

MINUTES OF THE REGULAR MEETING OF THE AMES CITY COUNCIL

AMES, IOWA

AUGUST 18, 2020

CALL TO ORDER: Mayor John Haila called the Regular Meeting of the Ames City Council, which was being held electronically, to order at 6:00 p.m. with the following Council members present: Bronwyn Beatty-Hansen, Gloria Betcher, Amber Corrieri, Tim Gartin, Rachel Junck, and David Martin. *Ex officio* Member Nicole Whitlock was also present.

Mayor Haila announced that it is impractical to hold an in-person Council meeting due to the Governor of Iowa declaring a public health emergency because of the COVID-19 pandemic. Therefore, this meeting is being held as an electronic meeting as allowed by Section 21.8 of the *Iowa Code*. The Mayor then provided how the public could participate in the meeting via internet or by phone.

PROCLAMATION DESIGNATING AMES AS A “BIRD-FRIENDLY COMMUNITY:” Mayor Haila proclaimed the City of Ames as a “Bird-Friendly Community.” He urged citizens to recognize the importance of birds in the community and to commit to learning and identifying how people can make a difference, even in their own backyards. Municipal Engineer Tracy Warner thanked everyone who had helped with the designation. Bird-Friendly Iowa Steering Community member Doug Harr explained that the Bird-Friendly Community was created back in 2015. Mr. Harr gave background information about the program. He stated he was pleased to recognize the City of Ames as the next City to officially be designated as a Bird-Friendly Community. In honor of the designation, were given a framed certificate, logo flag, and two signs that can be placed where the City wants to.

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

1. Motion approving payment of claims
2. Motion approving Minutes of Special Meetings of July 21, 2020, and August 12, 2020, and Regular Meeting of July 28, 2020
3. Motion approving Report of Change Orders for period July 16 - July 31, 2020
4. Motion approving renewal of the following Beer Permits, Wine Permits, and Liquor Licenses:
 - a. Class C Beer Permit with Class B Wine Permit and Sunday Sales - Hy-Vee Gas #5013, 4018 West Lincoln Way
 - b. Class C Liquor License with Sunday Sales - Inside Golf, 2801 Grand Avenue #1075
 - c. Class C Liquor License with Catering Privilege, Outdoor Service, and Sunday Sales - Iowa State Center, CY Stephens, CY Stephens - Iowa State University
 - d. Class E Liquor License with Class B Wine Permit, Class C Beer Permit (Carry-out Beer), and Sunday Sales - KWIK Stop Liquor & Groceries, 125 6th Street
 - e. Class E Liquor License with Class B Wine Permit, Class C Beer Permit (Carry-out Beer), and Sunday Sales - Kum & Go #1215, 456 Lincoln Way
5. Requests from Ames Main Street for Art Walk/Music Walk on October 8, 2020 (Rescheduled from June 4, 2020):
 - a. Motion approving Blanket Vending License for Central Business District from 3:00

