

## REGULAR MEETING OF THE AMES CITY COUNCIL

AMES, IOWA

DECEMBER 9, 2014

The Regular Meeting of the Ames City Council was called to order by Mayor Campbell at 7:00 p.m. on the 9<sup>th</sup> day of December, 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.

**CONSENT AGENDA:** Council Member Betcher requested to pull Item No. 6 (Requests for Ames 150 Sesquicentennial Platting Day) for separate discussion.

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

1. Motion approving payment of claims
2. Motion approving minutes of Special Meeting of November 18, 2014, and Regular Meeting of November 25, 2014
3. Motion approving Report of Contract Change Orders for November 16-30, 2014
4. Motion approving renewal of the following beer permits, wine permits, and liquor licenses:
  - a. Class C Liquor & Outdoor Service – The Café, 2616 Northridge Parkway
  - b. Class C Liquor & Outdoor Service – Thumbs Bar, 2816 West Street
  - c. Class C Beer – Swift Stop #6, 125 6<sup>th</sup> Street
  - d. Class C Beer – Swift Stop #7, 2700 Lincoln Way
  - e. Class C Liquor & Outdoor Service – Aunt Maude’s, 543-547 Main Street
  - f. Class C Liquor – Tip Top Lounge, 201 East Lincoln Way
  - g. Class C Beer – Casey’s General Store #2298, 428 Lincoln Way
5. RESOLUTION NO. 14-621 approving appointment of Council Member Peter Orazem to Ames Convention & Visitors Bureau Board of Directors
6. RESOLUTION NO. 14-624 approving amendments to Records Retention Schedule
7. RESOLUTION NO. 14-625 approving CyRide Fuel Purchase for Calendar Year 2015
8. RESOLUTION NO. 14-626 approving release of Development Agreement for Renewable Energy Group property at 215 Alexander Avenue and releasing property from terms of Agreement
9. Motor Repair for Power Plant:
  - a. RESOLUTION NO. 14-627 approving contract renewal with Electrical Engineering and Equipment Company of Windsor Heights, Iowa, in an amount not to exceed \$115,000
  - b. RESOLUTION NO. 14-628 approving Performance Bond

Roll Call Vote: 6-0. Resolutions/Motions declared adopted/approved unanimously, signed by the Mayor, and hereby made a part of these Minutes.

### **REQUESTS FOR AMES 150 SESQUICENTENNIAL PLATTING DAY IN DOWNTOWN**

**AMES, DECEMBER 17:** Council Member Betcher said that she had pulled this item from the Consent Agenda to allow Casie Vance to highlight some of the activities that will be happening as part of the last event to be held pertaining to the Ames Sesquicentennial.

Casie Vance, representing the Ames Historical Society, 416 Douglas, Ames, listed events planned in observance of Ames 150 Sesquicentennial Platting Day to be held on December 17.

Moved by Betcher, seconded by Corrieri, to adopt/approve:

- a. RESOLUTION NO. 14-622 approving closure of a portion of Douglas Avenue from 8 a.m. to 4 p.m. on December 17
- c. A Blanket Temporary Obstruction Permit for December 17

d. RESOLUTION NO. 14-623 approving the closure of 14 parking spaces on Douglas Avenue from 8 a.m. to 4 p.m. on December 17

Roll Call Vote: 6-0. Resolutions/Motion declared adopted/approved unanimously, signed by the Mayor, and hereby made a part of these Minutes.

**PUBLIC FORUM:** Hugo (Fritz) Franzen, 1216 Scott Avenue, Ames, identified himself as an Ames resident, a physical scientist, and as a member of the Citizen’s Climate Lobby. He said that his purpose in attending this Council meeting was to communicate that he, in his capacities as a resident and a scientist, wants to do whatever is in his power to strengthen the City’s resolve in the future considerations of its energy usage to increase the component of the usage derived from solar energy. According to Mr. Franzen, through the combustion of fossil fuels, approximately 300 billion megawatt hours of energy are being added annually to the biosphere. He expressed two concerns to be considered by the Ames City Council: (1) the increases in energy introduced into the biosphere will require, within the foreseeable future, changes in the extent to which it will be possible to continue to consume fossil fuels, and (2) the approach to the consideration of policies reducing dependence on fossil fuels at the federal or state level has demonstrated that there are economic forces that make such reduction extremely unlikely in the foreseeable future. Mr. Franzen asked the City Council to carefully consider the urgent need to substantially decrease dependence on fossil fuels when considering energy options in the future.

Ryan Jeffrey, 2712 Lincoln Way, Ames, said he was speaking in his capacity as Business Improvement Director for the Campustown Action Association (CAA). He asked the City Council to consider changing the tax abatement system for Campustown. Mr. Jeffrey stated that several years ago, a survey of people using and interested in Campustown was conducted. The three major things that people indicated about Campustown were: liked its proximity to events, had a desire to have it be cleaner and nicer, and had a desire to have it be more “mom and pop” type shops. It was noted by Mr. Jeffrey that a lot of work had been done at cleaning up Campustown. He reported that there are going to be a lot of new and exciting buildings in Campustown, but some of that has come at a cost to the “mom and pop” type of businesses. Mr. Jeffrey said they were striving to reinforce the overall goals of “People for Campustown” and encourage the “mom and pop” type stores. He asked that when taxpayer money is being spent to encourage growth, developers be encouraged to look to supply space for “mom and pop” type businesses through a potential formula business plan associated with tax abatement.

There being no one else requesting to speak, the Mayor closed Public Forum.

**HEARING ON ZONING ORDINANCE TEXT AMENDMENT TO INCREASE ALLOWABLE HEIGHT FOR CERTAIN ARCHITECTURAL FEATURES IN ALL ZONING DISTRICTS:**

City Planner Charlie Kuester explained that Heartland Baptist Church was seeking an amendment to the Zoning Ordinance regarding the maximum allowable height for steeples and other architectural features of principle structures. The Church is planning to construct a new facility on a 21-acre site at 3333 Stange Road. The proposed steeple is 72 feet in height; however, the current regulations in the Suburban Low-Density Residential zoning district only allow it to be a maximum of 60 feet. During review of the Church’s plans, staff determined that the proposed steeple would exceed the height limit in the Low-Density district. Options were presented to Church representatives, who chose to request a zoning text amendment, rather than requesting to rezone the property to Medium-Density or reducing the height of the steeple.

