

**State of Iowa
City Development Board
Meeting Minutes of July 8, 2020
Iowa Economic Development Authority/IFA
1963 Bell Avenue, Suite 200, Coralville Conference Room
Des Moines, Iowa
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*
Shane Wick, P.E., Hall and Hall Engineers, Inc., Engineer representing City of Fairfax*
Susan Forinash, Hall and Hall Engineers, Inc., Engineer representing City of Fairfax*
Daniel Manning, Lillis O’Malley Law Firm, 317 6th Ave., Des Moines, Attorney representing Fairfax*
Cynthia Stimson, City Clerk, City of Fairfax*
Bernie Frieden, Mayor, City of Fairfax*
Lynn Miller, Public Works Supervisor, City of Fairfax*
Kevin Stensland, Water & Wastewater Supervisor, City of Fairfax*
Bill Oberfoell, Alliant Energy Transportation, Cedar Rapids, Iowa*
Cindy Anderson, Fairfax Resident*
Jo Ann Beer, Fairfax Resident*
Bernie Frieden, Mayor, City of Fairfax*
Chris Philipp, Building Official, City of Fairfax*

*Participated via teleconference

Introduction by Chairperson, Dennis Plautz

Roll Call by Matt Rasmussen, Board Administrator

All Board Members were present via teleconference.

Request for amendments to agenda

Motion by Mari Bunney
Motion I move to approve the agenda as presented.

Second Mackenzie O’Hair
Roll Call All ayes. Motion approved.

Consideration of June 10, 2020, business meeting minutes

Motion by Mari Bunney
Motion I move the minutes of June 10, 2020, be approved as printed and distributed.
Second Chris McKee
Roll Call All ayes. Motion approved.

New Business

UA20-19
Fairfax
Chairperson Plautz stated we have had a couple pieces of correspondence come in, one of which requests we table action on this annexation until the Court has determined the outcome of a lawsuit. Chairperson Plautz asked Emily Willits to advise us on that particular piece of correspondence from Jay Hopkins. Emily Willits replied the City Development Board is not a party to this lawsuit, although she hasn’t seen the petition, her understanding is that perhaps a group of residents have sued the City of Fairfax so it doesn’t have a bearing on this proceeding. It’s up to the City of Fairfax if they want to proceed with their annexation request or not. As far as this Board goes, we would proceed as usual. Chairperson Plautz asked if Board members had any questions and they did not. Chairperson Plautz then turned it over to Matt Rasmussen to give an introduction.

Matt Rasmussen stated the proposed annexation was a 100% voluntary annexation to the City of Fairfax, consisting of 103 acres, which includes county owned road right-of-way.

The property proposed to be annexed into the City of Fairfax is located within the City's industrial land use area and is located just west of the recently established Big Cedar Mega Park in the City of Cedar Rapids. The undeveloped property is anticipated to be developed into large site warehousing with supporting office space.

The City of Fairfax shall extend sanitary sewer and water main facilities for water supply and fire protection, to the annexed property to provide service to this area. The City of Fairfax will also consider street improvements and street extensions within this area as well.

This proposed annexation territory is located completely within the area that the City of Fairfax can annex per a

28E Agreement that they have with the City of Cedar Rapids.

Matt Rasmussen reported this packet does appear to be complete and properly filed. However, he did note that we did receive a letter from Ms. Jo Ann Beer, which was forwarded to the Board, as well as an E-mail from Jay Hopkins. Emily Willits may want to address this, but the contention by Mr. Hopkins and possibly Ms. Beer, is they don't believe the City acted appropriately in the process that they went through, per the direction of the City Development Board. Their specific issue is regarding holding a consultation with the County Board of Supervisors and the County Board of Trustees. With that, I will turn it back over to the Chair.