- p.m. to 8:30 p.m.
 - b. Motion approving Blanket Temporary Obstruction Permit for Central Business District from 1:00 p.m. to 9:00 p.m.
 - c. RESOLUTION NO. 20-418 approving waiver of fee for Blanket Vending License
 - d. RESOLUTION NO. 20-419 approving closure of ten metered parking spaces in the Central Business District
 - e. RESOLUTION NO. 20-420 approving usage of electricity in Tom Evans Plaza and waiver of fee for cost of electricity
 - f. RESOLUTION NO. 20-421 approving closure of Kellogg Avenue, from Main Street to 5th Street, from 3:00 p.m. to 8:30 p.m.
 - g. RESOLUTION NO. 20-422 approving transfer of funds from Local Option Sales Tax Fund to Parking Fund in the amount of \$2.50
6. Requests from Ames Main Street for Downtown September Sidewalk Sales from September 10-13, 2020:
- a. Motion approving Blanket Vending License
 - b. Motion approving Blanket Temporary Obstruction Permit
 - c. RESOLUTION NO. 20-423 approving waiver of fee for Blanket Vending License
 - d. RESOLUTION NO. 20-424 approving suspension of parking regulations and enforcement for Downtown from 8:00 a.m. to 8:00 p.m. on Saturday, September 12, 2020
 - e. RESOLUTION NO. 20-425 approving transfer of funds from Local Option Sales Tax Fund to Parking Fund in the amount of \$1,370.25
7. Requests from Ames Main Street for Shop for Cause on November 7, 2020:
- a. Motion approving Blanket Temporary Obstruction Permit
 - b. Motion approving Blanket Vending License
 - c. RESOLUTION NO. 20-426 approving waiver of fee for Blanket Vending License
 - d. RESOLUTION NO. 20-427 approving suspension of parking regulations and enforcement for the Downtown from 8:00 a.m. to 8:00 p.m. on Saturday, November 7, 2020
 - e. RESOLUTION NO. 20-428 approving transfer of funds from Local Option Sales Tax Fund to Parking Fund in the amount of \$1,370.25
8. Requests from Ames Main Street for Small Business Saturday on November 28, 2020:
- a. Motion approving Blanket Vending License
 - b. Motion approving Blanket Temporary Obstruction Permit
 - c. RESOLUTION NO. 20-429 approving waiver of fee for Blanket Vending License
 - d. RESOLUTION NO. 20-430 approving suspension of parking regulations and enforcement for Downtown from 8:00 a.m. to 8:00 p.m. on Saturday, November 28, 2020
 - e. RESOLUTION NO. 20-431 approving transfer of funds from Local Option Sales Tax Fund to Parking Fund in the amount of \$1,370.25
9. Requests from Ames Main Street for Snow Magic from December 4 - 24, 2020:
- a. Motion approving Blanket Temporary Obstruction Permit
 - b. Motion approving Blanket Vending License
 - c. RESOLUTION NO. 20-432 approving waiver of fee for Blanket Vending License
 - d. RESOLUTION NO. 20-433 approving closure of Kellogg from Main Street to 5th

- Street, including closure of 12 metered parking spaces, from 1:00 p.m. to 8:00 p.m. on December 4 for Santa's Train
- e. RESOLUTION NO. 20-434 approving closure of four metered parking spaces within the Downtown from 1:00 p.m. to 8:00 p.m. on December 4 to facilitate pick-up and drop-off of passengers on horse-drawn carriage rides through Downtown
 - f. RESOLUTION NO. 20-435 approving waiver of parking meter fees for closed parking meters on Friday, December 4
 - g. RESOLUTION NO. 20-436 approving usage of electricity in Tom Evans Plaza and waiver of fees for electricity
10. RESOLUTION NO. 20-437 approving Memorandum of Understanding with Story County and authorizing application for grant funding under the 2020 Department of Justice Bureau of Justice Assistance Edward Byrne Memorial Justice Assistance Grant
 11. RESOLUTION NO. 20-438 approving extension of waiver of parking regulations for parking spaces at Ames Public Library to facilitate curbside pick-up
 12. RESOLUTION NO. 20-439 approving preliminary plans and specifications for 2017/18 Main Street Pavers (Clark to Burnett); setting September 2, 2020, as bid due date and September 8, 2020, as date of public hearing
 13. RESOLUTION NO. 20-440 awarding contract for Power Plant Maintenance Services to Anderson Process & Instrumentation Solutions, LLC, of Marshalltown, Iowa, for hourly rates and unit prices bid in an amount not to exceed \$125,000
 14. Seven snowplow trucks and accessories for Public Works:
 - a. RESOLUTION NO. 20-441 awarding contract to O'Halloran International of Altoona, Iowa, for purchase of seven International HV507 Chassis - six single axle, and 1 tandem axle in the amount of \$594,821
 - b. RESOLUTION NO. 20-442 awarding contract to Henderson Truck Equipment of Manchester, Iowa, to equip the six single axle truck chassis and 1 tandem axle chassis from O'Halloran International with dump body, snow removal equipment, and accessories in the amount of \$799,329
 - c. RESOLUTION NO. 20-443 awarding contract to O'Halloran International of Altoona, Iowa, to install the Optimus Vector system on the seven chassis for year-round use of B100 bio-diesel in the amount of \$93,996
 - d. Motion authorizing staff to pursue grants in the next 12 months to pay for the Optimus system; if unsuccessful a loan will be provided by Fleet Services to Public Works
 15. RESOLUTION NO. 20-444 approving contract and bond for Emma McCarthy Lee Park Pedestrian Bridge Replacement
 16. RESOLUTION NO. 20-445 approving contract and bond for 2019/20 Clear Water Diversion
 17. RESOLUTION NO. 20-446 approving contract and bond for 2020/21 US Hwy 69 Improvements (South Duff Avenue and US Highway 30 Eastbound Off-Ramp)
 18. Power Plant Steam Turbine No. 8 Parts Procurement:
 - a. RESOLUTION NO. 20-447 rescinding Resolution No. 20-374 awarding contract to Action Turbine Bid Repair and rescinding Resolution No. 20-406 approving contract and bond of Action Turbine Bid Repair due to bid being withdrawn
 - b. Motion directing staff to purchase the parts originally intended to be purchased from Action Turbine Repair Service from the next low bidders
 19. RESOLUTION NO. 20-448 approving Change Order No. 3 with RW Excavating Solutions