According to Planner Kuester, the Planning and Zoning Commission, on November 19, 2014, recommended denial (3-2) of the proposed text amendment. The Commissioners who recommended denial stated at the meeting that they felt that the amendment was being proposed to serve a particular development project rather than affecting the City as a whole. Also, some were concerned about the unintended consequences of allowing the increase in height in a residential zone as it would apply to all uses and a wide variety of architectural features. Mr. Kuester advised that the proposed amendment would allow architectural features, such as steeples, spires, etc., to be either the greater of one and one-half times the maximum height limit in the zone or 75 feet.

It was noted by Planner Kuester that the proposed amendment would only impact Low-Density Residential districts, the Urban Core Medium-Density district, and some commercial districts. In all of those districts, the approval of religious institutions that would likely include a steeple or spire requires a Special use Permit to be approved by the Zoning Board of Adjustment (ZBA). The ZBA is required to consider the scale of the proposal and its context within the neighborhood as part of its review. City staff believes that, through that process, a proposed substantial architectural element that may be out of place could be modified to better suit its surroundings.

Mayor Campbell opened the public hearing.

Randy Abell, 2713 Northridge Circle, Ames, identified himself as the Pastor of Heartland Baptist. Mr. Abell shared that Church representatives met with staff from the City's Planning Department over two years ago when initial drawings showed a 35-foot steeple on a 40-foot high building. No City staff members ever raised the issue about the height of the proposed steeple not being allowed in the zone with any Church representatives. According to Mr. Abell, the subject property was initially zoned Agricultural, and at the City's request, the Church asked that the property be rezoned to Residential. For reference, Mr. Abell noted that a 35-foot-high steeple would be the same height as an average telephone pole. He also pointed out that any similar case would also need a Special Use Permit; therefore, organizations could not put up a steeple, spire, etc., in a small neighborhood. The Church is located on 21 acres, and it had to get a Special Use Permit.

Mr. Abell told the Council that there were at least 20 Church members present who were at the meeting to support the request for a text amendment. Each of the members would be willing to speak; however, in the interest of time, Mr. Abell said that he was voicing their support. Addressing some of the comments made by Zoning Board of Adjustment (ZBA) members, it was stated by Mr. Abell that over 500 Church members and members of the community are in support of the text amendment, not just him personally. Also, a ZBA member had asked how tall 75 feet would be, and the answer given had been "a seven-story building." That answer presents a perception of an image that would be way out of context to a church with a steeple.

Council Member Goodman asked why the Church had made the decision to go through this process rather than adjust the height of the steeple. Mr. Abell explained the tradition of steeples on Baptist churches. He noted that an option for the Church would be to make application for another rezoning that would allow the proposed steeple; however, the Church would have to start over on the text amendment needed for the maintenance building. The Church could have followed the pattern of others and built outside the city limits of Ames, but make the choice to stay in Ames.

Debbie Lee, 214 S. Maple, Ames, spoke as Chairperson of the Planning and Zoning Commission. She shared that none of the Commission members had any concerns about the case in question. However, Commission members were surprised to learn that, under the current *Code*, anyone in a residential zone could build a 60-foot clock tower, spire, or steeple. The Commission members had an issue with the way the current *Code* was written, and they did not want to increase the height to 75 feet. At the inquiry of Council Member Gartin, Planner Kuester concurred that an owner of a single-family home could build a 60-foot clock tower, spire, steeple, etc., with nothing more than a Building Permit.

The Mayor closed the hearing after no one else requested to speak.

Moved by Gartin, seconded by Orazem, to pass on first reading an ordinance making a Zoning Ordinance text amendment to Section 29.401(4)(b) to increase the allowable height for certain architectural features that are less than 200 square feet in size.

Council Member Betcher expressed her reservations about approving the text amendment given what could result in unintended consequences.

Council Member Goodman stated that he would like to think that when the City Council makes *Code* text amendments, it is a well-thought-out process regarding what will be taking up staff time. He believes that a hard conversation needs to be had on what should be taking up staff time.

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

**HEARING ON ZONING ORDINANCE TEXT AMENDMENT TO INCLUDE AN ALLOWANCE FOR FRONT-YARD PARKING IN LIMITED CIRCUMSTANCES:**

Planner Kuester advised that Northridge Village at 3300 George Washington Carver is a residential development with a continuum of skilled care, assisted living, and independent senior living uses. The developer had requested that the City Council authorize an application for a text amendment to allow for parking in front of the main building entrance; however, parking is prohibited in front yards of residential buildings. Mr. Kuester reminded the Council members that they had referred this request to staff on August 12, 2014, to consider a text amendment for front-yard parking under certain circumstances.

Mr. Kuester referenced the regulations of Chapter 29, Article 4, stating that the Ames Zoning Ordinance prohibits parking and creating parking spaces in the front yards of residential uses and buildings (e.g. single-family homes, apartments, duplexes) in specified residential districts. Within the residential zoning districts, there is some variability of parking requirements related to non-residential uses, such as for churches and schools, which are not covered by that prohibition. But the developer's uses of skilled care facilities (nursing homes), assisted living, and senior living are classified as Group Living residential uses and are subject to the restriction on front-yard parking.

The Council was told that the developer's project has been approved by the Zoning Board of Adjustment and is currently under construction. The project was approved with a drop-off looped driveway to the main entrance, but without any long-term parking spaces. Northridge

Village now seeks the inclusion of front entrance visitor parking spaces to accommodate friends, caregivers, and family of residents.

Planner Kuester shared that the City has debated front-yard parking standards several times over the past ten years. The changes have been to clarify the restrictions and ensure residential parking is not located between the fronts of buildings except on driveways. These requirements are based on a combination of need for enforcement against illegal parking and aesthetic concerns of parking areas near a street, especially since many intense residential uses can be found adjacent to single-family homes. Even single-family homes are subject to the restriction about having parking spaces in the area between the street and the house, except upon a driveway. While some nonconforming parking can be found, it mostly predates the current Zoning Ordinance of October, 2000. Front-yard parking language was most recently amended in 2008 to create the current standards and diagram within the Zoning Ordinance.

Mr. Kuester explained that, in this case, the front of the building is actually recessed between two of the wings, which come out a considerable distance. According to Planner Kuester, staff had crafted an amendment that will accommodate some degree of front-yard parking for certain residential uses. Group Living is a category of residential uses that includes assisted living and skilled care facilities as well as boarding houses, dormitories, fraternities, and sororities. It would not apply to Household Living uses such as apartments, single-family homes, etc. The current ordinance specifically describes where the front yard is located for residential uses and buildings. The proposed amendment would require parking to be behind the primary façade only. For a structure that has an “ell” or “wing” extending toward the street creating a primary facade, parking in the front yard can be accommodated as long as it is behind the forward-most portion of the building and meets the required setback. The proposed amendment retains the prohibition for corner lots due to the highly visible nature of corner lots. The proposed amendment also imposes a greater setback of 50 feet for this front-yard parking. To be compatible with the aesthetic interest of limiting parking in front of buildings, staff recommended adding a large setback in combination with being behind the primary façade. This setback would be a minimum of 50 feet, rather than the typical minimum of 25 feet for a building.

