

MINUTES OF THE REGULAR MEETING OF THE AMES CITY COUNCIL

AMES, IOWA

SEPTEMBER 10, 2019

The Regular Meeting of the Ames City Council was called to order by Mayor John Haila at 6:00 p.m. on September 10, 2019, in the City Council Chambers in City Hall, 515 Clark Avenue, pursuant to law. Present were Council Members Gloria Betcher, Bronwyn Beatty-Hansen, Amber Corrieri, Tim Gartin, David Martin, and Chris Nelson. *Ex officio* Member Devyn Leeson was also in attendance.

Mayor Haila announced that the Council was working off an Amended Agenda. City staff added the following items: Ames High School Request for display of fireworks on September 13, 2019, Second Extension to Memorandum of Understanding for the Provision of an Interface Connection Between City of Ames Computer-Aided Dispatch System and Mobile Intensive Care Services of Mary Greeley Medical Center, and Final Plat for Quarry Estates, 4th Addition.

CONSENT AGENDA: Moved by Corrieri, seconded by Gartin, to approve the following items on the Consent Agenda:

1. Motion approving payment of claims
2. Motion approving Minutes of Regular Meeting of August 27, 2019
3. Motion approving Report of Change Orders for August 16 - 31, 2019
4. Motion setting the following City Council meeting dates/times:
 - a. December 17, 2019, as Regular Meeting Date and canceling December 24, 2019, Regular Meeting Date
 - b. January 21, 2020, at 5:15 p.m. for CIP Workshop
 - c. January 31, 2020, at 2:00 p.m. for Budget Overview
 - d. February 4, 5, and 6, 2020, at 5:15 p.m. for Budget Hearings
 - e. February 11, 2020, at 5:15 p.m. for Budget Wrap-Up
5. Motion approving new 5-day Class B Beer License (September 21 - 25, 2019) - Christiani's Events LLC, 429 Alumni Lane - PENDING DRAM SHOP
6. Motion approving Class C Liquor License privilege update for Outdoor Service - BN'C Fieldhouse, 206 Welch Avenue, PENDING INSPECTIONS APPROVAL
7. Motion approving renewal of the following Beer Permits, Wine Permits, and Liquor Licenses:
 - a. Class B Liquor License with Catering, Outdoor Service and Sunday Sales - Hilton Garden Inn Ames, 1325 Dickinson Avenue
 - b. Class C Liquor License with Catering, Outdoor Service and Sunday Sales - Whiskey River, 132 - 134 Main Street
 - c. Class C Liquor License with Catering, Class B Wine, Outdoor Service and Sunday Sales - +39 Restaurant, Market, & Cantina, 2640 Stange Road
 - d. Class C Liquor License with Outdoor Service and Sunday Sales - Wallaby's Grille, 2733 Stange Road
 - e. Class C Liquor License with Catering and Sunday Sales - Hy-Vee #1 Clubroom, 3800 West Lincoln Way - Clubroom Area
8. Ames High School Requests for display of fireworks on September 13, 2019:
 - a. Motion approving Fireworks Permit for display after football game (approximately 8:15

p.m.)

- b. RESOLUTION NO. 19-471 approving waiver of fee for Fireworks Permit
9. Motion authorizing Mayor to sign letter of support for 400 Main Street LLC to apply for Main Street Iowa Challenge Grant from the Iowa Economic Development Authority in the form of a \$75,000 grant
10. RESOLUTION NO. 19-472 approving Second Extension to Memorandum of Understanding for the Provision of an Interface Connection Between City of Ames Computer-Aided Dispatch System and Mobile Intensive Care Services of Mary Greeley Medical Center
11. RESOLUTION NO. 19-473 approving Change Order No. 5 to Agreement with SCS Engineers of Clive, Iowa, to provide services necessary to convert the City's Steam Electric Plant's Ash Impoundment to comply with EPA regulations
12. RESOLUTION NO. 19-474 approving contract and bond for 2018/19 Asphalt Street Pavement Improvements
13. RESOLUTION NO. 19-475 approving Plat of Survey for 1083 and 1085 Y Avenue (Boone County)
14. RESOLUTION NO. 19-476 approving Plat of Survey for 3310 Cedar Lane
15. RESOLUTION NO. 19-477 approving Plat of Survey for 635 Agg Avenue
16. RESOLUTION NO. 19-478 approving Plat of Survey for 509 and 511 Lincoln Way
17. RESOLUTION NO. 19-479 approving Final Plat for Quarry Estates, 4th Addition
18. RESOLUTION NO. 19-480 accepting completion of the sanitary sewer, public sidewalk, and remaining water items required as a condition for approval of the Final Plat for the Menards Subdivision and releasing financial security being held therefor
19. RESOLUTION NO. 19-481 accepting installation of storm water best management practices (Chapter 5B) and four-year Maintenance Bond for development at 700 SE 16th Street (Menards) and releasing financial security being held therefor

