F90, which would be to the south of the residential property.

Annexation of the River Woods area—the area which is really in contention today—is consistent with the terms of annexation moratoriums with both West Des Moines and Waukee. Under Chapter 364, this would be an appropriate annexation because the City can provide services within a reasonable time, including police and fire. Also, there are discussions underway with respect to snow removal. As set out in the regulations of the Board, the annexation would be appropriate because it creates more uniform boundaries. In the packet, there is a map that shows additional annexations planned by the City in 2023-2024. That is important for the Board to consider as well. Mr. Fatino thanked Chair Plautz.

Chairperson Plautz asked if there were questions from

the Board, but no questions were asked. Chair Plautz then asked if anyone else had comments.

Scott Suhr, District Transportation Planner, with the IDOT stated the IDOT would like to share the following concerns with the Van Meter annexation. First, going to the right-of-way on the south side of Interstate 80 would not negatively impact the legal requirements necessary for the annexation to move forward. There are several headaches with annexation to centerline versus to right-of-way line. Issues going to centerline of primary routes leads to different jurisdictions for the two directions of travel, which could impact maintenance, encroachment, signage—both regulation as well as maintenance and emergency management services. This requires a lot more staff time and taxpayer dollars, as more decision makers are involved. IDOT property does not need to be included in order to provide a more uniform boundary. We understand from conversations with Emily Willits and Matt Rasmussen, that there is a provision in the City Development Board's Administrative Rules, which allows this Board to request deletion of territory, which may be the case with this annexation. The IDOT requests that the CDB amend the petition, as permitted, to remove IDOT's non-consenting portion of land. Finally, the roadway to the south of the interchange would be okay with remaining as part of the annexation if the CDB leaves the state-owned Veterans Affairs and Administrative Services property included. This would enable the annexation to have a more uniform boundary.

Chairperson thanked Mr. Suhr and stated we will put that into the public record. Matt Rasmussen asked Mr. Suhr if it is parcel #1—right-of-way on the south side of I-80—that the IDOT is asking to be removed and that was correct. Chairperson Plautz stated that would be something we would consider at the public hearing, but it is good to get that in the record.

Kyle Michel, on behalf of the City of Van Meter, letting you know I am here for a question or comment as needed. Mr. Fatino did an excellent job representing the facts for Van Meter.

Chairperson Plautz clarified that what we are doing today is trying to determine if this proposal is properly filed and meets all the requirements and if so, then we would schedule a public hearing.

Chairperson Plautz asked for further comments before going to Frank Smith. No comments.

Mr. Frank Smith, 4215 Hubbell Avenue, Des Moines, representing property owners in the River Woods Development—RWRAA, Inc. and GW Development LC. Mr. Smith showed on a map where the property is located of whom he represents (pg. 28 of petition). The property owners Mr. Smith is representing are immediately south of the railroad right-of-way. RWRAA, Inc. is a non-profit corporation formed for purposes of representing the folks in River Woods—all of whom are members or are permitted to be members of RWRAA, Inc. (aka River Woods). In addition, Mr. Smith also represents one property owner directly within River Woods and that's GW Development LC.

Mr. Smith addressed concerns relating to the annexation application, as presented, as being complete and properly filed. With all due respect to Mr. Rasmussen, besides the failure to include the absence of authority, which I recognize is not material, I do take issue with that. There are at least three other problems with this annexation filing. Several of those problems are being addressed in a District Court action, a lawsuit called a Certiorari action, which was filed January 17, 2022, in the Iowa District Court for Dallas County. It does not challenge anything this Board has done or may do, but it challenges the legality and authority of the City of Van Meter to proceed as it has.

Van Meter's annexation application and the process they followed is deficient and does not comply with the provisions of the Iowa Code and it is for that reason that the Certiorari action was filed. If River Woods and GW Development prevail, in regard to the pending District Court action, this whole annexation application will be thrown out. You will have devoted your efforts to considering an annexation that will likely never proceed or be authorized to proceed. The Certiorari action was amended to include additional illegalities or problems in late February of this year. Van Meter's attorney, Mr. Fatino, has filed a Motion to Dismiss and we have vigorously resisted that Motion to Dismiss and believe that it will be denied, but that is yet to be determined. The Motion to Dismiss is currently scheduled for hearing in the Dallas County District Court for March 17, 2022. In conversation with Mr. Fatino, there may be a need for a short delay in the Court hearing the matter because Mr. Fatino's firm did not receive earlier notification of the time and date of hearing and have a conflict.

