

II. Roll Call – Betty Hessing, Board Administrator

A quorum was established.

III. Approve Agenda

Motion by: Tom Treharne

Motion: Move approval of the May 14, 2025 agenda as presented.

Second: Jim Halverson

Roll Call: All ayes. Motion approved.

IV. Consideration of April 9, 2025 Business Meeting Minutes

Motion by: Tom Treharne

Motion: Move approval of the April 9, 2025 Business Meeting Minutes.

Second: Laura Skogman

Roll Call: All ayes. Motion approved.

V. New Business

NC25-11 – Ogden

Betty Hessing stated this is an 80/20 voluntary annexation petition for the City of Ogden. The annexation contains 142.18 total acres with 7.72% being non-consenting. The proposed annexation will facilitate the development of new housing and commercial space and bring into the City limits certain areas that are currently being maintained by the City, including the wastewater treatment plant, Glenwood Cemetery and Lincoln Prairie Park. The City is proposing to re-zone portions of the property as commercial and residential. A Housing Needs Assessment was undertaken in 2023, which indicated the need for additional housing in Ogden based on expected population growth and vacancy rate. The portion of the property owned by GRI Outdoors, LLC has been identified as future commercial development. The City owned portion of the property includes a natural grassland at Lincoln Prairie Park and a recreational trail. The wastewater treatment plant property includes a State Revolving Fund sponsored clean water project that is a wetland. There are currently no development plans which will affect the use and status of these critical resource areas. The new municipal services to be provided to the property after annexation include electric, water and sewer utilities. The proposed annexation territory is not subject to a moratorium agreement. County Road Right-of-Way (220TH & 216TH Streets) will be part of the territory annexed in this proposal and the Boone County Attorney was notified of the proposed annexation. Ms. Hessing reported the packet appears to be complete and properly filed. Brian Reimers, Ogden City Council Member, was present, but had nothing to add.

Motion by: Laura Skogman

Motion: I move the Board find NC25-11 as being complete and properly filed and that a date for a public hearing be scheduled.

Second: Tom Treharne

Roll Call: All ayes. Motion approved.

A public hearing was scheduled for 1:30 p.m. on July 9, 2025.

UA25-12 – Conrad

Betty Hessing stated this is a 100% voluntary annexation petition for the City of Conrad consisting of 114.52 acres and is within the urban area of Beaman. The proposed annexation area will facilitate the construction of a new building to be used in the business operations of a Dollar Store on the portion of the property owned by Conrad Development Corporation, Inc. and to bring the portion of the property owned by BCLUW Community School District (Beaman, Conrad, Liscomb, Union, Whitten and rural Marshalltown) into the corporate limits of the City with the rest of the nearby school property. The City is proposing to re-zone a portion of the property as commercial. Municipal services to be provided to the property after annexation, include electric, water and sewer utilities. This annexation is not subject to a Moratorium Agreement. County road right-of-way will be part of the territory annexed in this proposal. Notice of the hearing and a copy of the proposal was sent to the Grundy County Attorney, pursuant to Iowa Code Section 368.5(2). Ms. Hessing reported the packet appears to be complete and properly filed. Rebecca Brommel, Attorney for Conrad, participated virtually to answer questions.

Motion by: Tom Treharne

Motion: I move the Board find UA25-12 as being complete and properly filed and in the public interest and that it be approved.

Second: Laura Skogman
Roll Call: All ayes. Motion approved.

SR56-0125 - Fort Madison

Betty Hessing stated on April 16, 2025, the City Development Board received a letter from the Lee County Engineer's Office requesting the City Development Board retroactively correct the oversight of the City of Fort Madison to annex segments of county road right-of-way when adjacent property was annexed by the City in 2021. I found in my records that this particular annexation did not come before this Board, but went directly to the Secretary of State's Office. Lee County is requesting that the right-of-way be transferred to the City of Fort Madison on Roads 302nd Avenue and 303rd Avenue. On May 2nd, the Board received a letter from Kristine Stone, Attorney representing the City of Fort Madison. Ms. Stone explained that in 2020, the City completed the construction of the Port Rodeo Park Trail, some of which is located within Lee County's right-of-way along X-32 (303rd Avenue) and 302nd Avenue. Since the trail has been completed, a dispute has arisen between the City and County regarding drainage issues adjacent to the trail along 302nd Avenue. The City believes this annexation request is an attempt by the County to force the City to take over maintenance responsibilities of 302nd Avenue. However, if the annexation is approved, the right-of-way along 302nd Avenue will remain split between the City and County and the parties will still need to resolve who is responsible for the maintenance of the shared roadway. There is an existing 28E Agreement between the City and Lee County, outlining the duties and responsibilities of each party as it relates to roadways along the corporate boundaries of the City. However, this agreement does not address maintenance responsibilities for the right-of-way included in this annexation request. The parties have recently been in negotiations to modify its requirements. A new 28E Agreement was presented to the Fort Madison City Council on October 1, 2024, which included the City taking over maintenance responsibilities for 302nd Avenue. The City Council, however, did not approve the proposed agreement and indicated more discussion was needed with the County to address all the roadways along the corporate boundaries. Thus, the County Engineer has brought this matter to the Board for its resolution. The City does not believe this is permitted by Iowa Code Section 368.7A, as the statute specifically states it is "not intended to interfere with or modify existing 28E agreements or jurisdictional transfer of roads or continuing negotiations between jurisdictions."