Chairperson Plautz asked if the Board had any questions. Jim Halverson wanted to know the staff's position on if the City procedurally filed this appropriately. I've read the case brief and it would appear that the filing was all appropriate and sufficient notice was provided to various parties. My question to staff is if there are any procedural concerns that were expressed in the letter. Matt Rasmussen replied that we provide the process sheets on the various types of annexations to cities. There is urban and non-urban 80/20's and urban and non-urban 100% voluntary annexations. One of the requirements we've placed in our process sheets is for an 80/20 there is a requirement to hold a consultation with the County Board of Trustees. We have always interpreted 368.7 to mean that a consultation is only required for an 80/20. In this instance, it is the contention by Mr. Hopkins that the City did not hold that consultation and they are required by 368 to hold that consultation even for a 100% voluntary. Matt Rasmussen then deferred to Emily Willits.

Emily Willits said she spent some time looking at the legislative history when this question came in. She doesn't think 368.7 is worded as clearly as it could be, but the Board's long-standing interpretation has been that the consultation requirement is only for an 80/20 annexation and that seems consistent with the legislative history here. The consultation requirement was added to the Iowa Code in 2003. For those of you interested in that history, it can be found in 2003 Act, Chapter 148, Section 3. There was a legislative summary issued at the time and it is available on the legislatures website—it's 2003 Summary of Legislation and it talks about this particular addition to The Iowa Code. It was House File 595. That legislative history makes it clear that the consultation

requirement was intended to apply to an 80/20 annexation. It's consistent with the Board's longstanding guidance.

Jim Halverson stated in the case brief there is a date when notice is provided to the various parties, including the Board of Supervisors—a mailed notice was provided on May 15, 2020. By receiving a notice, it could have prompted the Board of Supervisors to reach out to the City of Fairfax, even in the absence of a consultation meeting. Jim Halverson thanked Emily Willits and Matt Rasmussen.

Chairperson Plautz asked if there were any other questions and there were none. Chairperson Plautz then asked the City of Fairfax to address the proposed annexation.

Shane Wick, City Engineer for Fairfax, explained that the proposed annexation territory is located east of Lefebure Road and Fairfax Road and south of the GRANDIC Railroad and includes the adjoining half-street right-of-way for Lefebure Road and Fairfax Road. The Lefebure family owns the property and it is a 100% voluntary annexation consisting of 103 acres. The majority of the land being annexed into Fairfax is currently agricultural land. The property proposed to be annexed into the City of Fairfax is located within the City's industrial land use area and is located just west of the recently established Big Cedar Mega Park in the City of Cedar Rapids. The City of Fairfax has worked with the City of Cedar Rapids and Alliant Energy so the use is in-line with the overall community and the intended plans for that area. It also falls in-line with the City's Future Land Use Map and their planning process for light industrial.

The undeveloped (agriculture) property is anticipated to be developed into large site warehousing with supporting office space.

Mr. Wick stated the City of Fairfax will extend sanitary sewer and water main facilities for water supply and fire protection, to the annexed property to provide service to this area. The City of Fairfax will also consider street improvements and street extensions within this area as well. Public works will all be built to City codes and requirements.

Shane Wick asked if the Board had any questions specific to annexation or the site. Chairperson Plautz stated that we will come back to the Board.

Just to make sure we have in the record and to make it clear, this is Dan Manning, 317 6th Avenue, Des Moines, with the Lillis O'Malley Law Firm. I have been asked to act as Special Counsel on behalf of the City of Fairfax. Because this issue of the lawsuit has come up, the only thing I would want to make sure that we are clear on in the record, we are prepared and obviously do want this case to go forward. That issue had come up—whether the City wants to move forward—and we do. We think this application and the literature that the City Development Board relies on and based upon the longstanding policy and consistent with what Ms. Willits has raised that 368.7(3) is the controlling paragraph and the City has complied with all the procedural requirements under that paragraph and therefore we clearly do want to proceed. That is the only thing I would add to the presentation that Shane has made.

