

ITEM NO. 2.a. MAYOR'S PROCLAMATIONS: AVIATION WEEK – AUGUST 20-26.

Mayor reads the proclamation.

Mark Anderson: I just want to say just a real quick few comments. First of all, this is an outstanding opportunity for Iowa City to show what I've always called one of its front doors to the City. We're expecting a really big turnout and we have just a lot of activities planned for young and old alike, educational as well as I guess some very fine air show activities. There's a number of people, though, that I'd really like to thank who've just done a lot of work bringing this activity together, and I'll just briefly go through. John Ruyle, who was responsible for the air show itself; Jill and Justin Fishbaugh who have been coordinating all the different vendors and people that we have coming in; Allen Ellis and Rick Mascari who headed up all the educational activities; Dick Blum is handling the air side part of the event; Ron O'Neil is taking care of safety and security; Wendy Ford handling the public relations; Ann Anderson the hangar dance; and Jim McCarragher is heading up the breakfast. And the numbers of hours that these people have put in is just incredible and what they've given back to their community, so we hope everybody comes out and enjoys the activities this weekend and thank you very much for the proclamation.

Lehman: Mark, this is a free event right?

Anderson: This is free.

Lehman: Both days, all day, no charges.

Anderson: With the exception of the pancake feed everything is free and open to the public.

Lehman: Should be a lot of fun.

Anderson: Oh, it'll be great.

Lehman: Thank you, Mark.

Anderson: Thank you.

Champion: It's going to be a wonderful opportunity for the public to see our beautiful restored terminal which is really worth seeing.

Lehman: There are a couple, three chairs down here in the front but we need to ask that the doorways be kept clear because of the fire code, so if you wouldn't mind using the chairs, or if not, you can pull up along the wall or we do have obviously sound in the lobby as well. At this point, I would like to introduce Karin Franklin for a special presentation.

ITEM NO. 3.a. SPECIAL PRESENTATIONS – Nancy Seiberling Portraits.

Franklin: Our special presentation tonight is a presentation of a gift to the Iowa City Public Art Program. This is a gift from Ina Loewenberg, who is a photographer and artist, and she is giving this gift in honor of Nancy Seiberling. Emile Rubright is going to make a couple of comments about Nancy and her contribution to Iowa City and then Ina will present the portraits to the Mayor.

Emile Rubright: Now, here is Nancy Seiberling, and we owe her just so much it's just hard to sort of condense it into one sentence because, oh for about the last 35 years she's been in here lobbying whoever sits in your chair into the benefits of good design, environmental excellence, what we can do to make our City more environmentally pleasing to people. My association with her, although she has many other projects, has been through Project Green, where this all started during the urban renewal process and the lobbying to make downtown a people place, a tree place, place where people want to sit down and be comfortable. This lady had a lot to do with the final results. And we all thank her for it. She is so energetic and she's inspired legions of people in Project Green to raise money to beautify our environment with such projects as the College Green Park refurbishing. So we just want to thank Nancy for her vision and her determination which is awesome and she has always been in love with Iowa City and she just wants to make it the best and most environmentally interesting place that she possibly can. So, in her honor today, these pictures are just sort of a small token of how we all feel about Nancy.

Ina Loewenberg: Mr. Mayor, I'm very pleased

Karr: I'm sorry, could we mike? We're not picking her up at all. Thank you.

Ina Loewenberg: Thank you so much. I'm very pleased to give these pictures to Iowa City and to have them find a home in honor of Nancy Seiberling. And should we show them?

Lehman: Yes. It seems so appropriate that there are trees because every time I think of Nancy I think of trees. Now, I know Nancy, your interest is far more than just trees but every time I think of trees I think of Nancy. Certainly these are pictures that the City will cherish. I think we even talked last night about finding a rotation so that we can show them in several different places so more people can see them, and Ina, thank you so much for the gifts.

Nancy Seiberling: I just wanted to say, I think, a thank you to Iowa City because you've given me the best years of my life. I ... more than ... I don't want to seem boasting about this, but I don't think there's anybody who would enjoy coming downtown more than I do. This is just a wonderful place. It isn't just what I did – it's the way people responded to something that was brought to their attention and a lot of people got together to pursue a way of making it change from something that was run down at the heel, looking awful, people didn't really want to do anything about coming downtown because it looked so dreadful. But it was Gretchen Hershberger who said, to you and to me and to everybody, if Iowa City looked better we'd all feel better about it and that was when she got a few of us together who were gardeners and she said, Now what can we do? Gretchen was very clever; she knew exactly what should be done. But she always tried to find out what other people thought and then would weave this together in a marvelous scheme that would solve the whole problem. And she was the one who perceived the idea that people needed to see why you did something and what was involved in it, and that was the beginning of our work and our first project was to restore Iowa Avenue. Sadly, it's gone out of someone's vision, but you see, that was the main, that was the most important avenue in the State. It connected the Statehouse, the center of government in the state with the Governor's mansion which was at the other end, and it had been, it needed to be brought back to a state of respectability just to make that historic connection, and so when we started on Iowa Avenue that was where, if we ... she said if this will ... if we can make this look proper so that it's an inviting place to come, people will really love it. And her whole scheme was that anywhere you would like to create and if you can create a better visual situation, people will respond and this is certainly the way things followed as gone from downtown to other projects and to schools and around the City. But it's been combining ... what has been exciting about it is the way people, individuals and government entities and businesses have all been willing over the years to cooperate to do this. And I think we all of us have a great deal to be proud of and to enjoy as a result of Gretchen Hershberger's initial vision for us all. Thank you.

Lehman: Thank you, Nancy. At this point, I would entertain a motion to consider #12 on the agenda out of order.

O'Donnell: I would like to move we move Item 12 up at this time.

Champion: Second.

Lehman: Moved by O'Donnell, seconded by Champion. All in favor say aye.
Opposed, same sign. Motion carries.

ITEM NO. 12. CONSIDER A RESOLUTION ACCEPTING THE GIFT OF ARTWORK FROM INA LOEWENBERG, CONSISTING OF TWO PHOTOGRAPHIC PORTRAITS OF NANCY SEIBERLING, TO THE IOWA CITY PUBLIC ART COLLECTION AND AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH THE ARTIST FOR ACCEPTANCE OF SAME.

Champion: Move the resolution.

O'Donnell: Second.

Lehman: By Champion, seconded by O'Donnell.

Kanner: Could we get another look at the picture? I didn't really get a chance to see it. Very nice. Karin you're going to be looking at it for awhile.

Lehman: Discussion? Roll call. Motion carries.

ITEM NO. 3.b. SPECIAL PRESENTATIONS – Government Finance Officers Association Certificate of Excellence.

Lehman: This is a certificate presented to the City of Iowa City. Mayor read the certificate. How many years Steve?

Atkins: I believe 16.

Lehman: Yeah. Pretty amazing.

Karr: Here to receive the award is Finance Director, Kevin O'Malley.

O'Malley: I'm very pleased to accept GFOA's award for excellence in financial reporting. I'd like to make a few comments about how it was achieved and why we endeavor to achieve it each year and who should really share in the credit for this award. How is the certificate achieved? After the close of our fiscal year our accounting division summarizes the multitude of transactions into our basic financial statements. Those are the combined statement of balance sheets, statement of revenues and expenditures and a statement of cash flows. After we prepare those documents we employ auditors to audit and test those financial statements for clarity, completeness and comparability. We then take the next step, we submit these financial statements and supplementary information to the GFOA organization for their review. If our financial statements meet the established criteria for excellence, presentation is given to Iowa City. Why do we submit these financial statements to GFOA? Well, one of the responsibilities of the finance department is the periodic preparation of our financial reports. And to that end, the finance department is committed to complete disclosure and distribution of this financial information to the citizens and our bond holders. And now, to who gets the credit. I'd like to say I should get all the credit, but I wouldn't be able to sleep tonight so I need to share that. And much of the credit belongs with my very capable assistant, Erin Herting, and the assistant controller, Regina Schreiber, and the senior accountant, Ann Maurer. The other folks in accounting also monitor our internal control policies. Those are Linda Kron and Deb Mejia, our accounts payable specialist, Jan Burr, our payroll specialist, and Pamela Thodos, our accounts receivable specialist. We also had some outside help, our auditors, Deloit and Tush, provided us much needed technical guidance. I'd also like to thank the City Manager for his support and encouragement, my colleagues, the department directors and division managers for their willingness to comply with our internal control policies, and lastly, you Mayor Lehman and esteemed Council members for taking the time tonight to recognize the efforts of the finance department and for your trust and respect that

you've shown to the finance department throughout the year. Thank you.

Lehman: Thank you, Kevin. One other item before we do the consent calendar. We have another, you know, our staff here at the Civic Center is blessed with a lot of very, very professional people, but in our packet this time we received a memo that Sylvia Mejia has received from the International Personnel Management Association, she has been certified as a professional in personal management, and I think, Dale, would you tell us a little about what this involves because I think this is a very distinct honor for our personnel director.

Helling: You know, Sylvia's been in our personnel division for over 20 years and she's been personnel administrator for 15. Let me ... I'll just read a little bit about what it means to have this award. This award is granted to people who have met the professional standards set to recognize excellence in public sector human resources and have demonstrated to a panel of senior level professionals their commitment to public sector human resources by undertaking a rigorous review of their technical expertise and understanding the importance of behavioral competencies in their role of human resources professionals. So I think one of the critical things about this, one of the most noteworthy things, is that this isn't something you get automatically. This requires initiative on the part of the person seeking the certification to actually go forth and demonstrate that they have achieved a certain level of professional excellence above, considerably above that of the average human resources professional, and then to demonstrate to this board through not only demonstrating their educational and technical requirements but also through a testing procedure to prove to this board that they have indeed achieved that level of excellence. So I think Sylvia is certainly to be congratulated and we wanted to bring it to your attention by making you aware that she'd received it.

Lehman: Congratulations Sylvia.

ITEM NO. 4. CONSIDER ADOPTION OF THE CONSENT CALENDAR AS PRESENTED OR AMENDED.

Champion: Move adoption.

Vanderhoef: Second.

Lehman: Moved by Champion, seconded by Vanderhoef. Discussion?

Kanner: I'd like to remove f.(3) for separate consideration, resolution, accepting the work for the transit lot resurfacing, page 91 in our packets.

Lehman: Okay.

Kanner: And then I have discussion on a number of items on the consent calendar.

Lehman: Go right ahead.

Kanner: The first one is in regard to the Public Art Advisory Board. I wanted to ask Karin to come up, I had some questions about the minutes. There was a note about the Visual Artists Rights Act in regard to accepting the portraits, actually, that we just accepted, was discussion, this was a few weeks ago. And it talked about this, the VARA, as it's known, is the first instance in the United States where there are moral rights for art. And I was wondering if you could explain what that meant and what it means in context of the City, Iowa City.

Franklin: The moral rights for art is language that comes directly from the Act, and the actual test of what that language means has not occurred yet in the courts. It is a concept that comes from European culture, as I understand it. Basically what the Visual Artists Rights Act is about is recognizing the rights that artists have to maintain the integrity of their work both in terms of its maintenance, its location, and its existence, that you cannot take a work of art that you have acquired and destroy it or relocate it or amend it without the artist's permission. It could be a very stringent act that would inhibit public art if it were used to the fullest extent of the Act as it's in the law. There are provisions, however, for artists to waive some of their rights and we do include those waiver of rights in the contracts that we put together with artists, the artists are aware of it. We also provide provisions in our contracts to notify, try to contact and have some collaboration with artists if we are going to anticipate ever moving a work of art which we have acquired. And it will be different, of course, with everything. The

permanent sculptures that are in the pedestrian mall, for instance, it's ... there would have to be some sort of decision on the City Council to actually move those, it's not likely that we're going to be moving them around. Dorothy, the sculpture, the tornadic sculpture, that was acquired with the knowledge that we were going to move it from place to place within the City, and so it's different for different pieces.

Kanner: Thanks. Just one other point from the discussion from the Board. They talked about a possible mural downtown? I'm excited by the idea of a mural. I was wondering if you could tell us where that is.

Franklin: Well, we'll see if that in fact materializes. It's something that may be before the committee at their September meeting. The proposal is for a possible mural on the wall of Dulcenea at the corner of Dubuque and Iowa Avenue.

Kanner: Any particular theme in mind?

Franklin: I don't know yet.

Kanner: Okay. Well, that's exciting to hear. Thank you. Then, in number d., I had a question for Steve. Last year we talked about after alcohol ordinances were passed we'd be getting police reports on a regular basis and we'd also get reports for ... extended reports for PAULA's and others things with any license fee that's applying for renewal. And I was wondering if those things were going to be coming soon.

Atkins: They should be coming soon. I'll give you a memo, hopefully in the next day or so, giving you an update. I apologize. I didn't check the status of that, but I'll have it for you shortly.

Kanner: Thank you. And then also, Karin, I'm sorry, there was another item about, we're setting a public hearing for Steps on September 11th in the consent calendar. For City Steps.

Franklin: For City Steps, um hmm.

Kanner: Could you explain briefly what that is for people in the City that might be watching this and what are the proposed amendments that are being talked about?

Franklin: City Steps is the consolidated plan, that's what the formal name of it, is a requirement that we do for HUD to act as a guideline for the allocation of our CDBG, the Community Development Block Grant, and Home funds. And the specific amendment that will be discussed at

that, or will be before the public at that public hearing, is the change from 5% to 9% of the dollars that would be going to economic development, that's the proposal from the Economic Development Committee. However, the public hearing is also a time for anyone from the public to bring issues to the Council's attention if there are things that should be amended in City Steps or included in City Steps which are not in there now.

Kanner: Well we had a process about a year and a half ago or two years ago where community members were invited to help draw up the City Steps program and they're welcome to come back and reflect on it and how it's going and if there's anything that needs to be changed.

Franklin: Absolutely. Right.

Kanner: Thanks. Ernie, one other thing I had a concern about. We're also voting in resolutions, #f.(1), to allow County folks in some township precincts to vote in Iowa City precincts. And I think that's okay to do. I think oftentimes there's confusion of people who have an Iowa City address but live in the County aren't aware that they can vote for City issues and candidates, and so they go to their polling place, even when it's outside of the City, and they say, why can't they vote for this? I'm going to vote for this, I think it's good, but I'm just wondering if we could ask that the County and/or the City might send an extra notice to say "You're not part of the City" basically and give them a little more warning, because I know a number of people who say, I'm not in the City, I can't vote, and they go and this could be a little more confusing.

Karr: Mr. Mayor, if I may. This was at the request of the Commission of Elections, our Auditor, Tom Slockett, and I believe each postcard that will go, all precincts are changing in the City, all postcards that will be going will have an explanation on that and I think I will bring that to his attention to be sure that maybe we could include that as well.

Kanner: And maybe even a little extra perhaps that needs to be done every couple years or something.

Karr: Okay, and again, it's to clarify this is for the convenience of the voters because it is the closest voting place for them.

Kanner: And that makes sense. I just want to give them as much notice and say that you're not part of the City, and we'd like you to be part of the City perhaps.

- Karr: I'll discuss that with Tom.
- Kanner: Alright, thanks.
- Lehman: Other discussion? Roll call on the consent calendar as amended.
- Champion: Move f.(2).
- Karr: f.(3)?
- Champion: (3).
- Lehman: Motion to approve f.(3) by Champion.
- Vanderhoef: Second.
- Lehman: Second by Vanderhoef. Discussion?
- Kanner: Well, I bring this up. This is for transit lot resurfacing accepting the work for that. That's our building parking lot on Riverside Drive, just south of Highway 1, Highway 6 intersection. And I took a tour of the building and the facilities and one thing that was point out, it appears they did a good job of resurfacing it but this is on top of the dump, as most of us know, 30 feet of the old landfill, and it's sinking and even after they redid it, resurfaced it, it's sinking, I think like a 16th of an inch every month or so I was told something.
- Atkins: I'm not surprised at that.
- Kanner: And there's sinkholes, right now they're small ones that are starting to appear, but some could be quite deep. They're small, so I'm just concerned that this whole area's going to need some significant work and it's something we have to talk about and maybe now we can talk about also, should we ... is there any out for accepting this work, should they have known? Should the people we contracted with known that this perhaps is not the time to resurface it before we settle this problem. Because I have a feeling we're going to have to resurface the whole lot.
- Champion: It's been a chronic problem.
- Lehman: We have resurfaced this lot numerous times.
- Champion: A great many times.

- Lehman: I mean this isn't the first time. Some of that, some places down there we've got asphalt that is, I believe, several feet thick.
- Champion: Probably the thing we should look at is moving that facility.
- Lehman: We can't move the bus facility.
- Atkins: Just so you understand, the building won't move. It's on pilings. Everything around it will sink. The building won't go anywhere.
- Champion: It'd be an island.
- Atkins: I'm sorry it doesn't make you feel any better.
- Lehman: I certainly share your concerns, Steve, in relative to the problem that exists down there. I do not know if it's appropriate not to pay a contractor to do the work that we hired him to do.
- Kanner: Well, yeah, and I would most likely agree with you. I'm just throwing it out to see, it sounds like this was known beforehand that it could sink again.
- Lehman: We've know that for 25 years.
- Kanner: I'm just, I didn't know, I guess. Perhaps it's my fault. I thought that it was in pretty good shape. So I would suggest that we have a work session of some sort to talk about it because we might need to bite the bullet and do a permanent solution if we're going to be there for awhile with the buses. If we're going to be putting in, what is it, \$200,000, \$120,000 every two years and there's a danger of big sinkholes opening up, I don't know if that's wise to do that. How many times have we resurfaced it recently?
- Lehman: Well, I don't know recently. The total resurface I don't think has been probably quite as often. But I think there's almost annual patching for sinking.
- Atkins: Yes. Around the building you'll notice it's exceptionally thick because we have to build the slope to allow the buses to get in and out and that's done, I'm sure that's done every year.
- Lehman: Well, Steve could we just get a new ... a memo from engineering? Obviously they're well aware of this and as I recall, Karin, we talked about reclaiming that area and I think to reclaim that area involves some compaction process that we're talking

- Atkins: If we ever hope to market the area. Eventually, the only building that will remain there will be the transit building because everything else will be moved out.
- Pfab: I have a question. Is that eligible for a brownstone?
- Atkins: Brownfield? Yes, we've applied twice, Irvin, and our projects were rejected and we intend to apply again. We do stay up to that one. But it is a Brownfield eligibility.
- Lehman: Okay, but we can get a memo from engineering?
- Atkins: Yes, we'll prepare that.
- Lehman: Is there further discussion on, we did receive a note from the City Engineer indicating that the work has been done to the specifications required by the contract. So, is there further discussion on Item f.(3)?
Roll call. Motion carries.

ITEM NO. 5. PUBLIC DISCUSSION (ITEMS NOT ON THE AGENDA).

Carol deProsse: My name is Carol deProsse, and I'm wondering if tonight, Mayor Lehman, before we get into the public discussion portion of the meeting if I could prevail upon you to call for a moment of silence so that those of us who wish to do so could join in a community memory of Eric Shaw, an Iowa City resident, a artist in his prime and a young man when he was killed five years ago on August 29th by a bullet from the Iowa City Police Department.

Lehman: I think that would be appropriate.

DeProsse: Thank you. Thank you.

