

**MINUTES OF THE AMES AREA METROPOLITAN PLANNING ORGANIZATION  
TRANSPORTATION POLICY (AAMPO) COMMITTEE AND  
REGULAR MEETING OF THE AMES CITY COUNCIL**

**AMES, IOWA**

**JULY 8, 2014**

**MINUTES OF THE AMES AREA METROPOLITAN PLANNING ORGANIZATION  
TRANSPORTATION POLICY COMMITTEE**

The Ames Area Metropolitan Planning Organization (AAMPO) Transportation Policy Committee meeting was called to order by Ames Mayor Ann Campbell at 7:00 p.m. on the 8th day of July, 2014, in the City Council Chambers in City Hall, 515 Clark Avenue, pursuant to law. Voting members present in addition to Mayor Campbell were Gloria Betcher, City of Ames; Amber Corrieri, City of Ames; Tim Gartin, City of Ames; Matthew Goodman, City of Ames; Chet Hollingshead, Boone County; Chris Nelson, City of Ames; Peter Orazem, City of Ames; and Wayne Clinton, Story County. Garrett Pedersen, Iowa Department of Transportation; Jonathan Popp, City of Gilbert; and Hamad Abbas, Transit representative, were absent.

**PUBLIC HEARING ON PROPOSED FISCAL YEAR (FY) 2015-18 TRANSPORTATION IMPROVEMENT PROGRAM (TIP):** Ames Public Works Director John Joiner introduced Tony Filippini, City of Ames Transportation Planner. Mr. Filippini explained that, in order to receive funds for transportation improvement projects, the projects must be part of the approved Iowa Department of Transportation's (Iowa DOT) Statewide Transportation Improvement Plan (STIP). The first step in that process is for the AAMPO to develop and approve a TIP for its region. According to Mr. Filippini, a public input session was held on May 1, 2014, to provide an opportunity for the public to discuss the TIP and provide comments. No revisions were requested by the public. Comments had been received and addressed from the Iowa Department of Transportation, Federal Highway Administration, and Federal Transit Administration. Upon approval of the AAMPO, the TIP will be submitted to the Iowa DOT by the deadline of July 15, 2014.

At the inquiry of Representative Hollingshead, Mr. Joiner explained that this Plan consists of street improvement projects, which will be pavement rehabilitation of 24<sup>th</sup> Street from the UPRR tracks to Northwestern Avenue and Bloomington Road from Eisenhower Avenue west 500 feet. Funds are also programmed for the Long-Range Transportation Plan update. Trail extension from East Lincoln Way to South River Valley Park is scheduled to be constructed as the FY 2015 trail project; however, completion of this segment will be subject to receiving access easements from affected property owners. A trail extension along S. Duff Avenue from Squaw Creek to S. 5<sup>th</sup> Street and the Skunk River is also included in the TIP.

Moved by Goodman, seconded by Hollingshead, to approve the Final FY 2015-18 Transportation Improvement Program for submission to the Iowa Department of Transportation.

Vote on Motion: 9-0. Motion declared carried unanimously.

**ADJOURNMENT:** Moved by Goodman, seconded by Clinton, to adjourn the AAMPO Policy Committee meeting at 7:07 p.m.

Vote on Motion: 9-0. Motion declared carried unanimously

**REGULAR MEETING OF THE AMES CITY COUNCIL**

The Regular Meeting of the Ames City Council was called to order by Mayor Campbell at 7:09 p.m. on July 8, 2014, in the City Council Chambers in City Hall, 515 Clark Avenue. Present from the Ames

City Council were Gloria Betcher, Amber Corrieri, Tim Gartin, Matthew Goodman, Chris Nelson, and Peter Orazem. *Ex officio* Member Lissandra Villa was also present.

**PROCLAMATION FOR PARKS AND RECREATION MONTH:** Mayor Campbell proclaimed July as Parks and Recreation Month. Accepting the Proclamation were Parks and Recreation Director Keith Abraham and Board Members Julie Johnson and Melissa Rowan.

**CONSENT AGENDA:** Council Member Betcher asked to pull Item No. 12, the Agreement with the Ames Economic Development Commission for 2014/15, for separate discussion.

Moved by Nelson, seconded by Goodman, to approve the following items on the Consent Agenda:

1. Motion approving payment of claims
2. Motion approving minutes of Special Meeting of June 17, 2014, and Regular Meeting of June 24, 2014
3. Motion approving Report of Contract Change Orders for June 16-30, 2014
4. Motion approving renewal of the following beer permits, wine permits, and liquor licenses:
  - a. Class C Liquor - Welch Ave Station, 207 Welch Avenue
  - b. Special Class C Liquor, B Native Wine, & Outdoor Service - Wheatsfield Cooperative, 413 Northwestern Avenue, Ste. 105
  - c. Class C Liquor & Outdoor Service - Bar, 823 Wheeler Street
  - d. Class B Beer - Panchero's Mexican Grill, 1310 South Duff Avenue
  - e. Class C Liquor - Applebee's, 105 Chestnut Street
5. Motion approving 5-Day Class C Liquor License for Olde Main Brewing Company at CPMI Event Center, 2321 North Loop Drive
6. Motion approving 5-Day Special Class C Liquor License for Dublin Bay at Reiman Gardens, 1407 University Boulevard
7. Motion approving 5-Day Class B Beer Permit & Outdoor Service for Bar at Zylstra Harley Davidson, 1219 McCormick Avenue
8. RESOLUTION NO. 14-375 extending blanket authorization for Housing Coordinator to negotiate terms of sale of properties in connection with Community Development Block Grant Program
9. RESOLUTION NO. 14-376 setting date of public hearing for July 22, 2014, for the sale of 1126 Burnett Avenue in connection with Community Development Block Grant Program
10. RESOLUTION NO. 14-377 setting date of public hearing for July 22, 2014, for the sale of 1222 Curtiss Avenue in connection with Community Development Block Grant Program
11. RESOLUTION NO. 14-379 approving Agreement for sale of fill material from Airport farm property
12. RESOLUTION NO. 14-380 approving Engineering Services Agreement with Howard R. Green, Inc., of Johnston, Iowa, for Grant Writing/Funding Application Processing - Grand Avenue Extension in an amount not to exceed \$79,460
13. RESOLUTION NO. 14-381 accepting completion of requirements of 1997 Developer's Agreement for property at 416 S. Bell Avenue (Renewable Energy Group)
14. RESOLUTION NO. 14-382 approving preliminary plans and specifications for Natural Gas Conversion Equipment, including Burners, Igniters, Scanners, Thermal Analysis, and Computer Modeling; setting September 24, 2014, as bid due date and October 14, 2014, as date of public hearing
15. RESOLUTION NO. 14-383 awarding contract to Northway Corporation of Waukee, Iowa, in the amount of \$74,655 for Year 3 of Five-Year Well Rehabilitation Program
16. RESOLUTION NO. 14-384 approving Change Order No. 3 to General Electric of Houston, Texas, for technical support for the GT-2 Repairs in the amount of \$24,000
17. RESOLUTION NO. 14-385 approving Change Order No. 4 to Terracon Consultants, Inc., for

