

Investigative Report

STATE OF IOWA CITIZENS' AIDE/OMBUDSMAN



INVESTIGATION OF WINFIELD'S AGENDA FOR THE SEPTEMBER 11, 2006 CITY COUNCIL MEETING

TO: Winfield City Council
and
Larry Jennings, Mayor
and
Jan Walters, Winfield City Clerk

FROM: William P. Angrick II
Citizens' Aide/Ombudsman

RE: Case File 0700172

Issued: July 13, 2007

Released: October 10, 2007

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Role of the Ombudsman

The Office of Citizens' Aide/Ombudsman (Ombudsman) is an independent and impartial investigative agency located in the legislative branch of Iowa state government. Its powers and duties are defined in Iowa Code chapter 2C.

The Ombudsman investigates complaints against Iowa state and local government agencies. The Ombudsman can investigate to determine whether agency action is unlawful, contrary to policy, unreasonable, unfair, oppressive or otherwise objectionable. The Ombudsman may also decide to publish the report of the findings and conclusions, as well as any recommendations for improving agency law, policy, or practice. If the report is critical of the agency, the agency is given the opportunity to reply to the report, and the reply is attached to the published report.

Allegations

Former Deputy City Clerk Judy Anderson for the City of Winfield (City) contacted the Ombudsman on January 16, 2007. She alleged the Winfield City Council (Council) discussed and voted to terminate the "deputy city clerk" position in open session at the September 11, 2006 meeting. Ms. Anderson claimed this issue was not placed on the meeting's agenda that was posted on the City's website. Ms. Anderson did not attend the meeting, and claimed she had no prior knowledge, either from the agenda or elsewhere, her position would be discussed. She found out about the City's action from an acquaintance who attended the meeting.

Investigation

The investigation was assigned to Assistant Ombudsman Andy Teas. For purpose of this report, all investigative actions are ascribed to the Ombudsman. The Ombudsman spoke with Winfield's city clerk, mayor, city attorney, and two council members, and reviewed the agendas and minutes published for the September 11, 2006 meeting. He also researched relevant Iowa statutes and case law relating to publishing city council agendas.

Background Facts

Pursuant to her duties as Winfield's deputy city clerk, Judy Anderson posted an agenda on the City's website approximately one week before the September 11, 2006 meeting. (Appendix A.) Posting an agenda on its website up to two weeks before a meeting was a common practice for Winfield. If the agenda needed to be changed, the city clerk, Jan Walter, would notify Ms. Anderson of the change, and Ms. Anderson would make the correction on the website.

Agendas were also posted at city hall and sent to three media outlets on the Fridays before the Monday meetings. To Ms. Anderson's knowledge, based on the agenda she posted on the website, the September 11 meeting would discuss the following 11 topics:

1. Departmental Reports
 - Police
 - Clerk
 - Library
 - Public Works
2. Mayor's comments
3. Public Forum—Nuisance Abatement-David Nichols
4. Resolution 07-07-National Incident Management System Compliance-NIMS
5. Resolution 08-07-Tax Abatement-Debra Broughten, 202 E. Pearl Street.
6. Change Order #4-Provide 4" overflow piping system at Detention & Clear Well Tanks-\$3,142.35.
7. Winfield Planning & Zoning Committee-Appointment of Art Hamm.
8. Henry County Jail Task Force
9. Bills & Minutes
10. Old Business
11. Adjournment

Ms. Anderson learned after the September 11 meeting, which she did not attend, the Council discussed her and four other city employees' salaries. The Council determined the cost of the deputy city clerk position was excessive for the City, and voted to eliminate the position. (Appendix B.) Ms. Anderson found out about the decision from an acquaintance who attended the meeting, and the next day she confirmed her position was going to be eliminated when she spoke to Mayor Larry Jennings. She was given no official notice of the Council's decision before she contacted the Mayor.

As a result of this action, Ms. Anderson contacted the Ombudsman and alleged a possible violation of the Iowa Open Meetings law. She told the Ombudsman the agenda was still posted on the City's website, and it mentioned nothing about eliminating her position. The Ombudsman responded to the complaint by reviewing the agenda on the website and the minutes from that meeting, and made an inquiry to Mayor Jennings on January 22, 2007. The Ombudsman relayed his concerns stemming from Ms. Anderson's allegations that the elimination of the deputy clerk's position was not listed on the agenda. Mayor Jennings said he needed to look into the issue before he could respond.