Tom Langenfeld: My name is Tom Langenfeld, and I live at 215 Windsor Drive here in Iowa City. And I want to express my concern tonight regarding one of the proposed amendments to the Iowa City charter that may be voted upon this November. I am concerned about the amendment that seeks to fundamentally alter our Council-Manager form of government. The proposed amendment, if passed, would subject the City Manager and the Chief of Police to a retention vote every four years. In essence, the amendment would force the City Manager and Police Chief to run for their appointed offices every four years. I believe that this proposed amendment, although well intentioned, would have several serious negative long-term consequences. Such an amendment would politicize the positions of City Manager and the Chief of Police. Forty years ago many municipalities around the country decided to adopt a Council-Manager form of government. The purpose behind this move at that time was to create a City Manager position that would be non-political and provide good, professional management. My wife and I live here in Iowa City and we plan to live here for the next 25 years and beyond. And we question the long term wisdom of such a proposal. Number one, no other city in the country has such a retention vote for these offices. If the proposed amendment were to become part of the City charter, Iowa City would be saddled with what I believe is a major handicap in hiring a City Manager or a Police Chief in the future. We estimate that after our current City Manager and Police Chief leave, few qualified candidates would be interested in considering these positions with this retention vote hanging over their heads. Secondly, the City Manager oversees the City budget. Specifically, this includes around \$150 million at this time. Due to the size of the budget, I want the best possible person to be in this particular position, and I fear that if we were to have such an amendment become part of our City ordinances, we wouldn't have that. Thirdly, I feel that political considerations affect so many aspects

of the City's policies and governments and adopting this amendment would just add to this and further politicize all of the decision making processes and every action taken here in City Hall. For these reason and others, I hope that the City Council and the City voters will think carefully about all of these issues before going down what I consider a rather hazardous course here, and I developed this prior to knowing that you're considering certain things about this, and I hope you consider them strongly and I support the action to move forward on that. Thank you.

Lehman: Thank you.

Jim Baker: Thank you, Mr. Mayor and Council Members. My name is Jim Baker and I want to deny that I am either a former Secretary of State or a convicted Televangelist. I reside at 102 Rocky Shore Drive and I'm speaking tonight on behalf of the Iowa City Area Group of the Sierra Club, for which I serve as co-conservation chair. As you know, the City's current 15 year franchise agreement with MidAmerican Energy expires on November 15 so the Council must decide presumably by October what will ... how the City will proceed with the utility. I'm hear to urge you not to renew the franchise agreement or if you do to limit its term to 3-4 years. The current franchise agreement gives MidAmerican a monopoly here in Iowa City but has no controls on rates charged to consumers, no protections for low income consumers, no requirements for local investment in Iowa City and Johnson County by MidAmerican, and no mandates for energy conservation, for renewable resources such as solar and wind power, or for reductions in pollution and greenhouse gases. Now some might argue that these issues are properly addressed in federal or state regulation. Two responses: number one, the citizens of Iowa City, I am sure you would agree, deserve better. And two, Iowa and/or the federal government, may completely deregulate electricity in the next few years. Three additional considerations I hope you will bear in mind. First, a longer term for the franchise agreement means little or no accountability by MidAmerican and thus little or no local control by Iowa City. With all due respect to each and every one of you, it is unlikely that all seven of you will be here in 2016 when the next franchise agreement would come up for review. Second, Iowa City needs to chart its own energy future, not chain ourselves to MidAmerican Energy. For example, publicly owned and operated electric utilities in Iowa deliver on average 30% lower rates for residential consumers. We ought to take a good, hard look at changing to a public utility. Third, if California proved anything recently, it's that the energy industry is extremely volatile such that the nation's largest utility, PG&E fell in less than a year from biggest to bankrupt. In this regard, MidAmerican Energy is

expected to have its rates skyrocket just three years from now. For this last reason alone, it is dreadfully bad public policy to chain ourselves to MidAmerican, especially for 15 years. Fifteen year franchise agreements are simply a tradition, not a requirement of law, and for all of the reasons I have just stated, the only real beneficiary of a long term franchise agreement is MidAmerican Energy and its shareholders, not Iowa City and its citizens. So the Sierra Club again respectfully urges that you not renew the franchise agreement, or if you decide to do so, please limit the term of that franchise agreement to three or four years. Thank you, and I'd welcome your questions.

Lehman: Thank you.

Kanner: Steve, I had a question for you. We got a memo from you that we're going to be considering this probably as Jim said mid-October. Do you have a work session lined up for us on this issue?

Atkins: We have not picked a specific date for you but we do have to have a sit-down so you can give us some direction. We had some conversations with MidAmerican knowing that the franchise is going to expire. Dale's heading up a group of folks internally. We're trying to get this packaged together so you can have something to begin working on. That does not involve, Jim, any commitments on our part to MidAmerican.

Pfab: I have a question for you. Who is the ... who are the shareholders of MidAmerican now?

Baker: To be honest, I don't know. What I do know is that MidAmerican Energy is a private utility, has shareholders, is currently fully regulated by the State but as I said a few moments ago, Iowa, like more than 20 other states, is considering deregulation down to the retail market level. That would mean the only way in which the citizens of Iowa City could be protected in the future would be for a new franchise agreement to have the kind of protections that I discussed. I don't think that's in the cards anytime soon. MidAmerican, I'm sure, would require a lot of time to negotiate and think about a new arrangement, and for that reason I would propose that either the City let the franchise agreement expire, or as I say, limit that term so that we can then plan for our future energy needs in the city and either sign a franchise agreement that accomplishes that or go some other route.

Pfab: I believe, wasn't it Warren Buffet, didn't he buy a utility? Was that MidAmerican?

Darrel Courtney: Yes.

Baker: Thank you.

Lehman: Thank you.

Penny Davidsen: Hi. I'm Penny Davidsen, and I must say this is an exciting moment for me to come back into this hallowed hall, hallowed by the way is defined as holy. Now that I don't quite agree with, but I do think that it is a hall that merits a great deal of respect. I'm here as a member of the original charter, Home Rule Charter Committee and subsequently a member of the Iowa City Council. And although I don't want to bore you or all those who might be listening, I do want to emphasize the care and concern, the effort and energy, the research and investigation, the time, the thoughtfulness and the devotion to the City of Iowa City that went into the development of the Home Rule Charter. It was a rather incredible procedure. I'll quickly tell you and review with you because I'm not sure you can remember, nor could I, and I've talked to Marian and I've talked to Jay Honohan and I've tried to figure out everything about the history of this. Quickly, in the 1960s the State legislature in two separate sessions passed a proposed constitutional amendment and then submitted to allow home rule charter form of government, and then submitted it to the voters of the State of Iowa and that was passed in the late 60s, so we had ... prior to that Iowa cities could only have three forms of government. They could have a commission form, they could have a council-manager form, they could have a council-mayor-alderman or a mayor-council form of government with some variations. And then by the late 60s the people accepted that we could also have a home rule charter form of government. And as to be expected, Iowa City was the first to grab ahold of this idea and established a home rule charter committee. That committee was made up of nine members who went to work. We met almost every week, if not every other week. We worked eight months from January 1973 to August 1973, and finally came up with a home rule charter that was submitted to the vote of the citizens of Iowa City in November and passed in November of 1973. Actually, the charter didn't go into effect with seven members like you until 1976. The election of November 1975 and then the session of 1976. Anyway, all that is stuff that you can digest and you probably already know. Accordingly, from the charter that we proposed, our elected officials who are responsible to the people of Iowa City, it is through them the changes in policy can be made, changes in appointments can be made because they are, in fact, our elected officials and because we made it so that the election process would be district-oriented and then still keep the interests of the City with voting at large, final voting at large,

it was a balance of district representation and at large representation and therefore we felt that the representativeness of you people would be very close to the people and therefore be responsive to the people. The charter also, obviously, established initiative and referendum, a procedure which gives the people of Iowa City the power to propose ordinances and to review and reconsider existing ordinances. So I don't need to go into detail on all this. I just want to simply reiterate and re-emphasize the intense and concerted thought that was involved on the part of these nine very dedicated individuals who worked on the Iowa City home rule charter. There is no question in my mind but that we have a very effective, flexible, workable and valuable charter, which can and does meet the needs and expectations of Iowa City. Thank you.

Kanner: Penny, excuse me, Penny, I had a question for you. Actually I have lots but hopefully someday I could sit down with you and talk about this because I find this fascinating, the history of our form of government. The one question I have for you, though, tonight, it seems a little unusual, and this gets to one of the questions that we're considering about the legality of the charter amendments. To do a charter amendment, which is sort of like a constitutional amendment, it seems to be easier to do that in terms of getting signatures versus referendum and petition. And it seems to me it would be the reverse. And I was wondering if you had an answer of why that is, why is the charter amendment easier to pursue rather than the referendum and initiative?

Davidson: Well you're talking about it needs 25% of eligible voters to bring a petition for initiative and referendum and it only needs 10%

Kanner: Well, not only eligible, you have to be a registered voter.

Davidson: Yes, I mean qualified.

Kanner: So that makes it even harder to get a referendum initiative versus a charter amendment which is like our constitution, you would think that would be harder to change.

Davidson: Well, I think Steve, I think the point was that we didn't feel that there should be a sort of typical of Iowa City, a group that would constantly want to come and micro manage the City and therefore, they really had to give through an initiative or a referendum, and therefore, they had to ... there had to be some real substance and backing of this group or group of people.

TAPE CHANGE

- Davidson: an so be it. It's a question of issue, of substance, I think. I don't know whether I'm making myself clear or not.
- Kanner: Perhaps later, another time we could talk more about this because I'd be interested in hearing your perspective on this.
- Davidson: I think it was only that we were concerned that not ... that ordinances or proposed ordinances would constantly be brought up if it were simple, if it were made really simple, whereas an amendment would be thoughtful and maybe only 10% of qualified would be needed. I'm not quite sure the rationale is just wonderful there, but we'll see.
- Kanner: Thank you.
- Lehman: Thank you, Penny.
- Jay Honohan: Mr. Mayor, can I slip in and answer his questions directly?
- Davidson: Yes, you can.
- Honohan: Penny is right about the initiative and referendum (can't hear) and the reason that they are tougher is we wanted them to be that way. The reason that we ... the other is 10% is because that's what the State Code requires so we couldn't change that.
- Kanner: So ideally you would have made it tougher if you could have but State Code said it had to be 10%?
- Honohan: Absolutely. We would have made it tougher all the way.
- Davidson: Thank you Jay, (can't hear).
- Lehman: Thank you, Jay. Before the next ... I want to remind Council, public discussion we conduct until 8:00. Obviously all the folks standing out here will have ... some of those folks are going to have to wait until the end of the meeting when we again will have public discussion. That time will be dramatically reduced if we do not engage the public in conversation.
- Brian Davis: Brian Davis, 1001 Oakcrest St., and I'm building on what our last two speakers said when we passed the Home Rule Charter in 1973 there was built into it a procedure for amending the charter because the people that worked on it I'm sure realized that what was perfectly well

suitable for 1973 may become flawed by 2001. It's ... a filthy rumor floating around though that I've heard is last night the majority of the Council decided to pursue litigation to seek a declaratory judgment on whether or not the three amendments that my group, Students for Local Politics, and two other groups as well are pursuing are legal, is that actually true?

Champion: We've asked for declaratory judgment.

Lehman: We've asked to see if they're legal, that's correct.

Davis: Right, and that sort of struck me as a little bit odd. It should also be mentioned publicly, by the way, that the decision was made at the work session which are generally closed to public input. But that did strike me as odd because you're sort of asking a judge a hypothetical question which I don't think is generally the way the legal system works, and I wanted to ask Marian as the City Clerk, as the record keeper, how long is your tenure at your position?

Karr: I've been City Clerk a little over 20 years.

Davis: And in that tenure, is this something that clearly the City Council passes legislation frequently. How often has the City Council before legislation is passed sought a declaratory judgment on the legislation in question?

Karr: I don't recall that there's been any time but I also in 20 years haven't had a charter amendment submitted by petitions either.

Davis: So there's precedent, I guess, on both sides. But the thing I'm getting at, the thing that's really worrisome to me is before these things ever become law, for that to happen a majority of voters has to go to their polling place on election day and say yes to them. And that very well might not happen. But by pursuing this litigation, the sense that I get is that the Council is trying to, scepters in hand, silence 70,000 people and to keep the public from discussing this, to keep them from having a say on election day. The government doing this is just downright frightening. I am now afraid of the City government because of these actions that you're taking. Thank you.

Lehman: Thank you.

Kanner: And just to clarify, my understanding is the Council majority yesterday said that we will not be placing these on the ballot in

November unless we get a ruling from the Court before August 31st. Is that essentially correct?

Lehman: That's correct.

Kanner: And the odds are, according to our City Attorney that we won't get anything by August 31st.

Pfab: I guess I would ... never mind. This is public time.

Kevin Perez: Yeah, hi. Kevin Perez, 161 Columbia Drive. I just have really three issues involving my restaurant, it's 126 E. Washington and it's 126. I got a letter from the City that said I had to take down my canvas barriers because there was a signage. I look at it as my address, it says 126 on it. I did spend about \$3,000 just on the signage, the fences and I think that I should probably be able to, you know, it looks good, it's in the exact same writing as my awning, but ... so I don't know how to go about it besides, you know, I got the letter that says take it down, I don't think I should have to take it down, so I bring it to your attention and say, what do I do?

Lehman: Steve, is there a process where you appeal or whatever or is he exercising his due process now?

Atkins: I'm not so sure exactly how the appeal process ... I did ask our Housing & Inspection Services folks to give me a short briefly, if you can just give me a minute. Apparently, a neighboring restaurant complained about your

Perez: Right, and I believe it was the awning that they couldn't see his sign?

Atkins: No, that's not, the complainant complained that his advertising was being blocked by your advertising and apparently you did not at the time of your design application, Kevin, include 126 on the canvas.

Perez: Well, I was just putting the address on.

Atkins: If it's the name of your restaurant, I'm just telling you

Perez: No, I understand

Atkins: we have an obligation to follow up and so in following up the complaint by an adjoining restaurant these are protruding, projecting signs into the right-of-way and that was the interpretation, it carries the

name of the restaurant, 126, and in the judgment of the HIS personnel is illegal.

Lehman: But the projection into the right-of-way remains?

Atkins: No, he's permitted to have the sidewalk café.

Lehman: Yeah, I know. The projection is allowed, but the address is not.

Atkins: Yes, that is correct.

Kanner: Isn't that a zoning issue that could be appealed to the Board of Review.

Atkins: I'd have to defer maybe to Eleanor or Karin who could tell me the appeal process.

Dilkes: The Board of Adjustment or the Board of Appeals, I think the Board of Adjustment.

Kanner: Board of Adjustment? So there is an appeal process?

Atkins: If you would call tomorrow, Kevin, we'll find out for you and let you know what the appeal process and how it works.

Perez: Okay. Thanks. And then ... I've got three. Number two is, I've noticed you know in the summer it's very nice, it's nice to sit out there. You guys make me pull alcohol off at 10:00, not everybody is done eating at 10:00. You know, you could sit down and have dinner at 9:00, you could have four courses and you could be sitting out there with a bottle of wine until 11:30 but we have to tell people, I'm sorry you have to move inside because of, I wonder what the process is to say maybe, you know, like behind Martini's you can have drinks until 2:00 but because it's a sidewalk ...

(Can't hear): Right, right.

Perez: Well I understand that, but I want to know if there's a process about allowing the outdoor patios to allow alcohol until ...

Lehman: That would be a matter of the Council changing the regulations on sidewalk cafes, and I don't know what the discussion was at the time we did that, but that is in the ordinance.

- Atkins: You spent, yeah, a great bit of time on it. You picked certain times after lengthy discussion, I don't believe it was this Council, it was one prior.
- Karr: It was the previous Council.
- Atkins: Previous Council?
- Perez: I mean, because not everybody's done eating at 10:00, right, you know. Then this last one, I'm just going to do this real fast. It's just about the smoking issue and I have a lot to say about it but I'm just going to say one thing and it has a lot to do with the Stepping Up Project. And what you found out with the problems with the Stepping Up Project and their fight against the alcohol in Iowa City, it's almost impossible to make a fight if something you're doing is legal and making it illegal according to your laws. So when they try to ... when the café tries to stop smoking the smoking laws inside of my restaurant or whosever's restaurant, which I don't smoke but I should have the right to run my restaurant who I feel to see fit, but it's legal and since they're trying to make it illegal, that's where all the problems stem from. So until you make smoking illegal you're not going to be able to stop that and discussion's going to go on and on and on and on because health issues, it's just you can't win by doing that. So I would just say, they're going to argue about it and they're going to fight about it, but restaurants are not nearly as organized as café because we don't like each other, we steal each other's ... you know, we steal each other's employees and we fight for the same money, so we're not as organized as Café is.
- Kanner: (Can't hear) workers' signs, block other businesses (can't hear).
- Perez: Okay, there you go. Thank you.
- Lehman: Thank you, Kevin.
- Jay Honohan: Mr. Mayor, members of the Council, Jay Honohan, the Senior Center Commission. Marian, I didn't get up first tonight. I wanted to hear everybody else. I have some instructions as to what I can do from Linda and Julie and Susan so I'd better get to them first. This September is the 20th anniversary of the Senior Center here in Iowa City and we're planning a large celebration and we'd like participation by the City Council. And the first thing that we have is a recognition breakfast honoring twenty year volunteers. People that have volunteered at the Senior Center since it started. And it may get you up early, Mr. Mayor, but we have a breakfast at 8:00 a.m.

- Lehman: That's not early.
- Honohan: on September 7th at the Senior Center and we would like you, or if you don't want to come, your designee, to help us break that off. We also have a 20th anniversary pageant Friday afternoon on September 7th at 2:30 p.m. It's sponsored by one of the restaurants here in town. We'll have snacks, Mr. Mayor, if you want to come or your designate. We always have calorie free snacks. But we'd certainly, and we invite all of the Council. I specify the Mayor because that was my instructions and I always do what I'm told. You can also come to a swing dance on the September 10th from 7:00 p.m. to 9:00 p.m. featuring the Silver Swing band and it's open to the public. And anybody can come that would like to come. And then, of course, something that is very very near and dear to my heart. On September 11th, from 2:00 to 4:00 we have the Senior Center skywalk dedication and reception.
- Champion: Yeah, good.
- Honohan: And we again, we're gonna have some calorie free snacks. We'll have some presentations, a ribbon cutting and a few other items. And again, Mr. Mayor, we'd love to have you or your designate there. We're also inviting, of course, the Board of Supervisors. Then we have a historical presentation by Loren Horton and that program is on, have to take off my glasses so I can see, oh, they didn't even write it down for me. I'll have to get that information to you but you're all invited. And then we're inviting you to the picnic. As you know, we always have an annual picnic and this is the 20th anniversary picnic. It's gonna be September 13th from 4:30 to 6:00 p.m. and you are all invited. We hope you'll be there, and again, the Silver Swing band is going to play some dance music if you feel like dancing.
- Vanderhoef: City Park?
- Honohan: I beg your pardon?
- Vanderhoef: City Park?
- Honohan: City Park. Sorry about that. A couple of other quick items. We thank you for the consent calendar. You've set a public hearing on some capital improvements for the Senior Center. So that you understand, and I'm sure you'll have a better explanation, part of the expense of that is we're doing ... redoing the stairs at the Senior Center, but because of the historical implications we can't just replace them with concrete. We have to lift them up, build a new foundation under them

and then set them back down. So it's going to cost a little more than we had hoped originally. We also have some problems with the windows and we're gonna have to do some work on them. I got several other items here but I'm running out of my time. I'd just say that on the 28th of September the Strategic Planning Committee is going to Cedar Rapids to receive a Governor's volunteer award for the money we collected for the Senior Center. Thank you.

Lehman: Thank you, Jay.

O'Donnell: Thanks, Jay.