Abatement Services for Public Library in the amount of \$2,129.92

18. RESOLUTION NO. 14-386 approving contract and bond for 2014/15 Shared-Use Path Maintenance (South 4<sup>th</sup> Street)
  19. RESOLUTION NO. 14-387 approving contract and bond for Fleet Services Building Roof Replacement - Phase 1
  20. RESOLUTION NO. 14-388 approving contract and bond for Water Pollution Control Make-Up Air Unit Replacement
  21. RESOLUTION NO. 14-389 accepting completion of Year Two of Five-Year Well Rehabilitation Program with Northway Corporation
  22. WPC Biosolids Hauling and Digester Cleaning Project for Water and Pollution Control:
    - a. RESOLUTION NO. 14-390 accepting final completion of FY 2013/14 Contract with Nutri-Ject Systems, Inc.
    - b. RESOLUTION NO. 14-391 awarding Year 2 (FY 2014/15) to Nutri-Ject Systems, Inc., of Hudson, Iowa, in an amount not to exceed \$143,407.25
- Roll Call Vote: 6-0. Resolutions/Motions declared adopted/approved unanimously, signed by the Mayor, and hereby made a portion of these Minutes.

**AMES ECONOMIC DEVELOPMENT COMMISSION (AEDC) AGREEMENT FOR 2014/15:**

Council Member Betcher noted that the City approves a new Agreement with the AEDC annually prior to or in July; however, does not receive its Annual Report until around August 31 every year. She requested that a summary report from the AEDC be received prior to next year's Agreement coming to the City Council for approval.

Moved by Betcher, seconded by Gartin, to amend the "Summary Report" section of the Agreement to read "The AEDC further agrees to provide the City of Ames a written report no later than June 15, 2015, summarizing the accomplishments of the activities promised in Section 2."

Vote on Motion: 6-0. Motion declared carried unanimously.

Moved by Betcher, seconded by Gartin, to adopt RESOLUTION NO. 14-378 approving the Agreement with Ames Economic Development Commission for 2014/15, as amended.

Roll Call Vote: 6-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these Minutes.

Moved by Betcher, seconded by Goodman, to request that Finance staff provide the City Council with a summary of the reimbursement requests that are submitted by the AEDC twice a year in conjunction with the Agreement requirements.

Vote on Motion: 6-0. Motion declared carried unanimously.

**PUBLIC FORUM:** No one requested to speak.

**BRECKENRIDGE GROUP PROPOSAL REGARDING REDEVELOPMENT OF 321 AND 601 SOUTH STATE AVENUE AND 205 SOUTH WILMOTH:**

Mayor Campbell gave a brief summary of the City Council's involvement since the Ames School District sold the land to Breckenridge developers out of Austin, Texas in 2012. She assured the public that the City Council has had the best interests of the entire community of Ames in mind throughout the entire process.

City Attorney Judy Parks summarized the proposal, which she said at this point, was conceptual. The three parcels in question consist of the North Parcel (205 S. Wilmoth Avenue), Middle Parcel (321 State Avenue), and South Parcel (601 State Avenue). The components of the proposal were listed as follows:

Middle Parcel. Breckenridge will agree to:(1) Sell this Parcel as a whole to a developer for owner-occupied housing to be kept as owner-occupied homes for at least 21 years by way of deed restriction or restrictive covenants. If said sale has not been accomplished at the end of two years, this Parcel will be given to the City of Ames without compensation.

South Parcel. Breckenridge will be allowed to develop the eastern two-thirds of this parcel with up to 305 beds in detached structures that allow for two-, three-, four-, or five-bedrooms per structure. They will be allowed to develop a clubhouse and to move the bike path to accommodate site design. Site approval will be required so the site will be subject to City Council site plan approval, but no subdivision will be required. The developer will be responsible for its proportion of off-site improvement costs. Basements will be constructed in roughly one dozen of the units. The developer will give a Conservation Easement to the City of Ames that encompasses the western third of the Parcel. The developer will give a conservation easement to the City of Ames over the area within at least 100 feet on either side of College Creek.

Charlie Vatterott introduced himself as the Executive Vice-President of Development for Aspen Heights. He told the Council that he was proud of the work that Aspen Heights had already done in the Ames community and was excited about the opportunities that Aspen Heights has to provide to the Ames community. Mr. Vatterott referenced the old Middle School property, pointing out that the Aspen Heights developer had removed that blight, which was a serious safety threat and an eyesore to the community. According to Mr. Vatterott, Aspen Heights had listened and worked diligently to address the priorities that had been stated by stakeholders in the community. Aspen Heights believes that its proposed development will provide renewed economic vitality to West Ames and result in over \$700,000 in property taxes.

