

**State of Iowa
City Development Board
Meeting Minutes of October 4, 2017
Marshalltown City Hall, City Council Chambers
10 W. State Street
Marshalltown, Iowa**

Call to order 1:20 p.m.

Present

Dennis Plautz, Board Chairperson
Jim Halverson, Board Vice Chairperson
Jay Howe*
Sarah Beatty*

Absent

Barbara Brown

Others Present

Matt Rasmussen, Administrator, City Development Board
Matthew Oetker, Iowa Department of Justice
Dean Wheatley, Planning Director, City of North Liberty*
Brad Deets, Development Services Director, City of Waukee
Lesa Saville, Delphos Mayor Pro-Tem*
Hal Morton, Executive Director, Des Moines Co. Regional Solid Waste Comm.

*Participated via teleconference

Introduction by Chairperson, Dennis Plautz

Roll Call by Matt Rasmussen, Board Administrator

All Board Members were present except Barbara Brown was absent.

Request for amendments to agenda

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

Consideration of August 16, 2017, business meeting minutes

Motion by Jim Halverson
Motion I move the minutes of August 16, 2017, be approved as printed and distributed.
Second Jay Howe
Roll Call Halverson-yes; Beatty-abstain; Howe-aye; Plautz-yes.
Motion approved.

Old Business
D17-01
Mount Union

Matt Rasmussen explained the six-month timeframe for claim adjudication regarding the discontinuance of Mount Union expired on September 23, 2017. Shortly before that, we did receive a couple of items that had been forwarded to the Board. One of them is from the Henry County Attorney which has filed a dispute against one of the claims—the claim specifically by the bank that had the mortgage for the City, and the other one is a lawsuit filed by a couple of the residents of the now former city. Those are a couple of issues that the Board needs to resolve. I can report to the Board that we have received claims to date that total \$40,481.68 of the available dollars of \$82,739.15. We have submitted all those claims for payment, totaling \$40,481.68. I can't speak to the fact that all those payments have processed through the State system, but those have all been submitted for payment. The balance, after those payments have been made, is \$42,257.47. The claim from Iowa State Bank, which has been contested by Henry County, is for \$21,548.64. The claims by Dan and Linda Johnson—Linda Johnson's is for \$50,000 and Dan Johnson's is for \$200,000—those are regarding the civil claims that were filed against the now former city. At this point, I would defer to Mr. Oetker on how the Board may proceed on this.

Matt Oetker stated this was his last meeting. To the best of my knowledge, the Board has never had this precise issue arise. The Attorney General's Office has assigned this Board to my supervisor. Her name is Emily Willits. I think her intention was to make it to the Marshalltown Special Committee Public Hearing. I've spoken to Emily about this issue and have given her my thoughts on what a resolution would look like or how the Board would proceed, but I think as a matter of professional courtesy, I would defer to her at this point and let her look at it, as I think she would be the one who would have to defend any Board action that occurs. Certainly, if the Board members who have a longer history than me are aware of this occurring at some other time . . . I've looked through Chris Scase's files and couldn't find anything. Essentially, the statute provides the Board to accept and adjudicate claims.

Chairperson Plautz asked if we could preempt the Courts. Matt Oetker stated that the plaintiffs in the civil suit had a pending lawsuit going against the City—they didn't name individual defendants. Once this Board had approved the discontinuance, the City filed a motion to substitute this Board as a named defendant in that case. I filed a Motion to Dismiss and I argued before the Court that for any number of reasons, that was improper. This Board is not

financially responsible for those acts. The Court essentially concluded that the City ceases to exist and so got rid of the lawsuit. As a matter of law, the case was never adjudicated; rather, when the City ceased to exist, the Court concluded the lawsuit ceased to exist. There was no adjudication on the merits of those claims.

Chairperson Plautz asked what action needed to be taken. Matt Rasmussen replied his thoughts were that the Board couldn't act today, but that he could just report the status and when we get a new attorney in place, we'll go from there. Chairperson Plautz stated we'll table this and get guidance from new attorney. Mr. Rasmussen stated he thought there would probably have to be some sort of a hearing to give the Board more information on how to respond.

Jim Halverson asked if there was any time sensitivity associated to this. Matt Oetker replied that with the exception of these two claims, everything else has been paid. These would be the only things pending. I don't know of any time sensitivity at this point. Chairperson Plautz stated they probably have no insurance and Matt Oetker stated that was one aspect we're still examining. Chairperson Plautz asked if we needed a motion today and Mr. Oetker stated we didn't—that it was just informational and it will be taken up at a future meeting.

New Business

UA17-20
Waukee

Matt Rasmussen explained the proposed annexation is a 100% voluntary annexation request of 76.8 acres to the City of Waukee. Matt Rasmussen stated Mr. Brad Deets, Development Services Director for the City of Waukee, was present and he turned it over to Mr. Deets to explain further and answer questions from Board.