Mayor Jennings directed the Ombudsman to Winfield's city attorney, Jay Helton, from whom the Ombudsman learned another agenda existed for the September 11 meeting. The new agenda allegedly did provide notice the deputy clerk position would be discussed. (Appendix C.) The new agenda was a 13-point agenda similar to the previous agenda, but with the additional relevant section that read:

"11. Job Descriptions/Employee Handbook"

According to Mr. Helton and Winfield city clerk, Jan Walter, this was a revised agenda for the September 11 meeting that was posted at city hall and sent to the newspapers on the Friday before the Monday meeting. When asked why the agenda was not posted on the website, Ms. Walter stated the website would normally be updated by Ms. Anderson, and it was an oversight on Ms. Walter's part that she did not give the revised agenda to Ms. Anderson to post on the website. The revised agenda was posted at city hall, placed on city employees' desks or placed in their mail boxes, and sent to the local media outlets in the area. Ms. Walter stated she also placed a copy on Ms. Anderson's desk, a fact Ms. Anderson disputes. The Ombudsman reviewed a newspaper clipping and an email sent to the media and determined the City did at least partially post the revised agenda as it claimed. (Appendix D.)

On February 14, the Ombudsman questioned Ms. Walter and Mayor Jennings about the language of the agenda. According to Ms. Walter, it was standard practice that she draft the Council's agendas at the direction of Mayor Jennings. Mayor Jennings would review a proposed agenda and make any necessary changes. When asked whether termination or a job status was discussed during the drafting of the September 11 agenda, Ms. Walter stated there was no mention of it. It was her impression the language "Job Description/Employee Handbook" meant the Council would be reviewing the language in the handbook and the job descriptions of the city employees. Ms. Walter referred questions regarding the language on the agenda to Mayor Jennings.

Mayor Jennings stated he believed the language was broad enough to cover anything relating to city employees' jobs, including elimination. It was an issue discussed one-on-one with council members for the previous couple of months, and it could be a topic at this meeting. Mayor Jennings said he did not know what specifically would be brought up during the meeting, but he expected some discussion on the deputy clerk position, whether it was cutting hours or eliminating the position altogether.

Councilmember Jeff Suter, who raised the issue during the meeting, stated he intended to discuss eliminating the deputy city clerk position, but could not recall if he specifically told Mayor Jennings he would do so during the September 11 meeting. Councilmember Russell Allbaugh told the Ombudsman he was not aware the Council planned to eliminate the position before the issue was raised during the meeting, though he raised no objection to the issue when it was brought up for discussion, and voted in favor of eliminating the position.

Based on the conversation with Mayor Jennings, Councilmember Suter, and Councilmember Allbaugh, the Ombudsman determined the subject of the deputy clerk position would be raised at the September 11 meeting, though what specifically would be proposed was not known to all city officials.

Analysis and Conclusions

The Ombudsman identified three concerns to be addressed in this complaint: (1) the need to replace all old agendas when a revised agenda is posted, (2) the need to provide an

accurate agenda that will adequately apprise the public of issues the Council intends to discuss and take action on, and (3) the responsibility of the Council to ensure it does not take action on items not mentioned on an agenda.

1. Posting of revised agendas.

City officials revised and posted its agenda for the September 11, 2006 meeting in a timely manner under Iowa law. However, they failed to replace the agenda posted on its website. Ms. Walter admitted the absence of the website's revised agenda as an oversight on her part. Despite this admission, it is still important to review the City's responsibility to ensure it provides the necessary information about its meetings.

Iowa law gives guidance not only as to the contents of a government meeting's agenda, but also the placement of the notices. Iowa Code §21.4(1) states notice is to be provided to news media who have requested it, posted on a bulletin board "or other prominent place which is easily accessible to the public and clearly designated for that purpose" at the government body's principal building.

It is reasonable to believe in this day and age the public relies heavily on electronic communication for information. In fact, in its January 2003 Sunshine Advisory, the Iowa Attorney General applauded the use of the internet to post agendas as an outreach tool to communicate with the public. Iowa Attorney General, http://www.state.ia.us/government/ag/sunshine_advisories/2003/january.html (last visited July 12, 2007).