Mr. Vatterott reported that the impressive growth in enrollment of students at Iowa State University (ISU) has created the need to address the city-wide housing shortage. According to Mr. Vatterott, the housing shortage in Ames is why approval of Aspen Height's proposal is so important. Acceptance of its proposal will guarantee new single-family owner-occupied homes within the Ames Community School District. It was stated by Mr. Vatterott that the developers had been working on their proposal for over two and one-half years and cannot wait any longer to start development. He advised that if their proposal is not approved by a vote of 5-1, they will have to move ahead and build all the parcels out with all student housing. Upon the question of Council Member Betcher, Mr. Vatterott stated that Aspen Heights is indifferent to the 21-year restriction for the Middle Parcel; he was unsure where that number came from.

Brian Torresi, Davis Brown Law Firm, 2605 Northridge Parkway, Ames, representing Breckenridge, elaborated that the 21-year covenant is due to the rule against perpetuities. There are rules in the *Code of Iowa* where those can be extended for longer than 21 years. Mr. Torresi addressed two rumors being circulated recently: Despite what has been said, (1) Agreeing to the settlement does not mean that the City Council is "giving in" to litigation or the Council not being brave. The litigation was filed to preserve the developer's rights. They did not even want the City to respond; it was not intended to force the City Council into any action by filing a lawsuit. (2) Neighbors are not being disregarded; their voices have been heard.

Sharon Guber, 2931 Northwestern Avenue, Ames, representing the Old Middle School Neighborhood, said that she took strong exception to Mr. Torresi's allegation that the residents had been heard. She pointed out that the City Council held three scheduled Sessions where the public was not allowed to be present or to provide input on the North and South Parcels. Ms. Guber pointed out that the City of Ames has a vision and a plan for development; it is called its Land Use Policy

Plan (LUPP). She believed that the City would have preserved the “unique gem” of natural surroundings and wildlife habitat with the designated safe path to the new Middle School, now known as the South Parcel. That area as well as the ISU research plots, the ISU cross country venue, and the ISU Arboretum should have been protected by sound development decisions; however, the City Council was caught in the “game of fog, fraud, and fear.” Ms. Guber listed many of the towns where she alleged Breckenridge had played that game very successfully. She defined “fog” to mean fuzzy references, incomplete information, omissions of information; “fraud” to mean suggestions that lead people to logically assume something that is not factual; and “fear” of what would happen if Breckenridge isn’t given what it wants. Ms. Guber gave the example that Breckenridge has stated that if it does not get high-density, there would not be buffer fencing, and security would not be provided by the developer. The City was told by Breckenridge that if it got approval for 1,000 beds, it would drop its lawsuit; however, Brian Torresi stated at this meeting that there was never the threat of a lawsuit moving forward. Ms. Guber pointed out all the time spent by City staff, the Mayor and the Council, in discussing the litigation already filed and the amount of money spent on outside counsel due to the comment of Breckenridge stating, “If we don’t get this, we will be taking you to court.” Regarding the “fraud” portion, Ms. Guber referenced Mr. Vatterott’s statement that Aspen Heights gave up a \$2 million tract of land when it agreed to sell the Middle Parcel for single-family owner-occupied. She pointed out that Breckenridge paid \$2.3 million for the entire 49 acres, not just the 11 acres that comprise the Middle Parcel. Other examples of statements that the neighborhood residents believe were fraudulent were given.

Ms. Guber noted that Ames would not be in this position if the Ames School Board had not sold its land to a developer who builds as described in Breckenridge’s own advertising “affluent or affordable student-only resort housing.” However, Breckenridge set a terrible precedent as to how business gets done in Ames when it chose the route of filing a lawsuit. According to Ms. Guber, it has been very unfair to the Neighborhood for the Council to negotiate proposals in Closed Sessions. Breckenridge has access to that information through its attorney, but the residents are told that the Council may not discuss anything that goes on in Closed Session. Ms. Guber asked a number of most-often-asked questions by the Neighborhood residents pertaining to the Middle Parcel. Ms. Guber asked that the City Council take its time to scrutinize every word of any proposal submitted by Breckenridge. She urged that the Neighborhood residents be included.

Warren Madden, Iowa State University Senior Vice-President for Business and Finance, explained that ISU owns the land immediately to the east and to the south of the proposed development. He thinks that if this project moves ahead, many of the issues that have been raised probably will get answered. He pointed out that only the framework of a settlement - not exact details - had been done. Mr. Madden asked for the City Council to think about the proposal in the context of where it, as a community, wants this type of land area to be located in ten (10) to 20 years from now. The conclusion of representatives of the University is that the particular area in question is not the best suited for high-density residential student housing; there are other areas of Ames that would be better for that type of development. There might be a need in the future for additional student housing, but Mr. Madden reminded the Council that enrollments can go both directions - up and down. Mr. Madden again suggested that the City Council think about what it wants this area of the community to be as it looks to the future – is high-density residential student housing the appropriate and best use of the land area. Again, from the University’s perspective is “perhaps not.”

Molly Boersma, 422-13th Street, Ames, said that when she attended Iowa State, student housing was plentiful; however, that is not the case today. She offered her opinion that Aspen Heights provides an alternative to student housing and provides positive economic aspects that the development will bring to Ames’ tax base. She believes the development will contribute greatly to the overall visual appeal of the neighborhood as the building design is attractive, high-quality, and would set a new

standard for student living. Ms. Boersma urged the City Council to support Aspen Heights for the future needs of ISU students, as a source of pride for the Ames community, and for the long-term economic vitality of the area.

John Crawford, 3101 Weston, Ames, advised that he and his wife own a business just west of the proposed development. He said that the proposal before the Council seems adequate and fair. From a business perspective, Mr. Crawford sees the Aspen Heights development as being a great economic shot for West Ames. The land has had a dilapidated building on it long enough, and it would be best suited as proposed by the developer.

Tony Ramey, 425 Hilltop Road, Ames, referenced the disparity between the neighborhood and the development by a ratio of approximately 2:1 in favor of the developer. Although there was some shifting of property, Mr. Ramey said what didn't shift was the total number of students that would be allowed to live in the development. He felt that it would be much more fair if it were to be half the property and half the number of students. Mr. Ramey would like part of the land to be sold back to Iowa State University, which formerly owned the land before allowing the Ames School District to build the Middle School on it. He believes that if 200 beds were allowed on the North Parcel and 300 on the Middle Parcel, Breckenridge would actually get more than half the number of beds that it requested on half the land. This would put the development on a corner, which would be much less intrusive.