Maria Brownell with Ahlers & Cooney representing the City of Fort Madison was present to explain further. Ms. Brownell wanted the Board to consider staying its action until negotiations are concluded so there is no adverse action on those negotiations or if action is taken, that any order from the Board makes very clear that that order is not intended to impact those on-going negotiations on responsibility over the road. Also present were Laura Liegois, Fort Madison City Manager; and Mark Boussetlot, Public Works Director.

Ross Braden, Lee County Attorney, participated virtually. Mr. Braden stated there are no on-going negotiations with regard to road maintenance along the area that is requested for annexation. That is an irrelevant point anyhow. Nor does 368.7A state that the Board shall not interfere with any negotiations—which there are none at this time—it just says in this section that it is "not intended to interfere with or modify any negotiations or existing 28E agreements". The portions of the roadway that we are asking the Board to retroactively annex to the City of Fort Madison—and the City does own all adjacent land to the west side of 302nd Avenue and 303rd Avenue—as outlined in the packet we provided. We are asking the Board to grant those relief requests and annex those roads to the City of Fort Madison, which should have been done in 1981 and 2021 when they annexed that property to the west of the roadway. Additionally, I don't think the context or the history is relevant to the Board's determination as it states in 368.7A, that the City Development Board shall certify that the notification is correct—which we posed to the Board that it is—and declare a portion of the road extending to the centerline, annexed to the City. That is a mandate by Code and not a permissive portion of that code section, contrary to the section that the City points out which you think is permissive and again, does not preclude this Board's determination. In closing, I would like to reiterate there are no on-going negotiations. These portions of the road are not covered by any existing 28E agreements, and they should have been annexed to the City at the time the City annexed the property to the west of the roadways, and this is just to clear-up ownership of those portions of the roadways. Thank you.

Chairperson Plautz asked if anyone else had comments. Laura Liegois, City Manager for Fort Madison, stated that annexation of roadways that are proper, we understand. Ms. Liegois stated their biggest concern is we do not want to get into an issue of concern over road maintenance. Annexation is one thing and road maintenance is another. Mr. Braden stated there is no continuing negotiations. I would like to tell you that I did try to address this with one of their former County Board of Supervisors, who recently left, and basically I was left with silence.

Mark Bousselot, Public Works Director for the City of Fort Madison, stated that we are looking at two segments of road that per Iowa Code, probably need to be annexed to the City, to the centerline. But I guess part of the City's concern in looking at this is the fact that there are several other segments—there are eight other roadways that are bordered between the City of Fort Madison and Lee County that probably need to be looked at and considered as a whole versus just picking out one or two. Thank you.

Eric Dirth, Counsel to the City Development Board, asked the City to show on the map which road segments are being considered to go to the centerline. Mark Bousselot, Public Works Director for the City of Fort Madison, explained where the roads are which the County are requesting to be annexed.

Eric Dirth stated his role as Counsel to the Board is to provide the general overview of Iowa Code 368.7A, which he read and explained to the Board. In conclusion, based on reading this section in its entirety it is primarily that this is the legislature advising the Board to tread carefully before the Board pushes an annexation of a territory into a city where the city does not want that annexation. The legislature has made it clear that there should be an effort of collaboration to attempt to make any resolution possible so that the proper annexation will unfold, extends to the secondary road, while also making sure that the parties are working collectively on managing this roadway.

Eric Dirth told the Board they have three options: (1) You could vote to approve the annexation today. (2) You could request further briefing from the parties and stay this action to an upcoming meeting, pending their review. (3) You could deny the motion and find that there are continuing negotiations, and you will not consider this matter until those matters are resolved.

