

**State of Iowa
City Development Board
Meeting Minutes of June 13, 2018
Iowa Economic Development Authority
200 E. Grand Avenue, 2nd Floor Main Conference Room
Des Moines, Iowa**

Call to order 1:00 p.m.

Present

Dennis Plautz, Board Chairperson*
Jim Halverson, Board Vice Chairperson*
Barbara Brown*
Jay Howe*
Chris McKee*

Others Present

Matt Rasmussen, Administrator, City Development Board
Betty Hessing, Administrative Assistant, City Development Board
Emily Willits, Iowa Department of Justice
Ted Nellesen, Iowa Department of Management
Carrie Johnson, Iowa Department of Management
Butch Niebuhr, Interim City Administrator, City of Van Meter
Erik S. Fisk, City Attorney, City of Van Meter
Thomas Fisher, Assistant City Attorney, City of Des Moines
Shelly Barber, Henry County Auditor*
*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 Jim Halverson
Motion I move to approve the agenda as presented.
Second Barbara Brown
Roll Call All ayes. Motion approved.

Consideration of May 9, 2018, business meeting minutes

Motion by Jay Howe
Motion I move the minutes of May 9, 2018, be approved as
 printed and distributed.
Second Jim Halverson
Roll Call All ayes. Motion approved.

Old Business

Consideration of Special Tax Assessment for Henry County

A couple weeks ago I received a phone call from the Henry County Auditor informing me that there is a special assessment due for the community building, which has still not been disposed of, in the former town of Mount Union. The special assessment amount due is \$384. It's scheduled to go to tax sale if it's not paid by Monday, June 18th. The question before the Board today is how we handle this special assessment that's coming due for this community building. Matt Rasmussen deferred to Emily Willits for her comments.

Emily Willits replied that her understanding is this building is still titled in the former City of Mount Union's name. The Board still has some assets—approximately \$13,000. You will recall that you stayed your decision to pay the Johnson's claim, pending resolution of the appeal on that issue. Theoretically, that \$13,000 and any proceeds from the sale of the community building may eventually be used to pay off those claims. The question for you now is if you want to pay this assessment out of the money that the Board still has control over, with the idea that you're trying to preserve that asset for payment of the future claims. Betty Hessing did send out notice of this meeting so if anyone from the County or the Johnson's, or the appellants wanted to weigh-in, they could. Technically, the window for submitting claims has closed; you had a six-month adjudication period. I don't know that this is a claim in the traditional sense—it's a tax bill that has come due. That's the decision—the City Development Board's code or rules don't speak to this situation at all. You will just have to make a judgment call.

Chairperson Plautz asked if anyone was present today, outside of the Board, who would wish to weigh-in or comment on this.

Shelly Barber, Henry County Auditor, was present via teleconference. Chairperson Plautz asked Shelly if she had any thoughts regarding this. Shelly Barber stated it will go to tax sale, unless this is paid, because it appeared on the list. The County is not going to sell this property unless it gets put into the County's name by some act through your doing. We have not received anything from the Bank that this has been released. Henry County does not choose to do anything with this building until we're provided documentation legally that it is ours to do something with.

Emily Willits asked if this lien was from the sewer assessment and Shelly Barber replied that it was—that's the special assessment that's due for the sewer assessment. When I filed a claim last year, before September 23rd, I filed for the September payment that was due of \$364. I included that in my claim at that time, so we got the money for the first half. I thought this would all be settled after September 23rd last year, within a month or two and seeming that's not the case, I didn't put in for the second half. I thought it would all be done by the time March, 2018 rolled around—but that's not how it's happened. Emily Willits thanked Ms. Barber.

Chairperson Plautz asked Emily Willits that since we were past the six-month distribution period, did that raise flags for her. Emily Willits replied that it didn't because this is a tax assessment—it's not like a claim or invoice that someone is

submitting.

Chairperson Plautz asked Board members for their thoughts. Jim Halverson asked what the amount due was and Matt Rasmussen replied as of right now, it's \$384. After June 18th, there would be interest and a penalty on top of that. Jim Halverson asked if there were any liquid assets that we obligated those funds for with our prior actions—relative to satisfying the outstanding note to the Bank and addressing the award granted to the two individuals who had a suit against the City. At the end of that, we consecutively had a zero balance. Matt Rasmussen replied that the Board had previously moved—and what the motion said was, “I move that Henry County dispose of the community building and forward proceeds to the City Development Board to pay allowed claims that have come to the City Development Board”. Shelly Barber stated that Henry County is not going to dispose of that until they have documentation that puts it into their name. Chairperson Plautz stated that Jim had a good question. What Matt says makes it clear that we could approve the payment of this \$300+ assessment bill if we choose to and that there would not be a conflict there with any previous motions. Matt Rasmussen stated he didn't think it conflicts with any previous motions. Ultimately, that building needs to be sold; the only way the building can be sold is if this special assessment is paid. The special assessment needs to be paid before the building is sold, regardless. It just needs to be paid. Chairperson Plautz stated that was clear to him also.