Planner Kuester advised that the Planning and Zoning Commission met on November 4 and recommended approval (5-0) of the proposed text amendment. Planning and Housing Director Kelly Diekmann shared that there had been a lot of discussion among the Commission members before voting on the request.

Council Member Betcher asked if the currently allowed parking would be on the side of the building and the only access into the facility would be on the front of the building. Planner Kuester explained that currently there would be a single driveway off of George Washington Carver Road. There is a road to the right that provides access to the senior apartments on the south side. There is a driveway that is to the left and circles around the north side of the building for staff and those accessing the skilled care and assisted living areas. That same entrance road, if extended forward, would loop around under the covered entryway and would be a drop-off point for people to enter the main lobby of the facility; that is where the owners would like to place parking spaces. If the requesting parking is not approved, the visitor would have to go around the south side of the building. Council Member Gartin shared that he thought the parking should be located near the front entrance.

Council Member Nelson referenced similar facilities, e.g., Riverside South, Riverside North, Green Hills, Bickford Cottage, Northcrest, and noted that they all have circle drives with parking in the front. He asked, from a technical standpoint, what would make this development different than those. Director Diekmann answered that, prior to 2000, there were different requirements for front-yard parking. In addition, some of those are PRDs; PRDs have the freedom through the Major Site Plan process.

Gib Wood, Scenic Development, Overland Park, Kansas, showed the layout of the proposed parking. He pointed out the entrances into the facility and noted where the parking would have to be located if the text amendment were not approved. According to Mr. Wood, in addition to elderly residents living at the facility, many elderly visitors will be frequenting the facility. Mr. Wood said that they have never had an issue with front-yard parking in any of their facilities located in other jurisdictions, and all but one are located in Medium-Density Residential zones. He emphasized that the proposed change is needed in order for them to provide the type of services that are needed by their residents.

Brian Hoyle, Newport Beach, California, stated that he was present to speak on another issue as the owner of Riverside North and Riverside South. However, he wanted to offer his support for the concept of front-yard parking for care facilities.

Scott Renaud, FOX Engineering, 414 South 17<sup>th</sup> Street, Ames, said that he was in support of the proposed text amendment. He noted that unintended consequence of the requirement is that the parking ends up almost never being in the front of the building.

Debbie Lee, 214 S. Maple, Ames, again speaking as Chairperson of the Planning and Zoning Commission, said that she was surprised by her recent experience with care facilities and the importance of the location of parking.

No one else came forward, and Mayor Campbell closed the hearing.

Council Member Goodman shared that he wanted to approve a text amendment, but have it limited to this use. At the inquiry of Mr. Goodman, City Attorney Judy Parks advised that if the Council wanted the text amendment to be more restrictive, the process would need to start over.

After being questioned by Mr. Goodman, Mr. Wood explained that he was very concerned about the delay in construction if the process had to start over. He shared that the construction was moving along rather quickly now.

Moved by Goodman to refer the proposed text amendment back to staff that would allow front-yard parking in the case of assisted living facilities, hospices, and nursing convalescent homes.

Mayor Campbell pointed out that this would mean the process would have to start over.

Motion died for lack of a second.

City Attorney Parks advised that if the City Council members wished to further limit the categories, they could pass the ordinance as it is and then direct staff to prepare another text amendment to further limit it.

Moved by Orazem, seconded by Gartin, to pass on first reading the ordinance to amend Section 29.406(7) of the *Ames Municipal Code* with an allowance for front-yard parking for Group Living.

Roll Call Vote: 4-2. Voting aye: Betcher, Gartin, Nelson, Orazem. Voting nay: Corrieri, Goodman.

Motion declared carried.

Moved by Betcher, seconded by Orazem, to direct staff to work on follow-up language to narrow the uses to cover a subset of Group Living facilities.

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

**HEARING ON LOAN AND DISBURSEMENT AGREEMENT FOR PLANNING, DESIGNING, AND CONSTRUCTING IMPROVEMENTS AND EXTENSIONS TO MUNICIPAL WATERWORKS SYSTEM:** Mayor Campbell opened the public hearing and closed it after no one came forward to speak.

Moved by Goodman, seconded by Corrieri, to adopt RESOLUTION NO. 14-629 declaring intent to enter into a Water Revenue Loan and Disbursement Agreement.

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

**HEARING ON LEASE AGREEMENT WITH VERIZON WIRELESS FOR CELLULAR ANTENNA ON CITY PROPERTY AT 600 SOUTH MAPLE AVENUE:** Management Analyst Brian Phillips noted that City staff had been in discussions with a firm representing Verizon Wireless to place a cellular antenna on City property. The proposed site is located south of the Department of Transportation approximately 350 feet east of South Maple Avenue near the Parks and Recreation Department's Squaw Creek Community Gardens. The proposed lease area is approximately 3,800 square feet. Verizon would install an equipment shed and a monopole antenna, both enclosed by a fence. The antenna would be 129 feet tall and could accommodate Verizon and two future wireless carriers. Each future carrier would require its own equipment shed within the site. The terms of the Lease were explained by Mr. Phillips.

Mr. Phillips advised that, if the City Council approves the lease with Verizon, Verizon would be required to obtain a Special Use Permit prior to construction of an antenna. Monthly rental payments to the City would begin when construction commences.

The public hearing was opened by the Mayor. No one asked to speak, and the Mayor closed the hearing.

Moved by Goodman, seconded by Orazem, to adopt RESOLUTION NO. 14-630 approving a Lease Agreement with Verizon Wireless to place a cellular antenna on City property near the Squaw Creek Community Gardens.

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

**HEARING ON VACATION AND SALE OF PORTION OF ALLEY LOCATED ON GRAND AVENUE BETWEEN 11<sup>TH</sup> AND 12<sup>TH</sup> STREETS:** Mayor Campbell opened the hearing. The public hearing was closed as no one else came forward to speak.

Moved by Goodman, seconded by Betcher, to adopt RESOLUTION NO. 14-631 approving the vacation and sale of alley remnants as follows:

- a. Piece A to Jessica Jane in the amount of \$1,339.20;
- b. Piece B to Catherine and William Byrd in the amount of \$1,339.20;
- c. Piece C to Nirmalendu and Srimati Majumdar in the amount of \$1,267.78;
- d. Piece D to Laura Jesse in the amount of \$1,267.78;
- e. Piece E to Matthew Leibman in the amount of \$ \$1,276.70.