Lehman: Council, it is 8:00 and traditionally, we can ... actually it's after 8:00. If it's alright with Council I would be willing to extend public discussion for another 20 minutes or so. Is that acceptable?

Pfab: I would appreciate that.

Lehman: Alright.

Wilburn: I would just ask that we try to keep people to some sort of time limit because last time I worked to extent it, the first gentleman ignored everyone else and took the entire 15 minutes.

Lehman: Well, the other thing is

Wilburn: But let's do it. Just

Lehman: Alright, we'll do that. We also need to remember that Council interaction with the public can add to that time. Go ahead.

Matt Blizek: Thank you. Matt Blizek, I live at 656 S. Lucas. I would like to speak tonight as several others before and behind me have about the proposed charter amendments and that several groups working, one of them I'm a member of, have gathered the necessary number of signatures for and submitted. The main issue, I guess, that I'd like to bring up, if you are aware of what the Higher Education Act of 1997 as passed by Congress, it included a thing on the facts for the free application for financial aid that all students fill out, and one question that simply says have you ever been convicted of a drug offense. Yes or no? And the thing was, every student who answers yes to that question is automatically ineligible for any federal financial aid. Fortunately, through the years since that, there's been a loophole that anyone who left it blank was still eligible to receive financial aid. That loophole now under the new administration is going to be closed. This

is very relevant, I think, to things especially in this community. What prompted these petitions to go was the intrusive police practices set forth by the Edward Burn Grant, the garbage searches and knock and talks, the under cover team of agents in their dark overcoats and badges hanging around their neck that, you know, are intruding into peoples' homes to find, you know, illegal drugs and illegal substances. For a city to employ tactics like this now when this new higher education act will be going into effect, you are possibly taking away an opportunity of higher education for possibly thousands of students for every one, for every student who has their garbage dug through or who has a knock and talk done at their door and they fall for it, then they are going to lose their chance at a higher education. Now, I know that may not be the problem here, there's nothing you can do about that law that was passed. But what we can do as a City is minimize the damage that's done to people that do these. All I'd like to say is support the third amendment of these. Like I say, they're all individual ones and I think a lot of dissention is among the first, but there is no reason, and I'd entertain any other arguments for the third of these proposed amendments, which mandates police to issue citations in lieu of arrest for non-violent misdemeanors such as possession of simple possession of marijuana, public intoxication, public urination. Our jail is already overcrowded and we turned down a bond last year to build a new jail. If this was passed then this would definitely alleviate the jail problem by not having to arrest so many people. It would take ... it would cost the taxpayers a lot less money if say there was a drunk person walking home from the bar, a cop picked them up, wrote them a citation, gave them a ride home instead of a ride to the jail where they didn't have to spend the night in the County hotel at the expense of the taxpayers. So I would just like to hope that Council doesn't take this spontaneous thing that the citizens of this community have done and put a lot of work into and just shelve it and use your power as Council members to keep it off the ballot. I think that's not the way things should be done in a form of government, so all I'm asking you is let it be on the ballot and let the people of this town vote on it. Thank you.

Lehman: Thank you.

Jerry Feick: Well, in regard to the time limits, I have a suggestion. Maybe the Mayor should acquire a bong and he could hit it with a big stick, you know, time out. The mind sometimes can only endure what the posterior can endure. In regard to the last comments on drugs and federal funding of student financial

Lehman: Give your name first.

Feick: Jerry Feick, Iowa City.

Lehman: Thank you.

Feick: In regard to the last comments in regard to drug use and federal funding, I don't think the City has anything to do with it and I think that it'd be pre-empted under federal law. Maybe it's like a college professor said, Life has choices, choices have consequences. It was previously mentioned about the Police Citizens Review Board. I purposely in one item tonight intend to put something in your craw that I hope it sticks permanently. Considering that your police department did execute Eric Shaw, maybe you should rename the Police Citizen Review Board as the Eric Shaw Police Citizen Review Board and let it run like it should run. Last Council meeting I gave you a letter. The public comment time was over. The Mayor chose on his own volition after all of you received the copy of my letter dated July the 10th in regard to several acts of hate crime, death threats, etc., to not make any comment or allow any comment to be made. I also since that time have received no comment from any of you. The other day I filed yet a unrelated additional hate crime complaint at the Human Rights Commission. Your City Manager observed part of the conversation. I was told that I could not sign the complaint; it would not be notarized; and this was their normal policy until they review the complaint and decided how I'm going to state in their Uncle Tom fashioned way whether they wanted to handle the complaint. This had nothing to do with the allowable due process, is the complaint valid on the face of it and if it's not so be it. You would still have the rest of the 180 days to amend it because that's your statute of limitations. And your personnel at the Human Rights Commission refused to allow it to be signed and they refused to notarize it. I went booming down to your City Attorney's Office and talked to Sue. I think she wanted to possibly pre-empt a federal lawsuit so she allowed me to sign it and notarize it. In regard to the letter, though, of July 10th, I'll expand that a little bit. I don't appreciate Mr. Clark, the real estate person in town, his employee who is black, a manager where I lived, and then your Human Rights Commission doing and your police department doing nothing about it. I don't appreciate being called the white gay faggot Jew boy. And your Human Rights Commission has a history since 1992 of refusing to take complaints. It was their statement the other day with Mr. Atkins in the room at least, well part of the time only, that it is their normal policy no one can sign the complaint, it will not be notarized until they decide whether they want to accept it as a complaint. Next item.

- Lehman: You're going to have to wrap it up pretty quick, Jerry.
- Feick: Get your bong. One previous time when I was here, Mr. O'Donnell suggested that I should come back to reality when I suggest you start building high rise apartment buildings south of Burlington. I see you might have at least somewhat higher buildings south of the public library, you're progressing. I suppose we can't do anything about the mechanic liens with the Old Capitol Mall, nor can we do anything maybe about a liquor permit for HyVee at Pearson's, or can we? Maybe it's just time to do this, just say no. Is what maybe what we're missing downtown is a grocery store? Would it be better that some of these students eat food instead of drink liquor? Would you have less problems with your police department, less other social problems, less problems with the courts, etc.? Would it cost you less in the end? Maybe you need to go to the Old Capitol Mall and suggest what the City is really like, the concentration of young people that do eat a lot of food and there's no grocery store downtown. As I suggested before, put a Fareway grocery store in the south end of the Old Capitol Mall, a Bishops Cafeteria up above. I think it'll solve the Old Capitol Mall problem permanently.
- Lehman: Thank you, Jerry. It's time.
- Feick: Get the bong. Put that on your agenda.
- Lehman: Got it.
- Feick: A big one. A big one.
- Lehman: That was good enough. Thank you.
- Frank Bowman: Good evening, my name's Frank Bowman. I own the Linn Street Café here in town. I guess I'd like to talk a little bit about the smoking ordinance. Those of you do not know, I've owned the restaurant four and a half years. The restaurant has been completely non-smoking for the last four. We've had great success at it, and it's great to see that such community is all about supporting non-smoking restaurants. It's helped me a lot in the last so many years. But I have to admit I have to say that I'm opposed against the idea of a city ordinance to ban smoking in restaurants. I think the last four years, I think I'm probably the oldest restaurant in Iowa City that's been non-smoking that's still in existence. In those four years there've been quite a few restaurants that have become completely non-smoking. They've done so on their own free will because of customers' wishes and it makes good business sense. You know, people do feel strongly about non-smoking

in restaurants. There are quite a few restaurants right now that are completely non-smoking. If they feel so strongly about the issue, why cannot they stick to their morals, go to restaurants that have complete ... that are completely non-smoking. I think there's better ways to go around getting more restaurants non-smoking than to pass an ordinance. And I think, you know, like Kevin said before, yeah, I admit, yeah restaurants aren't quite organized. You know, we steal each others employees like he said. But, I think there's better ways to go around trying to get more restaurants non-smoking. I think public pressure is the number one thing that could really do it, and would be a lot, I guess a lot better conceived by restaurant owners if it was, if they were allowed to make their own decision. So, I would love to hear any arguments and I'd love to actually take up any arguments that Cafe has about, you know, making restaurants non-smoking.

Lehman: We are going to be discussing that in some length in the very near future.

Bowman: Okay, I would love if I could, you know. be a bigger part of that.

Lehman: I'm sure. The plans are to have a public meeting so you'll have an opportunity to speak.

Bowman: Wonderful. Okay, thank you.

Lehman: Thank you.

Pat Jensen: Good evening. My name is Pat Jensen and I am president of the League of Women Voters of Johnson County and speak on their behalf. I have a letter Mr. Mayor that I will leave for you with copies for the Council. I will read it to you. [Ms. Jensen read the letter that was provided to Council.] Thank you.

Lehman: Thank you.

Kanner: Pat, I just had a quick question for you.

Jensen: Yes. Um hmm.

Kanner: Does the League think that in an ideal world we would do away with the Charter amendment possibilities as written in there?

Jensen: No, no, no, no. We

Kanner: That's what I'm hearing you say.

Jensen: No. What I think we believe is that the preferred method is to go through the Charter review process when you can look at what amendments would do to the total of city government, in other words, look at it in perspective with the review of all of the charter. Because any amendment you make is going to have some kind of an impact on City government. What we're saying, we think it'd be a preferred process to look at it in total.

Kanner: And just one point of fact. I think we could call a Charter Review Committee any time but it, I think 2005 is when the next one is due mandated. I thought our last one I saw in our Code was 1995.

Karr: No, that was our last ordinance change. That wasn't the commission generated.

Jensen: It is 2003, is it not?

Kanner: It was 2003, the last one? Okay, I've been corrected. Thank you.

Karr: Pat, did you want to submit a letter?

Jensen: Yes, I've got one.

Karr: Would you motion to accept correspondence, then?

Vanderhoef: So moved.

Kanner: Second.

Lehman: Moved by Vanderhoef, seconded by Kanner. All in favor? Opposed? Motion carries. Thank you.

Dalayne Williamson: My name is Dalayne Williamson, and I live at 830 Ronalds Street in Iowa City, and I too have a few words to say about the proposed amendments. I feel I represent a silent majority in Iowa City. We have families, we pay taxes, we're proud to call Iowa City home and we're not just passing through. I'm concerned about how the proposed amendments to the Iowa City Home Rule Charter will negatively affect the quality of life in Iowa City for those of us who follow the rules and expect others to also, for the safety of ourselves and our children. I'm particularly concerned with the proposed amendment that focuses on the reduction of penalties for drug and alcohol related offenses and encouraging or even mandating that the police issue citations in lieu of arrest. Living on the north side of Iowa City affords

me a unique perspective on the state of our City. I understand that some of you were involved with a recent walk through our neighborhood to see how some disruptive party houses are negatively affecting the safety and tranquility of the area. I'm not suggesting that drugs and alcohol are the only reasons for such events, but by reducing the fines for abuse I would guess incidents of vandalism, theft and overall disruption would increase. The proposal also discourages garbage searches and undercover stings. I have a hard time believing that the majority of Iowa City's citizens think that just because you don't get caught, it's alright to break the law. This is certainly not what I want my children to grow up to believe. Decisions were made nearly 30 years ago regarding Iowa City's Home Rule Charter which have made Iowa City a desirable place to live. Please take into consideration what Iowa City would be like 30 years from now if it were a haven for those who prefer more lenient laws. Thank you.

Lehman: Thank you.

Kanner: Just another point of information, I'll try again. The Charter, to my understanding, does not reduce the sentencing or the fines in the third charter amendment.

Lehman: We will at 8:30 take a break and return and do Planning & Zoning so if you've had an opportunity by 8:30, that's wonderful. If not, you'll be able to speak again at the end of the meeting. Caroline?

Caroline Dieterle: I'm Caroline Dieterle, and I have lived here for more than 30 years and I would reply to the lady who talked before me that I have seen Iowa City deteriorate in 30 years and I am active in this effort to try to stop the deterioration. I would like to hand to you Mr. Mayor some more names. I know that they cannot be added to the names that were already submitted because of the rules about when they have to be submitted, but people are still contacting us to try to sign the amendments and I will bring those up to you.

Lehman: Okay.

Dieterle: Public policy means in a democracy that there will be politics and people use politics in the perjorative way when they're talking about backstabbing at work. Politics is good. If we do not have politics and we do not have the ballot box and the right to redress our grievances by petitioning the government, we really truly do no longer live in a democratic society, and I would like you to remember that. We originally, and I particularly got involved also because of the infringement of the fourth amendment to the constitution of the United

States, the Bill of Rights, if you remove our right to Petition the government for the changes that we want and you prevent these from going on the ballot box onto the ballot so that we can vote on them, by any means that you decide to use it all boils down to the same thing that you are depriving us of part of our rights under the first amendment, which is the right to petition the government, and I hope that you will take that seriously when you think about this. Twenty percent of the number of people who voted, Iowa Citizens who voted in the last election ended up signing this petition, at least. That isn't, you know, something to be just dismissed. So I hope that you will take that into account also. This is the first city that has the Council-manager form of government that introduces this kind of amendment. I would say let's look at Iowa City as a ground breaker. Earlier speakers have talked about Iowa City as being a ground breaker in our establishment under the Home Rule and being one of the first to take on the Council-management form of government. The whole idea of the charter and having a means to amend the charter and having a state law that says 10% is the only number you need, those are all safety measures for democracy. And to remove those you jeopardize not only us but you jeopardize everybody in Iowa City, everywhere. It's a bad trend. Thank you.

Champion: Caroline, I'd just like ask you a question. You said 20% of the voters who voted in the last election.

Dieterle: Of the Iowa Citizens.

Champion: That's what you said. That's not true.

Dieterle: Twenty percent of the number of people. Okay?

Champion: Okay. I just wanted to clarify that.

Dieterle: No, absolutely.

Karr: Motion to accept correspondence?

Vanderhoef: So moved.

Lehman: Moved by Vanderhoef.

Wilburn: Second.

Lehman: Seconded by Wilburn. All in favor? Opposed? Motion carries.

Marti Van Allen

Horan: My name is Marti Van Allen Horan and I've been a citizen of Iowa City for most of my 49 years. I'm concerned. I came here last night and stayed until 10 til 11 about the café and the smoking ordinance, and I'm glad that's being addressed. At the same time I feel I've been remiss in my citizen duties by not being more up on the amendments. I spent an hour and a half this afternoon reviewing the amendments, the signatures on amendments 1 and 3 and couldn't help but notice that over 80% of those, in my judgment, were from people in apartments and in student living. They fit the requirement that they be a what kind of elector?

Karr: Eligible elector.

Horan: Eligible elector. But I kind of doubt any of them have been here long enough to register to vote. I'm a little concerned about that. Another thing that I found in ... Marian Karr was nice enough to give me a copy of the Home Rule Charter proposed amendments in full from their website and a copy of the charter for Iowa City, the Home Rule Charter and I wish to object ... to file an objection to the Home Rule Charter proposed amendments. The wording is flawed in at least two of these amendments. In the Home Rule Charter proposed amendment #1, the article II, subsection 2.08, appointments of the Home Rule Charter of Iowa City be amended and they want to amend that the present paragraph C be replaced with the following language, and so on and so forth, about the City Manager coming to a vote every four years. And then in actuality paragraph C is in reference to the City Attorney. So that rule, or that amendment just should be thrown out the way it is. And I have some reservations about number 2 and number 3, and I would like to give a copy o f my letter to Marian.

Lehman: I think those objections to go through the Clerk. I do not know the procedures for filing those.

Dilkes: They should be filed with the City Clerk.

Lehman: With the City Clerk.

Horan: So I have a copy of this for the City Clerk. Can I ...

Lehman: Yes, she would be the person. Thank you.

Karr: I'll file-stamp them tomorrow.

Dilkes: They won't be file-stamped until tomorrow.

Lehman: Okay. One more and we're going to take a break.

John Robertson: I'm John Robertson, I live at 915 Oakcrest. Mayor, I hope you don't regret giving me this opportunity because I probably wasn't going to stay until the end. I originally wanted to come and speak tonight about public utilities and would ask to probably get another chance later on, hopefully during the time when we're really deliberating that issue. I think it's a critical matter for City government. I would like, instead, though to speak about the amendments and to bring what I think is a certainly an important perspective on this whole affair. In 1996, this community experienced a crisis of, quite frankly, fairly monumental proportions when a police officer accidentally killed a law abiding citizen in his place of business. It was not our finest hour and we're still in some ways recovering from that even today. In the years since then, as we all know, there has been considerable public dissention and concern about police practices, about law enforcement policy, about our efforts and our focus in terms of crime in this community. We have a sizeable number of people, perhaps a majority, we don't know, who are concerned about what they would say and what, quite frankly I would say, is an excessive interest in focusing on public disorder offenses, focusing on victimless crimes and focusing on petty drug offenses. We arrest public intoxication offenders at three times the state rate. We arrest other alcohol offenders at five times the state rate. I believe we arrest petty drug offenders at twice the state rate and this is in a community that by and large has one of the lowest crime rates of any community its size in Iowa, and Iowa has one of the lowest crime rates in the country. We have concerns and there's data to support the concerns about issues involving race-based policing in the police department. Even the police department is now acknowledging some concern about that. There are concerns about how we're going about policing bars and liquor stores and to be real candid with you, it would be my view that the new ordinance is ineffective in the extreme. I went and bought a drink tonight and they gave me a shot, and a glass of coke because they couldn't do happy hour. And that's quite frankly pretty silly. We now enjoy a 10% increase in our police department over the last eight years and the vast majority of those officers are spending their time engaging in interdiction in public disorder offenses that don't, quite frankly, engender danger in the community. The police citizens review board has had more of its power stripped in the last year, and quite frankly I think the community deserves to be concerned about that. We have asked at least since Eric Shaw for a community discourse about how law enforcement occurs in Iowa City and in Johnson County. That discourse has never really happened, and I think that is in large measure the reason why these initiatives are

before the ... are hopefully going to be before the voters in November. I invite Council not to work to sidetrack these amendments. If we get to vote, we get to have the discourse we want. And those of you who oppose the amendments, and that's fine, that's good, I don't blame you, I think there are valid things to talk about, win this issue on the merits if you oppose it, don't sidetrack the issue and leave these questions and these concerns festering. The discourse about law enforcement will happen in Iowa City, and if the unfortunate turn of events is that the courts support not placing these amendments on the ballot, then we'll just have to keep talking about it next year, and eventually maybe it'll be in 2003 when the League of Women Voters suggests we get busy on revamping our charter, we'll have to talk about it then. Now is a great time to do it. Thank you.

Lehman: Thank you, John. We're going to take a break. We will resume at 8:45.

BREAK

ITEM NO. 6d. CONSIDER A RESOLUTION APPROVING THE VOLUNTARY ANNEXATION AGREEMENT BETWEEN THE CITY OF IOWA CITY AND CERTAIN PROPERTY OWNERS IN JOHNSON COUNTY AND AUTHORIZING THE MAYOR TO SIGN AND THE CITY CLERK TO ATTEST SAID AGREEMENT.

Champion: Move the resolution.

Vanderhoef: Second.

Lehman: Moved by Champion, seconded by Vanderhoef. Discussion? This agreement addresses the future voluntary annexation that we are talking about the Hummingbird Lane properties, yes. And so now if we have discussion is the time for you to speak if you wish to speak.