Matt Rasmussen stated that regarding selling this building—I don't know if we could issue some kind of an order relinquishing or giving-up any rights to that building and turning it over to the county per 368.22—that balances revert to a county treasurer upon a discontinuance. Chairperson Plautz asked Matt Rasmussen and Emily Willits what their recommendation would be so this can get resolved and the building can be sold. Emily Willits thought there were other buildings that were sold during the discontinuation period, where the county assisted with the sale. Emily stated she didn't realize there was a title transfer to the county that occurred.

Shelly Barber, Henry County Auditor, stated that there was documentation that we sent—you were not the attorney at the time—we had it drawn-up down here and sent it to you folks to sign and approve to give us the authority to sign and sell those other buildings. The problem with this building is the Bank had a lien against it for \$21,000-\$22,000. I kept asking the Bank and I asked you folks, why they couldn't take their building back as payment and the Bank told me they didn't know how to go about foreclosing on a government entity. The county doesn't want this building. In our opinion, it should have went back to the Bank and you've never paid them, but that's not what happened. Until we have something that proves to us that the Bank's not going to come in and step-in and a document from you folks giving us the authority—we're not going to put our name on it when it belongs to the City of Mount Union, without some legal documentation telling us that it's ours to do that with—to sell it to somebody. Who's going to want to buy it if they don't have a clean . . . This is Rasmussen. I can report to the Board that the Bank claim has been paid. I also called the Henry County Recorder and the Henry County Clerk, and I couldn't get any information regarding if there is a lien on the building. Ultimately, I think what might have to happen is if it's going to go up for sale, an abstract company will

have to do a lien search. As far as I know, if the Bank had a claim on it, the Bank has been satisfied, so I'm sure the Bank would release any potential lien that they may have had on it and I'm not aware of any other entity that would have a lien on that property—other than this special assessment.

Emily Willits stated she had some additional research to do on how to get this building sold. In the meantime, the question before the Board today is about the tax assessment.

Motion by	Jim Halverson
Motion	I make a motion that we pay the special tax assessment in the amount stated out of the remaining assets.
Second	Barbara Brown
Further Discussion	Jim Halverson stated that the only thing he would add is that he purposely didn't make this part of the motion because Emily had mentioned that she was intending to do this anyway—is just to research some resolution of disposal of that community building. I recognize why the county wouldn't be interested in taking it—it serves no practical purpose for the county. I have to admit, based on my assumption, I thought that once a city would cease to exist, all physical assets would remit to the county jurisdiction. That may or may not be correct, but I do think at a minimum, even if the City Development Board didn't dispose of this, the county would be bound by that same obligation, so if we can define a clear path for the City Development Board on how to dispose of the asset, then we should find that remedy. It's not so much a part of the motion, it's just something that I think we need to do to finally bring this thing to a close.

Emily Willits replied she would do some research on that and prepare a memo for the Board. Jim Halverson stated that we might even place an agenda item on next meeting agenda where we can find out what the alternatives are and maybe take some form of action.

Mr. Chairman, this is Rasmussen. The only comment I would have is—and I'm not quite sure if the motion would cover this, but this \$384 is the number that exists today. It's a little bit of a moving target and hopefully the Board would grant the staff authority to work with the Henry County Treasurer to find out what that number would be at a point in time that I could assure them that we would have a check to them by.

Jim Halverson stated you can modify my motion to account for that. Chairperson Plautz stated the motion could include "the outstanding assessments due at time of payment". Barbara Brown agreed with that.

Modified Motion

I make a motion that we pay the outstanding special tax assessment in the amount due at time of payment, out of the remaining assets.

Chairperson Plautz asked if there was any further discussion. This is Shelly, the Henry County Auditor. I wanted to let you know that there will be another assessment due in September because this special assessment will go on for the next thirty-two years—this special assessment this way. The other thing is the Johnson's payment—as you all know—that's in the appeal process and we are all being sued, and all that kind of stuff to go along with it. So, where that leaves us in the pay-off of the Johnson's, I don't know. I will have to have something from someone to move forward with that. Emily Willits stated that the Board stayed that decision—to pay the Johnsons—pending resolution of the appeal. This is Rasmussen. Emily and I can work together—ultimately, that building needs to be disposed of. We need to figure out a way to do that. Once that building is disposed of, we don't have to worry about any future special assessments on the building—another owner owns it and hopefully then we would have the money to when the resolution of the stay is finally finalized, then we can figure out how to pay that. Chairperson Plautz agreed. Future assessments will run with the land and whomever buys it will pay them or it will go for tax sale again.