Chairperson Plautz thanked Mr. Dirth. Chairperson Plautz stated that things like this should be worked out at the local level, and I understand we should not be interfering in that. The Board discussed the request and Chairperson Plautz asked the County if there was an urgency in this secondary road annexation and Mr. Braden, Lee County Attorney, stated there was not an urgency in this, but after trying to work with the City for four years regarding maintenance, this is our last stop in trying to get this roadway annexed. At this point, we really need a determination of ownership of that portion of roadway, which by my interpretation of the statute is it shall be with the City. Chairperson Plautz asked if there are issues with other roadways or is it just this particular roadway that you have maintenance issues between the County and City. Mr. Braden replied that there are other roadways throughout the county that need addressed at one point or another, but there is no quarrels or jurisdictional issues at this time with any of those. This secondary road is the only one that we have issues with currently. The trail the City built is all along that western side of that roadway. We are essentially asking that their portion of the annexation include the centerline, which will encompass their trail as well. As a side note in regard to the other issues, we do have a 28E Agreement that dates back to 1993, and it addresses 7 or 8 roadways which some the City takes care of and some the Country takes care of. The reason the City of Fort Madison denied this at the Council meeting on October 1, 2024, is due to the fact that they wanted to look at the entire picture, not just 302nd & 303rd, because there are other roadways that need to be addressed. Chairperson Plautz stated it would seem to me a holistic approach and a general policy would be best, but again, that is not under the Board's jurisdiction to make a judgement on. I will go back to the Board for their desires.

Motion by: Tom Treharne

Motion: I move the Board send it back to the City of Fort Madison and Lee County and ask them to continue to work it out amongst themselves a new 28E Agreement, addressing all of the roadways that have situations like this and bring it back to the Board at a later date.

Second: Laura Skogman

Eric Dirth stated that he didn't think the Board had the authority to require the two jurisdictions to modify or adopt a new 28E Agreement, but I do believe the Board has full authority to deny this petition on grounds that it is interfering with continuing negotiations as it relates to these two jurisdictions. Just so the Board is clear, this issue could be brought up again in six months when the County says that they are unable to negotiate successfully and then we have the County coming back again and having the same proposal. I do not believe the Board has the authority to direct them to do this. I want to make it clear on this motion that you are this point denying it because you believe there are continuing negotiations between the two entities.

Chairperson Plautz asked Mr. Dirth if his preference would be to actually deny it on grounds of a modification of a 28E Agreement. Mr. Dirth agreed and wanted to clarify for the Board.

Jim Halverson stated that by denying it, it does create an alternative for us where both parties know that this is an unacceptable set of terms and conditions, and it does throw it back to the County and City to find a more amicable solution. Mr. Halverson stated that if Tom could withdraw his motion and maybe introduce an alternative motion to deny the request.

Tom Treharne requested to withdraw his motion and Laura Skogman agreed to withdraw her second to Mr. Treharne's motion.

Eric Dirth stated the motion has been withdrawn by the opponent and the second has also been withdrawn. It is clear that that vote has been mooted so we can proceed with a new motion. Chair Plautz asked if we had a new motion to be presented by the Board.

Motion by: Jim Halverson

Motion: I move that the Board deny the request made by Lee County Engineer concerning the County Road right-of-way, a portion of 302nd Avenue and 303rd Avenue to become part of the City of Fort Madison.

Eric Dirth asked Mr. Halverson to explain his rationale.

Jim Halverson stated that he thinks there is clearly a local dispute between the County and the City to come-up with some kind of an amicable resolution towards the future maintenance of this roadway. I think that if we were to elect to simply refer it back to the City and County to work through that dispute, I think that would not necessarily yield a response or a conclusion in a timely manner. I think that based on what we know about this application, due to differences in opinion or differences in approach that both the City and the County have concerning this, I think the only acceptable alternative would be to deny this application which would force both parties to work out some alternative that would be more acceptable to the two parties.

Second: Tom Treharne

Roll Call: All ayes. Motion approved.

UA25-13 – Sioux City

Betty Hessing stated this is a 100% voluntary annexation petition for the City of Sioux City consisting of 81.33 acres. The proposed annexation territory is located south of the Airport in Woodbury County, adjacent to the City of Sioux City. The current land use is agricultural and future land use will be industrial. It will be an expansion of Sioux City's Southbridge Industrial Park. Services proposed to be provided to the annexed territory include water, sanitary sewer, storm sewer, fire and police protection and rail access. This property is not subject to a moratorium agreement. There is approximately 2,600 square feet of roadway easement (Allison Avenue) that will be included in annexation. Ms. Hessing reported the packet appears to be complete and properly filed.

Chairperson Plautz asked if anyone from Sioux City was present, but no one was present. Chair Plautz came back to the Board for motions or comments.

Motion by: Jim Halverson

Motion: I move the Board find UA25-13 as being complete and properly filed and in the public interest and that it be approved.

