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# Incorporating Vedic City – typical of forces at work in Iowa?

By Tom Makeig\*

On January 11, 2001, the Vedic City City Development Committee approved a petition to incorporate the first new city to be established in Iowa since 1982. The committee comprised the five-member City Development Board (“CDB”) and a local representative (see side bar), and convened to determine the merits of the petition presented by developers and residents of the Maharishi Center for Perfect Health and World Peace (“Maharishi Center”), a 950-acre subdivision located two miles north of Fairfield in rural Jefferson County.<sup>1</sup> Following approval, the CDB scheduled an election to be held on May 22, 2001, in which the residents of the proposed city will have the final say. Voter approval is likely, as more than two-thirds of the qualified electors signed the petition.

## **The community**

The Maharishi Center is affiliated with Maharishi University of Management, the institution that purchased the Fairfield campus of Parsons College in 1974. The university community numbers approximately 3,000 persons, mainly newcomers to Iowa, who participate in the Transcendental Meditation (“TM”) and related programs that are cornerstones of the university’s educational mission. The Maharishi Center comprises almost 200,000 square feet of recent construction including hotels, office buildings, single- and multiple-family housing, an alternative medicine clinic and an astronomical observatory built to an ancient Vedic design. Construction has begun on a college of Vedic medicine funded in part with an \$8 million grant from the National Institutes of Health.

University alumni and other TM participants have created an entrepreneurial culture that generates employment throughout Jefferson County in telecommunications, computer software, commerce, financial services and other fields. In the 1980’s,

Governor Terry Branstad hailed Fairfield as an “economic superstar.”

## **Why incorporate a new city?**

Development of the Maharishi Center has been impeded by lack of infrastructure. Since 1991, Maharishi Center developers and their associates have contributed over \$3 million to the paving of peripheral roads, construction of a sewage treatment system and expansion of the rural water system. Upon completion of these projects, the developers sought incorporation to facilitate additional expansion of municipal services and infrastructure.

## **Responses to the incorporation plan.**

When Vedic City’s petition to incorporate was filed in September 2000, it prompted mixed responses within the county:

### **The former county board of supervisors**

The three-member board of supervisors (of which two members left office in December 2000), did not address the merits of the petition, but the board as then constituted was supportive. It appointed as local representative a TM-affiliated businessman believed to favor the proposal, endorsed a proposed shared road maintenance agreement and obtained a legal opinion that removed questions whether the incorporation would adversely affect repayment of bonds that financed the paving of county roads surrounding the Maharishi Center.

### **The City of Fairfield.**

Fairfield’s response to the petition was more complex. The city council, composed of both TM-affiliated and non-affiliated members, directed the city attorney to register neither support nor opposition with the city development committee, but authorized him to express concerns about the plan’s continuing reliance on Fairfield for fire protection and about the potential for annexation disputes

with a new city located only two miles from the Fairfield city limits.

### **Response of the new board of supervisors**

Two new members of the board of supervisors were elected on November 8, 2000 and were scheduled to take office in January 2001. On November 15, 2000, the city development committee held its hearing on Vedic City. One of the supervisors-elect registered his personal opposition, citing concerns about the fiscal viability of the proposed city. The assistant Jefferson County attorney also expressed doubts about the viability of the plan.

After the committee voted to approve the petition on January 11, the newly constituted board of supervisors filed a motion for further hearing with a request that the petition be denied. The supervisors raised procedural issues as well as objections on

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the merits asserting that the proposed city did not meet the Iowa Supreme Court's standards for provision of municipal services set forth in Citizens of Rising Sun v. Rising Sun City Development Committee, 528 N.W.2d 597 (Iowa 1995).

## Requirements for incorporation.

In Rising Sun, the Iowa Supreme Court upheld rejection of a petition to incorporate by a group of Polk County residents who had proposed incorporation to preclude annexation

into the City of Pleasant Hill. 528 N.W.2d at 598-99. The petitioners disclosed no plan for commercial or industrial development, and they proposed to provide most services through intergovernmental contracts pursuant to Iowa Code Chapter 28E. Id. at 598-99.

Iowa Code §368.17(1) bars incorporation if the proposal does not demonstrate an ability to provide customary municipal services in a reasonable time. The Supreme Court construed that provision as requiring

the petitioners to show a capability to provide "substantial municipal services" – though not necessarily all services – without reliance on contracts with other providers. 528 N.W.2d at 601. Measured against this standard, the Supreme Court found that Rising Sun's intention to preserve the status quo without providing services on its own constituted sufficient evidence to support the committee's rejection. Id. at 601-02.

In contrast to Rising Sun, at its

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## Incorporating a city in Iowa

The incorporation of a new city is prescribed by Iowa Code Chapter 368. Incorporation is an "involuntary city development action" similar to involuntary annexation. Iowa Code Section 368.11. Section 368.11 permits the filing of a petition by at least five percent of the registered voters of the area to be incorporated. The petition must contain a legal description of the area to be incorporated, its assessed values and similar information, and a description of existing municipal services. Id.

The petition is submitted to the City Development Board ("CDB"), a five-member independent body that shares offices and staff with the Iowa Department of Economic Development. See Iowa Code §368.9. At a preliminary hearing, the CDB determines whether the petition is legally sufficient (Iowa Code §368.12), and if so, it establishes a city development committee to determine the merits of the petition. Iowa Code §368.14. The committee consists of the five CDB members and a local representative appointed by the county board of supervisors. Iowa Code §368.14. The committee convenes a hearing at which it receives written and oral sub-

missions from parties and the public. Iowa Code §368.15.