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

**HEARING ON CONTROLS AND RELAYING PANELS FOR 69kV SUBSTATION PANEL AND TRANSMISSION LINE TERMINAL UPGRADES - DAYTON AND STANGE SUBSTATIONS:** The public hearing was opened by the Mayor and closed after no one requested to speak.

Moved by Goodman, seconded by Corrieri, to accept the report of bids and direct staff to rebid the project.

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

Moved by Betcher, seconded by Goodman, to adopt RESOLUTION NO. 14-632 approving updated preliminary plans and specifications for re-issuance of project; setting January 15, 2015, as bid due date and January 27, 2015, as the date of public hearing.

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

**HEARING ON UNIT #7 FEEDWATER HEATER REPLACEMENT:** The public hearing was opened by the Mayor. No one asked to speak, and the hearing was closed.

Moved by Gartin, seconded by Betcher, to adopt RESOLUTION NO. 14-633 approving final plans and specifications and awarding a contract to American Exchanger Services, Inc., of Hartford, Wisconsin, in the amount of \$283,705 (plus applicable sales taxes).

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

**HEARING ON WATER POLLUTION CONTROL PLANT TRICKLING FILTER CHECK VALVE REPLACEMENT:** Mayor Campbell opened the hearing and closed same when no one came forward to speak.

Moved by Nelson, seconded by Corrieri, to adopt RESOLUTION NO. 14-634 approving final plans and specifications and awarding a contract to Story Construction Co. of Ames, Iowa, in the amount of \$56,700.

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

**HEARING ON 2014/15 ASPHALT PAVEMENT IMPROVEMENTS (FERNDALE AVENUE AND COY STREET) AND 2014/15 WATER SYSTEMS IMPROVEMENTS (SOUTH**



**FRANKLIN AVENUE AND COY STREET):** The Mayor opened the hearing and closed same after no one requested to speak.

Moved by Goodman, seconded by Corrieri, to adopt RESOLUTION NO. 14-635 approving final plans and specifications and awarding a contract to Manatt's, Inc., of Ames, Iowa, in the amount of \$1,217,069.78.

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

**HEARING ON 2014/15 MORTENSEN ROAD IMPROVEMENTS (SOUTH DAKOTA AVENUE TO DOTSON DRIVE):** The public hearing was opened by Mayor Campbell. There being no one wishing to speak, the hearing was closed.

Moved by Goodman, seconded by Betcher, to adopt RESOLUTION NO. 14-636 approving final plans and specifications and awarding a contract to Manatt's, Inc., of Ames, Iowa, in the amount of \$357,904.62.

Council Member Gartin asked if there was a plan in place for continued maintenance of the multi-use trail. Public Works Director John Joiner answered that it would fall under shared jurisdiction between Iowa State University and the City.

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

**HEARING ON 2014/15 TRAFFIC SIGNAL PROGRAM (UNION DRIVE AND LINCOLN WAY):** Mayor Campbell opened the public hearing. No one asked to speak, and the hearing was closed.

Moved by Corrieri, seconded by Goodman, to adopt RESOLUTION NO. 14-637 approving final plans and specifications and awarding a contract to Voltmer, Inc., of Decorah, Iowa, in the amount of \$211,251.64.

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

**HEARING ON 2014/15 TRAFFIC SIGNAL PROGRAM (13<sup>TH</sup> STREET AND STANGE ROAD):** The Mayor opened the hearing and closed same after no one came forward to speak.

Council Member Nelson noted that there were concerns about awarding future work to KWS, Inc., of Cedar Falls, after its poor performance on another City of Ames project. Civil Engineer Eric Cowles stated that documentation is key. If the City has another incident of poor performance by KWS, combined with its past history, staff will meet with legal counsel.

Moved by Corrieri, seconded by Betcher, to adopt RESOLUTION NO. 14-638 approving final plans and specifications and awarding a contract to KWS, Inc., of Cedar Falls, Iowa, in the amount of \$266,072.75.

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

**PRAIRIE VILLAGE SUBDIVISION (1204 SOUTH 4<sup>TH</sup> STREET):** Council Member Gartin stated that he would not be participating in the discussion or voting on this issue due to a conflict of interest.

Planner Kuester explained that American Healthcare Investment, LLC, is requesting approval of a Final Minor Subdivision Plat for Prairie Village Subdivision. This existing single parcel addressed as 1204 S. 4<sup>th</sup> Street is 11.23 acres and is the site of Riverside Manor, an existing skilled care facility. The site is zoned High-Density Residential. Proposed Lot 1 is 2.30 acres and contains the existing Riverside Manor. Proposed Lot 2 is 8.93 acres and intended to be available for development under the current RH zoning. The proposed lot split is necessitated to allow for further development of the site with additional buildings as the Zoning Ordinance does not allow for multiple types of residential buildings on a lot. The applicant has a pending Minor Site Development Plan application for development of apartments. Minor Site Development Plans are an administrative approval. Multiple apartment buildings are allowed on an individual lot once the site is divided.

According to Mr. Kuester, the applicant started grading and placing fill on the site in September based upon an approved grading plan and Flood Plain Development Permit. Mr. Kuester emphasized that fill was being placed in the Floodway Fringe. The grading is taking place within the Floodway and Floodway Fringe in accordance with these approvals.

Mr. Kuester explained that a Minor Subdivision includes three or fewer lots and does not require additional public improvements. A Minor Subdivision does not require a Preliminary Plat and may be approved by Council as a Final Plat. Director Diekmann noted that approval of the Final Plat must still comply with subdivision design and improvement requirements as well applicable City ordinances and duly adopted plans. He brought the Council members' attention to Attachment D of the Council Action Form, which contained the appropriate section of the *Code of Iowa* and the Ames subdivision regulations regarding City Council consideration of a Minor Final Plat. Mr. Diekmann outlined the most applicable sections.

The Council was told by Planner Kuester that the existing site is zoned Residential High density (RH). The site is also subject to the flood plain zoning regulations in relation to the floodway and floodway fringe of Squaw Creek. Lot 1 is within the floodway fringe, but has not part of the floodway on the site. Lot 2 is approximately 50% within the floodway fringe and the remainder within the floodway. The proposed lots have easements included for utility services and for shared access to both lots from S. 4th Street and S. Maple Avenue. The proposed Lot 1 will contain the Riverside Manor as a permitted Group Living use on the lot. The existing building is nonconforming in terms of its flood protection building elevation, as it is lower in building elevation than would be required of new structure within the floodway fringe. Since no improvements are proposed to the building with the proposed plat, there are no requirements to alter the flood protection measures for the existing building. The proposed Lot 1 complies with RH development standards, including lot area, setbacks, site improvements, and access. Other than the location of the site within the flood plain, there are no substantial slopes, vegetation, or natural features on the site affected by the proposed subdivision. The proposed Lot 2 will be available for development of RH uses, subject to zoning standards. Proposed Lot 2 complies with the RH development standards for lot area, frontage, and access. Mr. Kuester advised that future development of the site also will be subject to requirements of the flood plain zoning regulations for both the area that is in the floodway fringe and the floodway. Principal buildings

may be constructed within the floodway fringe area while no structures may be built within the floodway. Accessory uses such as parking may be allowed within the floodway area of Lot 2.