- for the Low-Head Dam Improvements Project in the amount of \$59,483.99
20. WPC Digester Improvements Project - Phase 2:
 - a. RESOLUTION NO. 20-449 approving Change Order No. 4 with Shank Constructors Inc., in the amount of \$5,197
 - b. RESOLUTION NO. 20-450 accepting completion
 21. RESOLUTION NO. 20-451 accepting completion of 2019/2020 Pavement Restoration Program (Slurry Seal)

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

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

PRESENTATION ON THE DRAFT GREENHOUSE GAS INVENTORY AND ADDITIONAL STUDIES: Assistant City Manager Deb Schildroth introduced Ted Redmond, co-founder of paleBLUEdot LLC, and Michael Orange from Orange Environmental. Mr. Redmond and Mr. Orange are the consultants that the inter-departmental team had worked with. Ms. Schildroth pointed out that this project was a group effort. The group that helped provide the report was Merry Rankin, Water and Pollution Control, Electric Services, Planning and Housing, Resource Recovery, Public Works, Fleet Services, Parks and Recreation, and the City Manager's Office.

Mr. Redmond stated that he will do an abbreviated version of the presentation. He noted that they produced three reports. The primary report was the Community Greenhouse Gas (GHG) Inventory. They produced a number of tools beyond the report itself to help support the City's continuation of the GHG Inventory. Mr. Redmond explained they also provided two additional documents to the City to help the City with foundational information: a Climate Vulnerability Assessment and a Solar PV Potential Study. He briefly explained why GHG emissions matter and then went over the city-wide numbers from 2014 to 2018.

Mr. Orange thanked the staff for helping with this project. He reviewed a diagram for the City's energy flows, which are very complex in Ames. The five energy sources are renewal, coal, natural gas, refuse derived fuel, and electricity. When the City replaced coal with natural gas, it had a profound effect on emissions. Mr. Orange continued to go over the emission trends by sectors. He pointed out that in 2018 the total city-wide reduction went down by 222,218.

Mr. Redmond briefly reviewed the GHG Community Comparisons. He didn't recommend drawing a direct line between any two communities. The national average was 16.94 per-capita and the City of Ames is at 16.5 per-capita. A GHG Emissions Forecast was put together and the current national emission forecast is a 4.6-degree warming.