Public Hearing

Robert Wolf: My name is Robert Wolf. I guess first of all I'd like to thank you

TAPE CHANGE

Wolf: giving us an opportunity to go through a period of adjustment before actually becoming members of the City of Iowa City. It meant a great deal to us and the other thing I found that was quite interesting, I cover a lot of ground in an day and the last few days since we were on TV there's been an awful lot of people contact me and actually, with kind of a hopeful attitude that, you know, maybe some of the attitudes of Iowa City had changed and were going to be more, I guess, lenient with its citizens. I don't know the right word to use but everybody was really kind of interested and they were looking forward to what was going to happen tonight, so I guess that's all I got to say. Thank you.

Lehman: Thank you, Bob.

Keith Carter: I'm Keith Carter. I live at 3740 Hummingbird Lane, and I too want to thank the City Council for allowing us to work out an agreement that seems to be favorable to both parties. Since the whole issue of annexation was a little touchy there for awhile, the people in our lane have met several times and come to agreement that we can live with the agreement that you drew up and we thought it was good for both sides, and we thank you.

Ann Muilenburg: I'm Ann Muilenburg, I live at 3736 Hummingbird Lane and I, too, would like to thank the Council and the City staff for drawing up an

agreement that seems to be very acceptable for us and I think should be for your side as well, and I think maybe you might remember the last time I was up here I was a little bit disenchanted with the way the public government was running, but I do think this has given me a little bit of a bright glimmer that the system does work and I appreciate that a great deal. Thank you.

Frank Mitros: Frank Mitros from 3710 Hummingbird Lane. And I would like to add to what my neighbors say. I think that it's been an interesting process and I feel good that we're trying to make some progress here. You know, we have a lot of good motives on both sides that it can come at cross purposes, and I think we've been able to work together both in our neighborhood and dealing with some of the approaches that we've had so again I thank you for the efforts on your part.

Wilburn: I have a question for Karin, maybe you can refresh my memory about the original rezoning, and I apologize for not giving you a heads up about this, Karin, but I'm sure that you have it committed to memory by now. In the original annexation that was considered, however long that was, was this two weeks ago?

Dilkes: Three.

Wilburn: Three weeks? Okay, I thought it was maybe a little longer. In that one, if I'm remembering it correctly, was it the City would not require connection to sewer and water for 20 years?

Franklin: That's correct.

Wilburn: And this agreement says 15.

Lehman: You need to, this agreement says 15 years after they're annexed, which is still 20 years from today.

Wilburn: Okay. Alright.

Lehman: That didn't change.

Franklin: Right.

Wilburn: Okay. Let's see. And, I guess the only other difference is that the volunteer, it's a request for voluntary.

- Franklin: Yeah, the only difference is that the annexation of these properties, the voluntary annexation would not occur for five years. That's the difference between the original proposal and what this agreement.
- Wilburn: I guess I have a concern and an any of you that spoke feel free to come up and ask me or walk me through something. I'm sure you all in working with staff had, you know, negotiated or tried to come to agreement in good faith, that type of thing. I guess I'm still hung up on the possibility that five years come and one person can hang this up and the effect might, am I wrong in that? Last night I had asked one person could hang this up and it might be a big problem depending on which property it was.
- Carter: That's not our understanding. I don't know how one person would hold things up because in the agreement there's some financial risk in trying to hold it up for one. I don't know how one property owner can hold it up if all of us can't hold it up. And I think the concern, I mean, if you're ... it's a trust issue. It comes down to that.
- Wilburn: Right.
- Carter: Either you trust us and we trust you, or you don't trust us and that's what it seems like you're hung up on. I think the fact that we worked it out, I think the fact that you look in there we were agreeable to language that protects the City, we were agreeable to language that puts anyone who wants to change their mind five years from now at risk financially, and we agreed to language in the agreement that holds any person who buys our property, they're bound by this agreement. I mean those are all things that were added later on to protect the City's position, and I understand that and we're agreed to it.
- Wilburn: Okay. That's ... I don't know you and you all don't know me. And so you're right, it's supposed to be a matter of trust and when I'm thinking of it, it's not you per se, but I guess what I'm looking at is long-term, some other situations where as a Council member, well, the Weeber-Harlock thing comes to mind where I sat and heard four, five different versions of history in terms of what was expected, what happened with this property and whether someone was opposed to, whether some neighbors were opposed to an annexation, whether they weren't, and a rezoning was the case. Can someone on the Council or staff, am I wrong in, am I too concerned, am I focusing too concern on ending up five years from now and perhaps another Council, maybe I won't be on Council at the time but another Council sitting and saying, you know, what happened, why isn't there a clear understanding, is

this layout a clear understanding of what's to happen and when it's supposed to happen? Somebody talk to me.

Champion: Well, I personally feel that it does lay out a clear understanding that I think it's a compromise, I give the neighborhood credit and staff credit for trying to work out something. Nobody has any guarantees. I mean, somebody could cause a rucus, but we do have signed documents and I'm sure legally we would have a leg to stand on and I hope it doesn't come to that, but I'm not, I'm going to support this amendment, or this resolution, because I feel, we've listened to their concerns, I personally understand their concerns, I'm sure we all do, and I think it's a great compromise, I think it's a win-win. I think everybody wins. It gives them ten years to plan for extra expenses they're going to have instead of expenses starting immediately the first year, even if they're phased in but they would start immediately. It came up really suddenly as far as I was concerned. I don't think the neighborhood was prepared for it, and I think it's a win-win and I hope in five years I probably won't be on the City Council, I know I won't be in five years, but I'll probably go and pull their hair out one hair at a time if they back out of this. So I think we're pretty secure.

Vanderhoef: Well, I guess I will speak in the other direction. Any time that I'm looking at the concerns of the City and at the state law and the uneven boundaries that would exist and state law is not amenable to that, they don't absolutely say we can't but they don't want it, they want squared up boundaries as best we can, I look at the risk. I also think about your concerns about how the story changes over time. I think about the changes in property owners and yes, I know the contract is saying that it's going to require that any future owner follow this same contract. But for me, it is City services are going to be at the front door, at the back door. This is a finger of property that is not conforming to boundary lines. Last night I had a thought and I asked the City Manager for some information about sewer line and in particular there's been some conversation about that sewer line might not be there for at least five years and so forth, and so the question I posed was how soon could we put in that trunk sewer and not increase the sewer bills of citizens of Iowa City? And it appears with some cooperation and some gift of the easement for the sewer line by property owners who are wishing to be annexed, that this could be accomplished and we could do it as soon as two years. It would take some planning time which usually we plan on about a year and then we could move forward if the Council chose to move the project forward. I have a special interest personally and a public health issue that is not there now but we've had many discussions with a property that cannot annex until the annexations are completed. These folks

would like to be annexed and be connected to the sewer line. I think this is an important issue and it all fits into this annexation, so I guess what I'm saying, the risks and when I look at it for the betterment of all of Iowa City versus a very small group of folks, I think we have a very fair agreement in giving time to gradually add in the taxes and I'm not going to support this amendment.

Lehman: Well, I guess you're probably all aware that the amendment is, probably because of some comments that I made three weeks ago. I have, and I think the City has over the years, taken a dim view of involuntary annexations. We really appreciate people coming into the City voluntarily. I think it's better for us, I think it's better for those folks who come into the City. Because of that, I met with some of the folks on Hummingbird Lane with the City staff and explained what I thought would be a agreement that would address the concerns that I have of people coming into the City involuntarily and the concerns that the folks on Hummingbird Lane have about coming into the City more quickly that they would otherwise like to have come. And the ... it seems to me you could do almost anything legally, but apparently you can't do everything legally, everything, because I checked on that too. But what like to have seen us do is to annex this property with a effective date in the future. In other words, we would annex the property now, it would not become effective for five years, at that point the rest of the conditions of this amendment would kick in and we would have protected the interest of the community and at the same time, I think, given ... and I do think you're right, Dee, that the state has provided for a, basically a tax abatement over a five year period which is some relief. And of course the staff has also indicated and recommended that these folks not have to hook up to the City sewer or water for 20 years, which is, I think our Code says when you're within 300 feet you have to hook up right away. So I think that, you know, there certainly are some concessions. However, in visiting with, and I think we all got the staff report and I did today again visit with the City Attorney's Office, and I apologize to you, particularly, Mr. Wolf because you and I talked about this, we met about this, it was absolutely my intention to be able to do something that would be fair to the folks on Hummingbird Lane, at the same time without any doubt protect the long term interests of the City. And it is the opinion of our staff and our legal opinion that this perhaps does put the City at some degree of risk, and I guess I don't fee that we are in a position where we should accept that risk. So in spite of the fact that I meant well and I would to see this occur, I'm not sure that it's legally possible to do it the way I would like to have done.

Ann Muilenburg: I just had two comments to make, one to Ms. Vanderhoef. The fact that the sewer won't be there for at least two years, you know, given that anything would go really fast, still doesn't answer the question that I had initially which doesn't revolve around paying sewer fees. It revolves around the fact that if I become annexed and I want to sell my house, which I don't, but if I ever did, before that sewer is available I cannot sell it to somebody and say I have City sewer and I'm in the City. I can say I'm in the City but you're going to have use my septic tank, and a lot of people don't like septic tanks. So that was my one big concern, and you can't fix that if you annex me now. The second thing I wanted to make a comment about was, it will come to me in a minute here, the thought that we're putting the entire City of Iowa City at some level of risk. We're a neighborhood that's been together for many years and we have worked together quite well and I don't think any of us has a felony charge against us in any way, shape or form, and I think that we're, you know, basically good people and if we sign a contract we live by that contract. When we bought our property ten years ago our lawyer was concerned because we had access to our house on a right-of-way that was not owned by us and it was not owned by the City and she said, you know, at any point that owner could say, you can't get to your house anymore. And so she was actually very concerned about that. As your attorneys are concerned about, you know, this particular document. And at that time we talked with our neighbors and everybody else and it's a neighborhood that I believe you could trust and you could live with. And again, the document itself does have very strong language in it saying that if whoever wants to back out of this or whatever in five years, it'll probably be their cost in the long run because the City would win that lawsuit just from the contract. And they would be the ones who wind up paying, not the City of Iowa City. So I don't see how the City, I would agree with Connie Champion that the City is in a win-win situation, they're not going to be out any money and they're going to get us in the long run, which is fine. So I just wanted to make those two points clear, that as we said before, we knew when we bought the property that we would probably be annexed at some point. It's just that in the manner in which it happened within the last year took us all very much off guard and we were very happy that we were able to work with the system and be able to get the information we needed and to work through an agreement that looks like it would be an adequate contract. And I would state fervently that I do not believe that we would be incurring a huge risk or even more than a slight risk to the City of Iowa City.

Vanderoef: I didn't mean to imply that I didn't trust you. In fact, I had a conversation with Mr. Wolf and I said, Bob it isn't that I don't trust

you, it is in my position as a City Councilor I have to look out for all the good people of Iowa City and the risk is the risk, and I have to weight this.

Muilenburg: See, I just, I guess my question is, a risk this big is nothing compared to the other risks that the Council takes on,

Vanderhoef: I understand that.

Muilenburg: as you all know, as I listen to for an hour here before this.

Kanner: Haven't you got an easement over the road ever?

Muilenburg: We never had a legally

Kanner: So you're trusting the owner of that road?

Muilenburg: Yeah.

Champion: The other thing is, when you look back at the original map, I don't have it with me, but there was property there that wasn't going to be annexed. So the theory that everything has to go together like a nice little puzzle,

Muilenburg: Right.

Champion: well, you know, I don't think it needs the glue immediately.

Muilenburg: Because there are people that are being left out, just because they can abut the County more property. Oh, and the last thing I want to make sure, the concern which I think we all hold very near and dear to our heart of allowing and making sure that if we don't become annexed, that it doesn't hinder in any way Southpark annexing the property they want and/or getting a sewer line up to the Iowa City Care Center, and we've been assured by all of you people here both on the Planning & Zoning Committee and at the last meeting, that if we are not annexed it will not in any way hinder that, and so having that be part of the argument not to accept the contract doesn't seem to hold water.

O'Donnell: You know, this really isn't a matter of trust with me. It's a matter of doing the right thing. And I really wish that we were provided under the law the opportunity to give ten years rather than five. And I think the risk is probably insignificant, but if one person does disagree with this annexation you could be tied up in a court case.

- Muilenburg: They don't have enough property.
- O'Donnell: Well, but I mean, well then, two or three.
- Muilenburg: It'd have to be two or three, and you have a lot of peer pressure here.
- O'Donnell: Yeah. But we don't have any ... property turns over. I wish there was a provision, but I'm going to have to go against this resolution and support five years with graduated increases. And I wish we could do more and I wish the provision was there to give ten years.
- Carter: Well, I need some information. The risk that you talk about five years from now, why don't you have that risk now?
- Lehman: Well, let me just explain how I understand this, and Eleanor you correct me if I'm wrong. If at the end of five years one or more of you should decide that you do not want to be voluntarily annexed, so you don't file for annexation. First of all, that can go noticed or unnoticed. For other words, if we notice right away we come out and say, hey, you didn't file. And you say, no and I'm not gonna file. And so we institute a proceeding against you. I have no idea the amount of time that's involved in this sort of case. But we are talking time, we're talking money, we're talking, or if and it's not you anymore. Something happens, you got a huge promotion. Someone else bought your property. They love it, they don't want to be in the City so they decide we'll fight this. Those things can go on for so long and that is a risk. I don't think there's any question, that is a risk. It's probably a small risk but it is a risk. There's also a period of time between now and the five years. I don't know how this would be addressed, and Eleanor, you could tell me this, but if there are future annexations in this area in the next five years the property that is annexed would have to be at least four times or more greater in size than this one in order for this piece of property not to be able to prevent the annexation because it's
- Dilkes: Because of the 80/20 rule.
- Lehman: Because of the 80/20 rule in the next five years if you folks decided, even if you're going to become annexed in five years, but something's going to happen across the road that you don't happen to like and there's 30 acres there, you can stop that annexation and we can't do anything about it. So I mean, there are risks and there may be small risks but I think when you look at the amount of risk as opposed to the cost, I'm not willing to take that cost for the rest of the community. I would love, like Mike said, if we

- Carter: Is there any risk now, currently? If we didn't ...
- Lehman: Well, if you are, if, again, Eleanor, I may not understand this correctly, but if you are annexed as part of this larger project that we're doing right now we can annex you and don't want to, we want you to ask us to do this, but you aren't going to ask us to do this and so we can do this and if you look down at the total development area it appears to be the best interests of that area if this is annexed at this particular point in time because it removes the possibility you're objecting to an annexation that might come up in two or three or four years and be able to stop that annexation, it also removes the possibility if you decide at the end of five years or the person who bought your house when become president, and they don't want to voluntarily annex we don't have to go through the court cases which could be appealed, and I think that forcing someone to do something voluntarily has certain amount of stigma to it. Even though you sign an agreement that you will voluntarily do something we are going to force you to voluntarily do something.
- Carter: I disagree.
- Lehman: I'm not sure, the mechanism for doing this just aren't what, for what I'd like to do we don't have the mechanism.
- Champion: So what's the mechanism for forcing them to annex? What's the mechanism for having them involuntarily annexed to the City?
- Dilkes: A pure involuntary annexation?
- Champion: Yeah, like they don't want to be annexed and we're going to annex them. What's that procedure?
- Lehman: It's the resolution we had last, three weeks ago.
- Dilkes: Well, it's different under the current annexation because it falls within the 80/20 rule and it's a much less complicated process than a pure involuntary annexation, which is a very complicated process. If at the end of five years there were property owners who would not comply with the agreement your choices would be to bring an action in district court for specific performance asking that they comply with the agreement. Again, there is a provision in the proposed agreement that requires the party against whom enforcement is sought to pay attorneys' fees. Or do an involuntary annexation.

- O'Donnell: What we're talking is all speculation and I guess that's the problem. Is there anything else that we could
- Carter: So, I think you answered my question. So the 80/20 rule prevents us now from involuntary, just refusing to be annexed? Because we don't represent 20% of your annexation?
- Dilkes: Correct.
- Pfab: You had made a statement in your first statement, the first time you came up, that there were provisions to prevent you from not forcing you to do a voluntary annexation in five years.
- Carter: That's right.
- Pfab: Is that correct?
- Carter: Right. The financial risk to us.
- Pfab: Okay, what about making that a little stronger? What about putting a deed restriction on that property, would that protect the City any more?
- Dilkes: Well, the ... in essence, the agreement which will be recorded with the County Recorder and which will show up in any abstract, is a deed restriction in essence. So anybody who goes to buy this gentleman's property, their attorney is going to examine the abstract and this agreement is going to be there.
- Pfab: So this in essence is a deed restriction?
- Dilkes: Well, it's not purely a deed restriction, but in essence.
- Pfab: Okay, could it be a pure deed restriction? Could we
- Dilkes: Let me tell you this. If I was examining the abstract for this gentleman's property and that annexation agreement appeared of record, I would be careful to call the terms of that agreement out to the new buyer.
- Pfab: But we have people here that say it's a good thing. I hate to renege because basically I talked to you people and I gave you my word that from what I knew and there was some slight changes, but at this point I didn't deem as material. And that was, we're saying well you might be here, is it Mr. Carter?

- Carter: Um hmm.
- Pfab: Okay, and somebody else might be the owner. And how do we protect the City if you are on your way, wherever you are? Okay, so that's what I was saying. Let's agree to put this on as a deed restriction and I think that would
- O'Donnell: That's part of the agreement that we have prepared.
- Pfab: Well, I ... except Eleanor doesn't call it a restriction.
- Dilkes: You don't accomplish any more by doing that, Irvin.
- Champion: She's just saying that that's taken care of.
- Dilkes: It's already of record. It's a burden on this property or a restriction on this property that is of record.
- O'Donnell: Like a cloud on the title or something.
- Champion: Right. So that's taken care of.
- Pfab: Okay. I hear two ... I hear Eleanor not being quite so sure of that.
- Champion: No, Eleanor is ...
- Dilkes: No, I'm quite sure about that.
- Pfab: Okay, well then that's fine. That was what I ...
- Walter Foley: My name is Walter Foley, I live at 3726 Hummingbird Lane, and I was here three weeks ago and my wife told me to be sure to tell you that in the past three weeks I have not become a virile young man. I'm still an old man. Now, I listened to all this, my neighbors told me to get here. I was out of town, we have a new grandson in Seattle and my wife and I were visiting, and I assure you that she's, we were told to be here at 7:00 and I got here at 7:00, and I thought it was really interesting. Because I had forgotten, I've lived here for 39 years and I had forgotten how we got to a City Manager form of government. And I was listening to what went on in the context of what we're trying to resolve and I think that the City planners and the City Manager and people in State government are interested in nice, rectangular lines. They really don't like fingers. And I think that what we are doing is we're addressing the political side of this City government. And the political side is seven other citizens who we can say we would like you

to treat us as you treated our neighbor. And I want you to seriously consider doing that because no contract cannot be challenged. You cannot write one. And five years from now, as John Menard Canes said a long time ago, in the long run we're all dead. So seriously,

Champion: Darn! I didn't realize that!

Foley: I do. I do. I do. I do. And it has a lot to do with that virility comment. But anyway, I think what we're trying to do here is to resolve something at a political level and I really don't think politics is a dirty word. I do arbitration work, I do fact finding, I do mediation and I watch people reach agreements all the time. And they turn to the lawyers to say, how do we make this legal? They don't go to the lawyers first and say, this is legal. You can do what's in the best interest of the people who live here. And I wish you would do what's in the best interest of these families who live here.