It was noted by Planner Kuester that there are no existing sidewalks on this lot. The applicant is proposing to construct a four-foot sidewalk from the Maplewood Apartments from the east side of Lot 1 to about the middle of Lot 2, at which point the sidewalk will turn south to serve one of the two apartment buildings. From this point the sidewalk will be redirected back towards 4th Street and extend along the back of curb to the west end of the property. This location along the back of curb of S. 4th Street will help avoid the existing drainage ditch and a vegetative area between the street and the site. Construction of the sidewalk adjacent to the back of the curb will be separated from the road to extent practicable with a minimum expectation of a two-foot separation from the back of curb with a four-foot sidewalk or a six-foot wide sidewalk if it is unable to be separated from the curb. The developer must also provide a sidewalk crossing of S. 4th Street on the west side of S. Hazel Avenue at the future site driveway intersection.

According to Mr. Kuester, street trees will be required to be planted along S. 4th Street frontage of both proposed lots, except for the west extent of frontage for Lot 2 where existing vegetation in the right-of-way is undisturbed. A Sidewalk and Street Tree Installation Agreement has been submitted whereby the sidewalk, 4th Street crossing, and the street trees for Lot 1 and Lot 2 will be installed prior to the occupancy of the first new building.

Council Member Goodman asked if South 2<sup>nd</sup> Street was an Arterial street. Transportation Engineer Damion Pregitzer stated that it is a Minor Arterial.

Discussion ensued about left turns on South 4<sup>th</sup> Street into the subject site being problematic. Mr. Pregitzer said that it is highly unlikely that a traffic signal would be warranted since this is Residential. He believed that different types of warning devices would be recommended first in the future. According to Mr. Pregitzer, if it were a commercial site of a certain size, the City would look to put access restrictions in place. Council Member Betcher expressed her concerns about pedestrians trying to get across a four-lane street to the bus stop. Mr. Pregitzer said that the City would reassess the need for a traffic signal at some time in the future, if warranted, but actual data is needed to make that determination. It is being assumed that there will be a large portion of the residents who will be using transit, walking, or biking; therefore, a physical restriction to turn left out of the development. There might be a delay, however, it is not expected to be a safety concern.

Council Member Goodman commented that he feels more information is needed before the Subdivision could be approved. Planning Director Diekmann advised that the Council could ask for more information, place conditions on the Plat, or deny the request for subdivision.

Brian Hoyle, representing American Healthcare Investment, owners of the property in question, stated that the 2010 Flood was a “defining moment” that brought this project to this point. He advised that American Healthcare Investment has owned the property for 15 years and has sustained floods throughout the years that required evacuating residents. In 2010, after an emergency call from the Ames Police Department, he reported that 50 ill and feeble residents of Riverside South had to be evacuated in the middle of the night due to flooding. The 2010 Flood was the third major flood that had impacted the facility. Mr. Hoyle said that his company has looked at every possible option to make the property safer for the residents of the care facility. The purpose of the project is to help the residents not have to worry about future

flooding. According to Mr. Hoyle, the proposed project will provide stability to the site that has never been in existence for 40 years. The site is large, and most of it is undeveloped. According to Mr. Hoyle, it was not his intent to subdivide and develop the site, but he was driven to that point given the conditions with which he has been presented. The zoning is in place to allow the project.

Mr. Hoyle stated that he has been working with a local engineering firm, FOX Engineering, and it had done a very good job dealing with the issues. Answers had been provided to all the questions that they had been asked. According to Mr. Hoyle, they have tried to work with the neighbors and be good neighbors in the community. He met last night with some of the neighborhood representatives to address some of their concerns and misunderstandings. Mr. Hoyle told the Council that the purpose of the project is really to help the facility survive and not make the residents evacuate in the future. He views the work that had been done to this point as an “emergency effort” because stability would be provided to the site that has never existed in the 40 years at the property. The property now has protection from future flooding without adding to the existing floodway problem.

According to Mr. Hoyle, hydrology studies are in existence. The existing engineering will bear all of that out in fact, rather than conjecture and rather than him telling the Council that it is going to work, they have the proof that it will work through engineering studies and detail. Mr. Hoyle stated that they had gone through all the various processes to make the development the best possible. He believes that this development is the best option available and the one that allows him, as the owner of the property, to sustain the property, protect his residents, and provide a good use in the future. They continue to work with the City and the neighbors to come up with the best possible plan.

Mr. Hoyle showed the proposed site plan. Mr. Hoyle believes that what is being proposed is a sustainable development project using all the best modern construction techniques to protect the existing property and the newly subdivided property. It would be a vastly improved property and an improvement for the community.

Council Member Orazem asked if what was being proposed could be constituted as a levy. Mr. Hoyle replied that it should not be characterized at all as a levy. The parking area is in the area of the flood plain. It is drained and meets the Storm Water Management. Mr. Hoyle contended that they improved the situation on the site so that it is not creative a levy; they are creating the capability for the water to flow better in the event of a flood. The water will not go up into his property. According to Mr. Hoyle, engineers have also evaluated what will happen to the adjacent properties as the water moves up or down stream. He believes that this would not act as a dam, but would improve the ability of the area to manage future flood waters.

Debbie Lee, 214 South Maple, Ames, referenced a letter sent in September to the Mayor and City Council from the neighborhood outlining various concerns about traffic and pedestrian safety. She stated that she would not repeat those, but would focus at this meeting on the flooding issues. Ms. Lee responded to some of the information provided at the neighborhood meeting with Mr. Hoyle held last night. She said that Mr. Hoyle told the neighbors that the motivating factor for subdividing the land was to provide flood protection for the Riverside Manor nursing home. Ms. Lee said that she views the project as an elaborate project for the protection of a business. The apartment buildings in the floodway fringe, the retaining walls, a parking lot in the floodway, a berm, and lots of fill would protect one business. It was noted by

Ms. Lee that Mr. Hoyle expects the Ames community to accept that the proposed changes will not create any additional flood risk elsewhere and might even reduce the flood risk. According to Ms. Lee, a major frustration for the residents is that they cannot prove with certainty that the proposed changes will increase potential flood damage in the neighborhood, nor can the developer prove that it will not increase that potential. Ms. Lee noted that the neighbors have seen major floods in 1993, 2008, and 2010, and each time, it has been progressively worse. Historical flood data and experience make the residents of the area worry about the risks that the changes might entail.