The Climate Vulnerability Assessment was presented by Mr. Redmond. He explained that Climate Change Vulnerability Assessment is "the degree to which a system is susceptible to, or unable to cope with, adverse effects of climate change, including climate variability and extremes." He went over climate risks to the Ames' population. It was noted that the most vulnerable were children, older adults, individuals with disabilities, those in economic need, people of color, at-risk workers, food insecure

individuals, and individuals without vehicle access. With all the information given, they were able to prioritize climate risks and hazards. For the City of Ames, the higher risks are extreme heat, flooding, air quality impacts. The moderate risks were drought, vector-borne diseases, and nutrition insecurity.

The last report presented was the city-wide solar PV potentials study. In determining city-wide potentials, the methodology that was used was inputting data from roof plan surveys and lidar data obtained from the U.S. Department of Homeland Security. From those data pools, they could then classify roofs based on orientation and tilt. Finally, they calculated solar PV energy generation based on the roof calculation with the assumption that the panels were 350-watt panels, estimated the installed capacity based on roof plane type, calculated system losses based on orientation and tilt. Mr. Redmond explained that they produced two scenarios for projecting into the future. The first scenario was based on the current city share of statewide install trends and the second scenario was increasing city share in terms of KW installed to match the Statewide install trends per-capita.

Council Member Betcher inquired about the city comparisons. She wanted to know if there was a difference in the numbers based on if the city is producing its own electricity or buying electricity off the grid. Mr. Redmond explained that the answer to that question would be “sometimes yes and sometimes no.” He stated that if they compared operations to operations, the numbers would be all over the map; however, when it comes to community-wide emissions it can boil down to where the cities are using energy.

Council Member Martin wanted to know when it comes to characterizing the GHG emissions that come from the purchases of electricity from the grid, they found the breakdown of sources. Mr. Orange stated the information is published, and they were able to obtain the information from other providers.

Council Member Betcher questioned the potential impact of adding more solar. She noted that the City relies on the municipal electric plant to be burning RDF as one of the sustainable means of producing energy, and if the City increased its solar, whether there be a negative trade-off. Mr. Redmond mentioned that there are a lot of varying opinions to that question and would invite the Ames Energy Department to give its perspective, but from his perspective, the answer would be “no.” He did want to point out that there may be some circumstances when some upgrades may need to be done with the grid.

Mayor Haila inquired if the manufacturing of solar panels, wind turbines, the life expectancy, and impact on the environment on disposal goes into the overall analysis or if they are looking at the efficacy of the different systems. Mr. Redmond stated the report looks at the efficacy of the system in general and some of the specifics will vary from manufacturer to manufacturer. The carbon footprint of a solar panel usually has a payoff within two years. The systems do have their own carbon footprint and most solar panels installed have a life expectancy of 20-30 years.

Mayor Haila questioned the findings for the city-wide emission and total city-wide operations and wanted to clarify what city-wide entailed. Mr. Redmond explained that the smallest circle on the slide is the City of Ames operations excluding energy generation. That smaller circle is a subset of the next biggest circle for total city operations for the City of Ames, which now includes the energy generation. The total city operations circle is also a subset of the City-wide emissions, which is everything within

the City of Ames. The percentage of city operations is 6.6% of the total city-wide emissions.

Mayor Haila asked for more information to help him understand the financial slide when dealing with agriculture, mortality, energy, etc. Mr. Redmond stated that all the information came from a national study that was done by the University of California Berkeley. The University had done a matrix comparing different communities and analyzing the data. There is a direct link between the increase in temperature and crime. Labor Productivity is both indoor and outdoor labor. Mayor Haila mentioned that he was surprised by the amount as within the city limits of Ames there is not a lot of Agriculture. Mr. Redmond stated that another way to look at it is to validate the end result. The end result is saying that the emissions have an impact on the future, and this is one way to quantify what that means. If you take that number and divide it by the City's number of emissions, you would end up with about \$55.00 per metric ton of carbon emission, also known as the social cost of carbon.