Erica Fuchs, 4014 Marigold Drive, Ames, urged the Council to keep the low-density zoning on the North and South Parcels as that would benefit the adjacent existing neighborhoods. Ms. Fuchs noted the detrimental effects of the increase in traffic caused by high-density development. She also noted that rainwater run-off will be a problem. She also suggested that as much of the South Parcel as possible remain undeveloped because it is a natural wildlife area within Ames. In the opinion of Ms. Fuchs, the Aspen Heights development will be detrimental to the entire community. There is already a rainwater run-off problem in the area. She said that such a development does not support the desire to have more owner-occupied residential development and encouraged the Council to reject the proposal of Breckenridge to rezone the North and South Parcels to create higher-density student housing.

Michael Petersen, 3302 Morningside, Ames, asked that the City Council consider that very few citizens of Ames are in favor of the proposed student-housing development as they are aware of the very negative effects it will have on the City. He noted that there are many student-housing projects under development in Campustown and on South 16<sup>th</sup> Street. Mr. Petersen does not believe the proposed development will provide benefit to the City of Ames or ISU. He asked if the City wanted people to continue to purchase homes in other nearby communities or provide single-family homes that will bring children in for the Ames School District. According to Mr. Petersen, the tract of land that Breckenridge would reserve for a conservation easement does not preserve anywhere near as much habitat as in the 18-acre conservation easement that was proposed by the Neighborhood Association last spring. Mr. Petersen believes that Ames can do better; it needs a predictable and sustainable mode of development and zoning patterns. He believes that City Council members do have an obligation to the residents of Ames who elected them to serve the community, not to ensure that a profit is made by the developer. It was pointed out that medium- and high-density housing on the North and South Parcels would be completely counter to the original intent of the LUPP and will not fit in with what is right for the City of Ames. He said that the vote of each Council member will go a long way towards showing whether he or she truly represents his or her constituents. Mr. Petersen urged the City Council to do what "most of the citizens of the City want for the City of Ames" and that is to "stand up and be brave municipal leaders and reject the settlement proposal."

Jake Sage, 2717 White Oak Drive, Ames, spoke in support of the Aspen Heights development. He believes that the development would be beneficial to the Ames community in the following ways: removal of a blighted building; a substantial increase in tax revenue for the City, Ames School District, and Story County; and provide much-needed attractive housing for Iowa State University students. Mr. Sage said that Aspen Heights has shown that it is committed to the Neighborhood and to the Ames community.

Holly Fuchs, 806 Brookridge Avenue, Ames, asked that the City maintain as much of the natural areas in the City as possible. She is also concerned about what the development would do to the school system; there is a need for single-family homes with children to improve the quality of Ames Schools. Ms. Fuchs asked that the City Council look at the long-term vision for Ames.

Catherine Scott, 1510 Roosevelt, Ames, asked the City Council to reject the proposed development. Ms. Scott said that one of her main concerns is the flexibility of the housing. If housing designed for students is built in a low-density area, that is all it can ever be even if student enrollment decreases. It was noted by Ms. Scott that the City's LUPP is to provide for quality of life and predictability in land use. Quality of life makes people want to continue to live in a neighborhood. In her opinion, a price cannot be put on the value provided by neighborhoods that make people want to purchase a home and remain living in that area. Ms. Scott referenced an ordinance that had been enacted in Winona, Minnesota, that limited the number of lots that could obtain rental certification. That ordinance was upheld by the Minnesota Supreme Court. Many cities believe that too high of a concentration of rentals is de-stablizing for neighborhoods. It was stated by Ms. Scott that the cost of fighting a lawsuit is not a reason to settle out of court. She urged the City Council to reject the proposed settlement.

Fred Bradner, 1111 Stafford Avenue, Ames, said that it was made very clear on a number of occasions that former school properties that were sold were to be returned to the RL designation for well-thought-out reasons. Housing would then be available for families to purchase and add to the school enrollment. In his opinion, any degree of approval of the proposed Breckenridge settlement would bring with it incremental change in the wrong direction for all neighborhoods in the City of Ames. Mr. Bradner urged the City Council to protect a strong and vibrant established neighborhood for the benefit of all neighborhoods in Ames. He does not want residents of Ames to ask years down the road how the City ever allowed high-density student housing produce "with all of its inherent problems" to be dropped into a residential neighborhood. Mr. Bradner asked the Council to reject the settlement, stating that "Ames can do better."

Sue Ravenscroft, 455 Westwood, Ames, alleged that developers such as Breckenridge have one goal and that is to maximize profits. It is her belief that in order to get approval of what they want, developers sometimes say untruthful things. Ms. Ravenscroft said that the developer's goal in this case is not about strengthening Ames. The affected citizens who have spoken against the development on many occasions have a very different goal - that of strong and diverse neighborhoods with aesthetically appealing natural areas, bike paths, and safe walkways, affordable housing, growth in the school population, mitigation of traffic problems, and a fair voice in processes. Residents of the City hope that the Council will move forward on goals that strengthen Ames. She asked whose goals the Council will support as it votes.

Whitney Funkhouser, 1226 Curtiss Avenue, Ames, voiced her support for the Aspen Heights development. She believes that this type of development is needed to provide more student housing in proximity to Iowa State University and it will attract even more students to Ames. In her opinion, Aspen Heights builds attractive town homes and cottages, and the development will enhance the overall appearance of the neighborhood.

Hollis Monroe, 2825 Arbor Street, Ames, asked the Council to consider the quality of life and future of the community. Mr. Monroe described experiences that he has had in the past year with a student who had wandered into his house and one who had collapsed on the front lawn of his property, which is located directly across from the north entrance to the Arboretum. Police have had to intervene. He has been assured that things such as traffic and parking concerns are being taken into consideration. At this point, he does not believe that Ames needs to be seeking a great deal more growth in population; however the quality of life in neighborhoods is what encourages people to stay. He noted that the student population is largely transient. The City should be thinking about the future of Ames – keeping those who are going to live here, raise families here, and invest their time, business, and lives in Ames.