Ms. Lee said that the neighbors understand that the property owner has the right to use his property as he sees fit. However, the question of homeowners who have invested in their homes in ways that have increased the value of the neighborhood to the community is what are reasonable expectations for the safety and protection of their homes and belongings. Looking into the future, Ms. Lee asked what recourse the neighboring residents will have if the project results in increased flooding in the area. She asked what it would mean to the property owners and the Ames community to have a further loss of homes in the vibrant and affordable neighborhood. Residents also wonder what the impacts will be on Squaw Creek.

It was acknowledged by Ms. Lee that for Mr. Hoyle to worry about the residents of the nursing home was commendable; however, he purchased the property knowing that there were flood risks. Mr. Hoyle has stated that he had looked at other options, but was driven to the current proposal due to the lack of an alternative. Ms. Lee believes that the alternative chosen by Mr. Hoyle comes at a potential cost to others in flood risk and quality of life in terms of additional traffic to and through the neighborhood. She asked the City Council to do what it can to alter the project.

Judy Lemish, 327 S. Maple, Ames, had heard at the Planning and Zoning Commission that the developer was undertaking the proposed project to protect Riverside Manor Care Facility, the Maplewood Apartments to the east and to the south, and to the neighbors across S. 4<sup>th</sup> Street to the north from flooding. Ms. Lemish expressed her skepticism about the motive of the developer; she believes it is for profit, not because due to caring and concern for the residents of Riverside Manor Care Facility. She pointed out that residents of the Care Facility would no longer be able to look out over the green space with its calming effects, as it would be gone, replaced with two four-story apartment buildings and parking lots. The earthen berm proposed to be located on the north will further isolate the residents who will no longer have a view of the neighborhood or even the traffic driving by. According to Ms. Lemish, when the engineer on the project was asked by a Zoning Board member at the November meeting what the residents of Riverside Manor thought about the project, he responded that “those people are not aware of what was going on.” Ms. Lemish believes that the nursing home residents are more cognizant of what was going on around them than the engineer seems to think. If the project moves forward, the residents will essentially live in a “walled-off sensory-deprived, but protected, area.” Ms. Lemish said she is also suspicious of the alleged protection of others in the neighborhood. She reiterated that she believes the project is for the protection of profits at the expense of the neighborhood residents. There are many unknowns as to what direction the water will come from, how long it will remain, and how much damage will be done from future flooding events. The Care Facility has been at its current location for 40 years. Many of the residences have been in their current locations for 80 years. It appears to Ms. Lemish that this might be a case where one is being pitted against another, and she thinks that, too often in Ames, that is the reality. Ms. Lemish alleges that the City of Ames is also at fault in this because it has failed to update the

maps of the area after 2010. Most of the maps have not changed since 2004; that puts individuals at risk. It is the opinion of Ms. Lemish that this type of development has gone on too long in Ames; all of it can be avoided if the residents, City leaders, and developer act cooperatively for the long-term benefit of all, rather than the short-term profit for a few.

Deborah Link, 222 S. Russell, Ames, stated that she had lived at her current residence for 47 years. Her home is almost 100 years old. Ms. Link stated that her neighborhood is the most immediately affected by the proposed apartment buildings. She asked the Council to halt the construction of the proposed buildings because she believes it will further harm her neighborhood during flooding events that are certain to come. Ms. Link feels that the area around Squaw Creek already has too much concrete, preventing the natural absorption of flood waters. More buildings and concrete will only make it worse. The Council was reminded that the government had already bought-out more than 20 homes and spent too much money in attempts to fix the flooding. Ms. Link believes that the proposed development promises more flooding and worse damage.

Scott Renaud, FOX Engineering, stated that, hydro logically speaking, the neighborhood is disconnected from this location; what is done at the location in question makes no difference on the flooding effect to the neighborhood. South 4<sup>th</sup> and the bridge acts as constraints and establishes the elevation of the water in the neighborhood. According to Mr. Renaud, there is no water flowing over S. 4<sup>th</sup> into the area except when there is a flash flood that comes down the street from Lincoln Way. That is why a berm is proposed to be located in front of the facility. The berm is relatively small, only 3' high. It was pointed out by Mr. Renaud, Maplewood Apartments have not flooded, and the apartment building farther south has not flooded. Mr. Renaud listed the improvements to the property that had already been done by the owner. He stated that this project would not have a negative affect on the neighborhoods upstream. Mr. Renaud alleged that the project has been gone through by staff with a "fine-toothed comb." The project will not do anything to impact the flooding of the neighborhood upstream.

After being questioned by Council Member Nelson, Mr. Renaud said every time you go through a bridge, there is a drop from one side to another. The only way the upstream area can be affected is to basically "wash-out" the bridge. Since the property is really close to the bridge, it can't really be washed-out. Mr. Renaud commented that he was not sure why the neighborhood residents were concerned about a levy, but if one side did a levy and the other side would not, it would be an issue.

Council Member Nelson asked what direction the water came from when Riverside Manor was last flooded. Mr. Renaud responded that the flood that impacted the property in 2010 actually came in the front, off of S. 3<sup>rd</sup> and S. 4<sup>th</sup>, from street flooding that came across into the site. At that time, the water came in through the window wells, flooding the basement, and then the basement collapsed.

Council Member Betcher asked Mr. Renaud if the properties downstream from the proposed development would be more prone to flooding. Mr. Renaud answered that there are a lot of factors; however, he believed it would be 2" or less of rise. He also stated that the *Code* allows fill of the complete flood fringe, and it would only have 1' of effect total in the floodway.

Sharon Guber, 2931 Northwestern Avenue, Ames, alleged that when there is a constriction, such as a bridge, water backs up. Instead of having 18' guaranteed around buildings, if the project is

approved, there would be a flush wall. She asked where the rushing water would go. Ms. Guber questioned whether the proposed project actually fits in the area.

It was noted that, in addition to the pending Minor Site Development Plan, the applicant is in the process of pursuing Flood Plain Conditional Use Permit for alternative means of flood protection within the floodway fringe for the proposed apartment buildings on Lot 2. The Zoning Board of Adjustment held a public hearing on November 19, 2014, and is scheduled to consider the item again on December 10, 2014. In answer to Ms. Guber's question, Mr. Diekmann said that, if the Final Plat is approved, it will not come before the City Council again.