Chairperson Plautz asked if there were any questions for the City of Fairfax from Board members and no member had a question. Chairperson Plautz then asked if there were other people present who had a question of the City. No one had a question. Chairperson Plautz then asked if anyone was on the line who was participating or listening to the meeting today.

The following people were present via teleconference but had no questions: (1) Bill Oberfoell with Alliant Energy in Cedar Rapids; (2) Cindy Anderson, Fairfax Resident; (3) Jo Ann Beer, Fairfax Resident; (4) Bernie Frieden, Mayor of Fairfax; and (5) Chris Philipp, Building Official with the City of Fairfax.

Chairperson Plautz asked if anyone had any comments.

This is Cindy Anderson, Fairfax resident and I am also on the Planning & Zoning Board. The Future Land Use Map was changed to accommodate the Alliant project. The Planning & Zoning Board was not provided that information when we agreed to update it. I am not comfortable with that and I did rescind my approval of that Future Land Use Map. I have talked to several residents and a big warehouse on the corner of our small town is not something a lot of people are wanting or approve of. Chairperson Plautz thanked Ms. Anderson.

This is Bernie Frieden, Mayor of the City of Fairfax. This discussion with Alliant began back in 2015 and we have had many meetings between Alliant and the City of Cedar Rapids regarding the development of this mega park and

the particular use that is being planned for this area right now actually fits well within our city because it doesn't demand us to create anymore sewage or water capacity or anything else. The use fits well of what we already have available. Alliant owns an electrical substation that is right next to the property. ITC is actually bringing in more power from Walford area. The area is being prepared for exactly what is going on here other than this meeting with the Board.

This is Chris Philipp, Building Official with the City of Fairfax also I sit with the Planning & Zoning Board at their meetings. Cindy is correct. We didn't have the specific details of this Alliant project in front of us at the P&Z when we did the Future Land Use Map adjustments, but I will say, the Mega Park discussion has been going on for several years prior to any action on the Future Land Use map. The adjustment was made from a Highway commercial zoning, future zone to an industrial zone. It wasn't something that wasn't discussed. It was pretty much known what the end use was going to be, but not the details on who the end buyer would be. That's all I got.

Chairperson Plautz thanked Mr. Philipp. There were no more people from the public who wanted to comment. Chairperson Plautz then moved to the Board for questions and deliberation. The Board had no questions or comments.

Motion by
Motion

Jim Halverson

I move the Board find UA20-19 as complete and properly filed and in the public interest and that it be approved.

Jim Halverson explained his basis for his motion. While I think that many of the observations that have been submitted in written form by the objectors, certainly have merit, albeit, they go beyond the scope of what the City Development Board's role and purpose is. Most of the observations that I had seen really concerned future use service to an area at least in the context of how the proposed development would be accommodated by infrastructure, utility and otherwise. Again, that tends to be something that is more consistent with Planning & Zoning Commissions, City Councils—community-based organizations or Commissions. This application is very consistent with what one would anticipate in terms of helping facilitate urban growth at a city's fringe and that is ultimately the reason why I am supporting this proposal.

Second

Mackenzie O'Hair

Chairperson Plautz asked for further discussion.

Chairperson Plautz stated he agreed with what Jim

Halverson said. Most of the issues were beyond the scope and authority of the City Development Board. They are local issues that need to be decided at that level. I would refer to the staff's position that the proposal is complete and properly filed. Jim stated it very well. All ayes. Motion approved.

Roll Call

Staff Reports

Matt Rasmussen reported we did receive preliminary notice from the City of Pioneer that they will be discontinuing. As a matter of fact, at the City level, they may have already discontinued. That is the only item we have for the August 12th agenda thus far.

Future Meeting

August 12, 2020, at 1:00 p.m., City Development Board Business Meeting via Teleconference only.

Adjourn

1:40 p.m.

Respectfully Submitted,
Betty Helsing, Administrative Assistant