Linda Feldman, 1111 Stafford Avenue, Ames, raised her concerns about the process that has been followed in this matter. She expressed her continued support of strong vibrant neighborhoods and is opposed to any other zoning designation other than low-density residential. Ms. Feldman believes that the lawsuit filed by Breckenridge is a ploy and asked the Council not to fall for that. In her opinion, the decision to be made by the City Council tonight should be separated from the lawsuit. She voiced concerns as to whether the Middle Parcel can be sold and developed with single-family homes with high-density student housing on either side of it. Ms. Feldman said she hoped the Council was thinking about the transportation issues that the proposed development will cause, as she had been told that CyRide is already at over capacity.

Ken Platt, 3620 Woodland Street, Ames, urged the Council not to approve the proposed settlement. He believes that the area is not suited for high-density student housing. Mr. Platt has serious doubts that the Middle School can ever be developed as single-family owner-occupied housing since it would be surrounded by high-density student housing. He asked the Council to consider the traffic problems that will occur if high-density housing is allowed to develop next to established neighborhoods. Mr. Platt believes that there will be a significant decline in the quality of life for long-term residents and families of the area in question. He urged the Council to litigate, if necessary. Referencing a comment made by the Breckenridge representative that if the proposal is not approved, Breckenridge will build as it originally intended, Mr. Platt stated that he considered that a threat and a form of bullying the City Council.

Joanne Pfeiffer, 3318 Morningside Street, Ames, requested that the City Council consider three things: consistency, conscience, and service as it makes a decision on this issue. By consistency, she was referring to the existing zoning of the College Creek/Old Middle School Neighborhood and surrounding neighborhoods and consistency with the LUPP. By conscience, she means doing the right thing. She has been told by many students that they seek out a neighborhood that will provide them with an environment that will allow them the quiet they need. It also means to promote the well-being of each person in the neighborhood from the young to the elderly and providing quality of life that involves conditions that offer a place to live, learn, work, and play. Doing the right thing would be to hold all developers to the same standards. She believes that the decision of the Council on this issue will be setting a precedent with lasting implications for future developments. Regarding service, the City Council is to serve the will of the people. The large majority of people have asked the City Council to reject the Breckenridge proposal as it is not in the best interests of students or residents.

Sarah Cady, 2812 Arbor Street, Ames, pointed out that there are a number of unknowns with whatever path is chosen at this meeting. It is unknown how the decision made tonight will affect future policies. It is unknown whether all 50 acres could be completely owner-occupied, how 50 acres of three-bedroom rental housing will affect neighborhood dynamics, and if a local developer



will want to purchase and develop the Middle Parcel as single-family owner-occupied housing. Ms. Cady said that she does not support the Breckenridge business model or development goals; however, she recognizes that the landowner has rights to do what it chooses regarding the development of its property. She said she was speaking from a position of rationality and reality and presented the reasons why she believed the current proposal presented by Breckenridge should at least be considered. It was pointed out by Ms. Cady that the opportunity for owner-occupied housing on the Middle Parcel had not been “on the table” prior to the proposed settlement. Ms. Cady expressed her desire for acceptance of an amended settlement with a reduced number of rental bedrooms and inclusion of the corner at Morningside and Wilmoth, portions of the steep slope areas, the conservation easement, and a landscape buffer of at least 75 feet between the North Parcel development and the surrounding neighborhood. She stated that she is not sure how much city planning is achievable through current and future litigation or if the plausible litigation outcomes are better than the offer currently “on the table.” Ms. Cady expressed her firm belief that any future litigation regarding a change to the LUPP for the South Parcel could potentially produce a highly negative outcome for the neighborhood. It was recommended by Ms. Cady that if the City Council members planned to reject the proposed settlement, they should do so because they wished to continue dealing with litigation through the courts and that they believe dealing with litigation in settlement form sets a bad precedent for future city planning. They should not reject the settlement on the belief that 50 acres of detached three-bedroom slab-on-grade with no garage and no basement rental houses are better for the neighborhood than the proposed settlement. Ms. Cady cited her understanding that the City is in a no-win situation put there by the School Board with impossible development goals that are not compatible with the neighborhood. At the end of the day, she believes they “are all getting thrown under the bus by Breckenridge.”

Amy Doolittle, 406 Briarwood Place, Ames, cited her love of the existing prairie. She believes that the Breckenridge proposal is bad for the City. Ms. Doolittle thinks that it will attract the wrong people and destroy progressive areas of the City.

Dickson Jensen, 4611 Mortensen Road, Ames, told the Council that to rezone property associated with litigation is wrong. He pointed out the precedent that would be set if Council accepted the proposal. Mr. Jensen urged the Council to take a stand and do what was right and reject the proposal. He said that this all started with one thing: the School Board wanted the most money and felt that it was its love of money that brought this on the City. Mr. Jensen identified himself as a builder for over 30 years and said he had been told numerous times by the City that it does not “bargain with zoning.” He cited his belief that associating litigation with zoning is wrong.

Carol Stuve, 218 Hilltop, Ames, said that she drove the streets of Ames recently and believed that there was not a street in Ames that doesn’t have an apartment for rent unless it is north of 13<sup>th</sup> Street. Ms. Stuve shared that she had found the website for the proposed developers out of Texas. There were 51 comments by students on the page; the rating was 1.7 out of 5. Some of those comments were cited by Ms. Stuve to point out that promises made to students by these developers are not always kept.

Becca Miller, 407 Hilltop, Ames, said that she trusts the City Council to make a very good decision to keep her neighborhood and the City of Ames safe and retain the charm that it has.

