

**State of Iowa
City Development Board
Meeting Minutes of April 14, 2021
Iowa Economic Development Authority/IFA
1963 Bell Avenue, Suite 200
Des Moines, Iowa
TEAMS/TELEPHONIC MEETING DUE TO CORONAVIRUS**

Call to order 1:00 p.m.

Present

Dennis Plautz, Board Chairperson
Jim Halverson, Board Vice Chairperson
Mari Bunney
Chris McKee
Mackenzie O’Hair

Others Present

Matt Rasmussen, Administrator, City Development Board
Betty Hessing, Administrative Assistant, City Development Board
Emily Willits, Iowa Department of Justice
Lisa Connell, IEDA, Legal Staff
Kevin Olson, City Attorney, City of Coralville
Seth Gunnerson, Senior Planner, City of Cedar Rapids
Jeff Wozencraft, Planner, City of Cedar Rapids
Frank Smith, Attorney, City of Altoona
John Shaw, Economic Development Director, City of Altoona
Chad Quick, Planner, City of Altoona
Clint Fichter, Attorney, City of Woodbine
Kristina Kelley, City Clerk, City of Woodbine
Hilary Moores, CPA, Woodbine, Iowa
Jennifer Mumm, Harrison County Attorney
Michael Guanci, Iowa Legislative Services Agency
Lori Judge, IDOT
Anthony Volz, IDOT

Introduction by Chairperson, Dennis Plautz

Roll Call by Matt Rasmussen, Board Administrator

All Board Members were present via Teams/teleconference.

Request for amendments to agenda

Motion by	Mari Bunney
Motion	I move to approve the agenda as presented.
Second	Jim Halverson
Roll Call	All ayes. Motion approved.

Consideration of March 10, 2021, Business Meeting Minutes

Motion by Jim Halverson
Motion I move the Business meeting minutes of March 10, 2021
be approved as printed and distributed.
Second Mackenzie O’Hair
Roll Call All ayes. Motion approved.

Proposed Administrative Rulemaking

Amendments to Waiver and Variance Rules, 263 Iowa Administrative Code, Chapter 6.

Emily Willits explained this was a result of a statutory change that came out of the last legislative session. Previously, Chapter 17A of the Iowa Code, which is our State Administrative Procedures Act, talked about an Administrative Agency, such as this Board, adopting either a waiver or a variance from a rule. The legislature has stricken the variance language so now Administrative Agencies can only grant waivers, not variances. The proposed rulemaking today is to account for that change and strike language from our Administrative Rule that talked about variances. It is a rule clean-up to make sure that our rules are compliant with current language in the Iowa Code.

Lisa Connell, legal staff with IEDA, stated that Emily Willits covered it. The thought behind that legislation was that there was not any substantive difference between a waiver and a variance—really two ways of saying the same thing. The legislature cleaned-up that terminology in the Code language, so these proposed rule updates are to do the same in the rules. There was also a change about reporting on rule waivers, which if this Board is not doing rule waivers, it is not particularly relevant, but if you ever do a waiver, it will need to be reported through the legislative portal.

Lisa Connell stated that one other thing she wanted to mention was the other rule chapters related to this Board had IEDA’s old address, which changed in late 2019. Ms. Connell submitted an editorial change to update the address in those other rules. That does not need to go through the same formal process—basically we just let the Administrative Code Editors know what changes need to be made and they will publish those next week and that address change will become official as well.

Chairperson Plautz asked if anyone had questions and Chris McKee requested updated versions of rules be provided by Betty Hessing.

Emily Willits explained that today the Board will be voting to notice these rule changes and then there will be a public notice and comment period. After that period is over, it will come back to you to approve the final rules. Assuming there are no changes, it will look the same as what is in front of you today.

Motion by Jim Halverson
Motion I move approving the Filing Notice of Intended Action for
Amendments to Waiver and Variance Rules, 263 Iowa
Administrative Code, Chapter 6.

Second Chris McKee
Roll Call All ayes. Motion approved.

Matt Rasmussen stated that he has had a couple phone calls, since we started the meeting, from people who were not able to use the dial-in number and conference ID number to get connected to the meeting. Matt Rasmussen has forwarded them links and they are getting connected via computer. The link we have printed on agenda is same as dial-in number and conference ID number. It is possible someone may have tried to call-in—not connect via computer—and they were not able to do that for some reason.

New Business

UA21-08 Matt Rasmussen explained this is a 100% voluntary
Coralville annexation for the City of Coralville consisting of 43.34 acres. The property is being annexed into the City of Coralville to be developed as a single-family residential development and the new road will provide an important access between two arterial streets, namely North Liberty Road and Dubuque Street. All city services will be provided to the area. There are currently no moratorium agreements in effect for the property being annexed and this packet appears to be complete and properly filed.