Monica Maloney

Mitros: My name is Monica Maloney Mitros, I live at 3710 Hummingbird Lane, so I'm another Hummingbird Lane neighbor. Mr. Lehman, when we were here three weeks ago you asked if we could look for a compromise and I think that we worked very hard on trying to come up with one, both with you and with the City officials, and have a document that all of us on the lane have been able to say we could hold to. You brought up the idea to go with what there is now, which would be involuntary annexation so we're back to where we started. It's hard for me to understand how that would be better than a voluntary annexation in five years. The word "involuntary", because of two larger parcels who want to be annexed they're voluntarily asking, it's for the good of the City, they want to develop, they want to build new homes, new commercial aspect, and they want to be voluntarily annexed and we're not holding that up or wanting to hold that up. We have lived on the lane at least nine years, I believe, is the least amount of time any of the neighbors have been there. We enjoy living in the County, that's why we purchased the land, and we don't at this time want to become City. We realize that we will be. But that is coming. But as someone had already brought up, this part of annexation came very quickly. We knew eventually. We didn't know now. And being given some time both to set aside money for the changes, it won't be cost-free. Not just the taxes but as Ann pointed out, if at some point in the 20 year future you do want to sell your house you would either have to hook up or make allowance to the buyer for all of those things when we've already invested the money in the septic and the well and the propane that we currently have. So those are some considerations that are just financial. You've come up

with a contract that seems to me would serve both the City and the neighbors and would not involve us in then being involuntarily annexed, and I'd like to ask one more question about the involuntary annexation. That 80/20 rule, who ... what does it include to make up the 20? What land?

- Dilkes: What land? The land you can take in ... a voluntary application can include additional land if it's no more than 20% of the land being voluntarily annexed. If you avoid irregular borders by doing so. And so that's the process. Karin Franklin is probably more versed in this than I am, but that's basically the situation.
- Mitros: I guess I'm just asking for the calculation of what land is included in being the 20.
- Dilkes: Oh, (can't hear).
- Franklin: The land that we included in the calculation of 20% or less was looking at the properties on the east side of Hummingbird Lane and the Lou Frank property and the right-of-way of Hummingbird Lane owned by Plum Grove Acres. That was the initial ... what was outlined as not being included in the voluntary annexation. And I think the Petersons were initially included in that, too. Taking all of those properties together it was less than 20% of the total of Plum Grove Acres and the Southgate annexations.
- Mitros: Do you remember the number?
- Franklin: I don't. I'm sorry.
- Mitros: Seems to me that it was very close.
- Franklin: Oh, it's very close but it was 20% or less, but it fell within the state law so the rule would be, you know, very slight margin. So we're asking for the benefit of the very slight margin in going ahead with the proposal or the amendment that's been proposed for this evening.
- Kanner: Eleanor, can you tell me again, the involuntary annexation is easier now compared to, we don't have this 20% rule five years down the road. What degree of difficulty, could you put it in laypersons' terms perhaps of what's the difference in degree of difficulty in pursuing involuntary annexation now as opposed to possibly five years down the road.

- Dilkes: Well, if we did an involuntary application nine years down ... or five years down the road it would be purely an involuntary application for annexation, which involves an election and is a very complicated process. Karin's probably more versed at that than I am. We never do that, so I'm not particularly familiar with it. At this point, because of this 80/20 rule, 20% or less of the whole can be taken in as part of the voluntary application, even if they are not desiring to be annexed. And that still has to go to the City Development Board but it's a far less complicated procedure.
- Kanner: Who's involved in the election? Is this a whole City-wide election that would?
- Dilkes: Karin, you want to ... purely involuntary applications I'm just not real ...
- Franklin: Well, as Eleanor says, we haven't done an involuntary annexation since the 60s, so I wasn't there. I mean I was alive but I wasn't there.
- Kanner: Why weren't you there?
- Franklin: I was somewhere else. Okay, I'm sorry, what was the question?
- Dilkes: What's a purely involuntary
- Franklin: Oh. The people who vote are the residents of Iowa City and the residents of the ... or the owners of the territory, I'm sorry, I don't know if it's owners or residents, it may be both, of the territory that is being annexed. Obviously, the odds are not good for the territory that's being annexed. The state legislature the last three years has looked at changing the state code that it would be stated such that you could not do an involuntary annexation unless the territory which was being involuntary annexed agree to be annexed.
- Lehman: What? That doesn't
- Franklin: Yes, I know. What is a good question because it doesn't make any sense. But that has been introduced at least twice at the state legislature. So, but the law right now is the vote is the City and the people within the territory that would be involuntarily annexed.
- Kanner: And if there is a vote and it's for annexation, involuntary annexation, does it then go to the City Development Board or is it over right there? With the vote?

- Franklin: I'm not sure. I think there is an appeal that can go to district court, but if ... it's not a process that I've looked into in detail because
- Dilkes: I know there's a lot of litigation on involuntary annexation.
- Franklin: We don't want to do it. Yeah.
- Frank Mitros: Frank Mitros from 3710 Hummingbird Lane. You know, I almost feel badly getting up and talking. There are a lot more important issues that you have to deal with and we saw a lot of them earlier, and this affects a very small number of people but I think that's the point of having meetings like this. I was an obligated volunteer in the army from 1970-1972 and that worked out well for the army and for me. So it can work. And I think being an obligated volunteer five years down the road would work. I was disturbed in the rider that Ms. Franklin attached to our agreement which sort of questions, it's a matter of trust, questions whether we're going to live up to our agreement and I think that puts (can't hear) up to the members of the Council. As long as issues of trust are up, you know, as Monica and I were talking, it was very close to 20% if we're going to be involuntarily annexed, and if you decide to do that I would ask that you look at that very carefully and look at the precise numbers. Remember when this first started, the Petersens were in it and I'm very glad that they have had some good fortune. But if you take that initial parcel with Petersens, I would wonder how close it comes to 20%. I would also remind you that a few weeks ago when we arrived here for one of the Planning & Zoning meetings, from the afternoon to the 7:00 time of the meeting there was some splitting apart of the properties, of the Frank and ours, and that's part of what I'm here for, that I was concerned about those sorts of issues. So if you decide against us and there is an involuntary annexation, I would ask you to look and I would hope it be independently at the 20%.
- Dilkes: Karin, do you have some comment about that, how those numbers would have changed with the?
- Franklin: The change that Mr. Mitros is referring to, when we started this whole process Plum Grove ... Southgate came in, Plum Grove came in, and then we looked at what we had left and we thought at that point we could as a City take the annexation of the Hummingbird Lane properties forward to the City Development Board as a petition from the City but then we reviewed with the attorney staff the actual wording of the state law and the State law says that the way you do this 80/20 thing is that the voluntary petitioners must include those properties in their annexation petitions. Therefore, we had to go to

Plum Grove Acres and to Southgate Development and say, will you take these into your voluntary petitions because we as a City cannot do it. They were very concerned about them being the bad guys. We assured them we will be the bad guys. And I think that's all clear. So the Frank property was taken into the Plum Grove Acres annexation, the Hummingbird Lane properties were taken into the Southgate annexation and there was nothing particularly devious about it. There was nothing devious about it. It was just about how one mechanically went through this to take the petition to the City Development Board. When we took the Petersens out of it, that included 20% or less so now we are down to something less than 20% but we can get those numbers for you if that is critical to your decision making.

Champion: No it's not. I think, I mean I think the role of City staff and the role of the developers are different than our role, and I don't have any problems disagreeing with City staff on this because I view us as we're elected to represent the people. You're hired to run and manage the City in the best way you know possible. You don't have to deal with the, well you deal with them if they tell you to, but your decisions might not be based on the same decisions, or the same reasons our decisions would be based on. So I'd just like to say to Council that I think it's okay from time to time to disagree with staff. I think our role is different and I think this is one of those instances.

O'Donnell: I think part of charge, if you will, Connie, is also to look forward. And I can think of several times where I as a City Council Member am left with decisions for flexibility that was given or indecisions given by prior City councils so I'm look at this trying to decide, well I had decided because that was the concern I said, what the risk is, what am I potentially hampering or burdening a future City Council, City staff, City population with, and so, I mean I believe we get those all the time and like I said you know, we're left with the piece that she said and I'm not willing to do that at this time with this, so I hope you all recognize that neighbors can disagree, and we disagree.

Lehman: Further discussion? Alright, roll call. I'm sorry, go ahead.

Monica Mitros: I guess I'd like to ask the question then, before you vote, if it does ... if this amendment is not adopted where do we stand then as far as the annexation?

Lehman: Well, look, Karin, my suspicion is that we are back to the resolution that was before us three weeks ago. Is that correct?

Franklin: Right.

Monica Mitros: And as a part of that, if we would ... will be ... are we still being considered involuntary within the voluntary annexation? Would we be and if so, is there a recourse at that point to continue to appeal?

Dilkes: Yes, there is a, I believe there's a hearing before the City Development Board.

Lehman: City Development Board?

Monica Mitros: And what would that

Lehman: The conditions would be the same in that you'd have, if you are unsuccessful in your appeal you still would have the 20 years to hook up to the sewer and water, you still would have the five year tax increment or the tax abatement.

Monica Mitros: And what would that appeal do the developers?

Lehman: I don't think it would have anything to do with them, would it, Eleanor?

Monica Mitros: Because we're included in the developments.

Dilkes: Well, it's all part of one application, and Karin, in terms of how the City Development does?

Franklin: I think what would happen, and Glenn Siders who's had more experience going through the City Development Board with these kinds of things than I may be able to correct me, but what would happen is this then goes to the City Development Board, they consider it at one of their meetings, they then come to Iowa City and they have a public hearing in Iowa City. They then deliberate at a subsequent meeting and either include the properties or not include them, but properties

TAKE CHANGE

Franklin: the remainder of the annexation can go forward and your properties would be deleted. That's then a City Development Board decision as it goes on through the process. So after this, the next step for you all is the public hearing before the City Development Board.

Lehman: The City Development Board can remove portions of the property that's being annexed.

Franklin: Yes, and what they

Lehman: The rest stays there?

Franklin: Right. They will look specifically at the pieces that are coming in under the 80/20 rule. They won't be looking so much at the Plum Grove Acres and Southgate per se.

Pfab: Okay, something just came up here. You're saying that, I'm not sure who's going to answer this, but if the City Development Board, is that the correct term?

Franklin: Um hmm.

Pfab: If they say that okay, the people in Hummingbird Lane, you will not be part of the annexation, Ernie you just said something about 20 years? Does that

Lehman: If they say they're not part of it, they're still in the County.

Franklin: Right.

Lehman: Nothing changes.

Franklin: Right.

Pfab: Okay, so what about the 20 years then?

Lehman: What do you mean? There's no restrictions of any kind on it.

Franklin: Right.

Pfab: Okay, so the five years, the 10

Lehman: Nothing. Nothing applies.

Pfab: It's at ground zero.

Vanderhoef: Only if they are included.

Lehman: They're in the County then.

Pfab: And nothing follows through.

- Vanderhoef: Only if they are included in the annexation does that follow.
- Lehman: Okay.
- Kanner: I have a voting procedural question for Marian and Eleanor. If this gets voted down, #6.d., are we voting then on the involuntary annexation as part of another resolution, or will we go back?
- Dilkes: No, the subsequent items then are the applications that were pending before you three weeks ago three weeks ago, which include this ... the Hummingbird Lane property.
- Kanner: So e. and f. would then, e. and g.
- Dilkes: The two annexations.
- Kanner: Okay, would include it.
- Greg Muilenburg: Greg Muilenburg, 3736 Hummingbird Lane. Talking about risk, if you vote this down you've got a lock in five years we'll be in the City. If we're not taken in by that Board and we're in the County then you've got a passel of trouble. Just what you brought up. I mean now we're sitting out there free and clear and truly even if we sell our properties these people may not want to be in the City at all. I mean, you're taking quite a risk on by doing this here, with a five year agreement you know we're going to be in the City. There's very little risk if you read that contract, there truly isn't to the City. The financial burden on anybody that would fight that would be phenomenal. They'd be foolish to do that. This 20% thing, no one property out there has more than 20% of our property. So it couldn't be one person to cause you trouble anyway. It'd have to be more than one property owner out there. For that to happen, for two people to fight this and for two people to take on that financial burden, I just can't envision that. It's just not going to happen. I think it's a question of doing the right thing. I really do. Thanks.
- Kanner: Just to clarify something about financial risk, I assume we're talking about point #5 in the agreement in
- Dilkes: The attorneys' fees.
- Kanner: Yeah, and it's only if the enforcement action is successful.
- Dilkes: Right.

- Kanner: So if the City is not successful the residents don't pay. It sounded to me like people were assuming they'd pay no matter what. If they win or lose.
- Dilkes: No, the prevailing party recovers attorney fees.
- Kanner: Right. So it's not only if you ... it's not either way.
- Dilkes: I think that's right. They're assuming that there wouldn't be much of a leg to stand on is what the assumption is.
- Lehman: Alright. I think we're about to vote.
- Dilkes: I think Connie's point is a good one – that it's a political decision for you all to make. Staff's job is to point out what we view as the risks and your job is to balance those with whatever considerations you have and make a decision.
- Lehman: We're ready to vote? Roll call? Sorry. Go ahead.
- Dawn Mueller: That's alright. I just wanted to make a little emotional pitch here, with respect to the issue of the political side. Political side is also human side. Iowa City is a really nice city. Surrounding the City is a really beautiful country. When these people chose where they lived, they chose to live in the country, and I can understand that because I was brought up in the country. I just want to, sort of as a human reminder, put up a hypothetical situation here. Let us say that the City of Coralville had the legal right to be able to annex your home, Irvin, and yours, Connie, and Mike, and Mayor Lehman, and Dee and Ross and Steven, how would you feel in that situation?
- Dilkes: I do want to note that the gentleman's point, the gentleman who spoke last, I don't know, his point about the risk of a City Development Board removing this property from the voluntary application is really, it's a good one. I mean, you need to ... that's an additional risk.
- Lehman: Well, then let me just ask you a question. Is that sort of risk taken into consideration by the recommendations of the staff?
- Dilkes: Karin?
- Franklin: I'll speak for my half of it. Yes. I mean, there is some risk to that but what the City Development Board is going to be looking at, is going to be looking at the concept of the service island, is going to be looking at the uniformity of boundaries, and we never would have pursued this

if we thought we were at risk from the City Development Board negating it.

Lehman: Okay.

Franklin: But that, too, is a calculated risk.

Dilkes: I think that's accurate. But I just wanted, I mean that wasn't something that was point out to you.

Lehman: Very good point.

Pfab: Karin, you mean that you wouldn't have pursue this agreement?

Franklin: No, we never would have considered proposing the annexation of the Hummingbird Lane properties in the first place if we did not feel that it met the requirements of the City Development Board.

Pfab: So you're saying that the agreement, proposed agreement really doesn't have any effect?

Franklin: The proposed agreement has nothing to do with the City Development Board's approval because if the proposed agreement goes through it doesn't go to the City Development Board, they are out of the equation.

Pfab: Okay, I'm ... I have to think about this a second. Okay. That's fine.

Lehman: Are we ready to vote folks?

Vanderhoef: Yes.

Kanner: Yes.

Lehman: Roll call. The motion is defeated 4-3, Pfab, Kanner and Champion voting in the affirmative.

Karr: Can we have a motion to accept correspondence?

O'Donnell: So moved.

Vanderhoef: Seconded.

Lehman: Moved by O'Donnell, seconded by Vanderhoef to accept correspondence. All in favor? Opposed? Motion carries.

ITEM NO. 6.e. CONSIDER A RESOLUTION APPROVING THE ANNEXATION OF APPROXIMATELY 26.88 ACRES OF PROPERTY LOCATED SOUTH AND EAST OF SCOTT BOULEVARD AND ROCHESTER AVENUE, AND 6.22 ACRES OF PROPERTY LOCATED EAST OF SCOTT BOULEVARD AND SOUTH OF LOWER WEST BRANCH ROAD. (ANN99-00003)

Vanderhoef: Move adoption.

O'Donnell: Second.

Lehman: Moved by Vanderhoef, seconded by O'Donnell. Discussion?

Kanner: I have some concerns about the annexation of this property at this time. Looking at the report that we got on Windsor Ridge annexation that happened in 1992 or 1993, we see that in terms of tax revenue versus expenses from the City, close to a break even proposition. I also have a port from State Representative Ed Fallon on the costs of community services in three central Iowa cities, these are small cities surrounding Des Moines. But the point they make is that the American Farmland Trust, it's a private non-profit conservation organization, they've developed an inexpensive and consistent way to evaluate existing contributions of municipal land uses and their study found that residential, the taxes generated versus taxes spent, weighs in favor of taxes spent – you spend more than you generate. Commercial industrial usually bring more in and farm and open land you bring in more than you spend, although not as much as industrial, you don't bring in as much as industrial commercial. And in this time of tight taxes, especially high taxes and tight spending limits, I think it's imperative that we hold off at this time. I think there will come a time in the future where we might want to annex this land but I think we also need to relook at our Comprehensive Plan and see how we can value the open space and the farmland that's out there that's being gobbled up. I think it's ... we could look perhaps to the Braverman farm just behind HyVee as a small intense organic farm and something that would draw people to Iowa City to incorporate the use of small farm areas, perhaps organic, which is a growing industry in the country. I think there's different models we can look at. I don't think we've looked at it, and I think it's in the best interest of all of Iowa City to think of development, not just in terms of building houses and apartments, but to look at it in a bigger sense of development in other ways that we can grow, and we can certainly grow without building new apartments. So I'll be voting against this annexation and also the other annexation #g.

- Pfab: I would just like to make a comment if I can to what Steven made there, and that is you say that residential property is a net loss to a city that annexes.
- Kanner: Not always but it tends to be, it's been shown across the country and in the study in '92 it showed that it was about a break even cost.
- Pfab: Well, you say industrial is about a break even.
- Kanner: No, this ... I'm talking two slightly different studies.
- Pfab: Okay. But there's another point I wanted to make to you. When you annex industrial you also create a need for more residential district, see, so even if the industrial is a money maker, what if the trailing effects or the effects that follow it can also be non, what, income producing I guess is the way to say it.
- Kanner: And I would say, Irvin, that there's other ways to think about bringing people in if that's necessary. I'm not totally sold that it is necessary to have the growth that we always commonly talk about. There's other ways to grow as a City. But certainly some growth is okay but I think we need to look at it a different way and think of other ways that we can do that besides always gobbling up more farmland.
- Pfab: Okay, I'm going ... is a motion here in order?
- Lehman: Yeah, we have a motion to approve this. We're discussing that motion now.
- Pfab: Okay. Would a motion to postpone this for a week or two
- Lehman: Motion to defer is always in order if you can get a second.
- Pfab: Okay, I think that there may be some more questions here since this thing has moved around here pretty fast. I would suggest that it would probably be, I would be more comfortable and I can only speak for myself, to have this deferred for a period.
- Karr: September 11th?
- Pfab: September 11th is the ...
- Lehman: Are you making a motion for deferral?
- Pfab: Yes, I would make a motion for that.

- Lehman: Do we have a second for deferral?
- Kanner: Before I consider doing that, I would ask Irvin, could you ask your questions before you make that motion?
- Lehman: We need a second before we can discuss the deferral. Do you have a second?
- Kanner: I'll second.
- Lehman: We have a second, we have a motion and second to defer. Irvin?
- Pfab: My inclination was to approve this, but the more I think about this thing, I'm having some questions that I would probably have to vote no, but I ... because of the mix of how things changed here I was thinking that this agreement was going to be probably passed because I felt last time I knew there was enough votes to carry it. Okay, so because of that I would probably vote no at this point, it may be something that it might be to the benefit of those people if they can count the votes and they get what they want, that's fine, but I would at this point request a deferral at least until next meeting.
- Lehman: All in favor of deferral say aye? Opposed? Motion is defeated 5-2, with Kanner and Pfab voting in the affirmative. Now do we have further discussion on the motion as presented?
- Brandon Ross: Mayor Lehman, are you entertaining public discussion on this particular issue?
- Lehman: If we can make it quick. The hour's getting late. We discussed this at the last meeting, we've already had a public hearing, so if you can make it quick.
- Ross: I'll try to be quick. First of all, when you're annexing ...
- Lehman: Tell us your name and address.
- Ross: Oh. My name is Brandon Ross and I live in 1822 Rochester Avenue. And there were just a couple of points of clarification I thought would be good for people in Iowa City to know. I'm still a little shaky on exactly annexation. I was just wondering if you'd tell us what annexation really means and just a statement. Would Dee or Steven or someone up there care to give me that point, because it would help me with my further comment.