Victoria Szopinski, 3710 Ross Road, Ames, stated that she sees this issue as setting a precedent for all residents and neighborhoods that are adjacent to properties owned by the Ames Community School District. Ms. Szopinski noted the promise of the former members of the School Board that the character of neighborhoods would be retained and consequently so would the property values for citizens and the City of Ames. Properties in the area in question had been sold and then

purchased by persons believing in the promise that the neighborhood would be low-density residential. Ms. Szopinski identified herself as a former City Council Member and said she believes the lawsuit against the City is without merit. She pointed out the number of residents in attendance who were against the proposed settlement and urged the Council not to accept it.

Robert Lorr, 233 Hilltop, Ames, said he was speaking on behalf of his wife, Duffie, who is in the hospital. Mrs. Lorr had found information pertaining to Aspen Heights, the Breckenridge development, on Facebook™. In particular, he spoke about Breckenridge allowing sharing a room with a roommate. Breckenridge had requested 840 bedrooms. Apparently, that did not mean 840 students because it did not account for the number of persons that could potentially share one bedroom; the number of renters could, therefore, actually be much higher. Mr. Lorr also asked what will happen to the student rental properties when student enrollment goes down.

Kelly Beacon, 2812 Arbor Street, Ames, stated his fear that if the proposal were to be rejected, Ames will get a development similar to the slab-on-grade development formerly known as Pammel Court.

Tami Hicks, 4125-530th Avenue, Ames, expressed her support of the Breckenridge development. She shared that she is a realtor in Ames and has witnessed the shortage of rental properties for families. Part of the shortage of those types of rental properties is due to students renting those units. Ms. Hicks believes that the Breckenridge development would relieve that shortage. According to Ms. Hicks, she has spoken with three developers who may be interested in the Middle Parcel for development of single-family owner-occupied housing.

The meeting recessed at 9:20 p.m. and reconvened at 9:32 p.m.

Mayor Campbell asked City Attorney Parks what the fall-back would be if the Council did not accept. Ms. Parks reported that these properties have to be rezoned. One (the Middle Parcel) has already been rezoned to low-density residential, and there are pending applications for the other two parcels. That will still allow the cottage configuration originally proposed by Breckenridge. The request for the North Parcel is for R-L, which would allow for cottage configuration. The request for the South Parcel is for FS-RL. Those two pending applications were tabled to allow public input process, but could move forward and would have to come before the City Council for votes. Ms. Parks further stated that nothing would mandate owner-occupied housing. Planning and Housing Director Kelly Diekmann stated that detached single-family housing on individual lots and attached single-family housing would be allowed in the FS-RL zone.

At the inquiry of Council Member Nelson, Mr. Diekmann advised that the number of beds that would be allowed under a RL North Parcel and FS-RL South Parcel would be between 500-700 beds.

Council Member Betcher named the core neighborhoods around the proposed development. She pointed out that it appeared that 98% of the people speaking from those neighborhoods were not in favor of approving the proposal of Breckenridge.

*Ex officio* Member Lissandra Villa stated that Iowa State's enrollment is 33,241 students. She expressed her support of the position of Iowa State University in that the location in question is not the most desirable.

Council Member Corrieri noted that she had received a number of comments from people who did not feel comfortable speaking in public – some of those were in support of the proposal, but others

were not. Ms. Corrieri noted that she never felt fear over this issue. In her opinion, while not perfect, the proposal achieves some of the goals that have been stated by the neighbors.

Council Member Gartin asked City Attorney Parks to address the need for Closed Sessions. Ms. Parks said that because there is pending litigation, the *Iowa Code* allows cities to discuss its strategy in a Closed Session, so as not to divulge its position to the other party. Information from those Closed Sessions is not information that may be shared with the public.

At the request of Council Member Goodman, City Attorney Parks reported that there is a provision under Iowa law that states a protest may be filed by persons who live within a certain geographic area to the property in question. If the protest is valid, a super majority of votes would be required, which means that five of the six Council members would have to vote in favor of the rezoning. City Manager Steve Schainker noted that if the Council were in favor of accepting the proposal, it would need to direct the City Attorney to draft an agreement.

Noting that the current zoning of the land in question is Government/Airport, Council Member Orazem asked City Attorney Parks to explain why it cannot retain that zoning designation. Ms. Parks pointed out that the now-private ownership of the land would not allow for it to be zoned Government/Airport land.

Council Member Orazem pointed out that when land is developed, a surface water drainage plan is required. Ms. Parks elaborated that site plan review by City staff would be required, and staff would ensure that there would be infrastructure in place to address drainage.

Mr. Orazem also noted that, presently, the RL zone allows for some unintended consequences for the City. He suggested that the City Council review what is allowed under the RL zoning designation prior to the next sale of Government/Airport land by the Ames School District.

Council Member Goodman noted that some students make bad choices; however, the majority of students make good choices. He wanted it to be known that this issue is not about students; it is about life styles and densities. Mr. Goodman believes that all Council members believe that they are making the best choice possible. It is a complicated issue, and there are a lot of different perspectives. Council Member Goodman expressed his disapproval of negotiating land use in a Closed Session; that is a game-changer for him. He believes that it does not lead to the best choices and it hinders the community. What it means to him is that, in the future, developers will have no choice but to consider lawsuits in order to compete. He sees it as extremely risky land speculation. Council Member Goodman stated that Council members are elected to represent the people of the community, and sometimes that calls for the decision-makers to be brave and stand up for the rights of the people.

Council Member Orazem took issue with Mr. Goodman's usage of the word "brave," as he believes each Council member is doing the best he or she can under the situation that the City has been put in. He noted that Council members took an oath to uphold the laws of the state of Iowa and the Constitution of the United States, which includes property rights. That does not necessarily mean that it will be the popular choice.

City Attorney Parks reiterated that requiring owner-occupied housing is not part of the rezoning process.

In the opinion of Council Member Betcher, this is not about who the developer is; it is about what is appropriate for the parcels of land in question. For her, this is about policy being set and how the

Council deals with development contracts. Because she does not have a crystal ball, Ms. Betcher said it is very difficult to determine how much damage will be done by each scenario. Ms. Betcher advised that the policy she wants to set is that Ames zones land because it believes the zoning is correct for the parcels, not because someone is suing the City. She does not want to negotiate rezoning while the City is being sued by the developer requesting the rezoning.