Mr. Smith's first request to the Board is to table all action

on this matter until after the District Court has ruled on the Motion to Dismiss. Mr. Smith asked Chairperson Plautz for further direction on whether to proceed with his presentation indicating why he believes it is not complete and properly filed or ask that the Board consider before proceeding with that presentation, making a determination on whether it wants to table the matter until after the ruling has been entered on the Motion to Dismiss.

Chairperson Plautz asked Mr. Smith how long he thought it would take for the District Court to issue a ruling on the Motion to Dismiss and Mr. Smith replied that it would probably be several weeks from the date of the hearing. District Courts have up to sixty days to rule before they have to file a report with the Iowa Supreme Court explaining why there is a delay.

Chairperson Plautz asked Ms. Willits for her thoughts and she wanted to hear from Mr. Fatino on his response to the request for a delay and then I can let you know my thoughts. Mr. Fatino stated that the response that they filed—there are several legal issues, but the one that really drives home to the Board here today is that part of the basis for our Motion to Dismiss was that this body is the one that is legislatively determined to set boundaries and hear these complaints. I understand Mr. Smith's complaint as to the procedure as to how we got there, but this is the body who should determine annexations, not judges in the Court House. That takes us back to the days long before 368 was ever created. Chairperson Plautz agreed. Mr. Smith responded that what is missing is the distinction here. There is no challenge by River Woods that if the Board has this properly before it, it decides the issue. The problem is, we are not litigating the merits of the case before the City Council. We are litigating and challenging the legality of what they have done and how they have done it. If they have not filed the proper processes with the annexation application, the board has no jurisdiction to act on something that is not properly before you. The argument in District Court is not that you do not have authority to decide the annexation case—you do—if it is properly before you. That is why I believe the predicate is, let us let the District Court determine whether we have a case and if we do not, the matter will proceed, I suspect.

Chairperson Plautz stated that he agreed with that also and asked Emily Willits to weigh-in on this. Emily Willits replied that we currently have a petition pending in District Court, challenging what the City did. It is a set of

allegations at this point, but you do not have an Order from the Court on anything at this point, so I do not see any reason why the Board cannot go ahead and decide if this is complete and properly filed and set it for a hearing. Ms. Willits stated she did not want a situation where parties start filing actions in District Court just to delay this process. Mr. Fatino agreed with Ms. Willits. Frank Smith also agreed with Ms. Willits that there is no law that says you cannot proceed and if we need to ask for a request to proceed with an injunctive relief, we can do that. This a complex annexation—it is not as simple as it has been represented to be. There are a number of problems with this annexation and letting the District Court rule makes sense—there is no urgency here. If it does get set for hearing, there will have to be some type of discovery or a bunch of additional information deemed before we will be prepared to make the submittals. That takes time and money and it will cost everybody effort that may be of no avail whatsoever at the end of the day. We would not have filed the lawsuit if we did not think there was substantial merit to the lawsuit and we simply request that you take that into consideration proceeding. If we have to proceed, then we will proceed and we will continue to make the record. It would seem plausible to at least table this for a brief period of time until we at least have a ruling on the Motion to Dismiss. That will give Ms. Willits better legal ammunition against us if we lose or it may work the other way. In all events, it does not lead to a waste of time, money and resources by anyone.

Chairperson Plautz went back to the Board for questions and/or comments. Jim Halverson stated that he was inclined to determine whether the packet was complete and properly filed and if so, then setting a public hearing date. Emily Willits stated the Board could determine if the packet is complete and properly filed and then if you want to, delay the public hearing until after the District Court's decision was made. Chairperson Plautz stated that if it would become statewide strategy to delay these things, he would be concerned about that. Mari Bunney and Chris McKee agreed with Jim Halverson's thoughts.

Chairperson Plautz stated that if we recognize the issue—do this part of the process and not hold the hearing until District Court made its determination, what harm would there be in that? Chairperson Plautz asked the city what their comments were regarding doing that. Mr. Fatino stated he did not know of an imminent development going on; he was just more concerned with concerns he heard from the Department of Justice regarding a statewide strategy unfolding to file a certiorari

action which would delay this action. If the Board were to determine if it is complete and proper, set it on the agenda and then formerly delay the public hearing pending the District Court decision, that's certainly the Board's discretion.

Frank Smith stated this is not the first instance where a certiorari action was commenced against a City Council for acting illegally in dealing with an annexation. Mr. Smith stated he was ready to address the Board today on whether it is complete and properly filed but setting it for hearing creates a whole host of other concerns which the Chairperson is aware of.

Chairperson Plautz asked Emily Willits if she had any further comments. Ms. Willits asked Mr. Smith if he filed a Petition for Certiorari before it came to the Board and he said he did and it is in his objections. The Petition for Writ of Certiorari was filed January 17, 2022 and this annexation application was filed February 16, 2022—twenty-nine days later, so it was not as though Van Meter was not aware of the existence of the challenge to its City Council's actions before it filed its annexation application.