Motion by
Motion

Jim Halverson
I move the Board find UA17-20 as complete and properly filed and in the public interest and that it be approved.

Second
Roll Call

Sarah Beatty
All ayes. Motion approved.

UA17-21
North Liberty

Matt Rasmussen explained the proposed annexation is a 100% voluntary consisting of 40 acres for the City of North Liberty. Dean Wheatley, Planning Director for the City of North Liberty, was present via teleconference to explain further and answer questions from Board and others.

Motion by
Motion

Sarah Beatty
I move the Board find UA17-21 as complete and properly filed and in the public interest and that it be approved.

Second

Jim Halverson

Roll Call	All ayes. Motion approved.
UA17-22 Waukee	<p>Matt Rasmussen explained this is a 100% voluntary annexation consisting of 1,008.5 acres for the City of Waukee. I will first point out to the Board that I received a phone call and an E-mail from Al Miller, Dallas County Engineer, regarding the annexation going to the centerline. Part of the annexation abuts up to a secondary road. The entirety of that ground under the secondary road is not owned by the County; it's owned by an entity and the County has an easement. I spoke to Mr. Oetker earlier regarding this. As a matter of law, when a territory of an annexation abuts up to a secondary road, by matter of law, it needs to go to the centerline. The legal description in the City's annexation did not include to the centerline, but it's not uncommon for us to receive something such as that and then we just direct the County Auditor that it goes to the centerline. With that, I can report that the packet appears to be complete and properly filed and I would defer to Mr. Deets.</p> <p>Brad Deets, Development Services Director for the City of Waukee, explained further and answered questions from Board.</p>
Motion by Motion	<p>Jim Halverson I move the Board find UA17-22 as complete and properly filed and in the public interest and that it be approved.</p>
Second Roll Call	<p>Sarah Beatty All ayes. Motion approved.</p>
D17-03 Delphos	<p>Matt Rasmussen explained this is a discontinuance of the little town of Delphos, Iowa. On August 15, 2017, the City Development Board received certified copies of Resolution #2017-1, a Resolution Setting a Date for Public Hearing on Discontinuing the City of Delphos, an Iowa Municipal Corporation. They did pass a resolution on June 26, 2017, approving discontinuance of the City of Delphos, Iowa. The City of Delphos is represented by Miss Lesa Saville, who is participating via teleconference. Matt Rasmussen reported to the Board that all their paperwork does appear to be complete and properly filed. They submitted a check to the City Development Board in the amount of \$9,670.94. Mr. Rasmussen then turned it over to Mayor Pro-Tem Saville for comments.</p> <p>Mayor Pro-Tem Lesa Saville commented that they can't keep enough Council Members and there is only twenty people in the town and they are to have five Council Members. A lot of the people in the town are people you wouldn't want on the Council, to put it nicely. We can't keep a City Clerk—we don't pay enough as an incentive</p>

for someone to do the bookwork. It just came to the point where we just need to give it up.

Chairperson Plautz thanked Ms. Saville and asked if Board members had questions and if anyone else would like to make a comment or have a question. No one had a question or comment.

Motion by
Motion

Jim Halverson

I move that the Board acknowledge that the City of Delphos, Iowa, has been discontinued and direct staff to take the appropriate steps to complete the process for adjudication of claims.

Second
Roll Call

Jay Howe

All ayes. Motion approved.

Staff Reports

Matt Rasmussen reported that at the November City Development Board meeting he expected to have at least two 100% voluntary annexations for the City of Hiawatha and two 100% voluntary annexations for the City of Altoona. We will obviously have to work with the new attorney on how to proceed with the Mount Union situation. I imagine at the conclusion of the Marshalltown hearing today, we'll schedule a Decision Meeting for November.

Mr. Rasmussen stated he is sorry to see Mr. Oetker go. I think Mr. Oetker is a fine attorney and friend. I still have his phone number and I will call him on occasion. I would like to publicly thank Matt Oetker for his service on this Board and he will be missed. Board members agreed and thanked him for everything he has done for the City Development Board. Mr. Oetker thanked them all.

Future Meeting

November 8, 2017, at 1:00 p.m., City Development Board Business Meeting at IEDA, 200 E. Grand Ave., 2nd Floor Main Conference Room, Des Moines, Iowa.

November 8, 2017, at 2:00 p.m., Marshalltown City Development Committee Decision Meeting at IEDA, 200 E. Grand Ave., 2nd Floor Main Conference Room, Des Moines, Iowa.

Adjourn

1:50 p.m.

Respectfully Submitted,
Betty Hessing, Administrative Assistant