The City created and maintained an easy-to-use website with information about city services, a list of city employees, and an events calendar. The website also had a specific designated section for city council meeting agendas. It is probable some members of the public relied on this website to review agendas on upcoming meetings. As such, any citizen who would have relied on that agenda for September 11, 2006, would not be fully apprised of the items to be discussed at that meeting. Considering the impact of the issues discussed at that meeting, and the potential impact of any issue the Council reviews at future meetings, it is important the public has knowledge of the Council's proposed action to determine if it wishes to voice its support or objection at a meeting.

Conclusion. The City of Winfield failed to post an updated agenda of the Council's September 11, 2006 meeting on the city-operated website. Though Iowa law does not speak to posting agendas on websites, the Ombudsman believes the failure to replace an outdated and misleading agenda on a city-run website violates the spirit of Iowa's Open Meetings law. If the City chooses to provide this service, or post agendas beyond the requirements of Iowa law, it should ensure those agendas contain accurate and up-to-date information.

2. ***Agenda language to apprise the public of actions to be taken and issues to be discussed.***

The second issue is whether the revised agenda reasonably apprised the public of the topics that were to be discussed at the meeting. Iowa Code § 21.2 defines a “governmental body” to include “[a] board, council, commission, or other governing body of a political subdivision or tax-supported district in this state.” Section 21.4(1), in part, reads:

A governmental body, except township trustees, shall give notice of the time, date, and place of each meeting, and its tentative agenda, ***in a manner reasonably calculated to apprise the public of that information.*** [emphasis added]

The statute gives little guidance on the meaning of “reasonably calculated to apprise the public.” However, the Ombudsman found the Iowa Attorney General’s office has shed some light on this issue. The Iowa Attorney General’s March 2002 Sunshine Advisory gives guidance on agenda language, stating:

Agendas must provide notice sufficient to inform the public of the specific actions to be taken and matters to be discussed at the meeting. (An agenda that merely states "Approve minutes, old business, new business" does not provide reasonable notice to the public.)

Iowa Attorney General, http://www.state.ia.us/government/ag/sunshine_advisories/2002/march.html (last visited July 12, 2007.)

The Advisory also states the detail needed to communicate will depend on the situation. “The less the public knows about an issue, the more detail is needed in the tentative agenda.” *Id.*

The Iowa Supreme Court has characterized the language in § 21.4 in terms of “whether the notice sufficiently apprised the public and gave full opportunity for public knowledge and participation.” *KCOB/KLVN, Inc. v. Jasper County Bd. of Supervisors*, 473 N.W.2d 171, 173 (Iowa 1991). The Court stated it may consider the history and background knowledge when determining if the public is apprised of an issue. *Id.* In a later case, the Court reviewed its analysis in *KCOB/KLVN* and stated an agenda item cannot be omitted because the public or press are already familiar with the subject. *Barret v. Lode*, 603 N.W.2d 766, 770 (Iowa 1999) (finding a school board violated the open meetings act when it omitted a topic intended to be discussed from its agenda.) The Court clarified its standard by stating the adequacy of the notice must be determined based on the words of an agenda and what they mean “to a typical citizen or member of the press who reads it.” *Id.* at 770.

Mayor Jennings contended the agenda was sufficient to inform the public of the issues the Council would discuss at the meeting, and that the reference to “Job Descriptions” included the potential elimination of the deputy clerk position. Councilmember Allbaugh shared a similar view, stating he felt reasonably notified the position could be eliminated. However, when asked whether he was told in advance by Mayor Jennings or Councilmember Suter that cutting the position would be discussed, Councilmember Allbaugh admitted he was not and he was not aware before the meeting Councilmember Suter planned to propose cutting the position.

According to Ms. Anderson, the Council had never discussed cutting hours or eliminating any position at the City during previous meetings leading up to the September 11 meeting. Instead, she claimed, the City only discussed in previous meetings whether to approve employee raises, which were reviewed every year beginning the first week in July. Raises had not been approved for 2006 at the July meeting, and that was the only outstanding issue relating to employee wages. These statements were supported by City Clerk Walter, Councilmember Suter, and Councilmember Allbaugh, who each stated eliminating the deputy clerk’s position was not discussed at previous meetings.