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

PUBLIC FORUM: Mayor Haila opened Public Forum. No one came forward to speak, so he closed Public Forum.

VACATION LODGING SEPARATION STANDARD: Planning and Housing Director Kelly Diekmann said Council had requested staff to draft Guest Lodging Ordinances that would amend the Ames *Municipal Code* Chapter 29 Zoning Ordinance, Chapter 13 Rental Code, and create a new Chapter 35 for Guest Lodging Licensing. City Council had also directed staff to modify the draft ordinances to allow for Vacation Lodging as a principal use, but to apply a minimum of a 1,000-foot buffer between licensed properties in specific single-family zoning districts. However, due to the need for further direction on the proposed standards, the full draft ordinances were not ready for approval.

Mr. Diekmann further advised Council that the key consideration for the proposed 1,000-foot buffer requirement is how to apply it when there could be multiple property owners permitted to file the

application at the same time. Normally, the first complete application submitted would be entitled to complete the process prior to consideration of another competing application. To address the possibility of essentially simultaneous applications, staff had created three approaches for City Council to consider.

Option 1: Date of Complete Application

The default option, absent any other guidance, would be a "first come first served" approach. Once an applicant has registered the property and received approval by the Zoning Board of Adjustment (ZBA) they can proceed to apply for the Guest Lodging License. The License application would be processed by Administrative Services staff by entering it into our permit software system and receiving payment. This process includes a time stamp and would establish the order for review. It is also likely that this option can be implemented through the online portal operated by the Inspections Division so there is no question of who would be in line first to be processed by a Clerk. This option requires no consideration by staff of the merits or intent of the property owner on obtaining a license compared to any other applicant, only its timeliness. This option would also ensure the 1,000-foot separation standard is applied consistently to all properties.

Option 2: Exemption for Initial Application Period

This option is designed to allow an exemption for a short initial application period from the 1,000-foot separation standard. In this situation, staff would propose that only properties that already have a Rental Code Letter of Compliance prior to October 1, 2019, not just in process of registering their property, would be exempt from the 1000-foot separation standard for a Guest Lodging License. They would still be subject to the ZBA review and approval of a Special Use Permit prior to applying for a Guest Lodging License. This option could be accomplished by establishing a limited window to apply Guest Lodging licenses without setting a 1,000-foot buffer and then establish a later date for which all applications are subject to the buffer requirement. A narrow window would be appropriate for this consideration to ensure only those property owners that are truly interested in operating such a use proceed through the process. This option limits the impacts of converting non-rental properties to guest lodging by having a prerequisite of having a current LOC, but would likely allow for substantially more guest lodging establishments overall than the first option.

Option 3: Random Selection for Initial Applications

This option would apply the 1,000-foot separation standard to all applications, but establish a random order for processing applications during an initial application period to establish priority, rather than "first come first served." This option would include a two-week window to accept applications, but no processing of the applications would occur until the two-week period has expired. Staff would randomly select the applications and establish an order for their review and work down the list to address potential separation conflicts. This option would be similar to the results of the first option, but allows for a period to collect applications and then impartially consider the requests in a random order.

City Council Member Tim Gartin asked how the boundaries would work around the higher-density neighborhood areas. Mr. Diekmann said the RH zone would not be restricted by the 1,000 feet, nor would it impact the RL Zone. Mr. Gartin asked for clarification on the difference between the rental housing cap and the guest lodging restrictions. Mr. Diekmann explained that the use of a home exclusively for lodging is not a residential use, so those operating that way are not legal. Also they are not restricting the rent of the property, just the transient home occupation use. Mr. Gartin confirmed that Council isn't taking away anything from the residents, but they are creating a path for use of properties that didn't exist before.