Motion by Kevin Olson, City Attorney for Coralville, was present to
Motion answer questions. No questions were asked.
Jim Halverson
I move the Board find UA21-08 as complete and properly filed and in the public interest and that it be approved.
Second Mackenzie O’Hair
Roll Call All ayes. Motion approved.

NC21-09 Matt Rasmussen explained this is a request for a
Altoona voluntary annexation with up to 20% being non-consenting to the City of Altoona. The total acreage of the annexation is 40.04 acres; consenting acres is 35.48 with 3 acres being non-consenting and 1.56 is included as public road right-of-way. The percent being non-consenting is 7.8%.

This voluntary annexation, which includes a non-consenting property owner, is in accord with Altoona's 2014 Comprehensive Plan which was developed taking into consideration the Smart Planning Principles of Chapter 18B of the Iowa Code. Altoona has a need for developable residential land. The annexation territory is classified as Low Density Residential under Polk County zoning and is anticipated to be developed as such.

Altoona has eight-inch and twelve-inch water mains adjoining the annexation territory and sewer mains already within the vicinity of the annexation territory.

Altoona presently provides no municipal services (other than fire and EMS) to the annexation territory, but has the immediate fiscal and physical capability of extending substantial municipal services to the annexation territory. Other services to be provided include Law Enforcement; Fire and EMS; Public Works; Building, Zoning, Engineering, Planning and Related Services; Library, Parks & Recreation; and Fiscal.

There is an urban services agreement with Pleasant Hill, but no other 28E agreements or annexation moratorium agreements that would be breached by virtue of this annexation.

Matt Rasmussen stated this packet does appear to be complete and properly filed.

Frank Smith, Attorney representing the City of Altoona, was present to explain further and answer questions.

Motion by
Motion

Jim Halverson

I move the Board find NC21-09 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 12, 2021 at 1:30 p.m.

UA21-10
Cedar Rapids

Matt Rasmussen explained this is a request for a 100% voluntary annexation to the City of Cedar Rapids; it is 40.3 acres. The City of Cedar Rapids believes that the annexation area provides for orderly growth and does not create irregular boundaries and is immediately adjacent to the existing corporate limits. The proposed annexation is consistent with the City's Future Land Use Map (FLUM) laid out by EnvisionCR, the City's Comprehensive Plan. The FLUM identifies the land to be annexed as "Employment Reserve", which the Comp Plan and the Zoning Code identify as being suitable for a variety of commercial and light industrial uses. The existing land use is agricultural and fallow land.

Water and sewer extensions are planned for the site. The site is adjacent to the City limits and therefore near existing service areas for police and fire protection. The City site is a part of a larger annexation that occurred in March of 2020 and is served by Edgewood Road SW and 76th Avenue SW. The City has policies in place to ensure that future development provides for adequate extension of services and necessary upgrades to the transportation infrastructure.

Cedar Rapids does not have an annexation agreement with the City of Fairfax. The proposed annexation is consistent with a previously expired agreement with the City of Fairfax.

Matt Rasmussen stated this packet does appear to be complete and properly filed.

Jeff Wozencraft with the City of Cedar Rapids, Community Development Department, was present to answer questions. No questions were asked.

Motion by
Motion

Chris McKee

I move the Board find UA21-10 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.

NC21-11
Woodbine

Matt Rasmussen explained this is an 80/20 annexation from the City of Woodbine with a total of 248.535 acres, with 15.67 acres or 6.3% being non-consenting. Non-consenting properties are being included to avoid the creation of an unincorporated island. The City plans to provide municipal services to the annexation area, including gas and water. The proposed annexation territory is not subject to an existing moratorium agreement and does include some county-owned right-of-way.

Matt Rasmussen stated he wanted to provide the Board with some background regarding this annexation request. Betty Hessing and I had a lot of back-and-forth with the City to have them submit materials that we believed would satisfy the requirements. Typically, I have an informal deadline of two weeks prior to any Board meeting for a city to submit their paperwork. That allows us time to review the paperwork and prepare everything for the meeting. We meet with the Board Attorney a week before the Board meeting. Matt Rasmussen explained he did receive the packet from a representative from the City two weeks ago today. The person who Matt had been dealing with was the City Administrator for Woodbine, who actually left her position with the City a week before they were to submit these materials—about three weeks ago. The City was then in the position of picking-up where that City Administrator left off. They made their best attempt to provide us with the required documentation. Betty Hessing and I went over the original submission and found several holes and the City was very responsive in providing materials that we felt were missing. I do believe the City largely complied with the requirements, but I do have a question mark or two which

I think the Board needs to be aware of. Matt Rasmussen explained he did have a conversation with Emily Willits about this and she and I thought the best strategy would be to make the Board aware of these potential deficiencies and then have the Board ultimately decide on how to proceed. It is substantially complete, but I would defer to the Board on how to proceed and I would be more than happy to lay out what I think the deficiencies are. I had a conversation with a couple representatives of the City this morning so they may have some further input as we proceed today.