Council Member Goodman stated that he wanted a second opinion from a third party on the impacts of flooding on the residents in the neighborhood adjacent to the subject property. He would also like to see extra oversight of the project.

Council Member Betcher reiterated her concerns over the anticipated number of pedestrians needing to cross S. 4<sup>th</sup> Street, especially because the bus stop is on the opposite side of the street. She believes that at some point in the future, a traffic signal will need to be installed at a cost of \$250,000 or more. Ms. Betcher expressed her dismay that the Plat was being considered Minor. Council Member Orazem said that he was more concerned about continued flooding in the neighborhood. He noted that, if staff had determined that a traffic signal were to be needed, the Council would have to deny approval of the Minor Final Plat. Planning Director Diekmann read the criteria for defining a Minor Final Plat. Mr. Pregitzer explained the trip generation analysis that was conducted by staff to determine whether a traffic signal would be warranted.

Mayor Campbell told the Council that the City Attorney had advised that, with one Council member abstaining due to a conflict of interest, three votes would be needed to adopt the Resolution.

Council Member Goodman said he personally wanted a second opinion from a third party on the impacts of flooding on this project. He is also curious as to whether there is a way to have extra oversight as the project moves forward. Mr. Goodman pointed out that on the Welch Crown Center project, footings had been poured that made it 12" too high. That resulted in the sidewalk being very narrow. If the City would have forced the footings to be removed and re-poured, it would have resulted in a cost of over a million dollars. What it did, however, was create a situation that was totally against Code.

Director Diekmann noted that, if the Final Plat is not decided on at this time, the applicant would need to waive the 60-day requirement to approve or deny the application for a Final Plat so that staff can provide more information to the City Council. Mr. Hoyle stated that, although it would delay the project, he also would like the information.

Moved by Goodman, seconded by Orazem, to refer the request back to staff or the applicant for additional information, asking that the City work with a third party to get an evaluation of the hydrology effects of the proposed project on the Oak-Riverside Neighborhood and direct that staff explore what level of oversight is needed to ensure that the project would be built with the appropriate design.

Council Member Orazem noted that there are different ways to get another evaluation: a consultant can review the engineering study already completed or another hydrology study can be done.

Council Member Betcher pointed out that FEMA monies had been used to buy out properties to the north of the proposed development. It seemed very logical to her that potential impacts to the neighborhood needed to be known.

Vote on Motion: 4-1-1. Voting aye: Betcher, Corrieri, Goodman, Orazem. Voting nay: Nelson. Abstaining due to a conflict of interest: Gartin. Motion declared carried.

The meeting recessed at 9:40 p.m. and reconvened at 9:46 p.m.

**HIRTA DEMAND REPORTS FACILITATION DISCUSSION:** City Manager Schainker stated that, In accordance with this directive, Assistant City Manager Melissa Mundt informed Story County's representative, Deb Schildroth, of the Council's support for open meetings. After checking with other County officials, Deb notified Assistant City Manager Mundt that the County believes the meetings should remain closed. Mr. Schainker noted that the response to the request for open meetings puts the City staff in a bit of a quandary. He stated that staff needed direction from the Council as to whether City staff should continue to attend the closed meetings. Mr. Schainker pointed out that it was the staff's assumption that the Council believes it is very important for the City to participate in the discussions.

Moved by Goodman, seconded by Corrieri, to direct that the City of Ames continue to be a party to the discussions.

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

**VENDING ORDINANCE:** City Manager Schainker stated that, after discussion at the October 28, 2014, City Council meeting, staff prepared five options to address concerns expressed by the Council members. Mr. Schainker advised that, once Council determines which option to proceed with pertaining to 22.20(1)(e), it should direct the City Attorney to prepare the ordinance for consideration on first reading at an upcoming meeting.

Moved by Gartin, seconded by Corrieri, to approve Option 3, i.e., adopt language to prohibit permeates from being granted a Vending Permit if they are listed as a registered sex offender and also prohibit the permitted from hiring employees if they are listed as a registered sex offender.

Council Member Corrieri expressed her opinion that enforcement of Option 3 would be fairly difficult. She asked if there would be a way to limit this to those whom have mobile vending operations. Police Chief Cychoz explained how the process of running background checks could work. Ms. Corrieri asked Chief Cychoz if mobile vending operations represent a greater risk. Chief Cychoz said that residents want to know who is in their neighborhood; that would probably best be answered by residents.

Council Member Betcher noted that Option 3 could turn into an "enforcement nightmare," due to the level of turnover of employees. She said she was supportive of Option 5, "which basically maintains the status quo."

Motion withdrawn.



Moved by Betcher, seconded by Gartin, to direct staff to remove Section 22.20(1)(e), which will allow permeates and their employees convicted of a felony or of a crime of dishonesty to obtain a permit.

Council Member Goodman advised that he would be abstaining from the discussion and voting due to a conflict of interest.

Vote on Motion: 3-2-1. Voting aye: Betcher, Gartin, Orazem. Voting nay: Corrieri, Nelson. Abstaining due to a conflict of interest: Goodman. Motion declared carried.

**REPORT FROM SUSTAINABILITY COORDINATOR:** Assistant City Manager Mundt said that Sustainability Coordinator Merry Rankin and Software Engineering students from Iowa State University would be presenting a mid-year update of the FY 2014/15 activities and accomplishments related to the Sustainability Advisory Services contract between the City and Iowa State University. Three of the four Iowa State Students who had created the program gave a demonstration on the On-Line Self-Guided Data System to track personal electrical usage and compare usage to similar households. Council Member Gartin recommended that an app be created for the program.

Ms. Rankin detailed other accomplishments and planned work for the remainder of the contract year.

**EMERALD ASH BORER:** Public Works Director John Joiner introduced Justin Clausen, the newly promoted Operations Manager. Corey Mellies, former Operations Manager who had worked on the Emerald Ash Borer Plan, had been promoted to Director of Fleet Services.

Mr. Clausen explained the modifications being proposed to Chapter 27 (Trees and Shrubs). It was noted that the Council had directed staff to draft an amendment to Chapter 27 of the *Municipal Code*. With the proposed changes to the Ordinance and Plan, all ash trees in the right-of-way will be exempted from the current public notice and appeals processes. Mr. Clausen emphasized that staff still plans to post trees for a short time in order to notify adjacent neighbors of removals. However, the standard time and appeal process outlined in the *Municipal Code* will not apply.

The Public Outreach Process was explained in detail by Mr. Clausen.