Council Member Gartin asked how Greenhouse Gas emissions measured. He noted that at some point the City is going to evaluate the measures it has taken to reduce GHG. Mr. Gartin mentioned that, if the City is going to go to different lengths to reduce the GHG, the City needs to make sure they understand the way in which the data is arrived at. Mr. Orange explained that all the data is readily accessible and verifiable. The electricity data regarding consumption comes from each of the providers and he trusts it to be reliable as well as the natural gas. Coal usage was provided by Iowa State University and City of Ames Electric. On-road transportation came from Iowa Department of Transportation in terms of vehicle miles traveled. A complex methodology has been used for decades and when translating from vehicle miles traveled to GHG emissions, Mr. Orange used national data as he was unable to find state specific data. Mr. Gartin commented that the City could create its own benchmark using its own data.

Council Member Martin wanted to know if the vehicle miles traveled is within the City of Ames or does it include the interstate and Hwy 30 that pass-through Ames. Mr. Orange explained that the vehicle miles traveled is done on a jurisdictional boundary for cities and counties, which mean those areas would be included.

Merry Rankin mentioned she didn't have anything to add. The process has been very thorough, and in order to move forward the City needs to know where it stands. She is excited to start looking at goal-setting going forward.

Assistant City Manager Deb Schildroth stated she has enjoyed the process and had learned a lot. She appreciated the work that Mr. Redmond, Mr. Orange, Ms. Rankin, the Department Heads, and staff have done, and is anxious to move forward.

Mayor Haila asked what the next steps would be for the Climate Action Plan

City Manager Steve Schainker stated this was a goal of the Council members for next year, and even with all the cuts due to COVID-19, the funding was left in for the consultant to help the City move forward with a Climate Action Plan. The next step will be for the staff to put together a Request for Proposals (RFP).

Moved by Beatty-Hansen, seconded by Junck, to accept the report as presented.
Vote on Motion: 6-0. Motion declared carried unanimously.

STAFF REPORT ON FACTORS TO CONSIDER IF IMPLEMENTING A CITY-WIDE FACE COVERING MANDATE: Assistant City Manager Deb Schildroth explained that at the July 14, 2020, City Council Meeting, the Council directed staff to develop a process to determine the appropriate time to implement a city-wide face covering mandate. The process would include gathering information on the rate of positive COVID-19 cases and the community spread of the virus in Ames/Story County from local health sources including Mary Greeley Medical Center, McFarland Clinic, and Story County Public Health; monitoring guidance from the Iowa Department of Public Health, Story County Board of Health, and the CDC. Following the analysis of the information collected, the factors below would be considered to warrant a city-wide face covering mandate:

- The Intensive Care Unit at Mary Greeley Medical Center is at capacity
- The percentage of positive COVID-19 cases in Story County reach 10% (“red zone”) and continue rising
- ISU and schools move to an all-virtual learning and businesses reduce hours and/or close
- The Governor’s Proclamation is amended to mandate face coverings in the State of Iowa

Ms. Schildroth noted that the Governor’s current Proclamation encourages the use of face coverings. The Attorney General’s Office has issued an opinion stating that any local regulations requiring face coverings are preempted by the Governor’s proclamations; therefore, cities and counties do not have the authority to issue a face covering mandate since the Governor’s Proclamation is in place. In response to this, the City Council supported the Mayor sending a letter to the Governor requesting she empower cities with the authority to implement public health mandates, such as face coverings in public, when circumstances warrant doing so in our communities. To date, no such authority has been granted, but the City has continued moving forward with promoting the Cyclone Cares campaign and the four pillars of health. Council has also approved a measure requiring face coverings in City buildings and during some Parks and Recreation activities, which took effect July 27, 2020.