Second: Tom Treharne

Roll Call: All ayes. Motion approved.

NC25-14 – Council Bluffs – Petition by the City of Council Bluffs for Waiver of 263 IAC 7.5(1)

Betty Hessing stated this is a "Petition by the City of Council Bluffs for Waiver of 263 IAC 7.5(1)" for

annexation case #NC25-14. This request is to waive the requirement to conduct a meeting to consider a petition for annexation no sooner than 31 days after the petition is filed. So, Council Bluffs filed their annexation petition on April 25, 2025, but if you approve this waiver, the Board will consider it at today's meeting, May 14, 2025.

Chairperson Plautz asked if there was anyone present representing the City of Council Bluffs. Present virtually from the City of Council Bluffs were Courtney Harter, Community Development Director; Chris Gibbons, Planning Manager; and Mimi Dobson, City Attorney. Courtney Harter stated they are requesting this waiver on behalf of the City related to a development project that we have coming into the city limits potentially. Chairperson Plautz explained we will consider the waiver, and we will look at whether or not the proposal is complete and properly filed and subsequent to that, set a date for a public hearing. Courtney Harter stated the reason that we are requesting this waiver is specific to a project that wants to come into the city limits of Council Bluffs specific to some incentives that they would be eligible for from the State of Iowa that require they be within the corporate limits of the City. This particular company is a manufacturing company that would be bringing about \$470M work of capital investment and of that is about \$167M of construction costs to our community. It is significant job creation as well and very strong wages to which they have committed. This company is eligible for some State incentives, specifically the Targeted Jobs Program. There is some potential that this is not going to sunset by the end of the fiscal year, which is June 30. Ms. Harter showed the area on a map and explained the City is requesting this waiver be granted so the City can meet the timeline that they have committed to with this company and ensure that they are able to proceed with their targeted jobs application as outlined.

Chairperson Plautz asked if the company is committed subject to this being completed and Ms. Harter replied that was correct. Chairperson Plautz asked if there was a reason that this is coming to us now. Ms. Harter replied that they have been going through the annexation process for the last seven months. The company we are working with obviously is hoping to get their commitment for incentives and this is just the next piece of that process. We are at the mercy of our State legislature and have to respond accordingly. Chairperson Plautz asked Ms. Harter that if the company did not come, you might not be requesting this annexation and Ms. Harter replied they probably would not be at this time. We would still be doing the annexation, but would not be asking for the waiver. We would just go through the standard process. Chairperson Plautz thanked Ms. Harter.

Chairperson Plautz asked Eric Dirth to address this waiver. Mr. Dirth stated this is what constitutes a waiver of the Administrative Rules. We cannot waive anything in statute, but we can, under certain circumstances, waive certain Administrative Rules that have been adopted by the Board. The rule that is being referenced, as Betty Hessing identified, is this general requirement that you are not allowed to bring your annexation application to the Board until 31 days after you have submitted it to Betty Hessing. In the past, we have had other cities request a waiver in their application and it has been administratively handled on the waiver, but because of the expediency of this matter, Council Bluffs has filed a document that has identified a strict waiver, so what the Board is attempting to determine is whether or not this is such a circumstance that necessitates a waiver of our standard rule of that 31-day requirement. We did a waiver last month in a different context, but it is the same process. It required a waiver from the rulemaking process.

Chairperson Plautz thanked Mr. Dirth and stated we get a lot of cities that want to waive certain requirements just because they want to waive certain requirements. So, point being, we have to go through a process to determine if there is good reason for the waiver and if we have the authority and Mr. Dirth said we have the authority. Chairperson Plautz asked if this is good reason to waive that requirement. Mr. Dirth replied that the condition to grant a waiver is as follows: "A waiver may be granted if all the following are to be found—(1) The application of the rule would pose an undue hardship on the person for whom the waiver is requested; (2) The waiver from the requirements of a rule in this case would not prejudice the substantial legal rights of any person; (3) The provisions of rules subject to a petition for waiver are not specifically mandated by statute, which I have already identified; and (4) Substantially equal protection of public health, safety and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.

Chairperson Plautz thanked Mr. Dirth and asked if anyone else was present who would have a question

or comment before we take action on this waiver. I am Rita Grimm, Chief Legal Counsel for IEDA/IFA. I wanted to let the Board know that IEDA does support the request for a waiver. Rita Grimm explained that IEDA is somewhat responsible in that legislation was introduced earlier this year that would essentially sunset the targeted jobs withholding credit program and that is the program that Council Bluffs is wanting to use to incent this business to locate in Council Bluffs. There is a requirement that they cannot use targeted jobs unless the business is located within city limits, so they need the annexation. Part of the legislation is that it will sunset on June 30th and so that is what created the need for moving it forward. The meeting today is not to discuss the merits of the annexation itself; it is to determine whether or not the petition is complete and properly filed. The opportunity for landowners who are dissenting would be given at a hearing at a later date.