Council Member Chris Nelson explained that the vacation rental is a non-owner-occupied property, with no owner present at any time. Mr. Diekmann said there are hosted home shares and home shares that are resident-occupied which would be separate from this. City Council Member Gloria Betcher asked if the converse is also true, that the vacation lodging is not going to be restricted because there is a hosted home share near it. Mr. Diekmann said it has to be two properties of the same use to be impacted.

Director Diekmann said once the ordinance is in place, the ZBA will meet once a month in the winter. He clarified that applicants first have to complete the registration of the property and complete the initial rental checklist, then can apply for the permit. The ZBA can consider five items at most per night. He advised Council that they will need to plan for an option for ZBA to deal with these, which might include having to request that the ZBA meet twice a month for a couple months to deal with that set of applications. Mr. Martin asked if there is any anticipation for a last-minute contest to apply and a last minute contest to be put on the ZBA agenda. Mr. Diekmann said there will be a delay for processing, so there is no concern regarding last minute applicants.

City Council Member Beatty-Hansen asked if there was a suggestion for a window time frame with Option 2. Mr. Diekmann said the Letter of Compliance (LOC) must be in effect for a specific date - the sooner the better - so there isn't a rush of people applying for the LOC. He recommended a two-week window after ZBA meets.

Mayor Haila advised Council that people need to have a chance to review the ordinance and comment. He opened public comment.

Steve Bock of 661 Xanadu Place, Ames, asked if Airbnb businesses are illegal right now, or if there just is no law in place regarding them. He said people should be able to use their properties as they see fit; if a property owner has a LOC, they should have the ability to do something that someone else can do. He asked what the purpose is of the Vacation Lodging Restrictions, either safety, health, or to protect someone.

After no one else came forward to speak, Mayor Haila closed public comment.

Mr. Diekmann responded to Mr. Bock's questions. He said the platform for finding tenants is not what is illegal; what's not allowed is how long the tenants are there. There's a difference between

living in a house and using a hotel or motel. A bed and breakfast requires the owner to be present. Ms. Beatty-Hansen expounded that there are many types of businesses that are not allowed in a residential home; guest lodging was one of those businesses until now. She said Council is trying to find a path to make it legal within some framework. Mr. Diekmann explained that the properties have to be separated by 1,000 feet, but the 1,000-foot radius circles can overlap.

Ms. Beatty-Hansen said she liked Option 2 because it is not taking away owner-occupied housing. City Council Member Betcher advised if someone hasn't been planning to do vacation lodging and they have a rental home that is currently not occupied, they could take advantage of the vacation lodging, but then they would lose long-term renter capability. She said approving this might work against Council's goals to convert rental properties back to single-family homes. Ms. Beatty-Hansen asked if a landlord could go back and forth between rental and vacation lodging. Mr. Diekmann said if a property hasn't been used for guest lodging for the majority of the year, the property owner must reapply for the Special Use Permit.

Mr. Gartin asked if City staff had ever enforced the legality of the vacation lodging properties. Mr. Diekmann said it has not been enforced for the last one and a-half years, pending the outcome of this ordinance. Mr. Gartin said if City staff does not enforce something for a long enough time, it might create the perception that it's allowed. Ms. Betcher said another concern is that none of the vacation homes listed fewer than six people who could stay in that residence, so they would already be in violation of the Rental Ordinance component.

Mr. Martin asked how the outcome would be different between Option 2 and what was discussed at the last meeting to not carve out an exemption for current practitioners. Mr. Diekmann said the difference is that the ZBA members aren't saying the applicant gets to do it; the property owners still have to apply and meet the standards and it will continue forward as a licensing requirement.

Ms. Betcher asked if it would put more of a burden on higher-rental-density neighborhoods. Mr. Diekmann said it could cause more properties to be approved in concentrated areas with Option 2 than with the other two options. Ms. Betcher said she is concerned for stability of neighborhood and erosion of community in those neighborhoods where houses are being purchased for the purpose of vacation lodging. She said Option 1 and Option 3 maintain the radius from the minute the applications are open, but they do reward the people who came in at the last minute instead of the people who had been planning for this and had been ready to submit their applications at the same moment. She asked if the randomization would make it less likely that people can claim infringement of property rights. City Attorney Mark Lambert said the randomization would not increase the gravity of the argument on infringement of rights; each application would be subject to chance.