Regardless of whether the issue was discussed previously, it is not readily apparent from the agenda’s language it would be raised at the September 11 meeting. Even the city clerk who helped draft the revised agenda, and Councilmember Allbaugh who voted to eliminate the position, did not know before the meeting that the Council would take steps to eliminate the deputy clerk position. This begs the question that if the city clerk and a councilmember were not aware the Council would be discussing eliminating city positions, how would the public be apprised of it?

Conclusion. Applying the standard established by the Iowa Supreme Court, it is the Ombudsman’s opinion the revision of the agenda -- “Job description/ Employee Handbook” -- did not sufficiently apprise the public that the Council would discuss the elimination of a city position at its September 11, 2006 meeting. Nor does the Ombudsman believe the agenda gave the public sufficient notice for the opportunity to become knowledgeable and participate in the discussion.

3. *City Council restricted to the issues listed on the agenda.*

The Ombudsman found no indication in the minutes the Mayor or Council raised concern or objection about discussing salaries and the eventual elimination of the deputy clerk’s position during the meeting, despite the agenda making no mention of the intended action. The city clerk, Councilmember Suter, and Councilmember Allbaugh each stated no one objected to the issue when it was brought to discussion during the meeting.

Councilmember Suter, who raised the salary and elimination issue during the meeting, told the Ombudsman eliminating the deputy clerk position was discussed with Mayor Jennings prior to the September 11 meeting, in an effort to let the Mayor know the Council’s thoughts about a position over which the Mayor had authority. However, he did not recall telling the Mayor he intended to take action on the issue during the

September 11 meeting, though he told the Ombudsman he thought at the time “Job Descriptions/ Employee Handbook” was the appropriate place to raise the issue.

The Iowa Supreme Court has held that items expected to be discussed at a meeting, but not placed on an agenda, cannot be raised during the meeting. *Barrett*, 603 N.W.2d at 771; *KCOB/KLVN*, 473 N.W.2d at 174 (“Even if the agency did not contemplate the discussion of an item, it cannot be raised at a meeting unless it is an emergency.”) The only exception provided in Iowa law for raising an issue not listed on an agenda is if the issue is an emergency item first raised at the meeting. There is no indication from the minutes or statements from city officials that eliminating the position was either an emergency item or one that first came to the Council’s attention at the September 11 meeting. On the contrary, Mayor Jennings and Councilmember Suter stated there were one-on-one discussions about eliminating the position in the months leading up to the meeting.

If the Council intended to discuss eliminating a city position prior to the meeting, but the issue was not listed on the agenda, the Council should have forgone taking action at the meeting. It is the responsibility of the Mayor, as the public official conducting and directing the meeting, to ensure the Council does not deviate from the posted agenda. It is also the responsibility of the individual council members when he or she recognizes a deviation from an agenda to make his or her objection known and have it recorded in the minutes. The September 11 minutes do not indicate any member raised an objection to the Council discussing this issue, and the city clerk and Councilmember Suter stated they did not recall any members raising an objection.

Conclusion. It is evident at least some council members had knowledge the deputy city clerk’s position would be discussed before the September 11 meeting. When the Council knows before a meeting it intends to take action on an issue, the Council must clearly inform the agenda’s drafter of its intended action so the drafter can place the item on the agenda. If the item is not listed on the agenda, it is the Council’s responsibility to forgo discussing and taking action on the issue until it can be placed on an agenda for a later meeting.

It is the responsibility of both the Mayor and the Council to follow the posted agenda. The purpose of an agenda is to inform the public of the issues to be discussed and action to be taken at a Council meeting. This purpose will be defeated if the Council fails to follow the agenda, and the Mayor allows the Council to stray from the agenda.

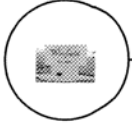
Summary and Recommendations

The Ombudsman concludes the City of Winfield violated Iowa’s Open Meetings law when it failed to provide an agenda that reasonably apprised the public of the issue discussed at the September 11, 2006 meeting, and when it took action on an issue not provided in the agenda. The City also, at the least, violated the spirit of the open meetings law when it failed to post its revised copy of the agenda on its website.