Council Member Gartin shared that, in his role as a City Council member, he has to balance being responsive to the property owners most affected versus the needs of the community as a whole. Although he believes the proposal on the table is a very sound one, he is troubled by the idea of the entire area (North and South Parcels) being student rental cottages. A large factor in his decision is that the neighborhood residents and others in the community don't buy it. He is troubled by the fact that the majority of the surrounding property owners do not think that the current proposal is worthwhile; there has been no buy-in by the neighbors most-impacted. Mr. Gartin noted that he had been sitting through Council meetings when this topic had been discussed for over a year, and he has hardly had anyone contact or email him encouraging him to move forward with this.

Moved by Orazem, seconded by Corrieri, to direct that the City move forward with the proposal and direct staff to take the next steps to formalize a written agreement.

City Attorney Parks clarified that there would first be a Development Agreement. From that Agreement, the Council would have an idea of what kinds of base zoning will be looked at; likely, PRD on the South Parcel and HR on the North Parcel. On those, there would need to be five votes in favor to pass.

Vote on Motion: 3-3. Voting aye: Corrieri, Nelson, Orazem. Voting nay: Betcher, Gartin, Goodman. Mayor voted aye to break the tie. Motion declared carried.

Mayor Campbell noted that she had voted aye with considerable reluctance; however, a lot of information was brought forward tonight that had not been known before. This will give an opportunity for the public and Council to digest the information. The Mayor expressed her hesitancy in voting in the affirmative given the hundreds and hundreds of hours that had already been invested by City staff.

Council Member Orazem reiterated that the rezonings are still pending. He felt it was necessary at this point to allow the process to go forward and let people digest all the different discussion that had occurred at this meeting.

The meeting recessed at 10:31 p.m. and reconvened at 10:40 p.m.

**CHANGE ORDER NO. 4 WITH FOX ENGINEERING PERTAINING TO NEW WATER TREATMENT PLANT:** Water and Pollution Control Director John Dunn stated that informal reviews with the Iowa Department of Natural Resources (IDNR) of the design for the new Water Treatment Plant took place through calendar year 2013. The preliminary designs shared with the IDNR included the use of external cascade aerators. Mr. Dunn explained that in April 2014, the completed final design for the new Water Treatment Plant was submitted to the IDNR for review and issuance of a construction permit. During its review, the IDNR informed City staff that the use of external cascade aerators would not be permitted based on concerns that it posed an unacceptable potential for contamination of the water. Excerpts from the Ten States Standards were read by Director Dunn, which appeared to allow cascade aerators that discharge to lime softening or clarification plants. Given that Ames is a lime softening groundwater system that chlorinates and the *Ten States Standards* appear to contemplate such a design and includes applicable standards to allow them,

staff had asked IDNR to comment. Staff from IDNR explained that the use of cascade aerators would be inconsistent with its previous practices, the Standards are out-of-date, and that it is within its discretion to require the use of other methods.

Two alternatives offered by the IDNR were explained by Director Dunn, as follows:

1. Ames would agree to change its classification from being a “groundwater” system to being a “surface water” system. Mr. Dunn said this would require piping modifications and baffling of the existing finished water storage tanks and/or substantial increase in on-site finished water storage in order to meet the criteria for disinfection that apply to surface water systems. According to Director Dunn, staff believes that this option is an unacceptable option for the long-term operation of the treatment facility.
2. Ames would enclose the cascade aerators. The City’s consultants have indicated that enclosing the aerators in a pre-cast concrete room would cost approximately \$250,000 in increased construction costs plus an additional design fee to redesign the concrete platform and add the necessary electrical and ventilation equipment. The new room would then be categorized as an OSHA confined space, which which increase the operational expense due to additional heating and ventilation requirement. The increased energy demand would also likely reduce the LEED credits the project could obtain. The City is pursuing a LEED Certified facility in order to receive approximately \$6 million of forgivable loan proceeds.

Director Dunn advised that staff had come up with two additional options:

3. Change from using cascade aerators to using an induced (mechanical) draft aerator. The IDNR has routinely approved the use of external induced draft aerators for groundwater systems. The construction costs would increase by approximately \$400,000 and would necessitate an additional \$107,780 in redesign fees and would delay the issuance of a Notice to Bidders by approximately four weeks.
4. Appeal the IDNR staff’s decision to disallow external cascade aerators. The unwillingness by the IDNR to consider the use of a treatment technique that appears to clearly be contemplated and planned for in the Ten States Standards would be construed as an abuse of the IDNR’s administrative discretion. An appeal would likely take nine (9) to 12 months to resolve, and during that time period, the project could not move forward with bidding or construction. Using the Consumer Price Index, the cost to the project for delaying construction is estimated at more than \$125,000 per month. This option would come with the greatest cost tot he project with no guarantee of a successful outcome.

City staff held an in-person meeting with IDNR’s Water Supply Engineering Division on July 3. Director Dunn stated that additional material to back up the City’s position was provided to the IDNR, and it is possible, but not highly likely, that the IDNR will reverse its decision.

Mr. Dunn advised that the Professional Services Agreement with FOX Engineering for design work related to the new Water Treatment Plant was approved on October 13, 2009. Since that time, three change orders have been approved. FOX Engineering has prepared an amended Scope of Work to complete the redesign of the induced draft aerators and incorporate it into the already completed plans and specifications. It includes a fixed fee of \$107,780. Staff is recommending this Change Order to allow the redesign work to begin immediately in an effort to save at least a portion of the 2014 construction season.

Moved by Goodman, seconded by Betcher, to adopt RESOLUTION NO. 14-392 approving Change Order No. 4 with FOX Engineering to redesign the aeration process for the new Water Treatment Plant in a fixed amount of \$107,780.

Roll Call Vote: 6-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these Minutes.

**HEARING ON MAJOR SITE DEVELOPMENT PLAN FOR 3299 EAST 13<sup>TH</sup> STREET:** Mayor Campbell stated that the applicant had requested, due to unforeseen circumstances, that the hearing on this item be continued to August 26.