Mr. Nelson asked if they could add a stipulation that the applicant has to have owned the property in the past to prevent last-minute purchases. Council Member Corrieri asked if Option 5, to show proof that the property has already been operating as a short-term rental could be applied if Council moves forward with Option 2. Mr. Diekmann said it is recommended not to do that because there

have been people who have called to ask if they can operate a short-term rental, and they have been told no. Those people would already be at a disadvantage for following the direction they were given by the City; so if you followed the rules, you would be precluded, which does not seem fair.

Moved by Corrieri, seconded by Gartin, to approve Option 2.

Mr. Diekmann said he needs to know how long Council will allow people to apply after they have gotten their Special Use Permit. Ms. Corrieri said the October 1 date is already part of the motion and two weeks is fine if everyone else agrees.

Ms. Betcher asked if there is a reason not to set it back so people aren't rushing to apply for LOCs. Ms. Corrieri said it's a pretty quick turn-around, so she is leaving the motion as is. Mayor Haila said the goal of Council is to acknowledge those who are operating right now and try to protect the neighborhoods from excessive quantities of vacation rentals.

Vote on Motion: 5-1. Voting aye: Martin, Gartin, Nelson, Beatty-Hansen, Corrieri. Voting nay: Betcher. Motion declared carried.

Planning Director Diekmann said City staff's recommendation is to not hold the hearing on the Zoning Code amendments and to not continue it date-specific. His expectation is that the Ordinance would be ready no sooner than October 8, 2019, but cannot guarantee that date tonight.

HEARING ON PROPOSED AMENDMENTS TO THE ZONING CODE (CHAPTER 29) AND THE RENTAL CODE (CHAPTER 13) AND THE CREATION OF A NEW CHAPTER 35 TO ESTABLISH ZONING DEFINITIONS, STANDARDS, AND ENFORCEMENT PROCEDURES FOR PERMITTING/LICENSING OF GUEST LODGING IN SPECIFIC ZONING DISTRICTS:

Moved by Beatty-Hansen, seconded by Betcher, to continue hearing to a date uncertain.

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

HEARING ON 415 STANTON AVENUE CONTRACT REZONING AGREEMENT: Mr. Diekmann informed Council that the applicant was not able to obtain the out-of-town owners' signatures necessary to proceed with the public hearings on the Contract Rezoning Agreement.

Moved by Beatty-Hansen, seconded by Betcher to continue the hearing to the September 24, 2019, agenda.

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

HEARING ON 2018/19 TRAFFIC SIGNAL PROGRAM (U.S. HWY. 30 WESTBOUND OFF-RAMP AND SOUTH DAKOTA AVENUE): Mayor Haila opened the public hearing. Seeing no one who wished to speak, he closed the public hearing.

Moved by Betcher, seconded by Beatty-Hansen, to approve Alternative No. 1, thereby approving

RESOLUTION NO. 19-482 accepting the report of bids, approving final plans and specifications and awarding a contract to Iowa Signal, Inc., of Grimes, Iowa, in the amount of \$199,688.43. Roll Call Vote: 6-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these Minutes.

HEARING ON PROPOSED AMENDMENT TO ZONING CODE RELATED TO BICYCLE PARKING INCENTIVES IN COMMERCIAL AND INDUSTRIAL AREAS: Ms. Betcher asked if the distance of 150 feet from the entrance to the properties suggested has to be on the subject property or if remote parking could be arranged. Mr. Diekmann said it has to be on the property itself. Staff would not want to give credit for a reduction for something that they can't control offsite.

Mr. Gartin asked if staff had received any feedback on this item. Mr. Diekmann said the level of outreach was the normal notice to the development community to make them aware of the text amendments. He said he has not heard any feedback from that notice. The Planning and Zoning Commission looked into this and made its recommendation after quite a bit of discussion. He said staff did not seek substantial feedback.

Mayor Haila declared the public hearing open. Since no one came forward to speak, he closed the public hearing.

Moved by Nelson, seconded by Corrieri, to approve first passage of an ordinance related to providing bicycle parking, including within a front yard and allowing for a parking reduction of one parking space for every six qualified bicycle parking spaces for up to five vehicle parking spaces in commercial and industrial uses.

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

HEARING ON REQUEST TO APPROVE A MAJOR SITE DEVELOPMENT PLAN FOR 3413 AURORA AVENUE AND 3425 AURORA AVENUE: Mayor Haila opened the public hearing. After no one came forward to speak, he closed the public hearing.