To approve the plan, the committee must find that it is in the public interest (Iowa Code §368.16) and that the proposed city "will be able to provide customary municipal services within a reasonable time." Iowa Code §368.17(1). Additionally, the committee must make findings that the petition does not invoke any of several statutory bars to incorporation, including a finding that the proposed city is not within two miles of an existing city. Iowa Code §§368.17 and 368.17(6).

If the committee approves the plan, the CDB schedules an election within 30 to 90 days at which the voters in the area to be incorporated approve or reject the plan by a simple majority of the votes cast. Iowa Code §368.19. If the voters approve the plan, following publication of the election result and expiration of a thirty-day appeal period, the incorporation is complete. Iowa Code §368.20. The county commissioner of elections then schedules an election for the new city's first mayor and city council. Iowa Code §368.21. During the period following completion of the incorporation, the

CDB is empowered to "supervise procedures necessary to carry out the proposal." Id.

Any aggrieved resident may appeal the committee's approval or rejection of an incorporation plan or contest the election result. Iowa Code §368.22. On appeal, the issues before the district court are "limited to questions relating to jurisdiction, regularity of proceedings, and whether the decision appealed from is arbitrary, unreasonable, or without substantial supporting evidence." Id.

Discontinuance. Discontinuance of a city is initiated by five percent of the qualified electors within the city, by county board of supervisors or by the regional planning authority. Iowa Code §368.11. The CDB can also initiate discontinuance proceedings. Iowa Code §368.13. Following approval of a plan of discontinuance by a city development committee, final approval or rejection is made by the city's voters at a special election. Iowa Code §368.19.

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January 11, 2001 deliberation, the Vedic City committee found that the petition had made provision for substantial municipal services including sewer, street maintenance, police protection, and land use management. Findings of Fact, Conclusions of Law, and Determination (Vedic City City Development Committee, No. A I00-03, March 7, 2001) at 3-4, 5. Of these services, the petitioners intended to rely heavily on other providers only for police and fire protection. *Id.* at 4. The area is served by a private sewage treatment system, and the petitioners and their associates have previously financed an expansion of the rural water system serving the area. *Id.* In light of these and other findings, the proposal was found to be in the public interest. *Id.* at 6.

The Vedic City committee approved the petition by a four-to-two margin. The committee reached this result only after the dissenters and two CDB members who ultimately joined the majority expressed reservations about the plan. The four members expressing concern agreed that the present level of services and infrastructure is inadequate to serve an incorporated area by prevailing standards. The two concerned members who joined the majority reasoned that the present service inadequacies were indeed reasons to approve the incorporation, so that the new city could use municipal finance powers to improve services, while the two dissenters found the present inadequacies a sufficient harbinger of future performance to merit rejection. Findings of Fact, Conclusions of Law, and Determination at 5. Additionally, LaVon Griffleon, a farm preservation activist recently appointed to the CDB,<sup>2</sup> expressed her opposition in terms of the potential for the new city to threaten farmland beyond its limits, and the other dissenting CDB member expressed concern about the poten-

tial for impairment of Fairfield's expansion plans.

In response to these concerns, the committee attached to its approval admonitions urging the petitioners to formalize police, fire protection and shared road maintenance agreements and to upgrade city streets and water service. The committee also urged the petitioners to negotiate an agreement with Fairfield to avoid land use conflict. Findings of Fact, Conclusions of Law, and Determination at 5-6. The committee also requested annual progress reports and commended a future CDB to initiate discontinuance proceedings if substantial progress is not achieved in five years. *Id.*

After a February 20, 2001 hearing, the committee rejected the county's request for further hearing, and on March 7, 2001, the committee issued its final order. On March 20, 2001, the county supervisors announced their intention not to pursue an appeal in District Court. "County won't fight new city," *The Fairfield Ledger*, March 21, 2001 at 1.

### Conclusion.

The Vedic City proceedings demonstrated many of the competing forces that are shaping Iowa's future. Throughout the state, rural communities are declining while urban populations expand, putting pressure on the farm economy and culture. Farm preservation activists decry the loss of farmland to urban sprawl and advocate more rigorous standards of land use planning. Adding to this ferment, Governor Vilsack advocates increased immigration to reverse population decline.

In this context, Jefferson County is oddly typical. Though many observers assume that Jefferson County is a unique encounter of conventional Iowa with the TM culture, closer examination reveals the same fault lines that divide many rural communities: competition between recent ex-

urban arrivals and longtime residents, between developers and farmers, between established manufacturers and the new service economy, between the familiar Iowa and the opportunities – and risks – that beckon.

The CDB members' response to Vedic City revealed these same disparate views. Three of the four members composing the majority expressed an economic development agenda that appeared willing to take a chance on Vedic City, while the dissenters emphasized the need to preserve what is valuable in the existing culture and economy of Jefferson County. The issues debated in connection with Vedic City are likely to recur, both at the CDB and in other planning contexts, for years to come as Iowa defines its future.

<sup>1</sup> Due to the proposed city's proximity to the city of Fairfield, the petition proposes to incorporate only the 654 acre portion of the Maharishi Center and an adjacent subdivision that are situated more than two miles from Fairfield's city limits, and are therefore not subject to the statutory bar. (See sidebar.) The petitioners plan to seek annexation of the remaining portion of the Maharishi Center in the future.

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