The Ombudsman makes the following recommendations:

1. The city clerk, mayor, and members of the city council should become knowledgeable of and comply with all provisions of Iowa's Open Meetings law.
2. If Winfield chooses to post agendas on its city-run website, it should ensure revised agendas replace outdated agendas for an upcoming meeting at the same time it replaces its agendas at city hall.
3. City officials must provide sufficient detail in the agendas for all future meetings to apprise the public of the topics to be discussed at the meeting so the public has the opportunity to become knowledgeable and participate in the discussion if it chooses. The drafter should consider what the words in the agenda would mean to the typical reader.
4. Members of the Council should notify an agenda's drafter of all issues intended to be discussed at an upcoming meeting.
5. If the Council intends to discuss an item, but it is not listed on the agenda, the Council must refrain from discussing or taking action on the issue during the meeting. If the Council did not intend to discuss an issue, the Council can only take action if the issue is an emergency item brought before the Council for the first time at the meeting.
6. The mayor and individual council members each are responsible for ensuring the agenda is followed and should object to an issue he or she believes has not been placed on an agenda in a manner that would reasonably apprise the public that the issue is to be discussed.
7. City officials should consult with the city attorney to discuss what steps may be necessary to remedy the actions taken at the September 11 meeting on items that were not listed in the agenda.

Appendix A



CITY OF WINFIELD

- Home
- Related Links
- City Employee List
City Council
- Services
- Agenda
- Calendar
- Winfield Fire & Rescue
- Business Directory

Agenda

Winfield City Council
Regular Session
September 11, 2006—7 PM
Council Chambers
115 N. Locust—Winfield, Iowa

1. Departmental Reports
 - Police
 - Clerk
 - Library
 - Public Works
2. Mayor's Comments
3. Public Forum—Nuisance Abatement-David Nichols
4. Resolution 07-07-National Incident Management System Compliance-NIMS
5. Resolution 08-07-Tax Abatement-Debra Broughten, 202 E. Pearl Street
6. Change Order #4-Provide 4" overflow piping system at Detention & Clear Well tanks-\$3,142.35
7. Winfield Planning & Zoning Committee-Appointment of Art Hamm
8. Henry County Jail Task Force
9. Bills & Minutes
10. Old Business
11. Adjournment

Appendix B

Winfield City Council
Regular Session
Monday, September 11, 2006
7 PM

Mayor L. Jennings presiding
Councilpersons present-D. Good, D. Reynolds, A. Zuspahn, R. Allbaugh, J. Suter
Others present-Richard Hand, Richard Beard, Tom Young, Dean Walter, Keith & Michele Thomas, Philip Beard, Richard Lauderdale, Robert Perrenoud, Robin & Jeff Dietrich, Cathy Lauderdale, Jay Helton-Attorney-Whitfield & Eddy

Departmental Reports

Police-School patrols throughout the day, stereo stolen from cars, caught, arrested thief, WARC misc. items stolen-broke a window, 3 citations issued for ordinance violations, dog run completed, drug case from 2 years ago sentenced, sexual abuse case-Louisa County assisted by Winfield Police.
Robert Perrenoud=someone will pick up junk cars-notice seen in Winfield Beacon, Billy Adams invited to meeting.

Clerk-Ford Property on next agenda-what do we plan to do with property.
Nebraska & 120th Street on five year plan for Henry County-call Bill Belzer, Henry County Engineer about plan.

Library-Preschool story hour and after school movies on Wednesday, asked about putting hours on agenda-Council does not set hours-library board does and the extra costs will have to come out of your library budget.

Public Works-Trimming trees, street grinder to get rid of bumps-concrete heave up. Meter repair at border station, seeded down grass, gas meters being changed, well problems not pumping enough water to keep up with the EDR system.

Mayor's Comments

Andy Zuspahn leaving the community-Thank you for your service as councilperson and to the fire dept. Been a pleasure and have learned a lot.
Roof needs to be replaced-quality roof. Put Brockway on next agenda.

Public Forum-Dean Walter-Deputy Sheriff and Tom Young-Henry Cty. Supervisors
Conversation for a new jail has been going on for the last few years.
October 10, 2006 vote for new jail facility.
Jail presently holds 8. Now average 14 residents per day-farmed out to Jefferson County at \$65 per day plus transportation of prisoner-\$65,000 annually to Lee & Jefferson County has been paid in the past. New jail will increase jail security, various opportunities they can escape as taken to court and etc. with the present facility.
New plan and layout handout presented.
Sentenced from Non-Sentenced must be segregated.