Clint Fichter, Attorney representing the City of Woodbine, stated the City hired him to help them through this process. First, I would like to pass along from our development team that we had discussed that we have been extremely happy with working with your staff—they have been great and very helpful. I have been a public servant and that does not always get said. I had a long conversation with Matt yesterday and I agree that there are some things here that we might want to look at. We do have a timeframe that would allow us to go back and remediate anything that did not get done. I know the spirit of the law was definitely attempted to comply with fully and I believe that it is likely that we did comply with everything, but there are those question marks that Matt mentioned. The situation with this annexation is that it was precipitated by a developer wanting to build a new housing subdivision. We have been in the process of working through a real estate improvement district in an urban renewal area with the County in advance of this annexation so all the pieces that they need to move forward with completing their project and we have authority to do everything, so the annexation can linger another month if you want us to take steps to comply with everything you need prior to your May meeting. If you do find the record complete, we would like to move on too.

Chairperson Plautz thanked Mr. Fichter and asked Matt Rasmussen to go into more detail. Matt Rasmussen stated that if you look at what was provided, you will notice that there was an affidavit that states the certified mailing was done to the non-consenting owners and each public utility, on February 17, 2021. We do not see certified mail receipts that are reflective and the copies of the letters that we do have are dated February 26, 2021. City Council Resolution was passed on March 17th which is thirteen business days after February 26th; the requirement per Code and Rule is fourteen business days, so they did not make the fourteen business days on that.

There is also a requirement to send notice of City Council meeting for them to consider annexation via regular mail to the Chair of the County Board of Supervisors, non-consenting owners, adjoining property owners and public utilities—they did provide USPS receipts—which indicated the mailing was done on February 17th, but the letters that were provided, would appear to be the non-consenting—but those letters are dated February 26th. Again, that would be thirteen days prior to City Council approval, which again is outside the requirement. The last thing you see in your packet is some letters that were mailed out to the consenting and non-consenting owners regarding a transition of property taxes. So, it is assumed those are offer letters—dated February 8, 2021. By rule, if they are going to provide a transition in property taxes, that is supposed to be in the City Council Resolution and that can be found in 263.7.2.2(i).

Chairperson Plautz referred to Emily Willits. Emily Willits stated that Matt provided a nice overview. The statute requires fourteen business days-notice prior to the City Council meeting, where an annexation is going to be considered. It appears in this case, some of the non-consenting property owners received thirteen business days-notice. My thought is that the time to raise that would have been at the City Council meeting because that is the meeting for which the notice was arguably deficient. I think if nobody were prejudice by it and all of the non-consenting owners received notice, that would be the time to show-up at the meeting and state their positions. A court would likely find that the error was harmless, but we did feel like we should bring it to your attention. For the City of Woodbine, if you want to proceed now, it's a little bit at your own risk—depending on if you think the notice issue would become a problem for you down the road.

Chairperson Plautz asked Clint Fichter if he had any thoughts relative to what he just heard, in terms of what Woodbine would prefer. Clint Fichter replied that he thought they should take the month, since they do not need it right now for any real emergent purpose, and fix the public hearing notices and fix the Resolution on the tax transition and bring it back to you at the May/June meeting.

Matt Rasmussen asked Mr. Fichter if the City proposed to re-notice the proper parties, re-publish in the newspaper regarding the public hearing, hold a new public hearing, have another City Council meeting and create a new

Council Resolution which would contain all the proper taxation language, which would address what we deemed as deficiencies. Clint Fichter replied that was what he would propose. We need to tie it altogether and line-up our procedure.

Matt Rasmussen stated that Clint Fichter needed to look at the calendar to make sure they can get it all done in a timely manner. Matt Rasmussen explained if it came before the Board at the May meeting and the Board deemed it to be complete and properly filed, then the public hearing would be scheduled for June 9th. Then if the Board approves it, we hold on to it for 30 days, so we would not file that with the County Recorder and Secretary of State until July 12th.

After further discussion, Clint Fichter, on behalf of the City of Woodbine, withdrew their current application and will re-submit, complying with the deficiencies that were discussed with Mr. Rasmussen.

Staff Reports

Matt Rasmussen and Emily Willits did not have a staff report.

**Future Meeting/
Public Hearing**

May 12, 2021, at 1:00 p.m., City Development Board Business Meeting via Teams/Teleconference.

May 12, 2021, at 1:30 p.m., Altoona (NC21-09) Public Hearing via Teams/Teleconference.

Adjourn

1:49 p.m.

Respectfully Submitted,
Betty Hessing, Administrative Assistant