- Lehman: Annexation just brings them into the City of Iowa City.
- Ross: That's basically it. Who gets this parcel of land? Who gets this parcel of land? I mean, is ...
- Lehman: The person who owns it.
- Ross: The person who owns it gets
- Lehman: Keeps it, sells it, whatever he wants to do with it.
- Ross: Sells it, does whatever. So at this point, so infrastructure goes out and we pay taxes on that.
- Lehman: Well, the infrastructure in most cases is paid for by the developer.
- Ross: Is paid by the developer.
- Lehman: That's correct.
- Ross: Is there anything that says anything about what kind of
- Kanner: Not the new trunk line, Ernie.
- Lehman: The trunk line wouldn't be, but street, sewer, water...
- Kanner: The main trunk line is paid by the City. Tap on fees are paid by the developer.
- Vanderhoef: Well, be more specific, though, because the trunk line is paid by the sewer utility by user fees.
- Lehman: But the City pays for that. Go ahead.
- Ross: Is there anything that says what can be, I mean there's a zoning law, what can be developed out there? I suppose it's zoned for that particular use?
- Lehman: It has to be ... comply with zoning, it has to comply with subdivision ordinances, I mean all of that, this just brings it within the City limits. They can still farm it. Whatever they want to do with it at this point.
- Kanner: And actually, the next point on our agenda is to rezone this property, so to put those kind of limits on the property.

Ross: Okay, thank you. You've answered my questions.

Vanderhoef: And those follow the Comprehensive Plan.

Ross: Those that follow the Comprehensive Plan. So at this point, I mean there's some concern in the neighborhoods, well, what is going out there, you know. Is it just going to be single use?

Vanderhoef: That's already been looked at. It's had the public hearing. They are well aware of what's going to be there.

Ross: Oh, so that's in place? Which is what?

Vanderhoef: We're going to vote on it and if we approve it it will be in place.

Ross: Okay. Thank you.

Lehman: Thank you. Okay, roll call of Item e. Motion carries 5-2, Kanner and Pfab in the negative.

ITEM NO. 6.f. CONSIDER AN ORDINANCE TO REZONE APPROXIMATELY 38.24 ACRES FROM LOW DENSITY SINGLE FAMILY, RS-5, COUNTY HIGHWAY COMMERCIAL, CH, COUNTY LOCAL COMMERCIAL, C1 AND COUNTY MULTI-FAMILY, R3A TO COMMUNITY COMMERCIAL, CC-2 (10.99 ACRES), MEDIUM DENSITY SINGLE FAMILY, RS-8 (21 ACRES), AND LOW DENSITY SINGLE FAMILY, RS-5 (6.22 ACRES) FOR PROPERTY LOCATED EAST OF SCOTT BOULEVARD AND SOUTH OF ROCHESTER AVENUE AND LOWER WEST BRANCH ROAD. (REZ99-00017) (FIRST CONSIDERATION)

Vanderhoef: Move first consideration.

Lehman: Moved by Vanderhoef

Champion: Second.

Lehman: Seconded by Champion. Discussion?

Kanner: I had a question for Karin. We talked a few times in Council meetings and elsewhere about development and urban ... urban development. I like some higher densities if we're going to build outward to a certain extent, but the down point of higher density in RS-8 zone, which is a high density and to a certain extent it is, is there going to be a leap frog phenomenon that people are going to go even further out to get that lower density, the county low density, they're going to see RS-8? I like RS-8 to a certain extent but are people going to leap frog over that? That's a common phenomenon to get further out, to get their low density acre lots.

Franklin: People who want acre lots and want rural living are going to go out into the County for the most part. Walnut Ridge is the one development that we have in Iowa City that has one acre lots. RS-8 is not a high density development. RS-8 is basically ... the minimum lot size is a smaller lot for single family or you can have duplexes. There's a minimum lot size in the RS-5, our lowest density residential. What happens often is that the developer responds to the market and puts in the size of lot that they think is going to sell in the marketplace. So the lots are not necessarily the small size that is envisioned in the zoning ordinance. So, I mean when you talk about higher density RS-8, yes it's higher than rural but it's a City.

Kanner: So what happens?

- Franklin: I don't think in answer to your question that you're going to see for, someone who wants to live in a city, that they're going to go that much farther out. I mean, when you go farther out from the area that we're talking about you're into Windsor Ridge which is already developing at both single family, the RS-5, RS-8 and RM-12.
- Kanner: So what happens if we put RM-12 at this location? In terms of sprawl. That's my concern, that, how does sprawl come into it as far as leapfrog out over this for people that want lower density.
- Franklin: I'm not sure that I can answer that question. We're talking about, with this particular rezoning that you're considering right now we're looking at commercial and RS-8. Okay? We have some higher density development in this corridor as you go south on Scott Boulevard, there's some RM-12 along there. Then there is some duplex and single family just to the east of there. And then there, as you progress east on Court Street there's more RM-12, RS-8 and RS-5. So it's the mix that the Comprehensive Plan envisions.
- Kanner: Okay, thanks.
- Franklin: So I don't think putting in RM-12 means that everybody else is going to go farther out, if that's the question you had.
- Kanner: Well, part of the question is, if we do a higher density does that, perhaps that encourages developers to do more dense development and is that good for the City or does it just encourage leapfrog sprawl. That's the thing that I'm struggling with in looking at the zoning.
- Franklin: I think the key is that you have a balance of opportunities for different housing types and you do that through different zoning designations and you make sure that within your corporate boundaries and within your growth area you have room for single family development, duplexes, multi-family and you mix it up and so it doesn't mean that you're pushing anybody out.
- Vanderhoef: Steven, if you're thinking leapfrogging within the annexed area or outside of the annexed area?
- Kanner: Outside.
- Vanderhoef: Okay, that's where our fringe area agreement kicks in and we have had very good relations with the county and have addressed those kinds of large lot buildings, and what we have decided and agreed upon in the fringe area agreement is that in the north corridor area which is an area

that is very difficult to sewer or water, that that District A I think it is, District A is the north one?

Franklin: Yes.

Vanderhoef: Okay. District A is the area where we encourage single family homes. Subsequently, I understand, the County zoning, they have gone to the cluster situation out there so that they can group them and keep the infrastructure down and keep the streets and so forth at a minimum, then within our other growth areas we have agreement on how this comes in. So I think within that two mile fringe agreement, which I suspect we'll have to talk about if we approve both of these annexations because it will have a large impact on our two mile area that we must negotiate with the County. So that's where we get our say into whether there are large lot kinds of developments that go outside the annexed area.

Lehman: Is there further discussion? Roll call. Motion carries, 6-1, Pfab voting in the negative.

BREAK

ITEM NO. 6.g. THE ANNEXATION OF APPROXIMATELY 95.2 ACRES OF PROPERTY LOCATED NORTH OF COURT STREET, SOUTH OF LOWER WEST BRANCH ROAD, AND EAST OF HUMMINGBIRD LANE / SCOTT PARK DRIVE, AND APPROXIMATELY 10 ACRES OF PROPERTY LOCATED SOUTH OF LOWER WEST BRANC ROAD AND EAST OF HUMMINGBIRD LANE. (ANN01-00001)

Glenn Siders: My name is Glenn Siders, I'm with Southgate Development Company. I'm only going to say I'm here to answer any questions you might have.

Lehman: Thank you, Glenn.

Siders: I appreciate it, move expeditiously.

Lehman: Did we get ... it's a public hearing. Anyone else like to speak to this or ask Glenn any questions?

ITEM NO. 10. CONSIDER A RESOLUTION AUTHORIZING THE MAYOR TO SIGN AND THE CITY CLERK TO ATTEST THE AVIATION COMMERCE PARK FINANCING AGREEMENT BETWEEN THE CITY OF IOWA CITY, IOWA AND THE IOWA CITY AIRPORT COMMISSION OF IOWA CITY, IOWA.

O'Donnell: So moved.

Champion: Second.

Lehman: Moved by O'Donnell, seconded by Champion. Discussion?

Rick Mascari: I just want to say I'm Rick Mascari and here to answer any questions.

Lehman: Thank you.

Kanner: I have some discussion. I recently visited the airport and the airport manager gave me a nice tour from inside out and I appreciate the work they're doing and the people on the commission, but again we're talking about public interest before in our vote on the involuntary annexation, and I think this is also a case of public interest. It's in the public interest to collect as much of the debt that the City has put in to airport that we can legally to recover that for the general fund and the citizens of Iowa City to relieve any property tax burden that we can. And the reason I say that is, although there are people that use the airport, I would say that it is not quite the door to Iowa City. I would say that although we have approximately 25,000 airport operations, that would be a landing or take-off, the number of actual people that use it would be probably be in the 5,000 to 15,000 range, it would be my rough estimate. It could be more, it could be less, it's not quite sure what that is. But I would say that pales in comparison to other areas where we should put more support and also as far as economic development benefits, money, we put millions from the Feds and the State and the locals and I say that that money could have been spent on housing or other areas where the multiplier effect would have been much greater, so I would propose an amendment that we amend this agreement to capture as much of the current debt that's out there, which my understanding is close to \$2.5 million in public bonding that's currently out there that we're paying debt service on. And, Steve would that be about \$250,000 a year that we're currently paying on that debt service?

Atkins: That's pretty close.

- Kanner: So I would add that we, I'll move that we amend the agreement to recapture that debt service from the North Commercial Park income.
- Lehman: Okay, we have a motion to amend this to increase the amount of, actually the amount of debt, or actually the amount of payment to \$250,000 a year.
- Atkins: I understand, I assume you need a second before we can discuss this?
- Lehman: Well, we have a motion.
- Pfab: I will second.
- Lehman: We have a second to the amendment, discussion?
- Atkins: So I would understand is that, and I don't have the numbers in front of me but assume it's \$2.5 million worth of debt that's been applied for capital projects at the airport. What's being suggested is that that \$2.5 million also be subject to any income that's being generated by the aviation commerce park to reduce that debt as well as the debt we currently have for construction of the commercial industrial park, right?
- Kanner: Yes. And I would say then, it's not up to us but I would say that perhaps on the airport might have to charge the users more for fuel fees, lease arrangements and other areas if they can't do it all from the land that we're talking about, the North Commercial Airport area.
- Lehman: Well, I can't support your amendment, first of all. I'm not about to tell the airport what they can and can't charge for landing fees. I know that past history at that airport, when it comes to selling fuel we did have a FBO whose fuel prices were not competitive but we had folks who hangar their planes here and fly out of this airport who flew to other airports to buy their fuel, so just raising the price of fuel does not necessarily you're gonna produce any more revenue. I personally feel, and the idea of the north area commercial was that the airport could become self sufficient. Earlier this evening we read a proclamation where the economic benefit of the airport is purported to be \$11.1 million per year. I consider that to be a pretty significant contribution to the economy of Iowa City and certainly an asset to the community. I have no problem with the airport paying their own way. The idea of this north airport commercial was that they could eventually get away from any subsidy whatsoever from the public. I also have no problem in charging the airport for expenses that the City incurs, but I do think that we are in ... if we are going to charge the airport for capital

improvements, that we make that clear when those capital improvements are made, not at a subsequent date, and so I can't support this.

Dilkes: Can I just, Steven raised this yesterday at the work session and I had some conversation with Sarah Holecek of my office who's been drafting this agreement and has had significant discussions with the FAA. There's a ... when the City and the Commission obtain grants from the FAA, we make assurances. One of those assurances is the general principal that money generated on an airport will remain on the airport. We were concerned about that grant assurance in developing this agreement and we had discussions with the FAA about that. They were okay with this agreement and have given us a letter to that effect, but they wanted to ensure that the repayment would only be for infrastructure and that City not, by way of this agreement, make an attempt to reimburse itself for earlier subsidies, and that if we do that that we may be in violation of our grant assurances and owe money to the FAA as a result. And so I think the proposed amendment might be problematic from that perspective.

Wilburn: It would be a lot of money since it was, was it 80/20 match the past federal

Lehman: 90/10.

Kanner: 90/10.

O'Donnell: Okay.

Kanner: And that's why I think it behooves us to perhaps, if we don't adopt this amendment, to look at how we can recover some of that because this is one of the greatest subsidies of something that benefits a small amount of people in our country and a way of transportation that's harmful for the environment. Now I can see a large public, commercial airport such as Cedar Rapids getting some of these subsidies. Maybe in the 1920s we needed this airport but now we have Cedar Rapids airport where people can land there, and if we do need it for some hospital runs, I think we don't need to subsidize that, or we can make that decision on an individual basis. Ernie, again I would state that as a multiplier effect airports are very low. Certainly there's economic benefit from anything. Just us walking down the street and going in the store, there's economic multiplier benefits. The question is, what can produce more. Housing has been shown to be a great multiplier in terms of economic benefit, much more than airports. And so I think we need to think in terms, how can we benefit more people in our city and

I think trying to recover costs will benefit more citizens and it behooves us to explore that more in depth. I don't think the economic development committee, quite frankly, looked into that and I think we need to explore that to see if there are ways to do that.

Lehman: I agree with you that we should recover our costs, and I think that now that the airport has, or it appears they are going to have the ability to generate revenue, that we have every right and every expectation to recover costs. As far as us going back and recovering costs that we have been expended in previous years, somehow that violates my sense of fairness. Just plain fairness.

Wilburn: (Can't hear) what you were saying, Ernie, in addition to your comments, for me my focus with this has been to get the airport as quickly as possible with a plan to the road to self sufficiency and I feel that if we were to look at some of those other costs I think this would add to that burden and perhaps extend that period of time, and so I'm not one to create a further burden of my goal of having to be self sufficient.

Vanderhoef: I can understand your concern, Steven. But the one project that I had thought all along was probably a project that should have been negotiated with the airport was the upgrade of the terminal which had zero money in it from the FAA, as I understand it. Is that right, Rick?

Mascari: That's correct.

Vanderhoef: And at the time that that one came on board as a project, I brought it up as a possibility repayment and the north commercial park was still just a dream. And we had not moved down that road so it was not possible for you folks to repay without any kind of dollars in, but I think you will remember, Rick, that I did mention to you at that time that given that possibility of revenue created by a commercial park was one of the ways that I thought the terminal building could be paid off, and that's the only project I was really interested in in recovering some capital costs on. But I think at this point in time we need to go forward with the proposal, the contract that we have here and support it wholeheartedly. If we choose as a group to go back and look at the terminal building, I will look at that one.

Mascari: To answer both viewpoints, the terminal building, if you remember, was built in the early 50s, 51, 52 I think. And during that time very little maintenance was done to that building all these nearly 50 years and it was due to the lack of maintenance that was done to that, it required a complete renovation. It was a toss up between whether we

should renovate that existing terminal or just tear it down and start from scratch. But it was such a beautiful building and it's a great design, we decided to just go ahead and just renovate the one that was in there. But if it wasn't for the lack of maintenance over all the years it probably wouldn't have cost as much as it did. And to address Steven's issue of regarding payment of some of the monies that were paid earlier, you and I discussed this on the phone a while back and I guess I'd like to compare it to an insurance company who had paid out to an individual, somebody who had \$1,000 damage on their car and if they had a \$100 deductible, then of course the insurance company would have to pay just \$900, 10%...90%. Now if the other person's insurance decides that they're at fault and then reimbursed the insurance company the full \$1,000, they ... or the individual a full \$1,000, the insurance company will still want to get their \$900 back. So the reasons why I bring this up is because, before we can expect any refunds for any monies we put in, we would also have to go ahead and reimburse the FAA that same amount.

Kanner: Well, that's ... we've been told that there are some troubles also by our City Attorney, and I wonder, though, what we could push and how much we can recover. And I think that it bears looking into because the airport does not benefit a large portion of the population of Iowa City. You asked I think 90 or 95% of the people and they don't have any connection with the airport. There's going to be people down there, certainly, for your events but I would still gather that the vast majority ... in fact this argument was happening with Dean Thornberry about putting money into the airport versus the City and he said why are we putting all this money into City Hall, the Civic Center, and I would argue that there's 10 times more people that interact with the Civic Center, more than 10 times, than with the airport and it's worth putting that money into. And again, I think you folks on the commission, you work hard at what you're doing but I think it's for a limited amount of people and it doesn't benefit the greater good of Iowa City.

Lehman: Well, we're discussing the amendment. Is there interest on the majority of the Council with trying to recover monies that have previously be spent and spent at the airport even though that may be problematic from a legal standpoint?

Vanderhoef: No.

O'Donnell: No.

Lehman: We don't need a roll call for the amendment, do we?

Karr: No.

Lehman: All in favor of the amendment signify by saying aye. All those opposed same sign? Amendment is defeated 6-1, Kanner voting in the affirmative. We're now discussing the original motion. Which is the agreement with the airport. I must say, this is something that I believe the airport and the City has looked forward to for a long, long time. This development, in my opinion, is a win-win both for the airport and for the City of Iowa City. It potentially will create revenue for the airport to do the kinds of things that you've been coming to us and asking us for money for, and I think we have been very generous, I think we've been very supportive of the airport.

Mascari: No question.

Lehman: And I think we continue to be. But the other side of that coin is that we as a city intend to gain substantially from this development all of the tax revenue from properties built on that north airport commercial, all of that tax revenue will go to the City of Iowa City to the school system in Iowa City and to Johnson County. In addition, you will be repaying us for the infrastructure investment, which is about \$1.6 million. It appears to me that we've got a really sweet deal both from the airport's perspective and from the City's perspective, and I wholeheartedly support the agreement. The agreement does require that you do pay the City back with no ... there's no margin, there's no profit in it for the City, you're paying us exactly what we're paying.

Mascari: That's correct.

Lehman: The bond rate interest is, I believe, somewhat under 5%. You have got this amortized over a 20 year period, you may pay ahead of time if you'd like. I guess that's where we are. We're discussing the agreement. Is there other comments from the Council on the agreement?

Pfab: I'm disappointed with the contribution (can't hear). You said that this would affect an area (can't hear). Are there going to be any opposition from this?

Lehman: Depends on what they ask for. I mean, it has to be approved by us. There will not be unless we approve.

Pfab: What I'm saying to you, that statement that the schools will be benefiting right away. That may not be quite

- Lehman: I don't know if I said right away. There will be potentially tremendous potential benefit to the community.
- Pfab: Just a point of clarification. It can and may not.
- Lehman: Well, but the fact of the matter is that any investment down there potentially will be a source of significant revenue.
- Pfab: Ok. That was just that point.
- Kanner: Do the leases include property tax payments by the lessees?
- Mascari: Since the property won't be owned by the lessees then we can't charge property taxes, although we can charge taxes on the structures that they build.
- Kanner: So you're not obligated to pay property tax, the airport?
- Dilkes: The leases will provide that any property tax is the obligation of the lessor.
- Lehman: On the improvements.
- Pfab: But not the land?
- Dilkes: No, I don't think that's true because it will be used for a public purpose and therefore it will likely be taxable in its entirety.
- Kanner: But we're not sure if that's true or not, it's still to be determined.
- Dilkes: It'll be assessed.
- Champion: It'll be assessed.
- Lehman: Well, the property we know will be assessed. I'm not sure about the land.
- Dilkes: No, I thought about the land.
- Lehman: Then it all will be?
- Dilkes: Generally, the ... in order for the public entity to obtain the exemption there has to be public ownership as well as public use.