It was noted that the updated Emerald Ash Borer Response Plan and Urban Forest Diversification and Reforestation Plan now includes an appendix outlining a limited administrative appeals process for ash trees in the right-of-way. The new process was explained. It provides that appeals may be made to designated City staff only by owners of property abutting the ash tree, and only on the basis of tree health. In addition, appeals may be made only for ash trees with a diameter at breast height (D.B.H.) greater than 6-inches. Citizens will not be allowed to appeal the City's temporary treatment of ash trees or the replacement of any removed ash trees. Any appeals during this period would focus only on whether the tree is not a defect tree and is a candidate for treatment. Defect trees are defined by their poor condition, or by external factors such as sidewalk damage or power line presence. The Plan will be reevaluated after the first 5 years work is completed removing defect trees and trees less than 6-inches D.B.H. At that time the Council may wish to consider allowing private property owners

to pay for the treatment of healthy abutting ash street trees as an alternative to the appeal process.

Moved by Goodman, seconded by Corrieri, to adopt RESOLUTION NO. 14-639 amending the EAB Response Plan and Urban Forest Diversification & Reforestation Program to include the appeal process as outlined by staff.

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

Moved by Nelson, seconded by Betcher, to pass on first reading an ordinance amending *Ames Municipal Code* Chapter 27, Trees and Shrubs.

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

Moved by Corrieri, seconded by Betcher, to suspend the rules necessary to adopt an ordinance.

Roll Call Vote: 5-1. Voting aye: Betcher, Corrieri, Gartin, Nelson, Orazem. Voting nay: Goodman. Motion declared carried.

Moved by Nelson, seconded by Orazem, to pass on second and third readings and adopt ORDINANCE NO. 4201 amending Ames Municipal Code Chapter 27, Trees and Shrubs.

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

**FEDERAL AIRPORT IMPROVEMENT PROGRAM:** Transportation Engineer Pregitzer advised that, as an annual requirement of the Federal Aviation Administration (FAA), the City submits an Airport Improvement Program (AIP) to the FAA showing the next five Federal Fiscal Years of airport projects. The information contained in the Federal AIP is then copied into the Airport Improvements Program of the City's own Capital Improvement Plan (CIP) to ensure the obligation of local matching funds required for each project. A copy of this year's FAA submittal is attached.

Moved by Corrieri, seconded by Gartin, to adopt RESOLUTION NO. 14-641 approving the 2016-2020 Federal Airport Improvement Program.

Roll Call Vote: 5-1. Voting aye: Betcher, Corrieri, Gartin, Orazem, Nelson. Voting nay: Goodman. Resolution declared adopted, signed by the Mayor, and hereby made a part of these Minutes.

**JUDICIAL DETERMINATION OF PREEMPTION OF LAP DANCE ORDINANCE:**

Assistant City Attorney Jessica Spoden stated that, at trial of two citations filed by the Ames Police in District Associate Court, the Court decided in favor of the City and found the defendants in violation of the Ames ordinance. However, the defendants appealed the decision to the District Court. On November 14, 2014, the District Court held that touching of a semi-nude dancer (a violation of Ames' ordinance) was not distinguishable from "live nude dancing." Since the Iowa Supreme Court determined that the definition of "live nude dancing" included physical contact, the District Court held that the Ames ordinance was void and unenforceable as it was preempted by state law. Subsequent to the July 2012 Iowa Supreme Court decision, the State Legislature introduced legislation that more clearly defined "material" in *Iowa Code* chapter 728. The proposed legislation clarified that "live acts, performances, or exhibitions" are excluded from the list of state-regulated obscene material. The proposal also limited the state's preemption to not restrict a city's authority to regulate a place of business that permits live nude

or semi-nude performances. The proposed legislation (House File 359) passed in the House, but failed to pass in the Senate. According to Ms. Spoden, the City may appeal the decision within 30 days of the order, by December 14, 2014. Since the decision, the Ames Police Department has not been enforcing the Ordinance.

Moved by Goodman, seconded by Corrieri, to direct the City Attorney to repeal *Ames Municipal Ordinance* §17.31, Touching of Certain Entertainers Regulated.

Vote on Motion: 5-1. Voting aye: Betcher, Corrieri, Goodman, Orazem, Nelson. Voting nay: Gartin. Motion declared carried.

Moved by Gartin to direct staff to ask legislators to assist the City in seeking out a legislative fix for this.

Motion died for lack of a second.

Mr. Gartin expressed his concern that this issue would just be allowed to die. He believes that there should be some level of caution; there has been no notice to the public or discussions with the Police Department. Mr. Gartin noted that he wanted to fight the fight not based on the subject matter, but based on principles.

**ORDINANCE REZONING PROPERTIES FOR ISU RESEARCH PARK PHASE III PROJECT:** Moved by Goodman, seconded by Corrieri, to pass on second reading an ordinance from Agricultural (A) to Planned Industrial (PI).

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

**ORDINANCE REVISING ON-SITE PARKING REQUIREMENT FOR FRATERNITIES AND SORORITIES:** Moved by Goodman, seconded by Corrieri, to pass on second reading an ordinance making zoning text amendments to reduce on-site parking required for fraternities and sororities.

Roll Call Vote: 5-1. Voting aye: Corrieri, Gartin, Goodman, Nelson, Orazem. Voting nay: Betcher. Motion declared carried.

**ORDINANCE REZONING 601 STATE AVENUE:** Moved by Goodman, seconded by Corrieri, to pass on third reading and adopt ORDINANCE NO. 4200 rezoning 601 State Avenue from Special Government/Airport (S-GA) to Residential Low-Density (RL).

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

**COUNCIL COMMENTS:** Moved by Betcher, seconded by Goodman, to refer to staff the request of Anne Kinzel dated November 19, 2014, on behalf of the Iowa State University Bio-Economy Institute, requesting support for a grant application.

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

Moved by Goodman, seconded by Corrieri, to refer to staff the letter from Campustown Action Association pertaining to changes in the Campustown Urban Revitalization Criteria Matrix.

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

Moved by Goodman, seconded by Corrieri, to direct staff to add to the Goal-Setting Agenda a discussion on the process of referrals to staff.

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

Council Member Gartin acknowledged the letter from Justin Gersema dated December 5, 2014, pertaining to shopping carts being left at the S 5<sup>th</sup> and Duff Avenue bus stop.

Moved by Gartin, seconded by Goodman, to refer to staff the most-recent letter from Justin Gersema and the work already done by City staff for placement on a future agenda for discussion.

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

**ADJOURNMENT:** Moved by Corrieri to adjourn the meeting at 11:05 p.m.

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Diane R. Voss, City Clerk

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Ann H. Campbell, Mayor