Mayor Campbell opened the public hearing.

Moved by Goodman, seconded by Orazem, to continue the hearing to August 26, 2014.

Vote on Motion: 6-0. Motion declared carried unanimously.

**HEARING ON NUISANCE ASSESSMENTS:** Mayor Campbell opened the public hearing. She closed same after no one came forward to speak.

Moved by Orazem, seconded by Corrieri, to adopt RESOLUTION NO. 14-393 assessing the costs of snow/ice removal and certifying assessments to the Story County Treasurer.

Roll Call Vote: 6-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these Minutes.

**ORDINANCE AMENDING CHAPTER 13 TO ONLY REQUIRE BELOW-GRADE EGRESS WINDOWS IN BEDROOMS:** Moved by Goodman, seconded by Nelson, to pass on first reading an ordinance amending Chapter 13 to only require below-grade egress windows in bedrooms.

Roll Call Vote: 6-0. Motion declared carried unanimously.

**ORDINANCE MAKING ZONING TEXT AMENDMENTS PERTAINING TO PETITIONS FOR REZONING AND MASTER PLAN DETERMINATION:** Moved by Goodman, seconded by Corrieri, to pass on second reading an ordinance making zoning text amendments to Sections 29.1507(2) and 29.1507(3) pertaining to Petitions for Rezoning and Master Plan Determination, respectively.

Roll Call Vote: 6-0. Motion declared carried unanimously.

**ORDINANCE MAKING ZONING TEXT AMENDMENT PERTAINING TO FLOATING SUBURBAN RESIDENTIAL DISTRICT:** Moved by Goodman, seconded by Corrieri, to pass on second reading an ordinance making a zoning text amendment pertaining to Floating Suburban Residential District, specifically related to density range, limitation on units per building, changes to setbacks, clarifications to Establishment Sections' references to rezoning and map amendment process, and cleanup of net density terminology.

Roll Call Vote: 6-0. Motion declared carried unanimously.

**ORDINANCE AMENDING CHAPTER 21 TO ALLOW FOR MULTIPLE-FAMILY DEVELOPMENT ENTRANCE SIGNS:** Moved by Nelson, seconded by Corrieri, to pass on second reading an ordinance amending Chapter 21 to allow for multiple-family development entrance signs.

Roll Call Vote: 6-0. Motion declared carried unanimously.

**COUNCIL COMMENTS:** Moved by Betcher, seconded by Goodman, to refer to staff the letter from Nirmalendu Majumdar requesting that the City vacate the alley between 11<sup>th</sup> and 12<sup>th</sup> Street, from

Grand to Wilson Avenue, and allow him to purchase a portion of that land.

Vote on Motion: 6-0. Motion declared carried unanimously..

Moved by Orazem, seconded by Corrieri, to refer to Legal staff the need for an amendment to the RL designation that would prevent the type of development that is occurring on the Old Middle School property.

Council Member Orazem clarified that he did not want staff to begin this process until the Breckenridge development issue is resolved.

Vote on Motion: 6-0. Motion declared carried unanimously.

Moved by Orazem, seconded by Corrieri, to refer to staff the letter dated July 2, 2014, from Dan Carter pertaining to problems with a drainage ditch behind his property at 4006 Stone Brooke Road..

Vote on Motion: 6-0. Motion declared carried unanimously.

Moved by Orazem, seconded by Goodman, to refer to staff the letter from Scott Renaud of FOX Engineering, requesting the vacation of two easements at 701 S. Duff Avenue for a report back to Council.

Vote on Motion: 6-0. Motion declared carried unanimously.

Moved by Nelson, seconded by Goodman, to refer to staff for placement on the July 22, 2014, Agenda the request of Linda Murken of the League of Women Voters of Ames pertaining to the City's scheduling policy for rooms in City Hall.

Vote on Motion: 6-0. Motion declared carried unanimously.

Mayor Campbell announced that the City Attorney had just received an email from the developers of Breckenridge that stated, "In light of the outcome of tonight's meeting, Breckenridge asks that the tabled rezoning applications be untabled" and Council proceed with their rezoning requests for the other two properties.

City Attorney Parks advised that if the City Council were to refer that request for action, it would require republication of the Legal Notices regarding the two pending applications.

Mayor Campbell asked if a motion needed to be made at this meeting since the Council had just received the request. City Attorney Parks stated that the motion to untable had not been on an agenda. She suggested that the Council refer this for getting the action back on an agenda. Staff would then follow with Hearing Notices that would be coincident with the hearing happening right afterwards.

Moved by Nelson, seconded by Orazem, to add that to a future agenda.

Council Member Goodman noted the tendency of the City Council to not take up things around the dais. He is unsure if that is this Council's policy or if it was just the previous Council's policy.

Mayor Campbell clarified that the motion would be to take the pending applications for rezoning off the table and reactivate them. Ms. Parks further clarified that it would be to put that item on the next agenda so there can be a motion to take them off the table, and if there is time for publication of notice, there would be a hearing after the items had been taken off the table by that motion. If there is time to publish the Notice, the hearing would occur at the same meeting as the items were taken off the table.

Vote on Motion: 4-2. Voting aye: Corrieri, Gartin, Nelson, Orazem. Voting nay: Betcher, Goodman. Motion declared carried.

City Attorney Parks said that the motion to take the item from the table can definitely occur on the next agenda. If there is enough time to get the Notice published, the hearing would be on that same agenda; if not, the hearing would have to be held at the meeting after that one.

City Manager Steve Schainker questioned whether the City Attorney should start writing up the Agreement prior to the hearing. The Mayor said that was moot now. Ms. Parks agreed that that was her understanding. She said that, in light of the most recent request of Breckenridge, it was her interpretation that it was withdrawing from wanting to get an agreement drawn up.

**ADJOURNMENT:** Moved by Goodman, seconded by Corrieri, to adjourn the meeting at 11:07 p.m.

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Diane R. Voss, City Clerk

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Ann H. Campbell, Mayor