Present facility not up to code-not handicapped accessible-not safe for the jailers.
\$450,000 difference between building versus adding on.
Task force was unanimous in supporting the building of a new jail facility.
Proposal is a 24 bed facility with 8 bunks that could be added if needed.
Presently running on a variance of 8 from the state.
1.2 million saved over 20 years if we proceed with a new facility
Building on property owned by the County at the present time

Rezoning-requested by Richard Beard-Hobbs Lot on Olive Street-will remove house, trees and make a parking lot. Council concerned that it doesn't become a junk yard of parked vehicles-assured it would not.
Tire Storage-A case of West Nile Virus confirmed in the community. Tires now picked up every 60 days. Can the two businesses combine their tire pickup and thus increase the time between pickups? Tarp the tire piles-suggested by Reynolds and Phil Beard said he had no problem with that suggestion.

Billy Adams-Problem with going to court-want to grow my wildflowers. I'm not prepared for this, I'll just go to court and exited the council chambers.

Resolution-07-07 National Incident Management System Compliance
Zuspann, J. Suter-Ayes-Suter. Reynolds, Zuspann, Allbaugh, Good

Resolution 08-07-Tax Abatement-Debra Broughte, 202 E. Pearl Street
Zuspann, Good. Ayes-Good, Zuspann, Reynolds, Suter, Allbaugh

Resolution 09-07-Approve Road Use Tax Report for FYE-2006
Reynolds, Suter. Ayes-Suter, Reynolds, Zuspann, Allbaugh, Good

Change Order #4-Provide 4" overflow piping system at Detention & Clear Well tanks-\$3142.35-Not required by DNR at time of design-but now required
Zuspann, Good Ayes-Good, Allbaugh, Zuspann, Suter, Nays-Reynolds

ACCO can supply a new pump for \$600 to alleviate problem at plant because enough water for the EDR system is not available at times and system shuts down-must continue to buy chemicals from ACCO-Laudeidale

Appointment-Art Hamm-Winfield Planning and Zoning
Reynolds, Allbaugh. Ayes-Reynolds, Allbaugh, Good, Zuspann, Suter

Bills & Minutes
Allbaugh, Zuspann. Ayes-Reynolds, Allbaugh, Good, Zuspann, Suter

Closed Session-8:27 PM
215c-Iowa Code
Suter, Zuspann. Ayes-Zuspann, Suter, Good, Reynolds, Allbaugh

Out of Closed Session-8:48 PM

J. Suter, D. Reynolds. Ayes-Suter, Reynolds, Allbaugh, Good, Zuspahn

Job Descriptions

Each job description was reviewed by the council members with input & notes taken by City Clerk as described in attachment to these notes.

Suter-Reviewed the detailed salary costs of Lauderdale, Hand, Rodgers, Walter, Anderson from a schedule reviewed several council meetings ago. Lauderdale-\$23.77 per hour, Hand-\$23.48 per hour, Rodgers-\$21.44 per hour, Walter-\$22.56 per hour, Anderson-\$22.80 per hour. Feel the Deputy/Utility Clerk costs are excessive for a 30 hour a week position and the additional costs for someone to read the meters-\$250 monthly or \$3000 annually. Thus I recommend elimination of the position. Motion by Suter, 2nd Allbaugh to eliminate the position. Ayes-Suter, Allbaugh, Good, Reynolds, Nay-Zuspahn, Carried.

Employee Handbook

The handbook was reviewed by the council members with input & notes taken by City Clerk as described in attachment to these notes.

City Clerk to present new handbook after IAMU Workshop CD received-to have Whitfield & Eddy to review after completed and adjustments made.