- Lehman: Okay.
- Mascari: Hope that answers your question because she just did.
- Kanner: So the land is, the land will not be taxed?
- Dilkes: No, it will be. My understanding now, I mean I'll have to look at it tomorrow, but that's my general understanding is that it will be. Now there's some odd kind of case law that treats airport property differently, and I don't know that it would apply to this land, but.
- Mascari: To be honest with you, I really don't know.
- Dilkes: Yeah.
- Mascari: I really don't know.
- Pfab: Are you calculating land tax?
- Mascari: In our lease payments? The appraisal that was done in the year 2000 was done by a licensed appraisal and whether he included the taxes in the amounts I really don't know. Something I'll have to look into.
- Kanner: Ernie, once again I would say that we could accomplish a lot of what you're saying with a better deal as far as getting some of these taxes and building buildings there, I think we're selling ourself short.
- Lehman: Well, I ... for me, and I don't disagree with requiring that the airport pay their own way and particularly when they have the wherewithal to do it, but I do, for me it's a question of fairness to try to go back and recoup

TAPE CHANGE

- Lehman: ...gave any indication to those folks that that was a loan. That was a public investment in the airport and now we're going back and saying that we want to recoup that. I feel that's unfair. I do not feel it's unfair for us to, from this point forward, expect that airport to not only be self sufficient but for the properties that are improved on there to provide revenues to the City, the County and the School District.
- Kanner: Well, informally, in essence the airport is part of the City, so we're talking with City entities and we can do these kind of thing to the benefit of people of Iowa City. It's not like talking with an individual.

I think there fairness is not the issue here in terms of this proposed negotiation that I would say.

Lehman: I think it is, Steve, because I think there are certain things that the Airport Commission would like to do in the way of improvements to the airport. Instrument landing, which I'm not a pilot so I don't understand some of these things, but there are certain things that I believe that they would like to do that they do not ask us to do because of the subsidy involved. This will enable them to do some things that may enhance the airport which, you're right, belongs to the people of Iowa City, the airport does. It'll make them a better airport, will cost the taxpayers no money to do because the revenue will be generated from the North Airport Commercial and that really is a joint venture with the FAA as well as the City because of regulations.

Mascari: Oh sure, absolutely.

Lehman: We are going to be the recipients of some substantial funds over the years because of this North Airport Development.

Mascari: And there's one more point that everybody seems to be forgetting. Don't forget the jobs that will be created there. All these businesses are going to be built there. They're going to create a lot of jobs. That's a big factor too.

Kanner: I would argue we could still do that. What is the projected when we finally stop any subsidy to the airport? What year (can't hear) from the general fund?

Atkins: I have never projected that, Steven. I wouldn't know that.

Lehman: Well, I don't think we can project that until we get leases written and income.

Atkins: Once they begin the lease of the property I could do some projections for it but now, zero.

Kanner: My point is that it could be decades before we... You're talking about they'll be on their own and it could very well be decades before they get off our general subsidy. So it's not quite true, Ernie, that they're going to be self-sufficient. We're going to continue to pour money into that.

O'Donnell: Let's vote on this.

- Lehman: Well, I think you're right for the next couple years or three years, whatever, but I think that if anything goes right down there at all within three or four years you should be generating enough funds to... and that depends on the market.
- Mascari: Well, of course. That makes a big difference right there, too. Absolutely. You know, Steven, we have to start sometime. This idea came up seven years ago and, you know, for one reason or another, it's been delay after delay. If, you know, if once we get started...the sooner we get started, the sooner it'll be paid for. I mean we just got to start. We got to get it done.
- Lehman: Well, we've started. The concrete is in the ground.
- Mascari: We've started, the concrete's in, that's exactly right.
- Lehman: This is just...
- Mascari: And it's really, really nice concrete, too.
- Lehman: We have spent the money. We have spent the money. We are now trying to get an agreement to repay the money.
- (laughter)
- Lehman: Any other discussion?
- Champion: Good heavens, no.
- Lehman: Roll call.
- Dilkes: Kanner.
- Kanner: No.
- Atkins: I think there was somebody wants...
- Lehman: Okay, come on, it's getting late. We have someone else who wants to speak.
- Dawn Mueller: I just wanted to speak for a moment to Steven's concern that the airport tends to be used by a small segment of the City population and I just wanted to relay an experience that I have living in Norman, Oklahoma which is a University town. It's the home of the University of Oklahoma. It is roughly about the same size as Iowa City and it is

the home of Max Westheimer Airport. Perhaps unlike Iowa City, the community in Norman, Oklahoma was very much involved with the airport. They sought a variety of ways to involve the community in the airport activities. One way they did that, the University of Oklahoma ran an aerospace program, a summer camp for grade school kids, and they would... The City would provide scholarships for students in town to be able to take aviation, an aviation space camp in the summer time where kids would go learn physics and get flights around the airport and... In doing that, it brought the community much more into the airport and it really is something that is valued by the community. So, I would just toss it out as an idea. If the Council and the City would like ways to broaden the base of usage of the airport, to consider novel things like that.

Lehman: Talk to the Airport Commission because I think...

Vanderhoef: The man behind you.

Pfab: Dawn before you go. Okay, but there is something a little different in Oklahoma.

O'Donnell: It's farther south.

Pfab: A far greater percentage of people in the state use air travel verses here so there's a lot more plane activity.

Lehman: Okay.

Pfab: Okay.

Jerry Feick: I only want to say two or three sentences about this airport.

Kanner: How do you know that Irvin?

Feick: I've heard about this rinky, dinky airport in Iowa City. When I... since when I lived in Iowa City and working here in 1971. You can get ninety some percent federal funding to make that airport into an airport that it won't be rinky, dinky. Why not just do it and come up with the ten percent?

Lehman: We are.

Champion: We do.

Feick: You're sure?

Lehman: Yes, we've signed an agreement with the airport commission. We're about midway through a, what is it, a ten year plan?

Atkins: About that.

Champion: And it is not a rinky, dinky airport. It's a very nice airport.

Feick: Why do people go to Cedar Rapids?

Champion: Oh, because...

Feick: Pardon?

Lehman: Well,

Feick: They have bigger planes, Connie.

Lehman: In any event, Jerry, we are doing that. We have a master plan half way...

Feick: I'll come back in five years and re...visit the issue, okay?

O'Donnell: Ernie will be sitting right here.

Lehman: See you in five years.

Feick: He'll be right there? I'll be here.

Lehman: Further discussion? Roll call. Motion carries 6 to 1, Kanner voting in the negative.

ITEM NO. 7. PLANS, SPECIFICATIONS, FORM OF CONTRACT AND ESTIMATE OF COST FOR THE CONSTRUCTINO OF THE RIVERSIDE FESTIVAL STAGE EATING PROJECT, ESTABLISHING AMOUNT OF BID SECURITY TO ACCOMPANY EACH BID, DIRECTIG CITY CLERK TO PUBLISH ADVERTISEMENT FOR BIDS, AND FIXING TIME AND PLACE FOR RECEIPT OF BIDS.

7b. Consider a Resolution Approving.

Lehman: Moved by O'Donnell, seconded by Wilburn.

Champion: You know, I'd just like to point out, Steven, that this is another thing that we have supported all along with public funds that probably isn't used by 15, 000 people a year. It probably isn't used by 5, 000 people a year. So, I think we do a lot of things in the community that benefit the community that the whole town doesn't use. I mean, I don't know how many seats are going to be in that but certainly not 5,000 a year. So, I mean we do a lot of public funding of things that don't aid everybody.

Kanner: Well, I agree with you Connie. One of the criteria I look at is how much is it accessible to people of all incomes and certainly the plays themselves are not accessible to all people so I have a little problem with that but it is accessible to other people for other events at very low prices. It's a good thing for the community. It does other things. And so I look at it compared to airplanes which are pretty expensive stuff and hurtful to the environment so that's some of the criteria I use. It's not all 100 percent one way or the other. I look at a lot of different things.

Champion: I hope you remember that when you need your heart transplant.

Vanderhoef: Well this certainly is... when you talk about community, we're talking about services that meet the needs of lots of different groups of people. So, whether its arts or aviation, whether it's parks or buses, we're trying to provide the very best services that we can for all of this community.

O'Donnell: Look folks, now we're talking about seating for the stage in City Park and I think it's wonderful. We need to move forward.

Lehman: Roll call.

Karr: Mr. Mayor, can I have a motion to accept correspondence from 61?

Vanderhoef: So moved.

Wilburn: Second.

Lehman: Motion carries (7/ 0)

**ITEM NO. 9 CONSIDER AN ORDINANCE AMENDING TITLE 3
ENTITLED “CITY FINANCES, TAXATION & FEES,”
CHAPTER 4 ENTITLED “SCHEDULE OF FEES, RATES,
CHARGES, BONDS, FINES AND PENALTIES” OF THE CITY
CODE IN INCREASE WATER SERVICE AND FEES IN IOWA
CITY, IOWA. (PASS AND ADOPT)**

Lehman: Moved by Champion, seconded by O’Donnell. Discussion? For anybody watching, we’re not raising the water rates. We are only paying for new water meters on new construction. Roll call.

(all yes’s)

Lehman: Okay, 10 we have done.

Kanner: Ernie, actually we are going to be raising the rates to pay for new meters to go in everywhere. They’ll be...

Lehman: Are we raising the rates or doing that out of...?

Atkins: We are not raising the rates. We are raising the cost for the new meter.

Lehman: Yeah, I realize that.

O’Donnell: But only for new construction.

Lehman: To replace the rates come out of our present budget for which we do not raise the rates.

Atkins: But it is an increase.

Lehman: But not an increase in rates.

Atkins: No.

Lehman: Thank you.

Kanner: Wait, when we put in new meters to the old houses...

Atkins: New meters to old houses.

Kanner: Isn’t that coming from the water rates or is that coming from the general fund?

Atkins: No, that comes from water.

Lehman: But, we don't have to raise the rates to do that.

Kanner: Well, eventually you would.

Atkins: Eventually.

Lehman: No, you just don't decrease them. We maintain them. We've already raised the rates significantly.

Champion: Plenty.

ITEM NO. 11 CONSIDER A RESOLUTION AWARDING CONTRACT AND AUTHORIZING THE MAYOR TO SIGN AND THE CITY CLERK TO ATTEST A CONTRACT FOR CONSTRUCTION OF THE CITY OF IOWA CITY ROBERT A. LEE RECREATION CENTER HVAC INSTALLATION AND BOILER REPLACEMENT PROJECT.

- Vanderhoef: Move adoption of the resolution.
- Lehman: I believe that we have been...Pardon.
- O'Donnell: We've been asked to reject this.
- Vanderhoef: We've been asked to vote it down.
- Lehman: I think we've been asked to reject this.
- Atkins: Yes, we are asking you to reject.
- Lehman: But, I think then, we will vote on this in the negative? Is that correct?
- Karr: This is a resolution. You have a resolution rejecting the bids. So it's in the negative so you are going to be voting in the... It's a resolution rejecting bids.
- Vanderhoef: Did we get an alternative resolution?
- Karr: You got a new item and comment and alternative resolution last night rejecting the bids so you'll want...
- Vanderhoef: I missed that.
- Lehman: I didn't read the correct...
- Champion: Well it was among the...
- Vanderhoef: I didn't see that.
- Champion: What was your motion?
- Lehman: All right, just...
- Champion: Could we have a repeat of the motion, please?

- Lehman: The motion is rejecting the bids received on August 20, 2001 for the City of Iowa City Robert A. Lee Recreation HVAC installation of boiler replacement project. We need a resolution to reject...
- Pfab: Move the resolution to reject.
- Champion: You already had a motion before.
- Vanderhoef: It wasn't seconded.
- O'Donnell: It wasn't seconded.
- Lehman: Okay, we have a motion by Pfab...
- Champion: Second
- Lehman: Seconded by Champion to reject the bids.
- Kanner: Question.
- Lehman: Yes?
- Kanner: Are we planning to speak rebids with some new reconfigurations?
- Atkins: Yes, that's what we plan to do.
- Kanner: What are we planning to do different?
- Atkins: First of all, we are going to find out why the demolition component of the bid was as expensive as it was. We had a pre-bid conference and folks came and there is some expression of concern we haven't figured that out. Secondly...
- Lehman: (can't hear)
- Atkins: I'm not real sure,Ernie. That's what we need to find out. Secondly, we need some work in this building. We are thinking about taking the rec center and this building, combine them, make it a little bigger bid and probably get a better price on it.
- Pfab: In the pre-bid was there anything brought up at that time.
- Atkins: I wasn't there, Irvin, I don't know what was talked about.
- Pfab: So you don't know yes or no.

Atkins: No, we do not know but we will find out before the next bid.

Lehman: Okay, roll call. Motion carries that it has been rejected. (all yes's)

ITEM NO. 14 CONSIDER A RESOLUTION AMENDING THE BUDGETED POSITIONS IN THE HOUSING AUTHORITY DIVISION OF THE HOUSING AND INSPECTION SERVICES DEPARTMENT BY DELETING ONE HALF-TIME MAINTENANCE WORKER II PUBLIC HOUSING POSITION AND ADDING ONE HALF-TIME HOUSING ASSISTANT POSITION AND AMENDING THE AFSCME PAY PLAN BY DELETING THE POSITION OF MAINTENANCE WORKER II PUBLIC HOUSING.

Lehman: Moved by Champion, seconded by Vanderhoef. Discussion.

Kanner: I have some questions. We got a memorandum here number 14. It came in our packet today. I question this reduced labor cost approximately 20,000 going to an outside private contractor for a half-time person.

Atkins: We had a...

Kanner: We saved \$20,000?

Atkins: We have a half-time person which is approximately \$20,000 a year we were using. When we do the work that they have done and all the other activities we can assign to these folks, with respect to maintenance, we've estimated that our cost savings is about \$20,000 a year. And then, remember the important thing, we save on the maintenance costs. We want to apply that money to client costs. So, I mean, that's the trade off on the thing.

Pfab: Is this the first year of that contract?

Atkins: No, we've had some small maintenance contracts, Irvin, lawn mowing and things such as this, but what we do is that if we can, and I honestly don't recall the name of the company... When we ask them to do some work for us, they send two or three people, get the project done in a reasonably short period of time, move off and we have just found our turn around time is better. Our client activity has picked up. Seemed to me that Maggie's recommendation was to spend our money on client as opposed to maintenance.

Pfab: I looked at that and I was, kind of, trying to sort that out too. But anyway, if that's the facts, that's...I'll accept it.

Vanderhoef: And thanks for the additional information.

- Atkins: Okay.
- Vanderhoef: I appreciate that.
- Atkins: Just, while we're thinking about it, the relocation over to this location has had a dramatic effect on the service we can provide the Housing Authority. We get much more walk in traffic, we can spend more time with people. Everything about our client services improved dramatically.
- Pfab: I think that was one of the neatest moves I've seen.
- Atkins: It was one of our better moves, I agree.
- Pfab: It just changed the whole atmosphere of the whole thing.
- Atkins: Yep.
- Kanner: I, yeah, I do not argue with that aspect of adding a half-time person here. I do argue a bit with these figures. I would like to look at them closer. I have a hard time believing that we're saving \$20,000 with this contract. And, I think, we find that when you have City workers as opposed to privatized workers they tend to do a better job in many ways and you have that accountability. And, so, I'm going to vote no on this, at this time. I probably, if we voted... had some time to look into this, I would perhaps change my mind but at this time, I'm going to say no.
- Lehman: Steve, I just have to disagree with you...
- Vanderhoef: So do I.
- Lehman: I do not believe that you can accurately state, nor can anyone else, as good as our City employees are, I can not say that we can actually, honestly say that they are better than the private sector or that the private sector are better than the public sector. I think that's an inaccurate statement.
- Pfab: The only thing that I would be concerned of is what kind of pay and benefits are the people that work for this...Do we have any...Since they are contracted by the City do we have any authority over...
- Atkins: No.
- Lehman: No.

Champion: No.

Pfab: That is probably...

Atkins: And I understand that point, Irvin.

Pfab: which I think is unfortunate for the people that do the labor but...and I think that this is something we may want to look at a little farther down the road but... I think I know who's making payment, where the savings is coming from. It's probably the workers are getting a very low pay to do it but that's...

Lehman: Roll call. Motion carries, 6 / 1, Kanner voting in the negative.

ITEM NO. 15 CONSIDER A MOTION APPROVING AN AGREEMENT BETWEEN THE CITY OF IOWA CITY AND PUBLIC ACCESS TELEVISION, INC. FOR PARTIAL FUNDING OF A PROGRAM FACILITY AT 730 S. DUBUQUE STREET.

Lehman: Moved by Vanderhoef, seconded by Champion. Discussion.

Dale Helling: Mr. Mayor, you should have before you a couple of pages that have been revised. One was that, in the attachment A was simply a typographical... There was a reference that was taken from some boiler plate language that we had to take out. But, the substantive change is in the agreement itself and it's number 6. You should have that page. Essentially, what's changed is that the money that the City puts in is going to be put in up front for the purchase, of the building, instead of that money being doled out under the authority and agreement of PATV and the City. Now the bank is going to dole that out. What it has is the same effect for us and it affords PATV the opportunity to not pay interest on that money for improvements to the building until it's actually dispersed by the bank.

Lehman: Good idea.

Helling: So, the net effect to us is the same. We have some way of assisting them in making those decisions and assuring that the improvements that are made and that are paid for are consistent with their plan and they can save a little money in the process.

Pfab: And that's agreeable to them?

Helling: That's agreeable to them.

Pfab: Okay, fine.

Vanderhoef: Okay, do we have a copy of their budget plan that recognizes that there is ongoing upkeep for this building? The only risk that I see for the City in this whole thing is what you and I talked about earlier, in that, if the building is not maintained well, the appraisal value goes down and we, sitting in the second position, would potentially have a less protected position.

Helling: There is nothing in the agreement that goes to evaluating the maintenance. The only thing we have in the agreement is that they will over a period of two years, acquire or somehow accrue a reserve fund in the amount of ten percent of their operating budget for

unforeseen or certain types of maintenance expenses that might come up, major expenses, because they do have a tenant and they're going to have to make those improvements. So, they've agreed to have... maintain that reserve. To create it and maintain it, but nothing in the general maintenance of the building.

Dilkes: There is a provision in the mortgage, which is a fairly standard provision in a mortgage, which provides that the PATV will maintain the property and will not allow it to waste.

Vanderhoef: Okay, that's the piece...

Dilkes: You know, so that it... the waste is the term for not keeping it up so that it deteriorates.

Vanderhoef: Declines in value.

Dilkes: Yup.

Vanderhoef: Okay, thank you. I'll support this then.

Champion: When is all this going to be ready?

Helling: Closing is tomorrow.

Champion: When do you move in?

Rene Paine: I believe, October first.

Champion: Wow.

Pfab: What is your name?

Rene Paine: My name is Rene Paine and I'm the director at Public Access Television.

Champion: You must be excited.

Rene Paine: Yes, and I just want to thank the Council for your support in this endeavor and also the people of Iowa City and especially the cable subscribers.

Vanderhoef: You're most welcome.