Ms. Willits stated she did not want to prejudge the outcome of this litigation. That is not the question that is before the Board today. You may as well fulfill your duties today and move forward.

Chairperson moved back to the Board for discussion and/or a motion. Frank Smith asked if the Board would be acting on whether the petition is complete and properly filed and Chairperson Plautz replied they would. Mr. Smith respectfully asked if he could make his case and arguments on whether it is complete and properly filed. Emily Willits stated we have a request today from Mr. Smith to delay. Mr. Smith is representing residents in the River Woods Development and GW Development LC. Would someone on the Board like to make a motion on whether to proceed today or not. Chairperson Plautz stated we have a staff report saying it is complete and properly filed. Matt Rasmussen stated that what Emily is saying is do we want to move forward with anything today and give Frank an opportunity to make his case that it's not complete and properly filed before we move forward in deciding if it is complete and properly filed or not.

Jim Halverson asked if we needed a motion so we can hear from Mr. Smith or other parties on what alleged failings there are in the filing, we can certainly consider that today. Ms. Willits stated that normally you would not,

Motion by
Motion

but you would not have a request to pause everything and if nobody is going to move to postpone this. Then Jim Halverson made a motion.

Jim Halverson

I move to consider the application's completeness and whether it is properly filed today.

Second
Roll Call

Mackenzie O'Hair

All ayes. Motion approved.

Chairperson Plautz asked Mr. Smith to make his case on the completeness of application and if it is properly filed.

Frank Smith reviewed what the Iowa Administrative Code says regarding what the requirements are for the contents of a request for a voluntary annexation within another city's urbanized area request—IAC 263—7.2(368).

The three items he found in packet that were deficient were:

First, with a voluntary annexation application, there is a requirement that there be an auditor notification given and certification given from the auditor that he/she has reviewed the legal descriptions and that they are correct and complete and also confirm that all the folks that are listed as property owners have been properly identified. There is no such certification from the auditor in the City of Van Meter's packet. There is a provision in the Iowa Administrative Code that says if the auditor does not respond, then the City needs to provide a copy of its request to the auditor and a statement indicating that no response was received. Mr. Smith stated that the city's application is an 81-page application and on page 59 of the application, there are attached to it, various E-mails with the auditor. I have highlighted the response from the auditor on October 15, 2021—"Not sure the exact amount, but it looks like it's around 17.5 acres". You do not see the certification that is in every 80/20 annexation packet. The reason this is important and the reason this is in the Administrative Rules is to make certain that somebody independent of the parties has validated the accuracy of these legal descriptions and we do not end up in a hearing or proceeding where we are going through every single legal description to make sure it is complete and properly filed. It is a simple exercise, but it is a predicate that is important to this Board in terms of an efficient and effective operation and it does not appear in this annexation application.

The second point that I call out to the Board regarding this annexation application and its deficiencies, relates to the

tax abatement provision. The IAC provision is under 263—7.2(2)(h). What is important about this is (h) says that a city can provide for tax abatement. It is a common tool in the city’s toolbox to incentivize property owners to voluntarily annex. Subsection ‘i’ says that if the Council does that, it has to do it by resolution. ‘l’ says that “If the council opts to provide for transition of the imposition of city taxes, the terms of the transition shall be included in the resolution.”

If the City is going to provide for tax abatement, it has to say so in the resolution. In the annexation application on page 54 it talks about tax abatement under “Revitalization”. In the resolution, which is supposed to address tax abatement, if it is offered, says nothing about it. The application says, “Additionally, all properties included in this annexation are eligible for the existing Tax Abatement Program offered by the City of Van Meter. Said program is a five-year sliding scale with 100%, 100%, 100%, 75% and 50%. There are three problems with that.

Chairperson Plautz stated that it is almost like we are mixing and matching with this. I do not know what the City did, but there is a phase-in for the imposition of city taxes and there are tax abatement laws. My question is, does the City have a tax abatement program they are referring to or is this referring to the phase-in, which is a ten year in 368? Kyle Michel replied the City is not offering the ten-year imposition and as stated in the application, these properties would be eligible for the existing Tax Abatement Program. As a caveat to that, the City would be able to amend its Urban Revitalization Plan to incorporate these properties into that Plan to be eligible after such time as the annexation is approved. Chairperson Plautz asked if the paragraph on page 54 is referring to Tax Abatement under another section of The Iowa Code, which is already in place and is getting extended, to somebody who would build a home in the future. Kyle Michel replied that was correct.