Moved by Gartin, seconded by Betcher, to approve Alternative No. 1, thereby approving RESOLUTION NO. 19-483 to approve the Major Site Development Plan for the proposed eight-unit apartment buildings, located at 3413 and 3425 Aurora Avenue.

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

RENTAL CODE ORDINANCES: The public hearing was opened by Mayor Haila. No one wished to speak, so he closed the public hearing.

Moved by Betcher, seconded by Beatty-Hansen, to approve first passage of an ordinance to vacate right-of-way.

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

SECOND PASSAGE OF ORDINANCE ESTABLISHING PARKING REGULATIONS FOR SCENIC VALLEY SUBDIVISION, FOURTH ADDITION: Moved by Beatty-Hansen, seconded by Betcher, to pass on second reading the Ordinance establishing parking regulations for the Scenic Valley Subdivision, Fourth Addition.

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

SECOND PASSAGE OF ORDINANCE VACATING 180' x 16' OF ALLEY RIGHT-OF-WAY NORTH OF LINCOLN WAY AND EAST OF ELM AVENUE: Moved by Beatty-Hansen, seconded by Corrieri, to pass on second reading the Ordinance vacating 180'x16' of alley right-of-way north of Lincoln Way and East of Elm Avenue.

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

DISPOSITION OF COMMUNICATIONS TO COUNCIL:

Memo from Brian Phillips, Assistant City Manager dated September 10, 2019, Regarding Potential Council Field Trips: Moved by Betcher, seconded by Gartin, to put on any future agenda that staff recommends.

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

Memo from John Joiner, Director of Public Works dated August 23, 2019, Regarding Interim Traffic Control Measures at US 30/ South Dakota Avenue: Mr. Schainker said Council approved the traffic device on Highway 30 and South Dakota Avenue. Staff met with the Department of Transportation and determined that there were no short-term solutions that they would support. Council's goal is to move as quickly as possible to get this traffic signal in place.

Memo from Tracy Warner, Municipal Engineer dated August 19, 2019, Regarding Email from Rick Thompson Regarding Strom Water Being Pumped onto Mr. Flummerfelt's Property: Mayor Haila said Ms. Warner is out of state and has the information on any discussion that was had between Mr. Thompson and Mr. Flummerfelt. He asked Council to table this for two weeks and have Ms. Warner answer questions then.

Ms. Betcher recalled that Ms. Warner said the City was not going to have any more involvement in this situation. Mayor Haila said they need to find out if Ms. Warner has communicated with the parties involved. He said no additional memo is needed, this item just needs to be brought back to Council in two weeks.

Letter from Josh and Mollie Boersma dated August 26, 2019, Regarding Concerns with the City sewer line hookup fees and rules for the East industrial Area for residential property: Moved by Gartin, seconded by Martin, to provide a memo to Council.

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

COUNCIL COMMENTS: Mr. Nelson advised that the Chalk the Block contest is being held on Sunday, September 22, 2019, at 10:00 a.m. Judging begins at 2:00 p.m., and there are prizes for different age categories. Participants can register ahead of time by emailing the Public Art

Commission.

Ms. Betcher commented that Pridefest appeared to be successful and is growing as a community event. She said she will be bringing a topic to Council Comments in a future meeting regarding having the Council consider sending a message to the two major political parties in Story County, affirming the support for and commitment to non-partisan races. She has heard that there has been an effort to recruit candidates under the party for non-partisan offices, and she believes it is in the Council's interest to make a statement about that.

Mr. Gartin said regardless of the outcome of the Healthy Life Center Bond, Council is proud of staff in the way they have worked zealously and communicated thoughtfully to engage the community.

Viewers were reminded by Mr. Gartin that they can't park on certain streets during football games.

Mayor Haila said he, City Manager Schainker, and Council Member Betcher had a meeting with Reg Stewart and started the conversation on principles of community, but did not have adequate time to put anything together for Council tonight. Also, Mayor Haila stated that he had been working with *Ex officio* Devyn Leeson to schedule a joint meeting with student government and Council closer to midterm, and asked that responses to the scheduling requests be prompt.

ADJOURNMENT: Moved by Betcher to adjourn the meeting at 7:05 p.m.

Rachel E. Knutsen, Deputy City Clerk

John A. Haila, Mayor