Lehman: Very good.

- Kanner: I had a couple questions, one for Dale. In point number five in the agreement, which starts on our page 201 in our council packets, how come we don't limit the amount of money...If any of these points a,b,or c should happen we say that we can recover any real estate and equipment. Why don't we limit that to our \$125,000 investment or \$125,000 plus interest.
- Helling: Well, I think this reflects, and probably reinforces a little bit what's already in our agreement with PATV. Our interest is that if they would do any one of these three things they would effectively be out of the business of providing public access and community programming and the assets should go to somebody else who is going to provide that service for the community. So the agreement essentially is if they stop doing it that those resources can be rededicated to some other entity to do the same thing.
- Kanner: Okay, that does make sense. And then, for the council, I think it's a good idea to have this agreement with PATV in the way it's spelled out in our ability to recover funds. I wonder though, why don't we do something like this with the Englert or other community organizations that we give out money to.
- Champion: This wasn't really our money, was it?
- O'Donnell: This is pass through money.
- Lehman: Yeah.
- Champion: This was pass through money.
- Lehman: The Englert was general fund money.
- Kanner: Right, well it's even... essentially it's our money, part of our money to give out. So the question is even more so, the Englert. We should have more of a say so in the Englert. My question is, why do we let them fly with \$300,000 with really no restrictions or ability to recover that money if they should go under. Why don't we have a lien on the Englert for our 350,000 plus money?
- Champion: I guess you'd have to say we gave them a grant.
- Lehman: Well, wait a minute, though. Steve, do we not...we do have a position on that Englert theater.

- Atkins: I'd have to pull that agreement, Ernie. I'm not sure what it says.
- Lehman: I mean, if they default, we own the building.
- O'Donnell: It's a contract sale, isn't it?
- Atkins: Now that's true.
- Lehman: We own the building. We have...we own that building.
- Kanner: But once they pay it off...
- Atkins: Once they pay it off...
- Kanner: Once they pay it off they have no obligation to us whatsoever. Where...
- Lehman: Correct
- Kanner: PATV always has an obligation. I'm saying that we ought to look at when we do these type of things in the future, for any community organization, we ought to look at having more of a stake in it. Similar to what we have with PATV. We ought to look at it with the same critical eye as far as making sure that it survives in a community function.
- Vanderhoef: As I understand this, the 125, 000, being the second position, we still will be paid and that money will still be used for public television. But, if they want to own the building free and clear they will pay off the 125 after they've paid off the rest of the building.
- Lehman: I don't think that. The point is, if they ever seize operations we... the property reverts back to the community whether it's paid for or not.
- Vanderhoef: But, I'm trying to address Steven's concern there that we're okay either way.
- Kanner: No, no, I'm saying we're okay here with the PATV. I'm saying we should do the same type of care with something like the Englert. We gave far more to the Englert and we had far less control over that in the money that we give out. We're going to, we're going to either get the building or possibly pay back of the money. We have that control over PATV. So, my point to the council, is that we gave over 350,000 to the Englert with virtually no control after the whatever, the five year payback scheme is.

- Pfab: I think the point he's saying is, and this is... it looks like it's prejudicial to PATV verses the way we did it to others. And, we are basically saying we want to micro manage this but we didn't had any interest in micro managing the Englert.
- Lehman: You know, obviously we can discuss this when other projects come up but I do think that PATV is a public access television where we have a certain obligation to the public. We have no obligation whatsoever regarding the Englert. We choose to do that. We did it. But we have an obligation to see to it that public access television survives and I think this is why we have it in there. Anyway, the next time one comes up, we can discuss that. Roll call.
- Karr: It's a motion.
- Lehman: Motion. All in favor. Motion carries. (all ayes)
- Rene Paine: Thank you very much.
- Lehman: You bet.
- Vanderhoef: Happy moving day.
- Rene Paine: Thanks.

ITEM NO. 16. CONSIDER A RESOLUTION DECLARING THAT CERTAIN FUNDRAISING ACTIVITIES BY CITY OF IOWA CITY EMPLOYEES SERVE A PUBLIC PURPOSE.

Vanderhoef: Move adoption.

Wilburn: Second.

Lehman: Moved by Vanderhoef, seconded by Ross.

Kanner: What again is the current policy? What are we changing?

Helling: We don't have a written policy at this point. This in the City Attorney's opinion was we really do need to have a written policy more clearly declaring that public purpose and that's why we prepared the resolution to have that stated policy.

Kanner: Thank you.

Lehman: I mentioned this last night and if there's nobody else concerned about it, fine, but I would really love to see 1.A. say all add the word net proceeds instead of all proceeds. I just think it makes it cleaner and will save possible embarrassment at some time down the road. Does the Council have

Atkins: We're okay with that.

O'Donnell: Ernie, if this will ease your mind I will go along.

Vanderhoef: I will make that

Lehman: That was part of your motion? Was that part of your second, Ross?

Wilburn: Sure.

Lehman: But the motion was made including all net proceeds. Is there any discussion before we have a roll call which we're going to have right now? Thank you.

O'Donnell: Absolutely nothing.

Champion: The only thing I want to be careful about putting that in, because I don't want the public to assume that we're part of that expense is the fireman's time while they're collecting the money.

Lehman: I think that's covered.

Champion: But, you know, I just think that, I kind of like it the way it was.

Lehman: Well, it says no participating City employees or employee organizations receive no personal or organizational gain or benefit as a result of their fund raising activities. So that covers what you're concerned about.

Champion: Okay.

O'Donnell: Good, let's vote on it.

Lehman: Roll call. Motion carries.

ITEM NO. 17. PUBLIC DISCUSSION [IF NECESSARY] (ITEMS NOT ON THE AGENDA).

Lehman: Jerry, would you let this other gentleman speak first? He hasn't had an opportunity yet.

Jerry Feick: Yes, sure.

Aaron Winter: I've already got the tag down here, my name's Aaron Winter. I'd like to talk about the Home Rule Charter Amendments. I support these amendments. And I'll maybe talk a little bit about the Edward Burn grant because that's a large part of it and that's something I've been worried about for a long time. I've talked to police officers in Davenport and in Cedar Rapids and they have concerns and they actually are against the Edward Burn grant because it forms negative relationships between police and civilians, forms of mistrust. One I could actually quote as saying, he said I think it sucks, is what he said about the Edward Burn grant. There was other sentiments that were that way, and I would urge you guys to take an impromptu vote of the police in this town and just ask them if they think that that's a good idea. They're the ones that are going to do the garbage searches; they're the ones that are going to do the knock and talks. Now, if you go walking around town one night and maybe there's somebody who doesn't like you in their community, maybe they want to throw an illicit substance in your garbage can, unbeknownst to you they find this when they search your garbage, does that make you guilty? We need to have a surveillance stipulation where these garbages are surveillanced for 24 hours or completely watched before we go and we convict somebody for having something in their garbage. There's no way you can possibly prove that somebody threw drugs in their garbage or residual when they have been in their house sleeping all night and somebody came by and maybe threw something in there, that's one of my big concerns about that. Twenty percent of the voters, 23.3% actually approved the Home Rule Charter Amendments, and I think there were several other people who may have been afraid to sign them.

Champion: I just want to correct you, it's 20% of the number of voters.

Winter: I'm sorry, it's 20.3% of the people who voted in the last election.

Champion: Not the people, it's the number, it's just a number, it's 20% of the number of people who voted.

O'Donnell: We don't know all those people vote.

- Winter: The number of people who voted in the last election.
- Kanner: And they didn't approve it, Aaron. Some people will actually vote against the amendments, they just signed it to put it on the ballot.
- Winter: Right, the number was 784, which was necessary, which was 10% of the people who voted in the last election.
- Kanner: No, the people that signed the petition, you said that they approved the Charter amendments.
- Winter: No, I'm sorry, I didn't mean to say approved. They signed the petition. It was 10% which was 784 of the people who voted in the last election. 1600 people signed these amendments. To have them approved on the ballot.
- Karr: Excuse me, just to clarify. I'm sorry, Aaron. But there was three different petitions. Each of them totaled around 1600, but many of the same people signed it three times.
- Winter: Okay, can we agree that these three
- Karr: I don't, I mean I just want to clarify that
- Lehman: Let's just. We accept the fact that a lot of people signed the petitions.
- Winter: Can we agree that there's three sets and that 1600 people signed each set?
- Lehman: Lots of people signed three petitions. We agree.
- Winter: I think there was a lot of people who were afraid maybe to sign them for whatever obvious reasons. There's a lot of people who didn't get a chance to sign them. I'm not asking for anarchy here, I'm asking just for a democracy. We have a country where all I'm asking for is a chance for the people to have this appear on the ballot and have them a chance to vote or not. You know, we came from a time where blacks and women were forbidden to vote. If we take something like this and say we don't want it on the amendment then we're taking the right away to vote from everyone. You're saying not only blacks, not only women, everybody can't vote. Should we say that everybody can't vote? I just don't think that's what our country's about. It's going to cost \$30,000 thereabouts for a special election. If you just put it on the ballot this time we avoid all the legal battles and avoid all of the

negativity. Maybe we can simply get it on the board, if people approve it great, if they don't they don't. I just think it's a real basic and simple procedure, we vote, you know I may be a throwback, I may be a radical extremist. I believe in the Constitution as it was originally drafted, government for the people of the people and by the people and I think that's what this would be all about. You know, out of the two things that could possibly happen out of this, the will of the people might actually be carried out or a true democracy might be realized, and I believe these amendments to be legal. Iowa Code Section 364.2 authorizes that a city has the power to manage its affairs unless legislature has expressly limited that authority. It also provides that only when in exercise of local power is irreconcilable to state law is that local power illegal. Those are pretty clear to me. I urge you to please let these on the ballot, let's not make a battle out of this. Just let the people vote. Thank you.

Lehman: Thank you.

Jerry Feick: I signed for two, I'll let you guess which one I didn't. In regard to your Housing Inspection Division and what I had previously written you last Council meeting at 922 E. Washington, I guarantee you that the kitchen in this sleeping room house you would not have come over and eat in if I would have invited you for dinner. I expressed those concerns to the City Building Inspection Department. Cockroaches running like an army. And this isn't the only apartment complex or abode entity that Mr. Clark has that is that way. Just read the editorial in the Daily Iowan. They told me they would do nothing about the bugs, they would do nothing about the filth. The filth and dirt do deep that you could take your wet finger and write your name on the wall. They tried to go to the ... well, they did go to the assess and blame stage where they'd contact the county health department. That's not what your City Code says. I asked, is there, surely since you have so many rental properties in this property you surely have a complaint form? They didn't want to give it to me. I had to threaten to sue them, which you all know I am capable of doing, to get the complaint form. Now, this is wrong. Come on. And these rental properties, they can go on the slide for two years under your ordinance. I seriously contend here, you take a look at this slackness in the two year period. And it can be cost effective, it doesn't have to cost the City one cent to inspect the property and keep it up to Code. That's why you got the Code, charge them the fees, make it cost effective. The Health Department did nothing. Then I left this property on a particular date, was on an extended vacation if you know what I mean by that, I think Ernie might know. I just by, I don't know, mistake, whatever, left two window fans on. I want to discuss this with you, your fire department,

your police department. I thought it would be better to call the fire department and ask them to go to the property, obtain the key, go into portion that I lived, unplug the fans, the two fans. Now did I really want the fire department to go to the expense and trouble of doing that, no but in the choice of the remote possibility of the fans catching on fire over 30 days, I didn't want that either. No one would want that. I was told by the Battalion Chief that if the Fire Department went into the abode they would have to take the police department with them and do a search of the place for contraband. They were not given that permission; they did it anyway. So I think you need to take a look at this two year window of the slackness on City inspection. And I think you need to visit the records at the Fire Department and the Police Department on them doing what they were told not to do. It's called unreasonable search. Might even be trespass. Good night. Thank you for your time.

Lehman: Thank you, Jerry.

Dawn Mueller: Hi. I know it's late, I know that everybody wants to get out of here. I'll try to do this quickly. I have a request to make of City Council. I have it in letter format so I would like to ask that it be accepted into correspondence. I'd like to read it for the benefit of anybody who might be watching. This regards the proposed charter amendments. Thank you for your consideration.

Lehman: Thank you. Do we have a motion to accept correspondence?

Champion: So moved.

Vanderhoef: Second.

Lehman: Moved by Champion, seconded by Vanderhoef. All in favor?
Opposed. Motion carries.

ITEM NO. 18. COUNCIL APPOINTMENTS.**Park & Recreation Commission**

Lehman: Last night at our work session, Council decided to appoint Kevin Boyd to the Parks & Recreation Commission. Do I have a motion to that effect?

Vanderhoef: So moved.

O'Donnell: Second.

Lehman: All in favor? Opposed?

Pfab: Okay, I would like to just make one quick statement here. I think this is another case where we had two very, very qualified people to put on this and I appreciate that.

Kanner: Actually, I'd like to comment on it. Irvin, I slightly disagree. I think we had two qualified people but I think we had one that stood out as highly qualified, John Westefeld, and he's a professor in counseling, he's a youth sports coach, he's talking about being ... keeping on top of gender equity, he's pro-environment, have a balance between park and recreation. I think Kevin Boyd has some good qualities, but with all due respect to my friends at the Chamber of Commerce, I think being a Chamber of Commerce person is something that counted more in this choice than picking the one that's more qualified. I think we've done this in the past and I think the majority of Council again is deliberately avoiding someone who has great qualifications. We had the same thing come up in the past and I think it does us a disservice, quite frankly, and I'm a bit embarrassed by the process that the City Council majority used in who they decided to pick.

Lehman: You know, Steven, that's what you ... you consistently talk about majority and you talk about democracy and there so happens that we appoint people in a democratic fashion. The majority makes the appointment.

Kanner: I agree, that's very true.

Lehman: But that is the way democracy works.

Vanderhoef: And I find it very interesting that with all your statements about getting a broad range of ages and young folks to be participating in our government process, here is a very qualified young person and we are

appointing him, so I think you have different standards for different things.

Kanner: Well, actually, Dee, at the last meeting I

Vanderhoef: Let's vote.

Kanner: talked about an older person being on there and that was rejected. So I think it is important to get all ages involved in here and I think there's times where that weighs heavier. I think that the qualifications though of John Westefeld are overwhelming

Lehman: They are for you.

Kanner: and again, I don't think that was brought up at the meeting yesterday about the youth. In fact, there was no statement made. It was almost as if it was a done deal, that is if the Chamber of Commerce said this is the person we want here.

Champion: You are insulting, do you know that? You are totally insulting. You would just like to be a dictator. You don't want a democracy or to be a member of the City Council. You want to be the City Council. I find that very offensive.

Kanner: Connie, I think when you walked out of the room in the middle

Champion: I called the question

Lehman: We don't have any time.

O'Donnell: Second.

Kanner: That to me is the essence of dictatorship here Connie.

Lehman: We picked a very, very good candidate.

Dilkes: There's a second to the...

Kanner: When you make your insult and then you call the question, walk out of the room, that to me is the essence of anti-democracy.

Lehman: You are out of order, Steven.

Kanner: I think it's out of order for that question

Lehman: This whole conversation is out of order.

TAPE CHANGE

(Everybody talking)

Dilkes: We voted on the call of question motion and we have not voted...

Lehman: We didn't have... We voted.

O'Donnell: I've had it.

Lehman: I'm sorry but I asked for a vote on that and got one. If you want...

Kanner: I didn't vote. I called for a show of hands.

Karr: On...?

Lehman: On Boyd?

Dilkes: We're confused. We need to...

Lehman: Council appointment.

Karr: I've got it. I've got it moved and seconded to appoint Kevin Boyd.

Lehman: All in favor?

Lehman: The vote is 5 / 1, Kanner in the negative.

ITEM NO. 19. CITY COUNCIL INFORMATION

- Kanner: I have a couple things. Um, we were told that we were going to get wet lands information and discuss that and it wasn't on our work session. I thought we would be discussing it at this.
- Atkins: The agenda just became too full. I'll get it to you. The agenda was just too full that evening.
- Vanderhoef: It's 11:25, I believe...
- Atkins: No, I'm not talking about this. I ran it by Ernie, the agenda was just too full.
- Pfab: I have just one comment. I think last night there was, when we were talking about the tobacco issue, that we were going to set a time for a public hearing. There was Connie's suggestion that following her, uh, type of hearing which I agree with. And I think we ought to do that now... whether or not, uh... If we're going to ask Coralville to take part in this, fine. But I think we ought to set a date that we can either work from or offer an alternative.
- Lehman: We today faxed a letter to the Coralville Council inviting them to meet with us briefly after the joint meeting on the 5th. At that point we are going to determine whether or not there is any interest on the part of the Coralville Council in discussing that with us. If there is we will set a date that we can both get together on. If there is not, we will set our own date.
- Pfab: Is there any reason we can't set a date now?
- Vanderhoef: Yes!
- Lehman: Yeah, I think there is a really good reason because we don't know if Coralville can meet with us. We're going to meet with them and talk with them on the fifth of September. It will be a wonderful time.
- Karr: We don't even know that for sure.
- Lehman: Pardon?
- Karr: We don't know that for sure.
- Lehman: Well, we've invited them to do that.

- O'Donnell: Yeah, but we don't know we're going to meet.
- Lehman: Right, but that would be a wonderful time to try and set a date. Any other thing for Council? Time.
- O'Donnell: Yeah, I would like to apologize to the Chamber and Kevin Boyd. Boyd is absolutely fantastic. Fantastically qualified person for this Parks and Rec. job position. I am very happy we appointed him and I really, really disagree with what was said about the Chamber and Kevin, Steven. That's all I have.
- Lehman: Okay, any other Council Time?
- Vanderhoef: I can wait.
- Kanner: Yes, um, we got a memo from Marian about, um, second and third floors of restaurants and bars. My question though, Steve, was what are... we were going to find out what are the occupancy levels on the upper floors and still haven't found that out. I would appreciate information on that. And...
- Atkins: Occupancy levels? I didn't understand it that way. Sure.
- Kanner: Yeah, cause to see if we need to enforce it better or if we perhaps need to change it.
- Atkins: That I can do.
- Kanner: Was the question that I thought we were going to get at. And there was also a notice about the crosswalk at Broadway, I think, that we have to set for a future work session...
- Atkins: Yes.
- Kanner: ...in here. Um, did people see that?
- Lehman: Yeah we did. I did.
- Kanner: I think we need a work session. Do you agree with that? To talk about that?
- Lehman: Well, I think that's in the process. Staff is working through this at the present time is it not?
- Vanderhoef: Uh huh.

- Kanner: Well, right now they recommended that the crosswalk is not warranted for the amount of volume that would go there. Um...
- Atkins: And the neighborhood group at...
- Pfab: There what?
- Atkins: The neighborhood group that continued to request it so I suggested that we incorporate it into the paving project trail, whatever it was.
- Vanderhoef: The Highway 6 project.
- Lehman: And that's where it is.
- Atkins: That's where it is right now.
- Pfab: I mean, there's no effort to drop that is there?
- Atkins: No, I had not intended to drop it.
- Pfab: We're on schedule to proceed to develop that crosswalk?
- Atkins: Yes, unless you tell me otherwise.
- Pfab: Because if it isn't, I want to know about it.
- Lehman: That's kind of the way I read it.
- Kanner: Okay. Thank you.
- Lehman: Other Council Time? Is there a motion to adjourn?
- Vanderhoef: So moved.
- O'Donnell: So moved.
- Lehman: Second? All in favor?
- (all ayes – 11:30pm)
- Lehman: Meeting is adjourned. Thank you.