Roll Call

Chairperson Plautz asked if anyone had a problem with the motion that was made, and no one did.

All ayes. Motion approved.

Matt Rasmussen asked for clarification—the Board has already moved to have Henry County dispose of the community building. If Emily and I are able to come to some kind of resolution in order to grant Henry County the ability to sell that building on behalf of the Board, I just want verification from the Board or somebody that that makes sense. Jim Halverson replied that the Henry County Auditor was actually very clear in the county's position. The only way that they would take some form of action is if they were in the chain of title and that's not something that they desire to have happen. That's why I expressed to see that on our next agenda—that we actually have some background information on what options are available to the City Development Board, in terms of disposing of that asset. It can be something we can do on our own volition, or the most expeditious way of doing it would be to work through the county. We could weigh-out those alternatives and possibly make a decision, so we can move forward. I think the county has made a good presentation in the context of the assessment that's going to perpetuate itself. So, this could be a reoccurring

issue for us forever. The Johnsons I really can't speak to because that's still pending in the Courts, but the community building is something we can deal with and should bring to a close. Matt Rasmussen thanked Mr. Halverson. Chairperson Plautz asked Matt Rasmussen if he was comfortable with how to proceed and Matt replied that he was.

New Business

UA18-03
Van Meter

Matt Rasmussen reported this was a 100% voluntary annexation for the City of Van Meter, consisting of 104.06 acres, not including road right-of-way. County right-of-way is 4.7 acres. The City of Van Meter's Comprehensive Land Use Plan identifies this area in its Land Use Map as future residential, which emphasizes single-family detached development, although innovative single-family forms may be permitted with special review.

There is no present intentions to develop, but recognizes the value of residential development with the land's proximity to the current City limits. City services that could be provided include street maintenance and care and snow removal. Sewer development would be available in the future with more incidental development in that direction. The annexation territory is subject to an existing moratorium agreement with the City of West Des Moines. The packet appears to be complete and properly filed.

Erik Fisk, City Attorney, and Butch Niebuhr, Interim City Administrator for the City of Van Meter were present to explain further and answer questions from the Board.
Barbara Brown

Motion by
Motion

I move the Board find UA18-03 as complete and properly filed and in the public interest and that it be approved.

Second
Roll Call

Jim Halverson
All ayes. Motion approved.

UA18-13
Des Moines

Matt Rasmussen reported this was a 100% voluntary annexation for the City of Des Moines, consisting of 7.55 acres within the urbanized areas of Pleasant Hill and Altoona. The current use of the property is farmland. It is adjacent to a residential development within the city limits and its intended use is as a residential development. Services are presently provided by the Des Moines Public Works Department, including solid waste services. The Des Moines Water Works provides water utilities. The property is subject to an annexation moratorium agreement with the City of Pleasant Hill and this annexation is consistent with that moratorium agreement. The original owners are the Dawson's, who submitted the

application on August 4, 2017, but are no longer the owners. The current owner is Kenyon Hill Ridge LLC and they have submitted a consent letter for annexation, which is enclosed in your packet. The packet appears to be complete and properly filed.

Motion by
Motion
Second
Roll Call

Thomas Fisher, Assistant City Attorney for Des Moines, was present to answer questions from the Board.
Jim Halverson
I move the Board find UA18-13 as complete and properly filed and in the public interest and that it be approved.
Jay Howe
All ayes. Motion approved.
Chairperson Plautz wanted to confirm that the property shown in the County to the west of the annexation parcel—is it NE 23rd Avenue that causes them not to be islands? Thomas Fisher replied that was correct.
Chairperson Plautz stated that to the north of that—that clearly is an island. Is that something that came before the Board in the past? Matt Rasmussen stated that if you are looking at the zoomed out colored aerial map, that is not an island—there is a roadway there. Chairperson Plautz stated he didn't see the east/west city limit boundaries a long that road when he first asked.
Chairperson Plautz thanked Mr. Rasmussen.

Staff Reports Matt Rasmussen reported that the only potential agenda item for next month would be the probable discussion of the disposal of the Mount Union community building. We don't have any annexations for next month.

Future Meeting July 11, 2018, at 1:00 p.m., City Development Board Business Meeting at IEDA, 200 E. Grand Ave., 2nd Floor Main Conference Room, Des Moines, Iowa

Adjourn 1:45 p.m.

Respectfully Submitted,
Betty Hessing, Administrative Assistant