Frank Smith stated that he agreed with Chairperson Plautz’s interpretation. The problem with that is 368.11(2)(m) says that if there is going to be tax abatement offered to folks in the annexation territory, it has to be offered to everyone uniformly. Chairperson Plautz asked if we are talking about two different sections of the Code here—and what was intended. Matt Rasmussen stated that it is different—what the City has in place is a tax abatement program and if they were annexed, they would be eligible. It is a different program. What the City Development Board deals with is transition for the

imposition of city taxes against property within an annexation area.

Frank Smith stated that where it becomes confusing is, the legislature has said that if a property is within an annexation territory and is going to be offered tax abatement, it has to be uniform. Every property in the annexation territory has to be entitled to it. Kyle Michel stated that every property would be subject and eligible for the City's Tax Abatement Program.

Jim Halverson stated that the City is not offering a transition in taxes. They are effectively relying on an existing city practice and policy of applying a pro-rated abatement over a period of time. That is the distinction that is being made. Chairperson Plautz stated that the City has a Tax Abatement Program that is attached to a legal description and now you are just extending it to additional areas that might be coming in. It only applies to the added value created after the date that it becomes applicable. Is that correct? Kyle Michel replied that was correct and the City would need to amend their Urban Revitalization Plan to expand the legal description of that territory. Frank Smith stated that he made his record.

Mr. Smith stated that the third problem with this annexation and the reason it is not complete or properly filed is because it does not state a permissible reason under The Iowa Code for including non-consenting property owners. 368.7 says that non-consenting property owners may be included for only two reasons—to avoid the creation of islands or to create more uniform boundaries. Nowhere does The Iowa Code say non-consenting property owners may be included to lend towards more uniform or complete boundaries. Those are completely different standards. Almost any addition of land could potentially lead to more complete uniform boundaries over 10-20-30-40 years—depending upon how it fills in. The legislature was very sensitive to the wishes of landowners who did not want to come in. There are good reasons for cities to bring folks in under certain circumstances—particularly where it relates to the extension of municipal services. If that is the case, you need to state that in your Resolution. I respectfully submit that all one has to do is look at that map, to see that the inclusion of the non-consenting property owners—while it may lend itself toward ultimately more complete or uniform boundaries—they are not being included to create more uniform boundaries. They are not essential to this annexation. If the City were truly interested in creating more uniform boundaries, particularly in a large 80/20 annexation, one would think it would have filled in the area

on the southeast quadrant of the City.

Chairperson Plautz stated that what Mr. Smith is saying is because they did not state the reason in their Resolution, it is not properly filed. But, whether or not what has been filed meets one of the two tests, is what we have the hearing for. Frank Smith replied he would agree with that to a certain extent. There is a certain level of “does this make sense” to all of this. You must have in your Resolution the reason for including non-consenting owners.

Matt Rasmussen stated that Chris McKee has left the meeting (2:23 p.m.).

Mr. Rasmussen stated that what the City wrote in its Resolution was, “Whereas, the City of Van Meter, Iowa is including non-consenting property as defined and described herein for the purpose of not creating an island or unincorporated property and to lend towards more uniform and complete corporate limits for the City of Van Meter.” They do put a reason for including non-consenting in the Resolution. Frank Smith replied there is no dispute with that, but the reason is not statutorily recognized. There is nothing in the statute that talks about “lends toward”—that is a completely different standard—than to create more uniform boundaries. Ms. Willits asked Mr. Smith where in the rules it says that that needs to be in the Resolution as a prerequisite for it to be complete and properly filed. Mr. Smith replied that it can be found in 263—7.2(3)(g).

After much discussion, the Board decided to make a motion to find the packet complete and properly filed and schedule a public hearing.

Motion by
Motion

Jim Halverson
I move the Board finds NC22-10 as complete and properly filed and that a date for a public hearing be scheduled.

Second
Roll Call

Mari Bunney
All ayes. Motion approved.
A public hearing was scheduled for May 11, 2022 at 1:30 p.m. at IEDA or via Teams webinar.

Staff Reports

No staff reports.

**Future Meeting/
Public Hearing**

April 13, 2022, at 1:00 p.m., City Development Board Business Meeting at IEDA, 1963 Bell Ave., Suite 200, Helmick Conference Room, Des Moines or via Teams Webinar.

May 11, 2022, at 1:30 p.m., NC22-10, Van Meter Public
Hearing at IEDA, 1963 Bell Ave., Suite 200, Helmick
Conference Room, Des Moines or via Teams Webinar

Adjourn 2:55 p.m.

Respectfully Submitted,
Betty Hessing, Administrative Assistant