Chairperson Plautz came back to the Board for deliberation and motions. Chairperson Plautz stated he thinks this certainly provides a justification for doing this as compared to many of these that we get and Jim Halverson agreed.

Motion by: Tom Treharne

Motion: I move the Board approve the Petition by the City of Council Bluffs for Waiver of 263 IAC 7.5(1) for NC25-14.

Second: Laura Skogman

Roll Call: All ayes. Motion approved.

NC25-14 – Council Bluffs

Betty Hessing stated this is a voluntary annexation petition for the City of Council Bluffs, which includes non-consenting property owners, comprising of 9% of the total annexation area. The proposal consists of 473.46 total acres of land lying south of Council Bluffs' current municipal boundary and is in both Pottawattamie and Mills Counties. The City of Council Bluffs received annexation petitions from five consenting landowners. Included with this request are seven non-consenting parcels from five land owners. State of Iowa right-of-way is also included in the proposed voluntary annexation request. The purpose of this annexation is to provide city utilities and services for new industrial developments the City is working with. The annexation territory is not currently served by any city utilities. Upon annexation, all property owners will have access to city services such as police, fire, trash, sanitary sewer, storm sewer and water, which will be extended into the annexation area as development occurs and/or necessitates connection to Council Bluffs' systems. Part of the discussion includes a submittal of a traffic study. Once the final traffic studies are submitted and the City understands roadway and traffic improvement recommendations, they will engage in conversations with Mills and Pottawattamie Counties and Iowa DOT on a 28E Agreement. The City of Council Bluffs is not a party to an existing Moratorium Agreement. The proposed annexation includes portions of public roadways identified as South 192nd Street, South 189th Street and Interstate 29 right-of-way. Annexation will also include the adjacent Bunge Avenue to the centerline. Pottawattamie County Board of Supervisors submitted a Resolution in support of the annexation. Mills County Board of Supervisors submitted a Resolution against the annexation on March 18, 2025, but then on April 22, 2025, they submitted another Resolution supporting the annexation. Ms. Hessing reported the packet appears to be complete and properly filed.

Chairperson Plautz stated that before we vote on this, he wanted it in the record that in regard to the previous waiver, it is not as if that request for a waiver came in and we had three or four days; it was actually nineteen days. It is not like people did not have an opportunity and we were cutting them out with one day's notice. That is important to note. Chairperson Plautz asked the Board for any discussion or motions.

Motion by: Tom Treharne

Motion: I move the Board find NC25-14 as being complete and properly filed and that a date for a public hearing be scheduled.

Second: Laura Skogman

Roll Call: All ayes. Motion approved.

A public hearing was scheduled for 2:30 p.m. on May 27, 2025.

VI. Staff Reports

Betty Hessing stated that a couple of annexations will be coming from Ankeny and one from West Des Moines. Also, a severance from Grimes and an annexation into Urbandale may be coming.

Eric Dirth stated the Iowa Supreme Court has declined to take further review on the Campbell vs. City Development Board matter, which is an Ankeny case, so that matter has been completed. It upheld the City Development Board's decision approving that annexation. The Clark vs. City Development Board matter is proceeding in District Court with a hearing schedule for June.

Eric Dirth noted that this is Betty Hessing's last meeting with us and so I think we should give her a round of applause. I think she is as much of a lawyer as I am when it comes to City Development work. I am very appreciative for the 2½ years that I have worked with Betty. She has been fantastic, and I rely on her immensely so she will definitely be missed. Betty Hessing replied she will miss everyone too and it has been a great twenty years of working with the City Development Board.

VII. Future City Development Board Meeting/Public Hearing

May 27, 2025 – 2:30 p.m. Council Bluffs (NC25-14) Public Hearing at IEDA, 1963 Bell Avenue, Helmick Conf. Room, Des Moines

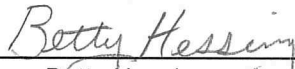
July 9, 2025 – 1:00 p.m. Business Meeting at IEDA, 1963 Bell Avenue, Helmick Conference Room, Des Moines

July 9, 2025 – 1:30 p.m. NC25-11, Ogden Public Hearing at IEDA, 1963 Bell Avenue, Helmick Conference Room, Des Moines

VIII. Adjournment

2:15 p.m.

Respectfully submitted:



Betty Hessing
Interim Board Administrator