Deputy Clerk Position eliminated with the last day of employment to be two weeks from Tuesday, the 12th of September-September 26, 2006
J. Suter, R. Allbaugh. Ayes-Good, Zuspahn, Reynolds, Suter, Allbaugh

Appendix C

Winfield City Council
Regular Session
Monday, September 11, 2006
7 PM
115 N. Locust
Winfield, Iowa 52659

1. Departmental Reports
 - Police
 - Clerk
 - Library
 - Public Works

2. Mayor's Comments

3. Public Forum

David Nichols-Nuisance Abatement
Greg Carr-Tire Storage
Phil's Auto Repair-Rezoning

4. Resolution 07-07-National Incident Management System Compliance

5. Resolution 08-07-Tax Abatement-Debra Broughten, 202 E. Pearl Street,
Winfield, Iowa

6. Resolution 09-07-Approve Road Use Tax Report for FYE-2006

7. Change Order #4-Provide 4" overflow piping system at Detention & Clear
Well tanks-\$3,142.35

8. Winfield Planning & Zoning Committee-Appointment of Art Hamm

9. Henry County Jail Task Force

10. Bills & Minutes

11. Job Descriptions/Employee Handbook

12. Old Business

13. Adjournment

Appendix D

WINFIELD

A family focused,
volunteer minded community,
strategically connected, secure and poised for growth.

February 7, 2007

Citizen Aid
Ombudsman Office
Ola Babcock Miller Bldg.
1112 E. Grand Ave.
Des Moines, Iowa 50319-0231

Dear Andy,

In response to two phone calls from your office, I am including documentation of the agenda that was e-mailed to the Winfield Beacon, Mt. Pleasant News, and KILJ News Station for the September 11, 2006 council meeting. I have also enclosed a newspaper clipping sent to me by the Mt. Pleasant News, Mt. Pleasant, Iowa. The agenda was posted in the window next to the main door entrance to City Hall on September 8, 2006. This is the location for all notices posted by the City of Winfield. The agenda packets were delivered to all council members at this time. A agenda packet was also placed on the desk of the Deputy Clerk-Judy Anderson and Police Chief-Richard Hand. The packet was placed in the mail box of Public Works Director-Richard Lauderdale and Public Works Assistant-Rick Rodgers at the same time. On Monday Deputy Clerk Judy Anderson informed me that she was not going to attend the Monday, September 11, 2006 council meeting.

If there are any further questions or I can be of further assistance please contact me at 319-257-6661.

Sincerely,



Jan Walter
City Clerk

Enclosure-Newspaper Notice
Copy of Agenda e-mailed

Main Identity

From: "Jan City of Winfield" <winfield@farmtel.net>
To: "Winfield Beacon" <newspapers2@iowatelecom.net>; "kilj news" <kilj@iowatelcom.net>; "mt pleasant news" <prod@mpnews.net>
Sent: Friday, September 08, 2006 4:07 PM
Subject: 09-11-06.doc

**Winfield City Council
Regular Session
Monday, September 11, 2006
7 PM
115 N. Locust
Winfield, Iowa 52659**

1. **Departmental Reports**
 - Police
 - Clerk
 - Library
 - Public Works
2. **Mayor's Comments**
3. **Public Forum**
 - David Nichols-Nuisance Abatement
 - Greg Carr-Tire Storage
 - Phil's Auto Repair-Rezoning
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7. **Change Order #4-Provide 4" overflow piping system at Detention & Clear Well tanks-\$3,142.35**
8. **Winfield Planning & Zoning Committee-Appointment of Art Hamm**
9. **Henry County Jail Task Force**
10. **Bills & Minutes**
11. **Job Descriptions/Employee Handbook**
12. **Old Business**
13. **Adjournment**

Upcoming Meetings

Sept. 11

6 p.m.: The Southeast Community College Board of Trustees will meet in room 408 of Titus Hall, at the Keokuk campus. Agenda items include the industrial jobs training program, personnel issues, a Keokuk campus update, endorsement of Iowa Works campaign white paper - "Meeting Workforce Challenge".

6:30 p.m.: The Danville Community School District Board Education will meet at junior high 1207B. Agenda items include consideration to set commencement for 2007, approving sixth grade go out for May 21, 22 and 23, and beginning the preliminary planning phases on MPR (kitchen remodel, daycare/pre-

school and south parking lot area.

7 p.m.: The Winfield City Council will meet at 115 N. Locust in Winfield. Agenda items include departmental reports, a resolution for national incident management system compliance, tax abatement, and the Henry County Jail Task Force.

6:30 p.m.: The Henry County Conservation Board will meet at the conservation board meeting room in Oakland Mills. Agenda items include a utility tractor update, Wal-Mart grant, new trailer purchase, waterline and electricity to cats, foundation report and the naturalist's report.

Sept. 12

7 a.m.: The Mt. Pleasant Community Development Committee will meet at city hall. Agenda items include reviewing sign

and an open forum.

Sept. 13

5:30 p.m.: The Mt. Pleasant City Council Airport Advisory Committee will meet in the meeting room at the airport administration building. Agenda items include the manager's report, and update on the entry road project, discussing the airport capital improvement program

7 a.m.: The Great River Regional Waste Authority Commission will meet at the administration building at 2092 303rd Ave. in Fort Madison. Agenda items include public comments, considering staffing options and possible action.

Winfield's Reply to the Report

WHITFIELD & EDDY P.L.C.

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September 21, 2007

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VIA FAX & U.S. MAIL

Mr. William P. Angrick, II
Citizens' Aide/Ombudsman
State of Iowa
Ola Babcock Miller Building
1112 East Grand Avenue
Des Moines, Iowa 50319

Re: City of Winfield - Agenda for September 11, 2006 Meeting

Dear Mr. Angrick:

Thank you for allowing the City to respond to your report. Please accept this revised letter as the City's reply to your Investigative Report regarding the City's Agenda for the September 11, 2006 City Council Meeting.

First and foremost, we have taken this opportunity to review the Iowa Open Meetings law. We have also discussed the posting of agendas on the City's website and the need for additional information to be on potential agendas. We have also discussed the need to have council members provide information well in advance of the meeting. We believe these steps will allow us to stay in compliance with the Iowa Open Meetings law, a goal we have accomplished in the past and intend to follow in the future.

We would like to take this opportunity to provide some additional information that may improve the report.

Ms. Anderson was aware of the revised agenda. The City believes she knew about the revised agenda before the meeting. Despite her denial, she was given a copy of the revised agenda. She may have been given a copy of the revised agenda as early as the Thursday prior to the meeting. It is also possible that she may have only seen it the day of the meeting. Nevertheless, Ms. Anderson was aware of the revised agenda.

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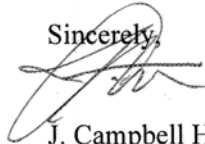
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September 21, 2007

Part of Ms. Anderson's job was to post the Council Meeting agendas on the website. Ms. Anderson did share responsibility with Ms. Walter, the City Clerk. As noted in your report, regardless of who was responsible to post it that day, the Agenda was not posted on the website.

Finally, regarding Ms. Anderson's choice not to attend the meeting, Ms. Walter, the City Clerk placed the council meeting packet on her desk. Ms. Walter noted that Ms. Anderson looked at the packet and then informed Ms. Jan Walter she would not be attending the meeting.

If we can be of any further service, please do not hesitate to contact me.

Sincerely,



J. Campbell Helton

JCH/jrn

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Ombudsman's Comment

The Ombudsman has considered the City of Winfield's Reply, prepared by attorney J. Campbell Helton, and is encouraged the City has discussed the need to timely post agendas on the website and for additional information to be in the agendas.

The Ombudsman notes the City disputes the finding that Ms. Anderson was not aware of the revised agenda before the meeting. However, the City offers no conclusive evidence that Ms. Anderson actually saw the revised agenda. The Report on page five discusses the discrepancy between what city clerk Jan Walter and Ms. Anderson recalled during that period. Even if Ms. Anderson was aware of the revised agenda, the Ombudsman believes the revised agenda lacked sufficient specificity to inform her or the public that the elimination of her position would be discussed. This lack of knowledge was shared even by the city clerk and some council members in their statements to the Ombudsman.

When state and local governments make decisions regarding important issues such as the continued employment of its workers or the effect on government budgets, it is imperative the public is adequately informed before a meeting. In this case, the Ombudsman does not believe the City gave sufficient notice about what would be discussed at the September 11, 2006 meeting. As a result, persons who may have been impacted by or interested in the issues were not able to make an informed decision whether to attend the meeting to observe the discussion or provide input.

An informed public is part of open government. Adequate information on agendas about what will be discussed or decided is crucial in promoting and maintaining that openness.