Ms. Schildroth mentioned that in the Staff Report there is a table outlining the actions taken by a variety of other communities. She noted that there had been a few updates since the Staff Report had been written and the updates include Dubuque, Mount Vernon, and Waterloo all adopting face covering requirements within their communities. Ms. Schildroth noted that Story County Public Health provided a letter to all city and county government officials about their recommendations on face coverings. Story County Board of Supervisors adopted a Resolution requesting the authority to mandate face coverings from Governor Reynolds.

Council Member Betcher asked what sort of action was taken in Mount Vernon and Dubuque. She pointed out that Waterloo had done a Resolution. Ms. Betcher commented that she would like to understand if other cities are doing Proclamations, Resolutions, or an Ordinance. Ms. Schildroth stated that Dubuque was done by an Ordinance and she was not sure of Mount Vernon. Council Member Martin mentioned that Mount Vernon was done by Resolution, but it states that the Resolution is symbolic in nature and staff will not be able to enforce the Resolution. Mayor Haila explained that Waterloo is not in the Staff Report as it had just passed the other day.

Council Member Betcher asked what the difference would be in the weight of issuing a Resolution versus a Proclamation; City Attorney Lambert explained that the difference would be that a Resolution comes from the Council and a Proclamation would be done by the Mayor. He noted he has seen a few Resolutions that other cities have done that have included penalties, which Mr. Lambert wouldn't recommend doing. If going to include penalties, it should be done by Ordinance. Attorney Lambert mentioned that he has not changed his legal advice and recommends following the Attorney General's opinion.

Council Member Gartin explained that it is not just the Attorney General's office, but the majority of municipal attorneys in Iowa that have taken the same position. Mr. Lambert stated as far as he knows that would be correct.

Council Member Gartin questioned if the Council were to pass an Ordinance and the City doesn't have the authority, what effect the Ordinance would have. Attorney Lambert explained the City can enforce the Ordinance until its told by a court that they don't have the authority. Mr. Lambert mentioned that if the City had a reasonable belief that they were acting under the color of the law, that is a valid legal theory.

Council Member Gartin asked City Manager Steve Schainker if during his tenure, as the City Manager, the Council had ever disregarded the advice of the City Attorney. Mr. Schainker noted that he could not recall a time that had been done. The same question was asked to Attorney Lambert, who stated he could not recall a time either.

Mayor Haila explained that he had invited Mike Norton to the meeting. Mr. Norton explained that he is the General Council for ISU and had been serving on the President's fall planning committee and the task force related to fall planning. Also included in the meeting was Michael Newton. Mr. Newton is the Chief of Police for ISU and the Associate Vice-President for Public Safety. Mr. Newton serves as a liaison for the Senior Leadership group when its Emergency Operation Center is open. He is also on the fall planning committee and other communities that deal with COVID-19. Also included in the meeting was Ames Police Commander Geoff Huff.

Mayor Haila stated that all the Council and citizens are concerned about the spread of COVID-19. They were thrilled to have students come back to the community and applaud ISU for testing everyone who was coming to the University and doing everything they could to keep the ISU and Ames community safe. As students have returned there have been some concerns with some large gatherings that are happening off Campus. Mayor Haila noted that he and Mr. Schainker had a conversation with President Wintersteen at ISU to discuss how to strengthen the message of Cyclones Care. ISU has adopted mandatory face coverings on Campus. Mayor Haila stated they had a Zoom meeting on Monday with ISU to go over recent events and to see what else the Council can do to help. He explained that he was proud of the way that the County, the local community, ISU, and business communities have worked together to help keep doors open and keeping everyone safe. Mayor Haila shared that he had called and spoke with the Mayors of Ankeny, Des Moines, Coralville, Urbandale, and Iowa City. He had called them to see what kind of responses those cities had received from their citizens after issuing a mask mandate. Mayor Haila explained that Coralville did have positive results

to the adoption and Iowa City had also seen good compliance. He commented that the City of Des Moines purchased 10,000 masks and the Police Department or Fire Department approached citizens that were not wearing masks and gave them masks and discussed safety. Mayor Haila mentioned that ISU has stated that there will be no tailgating on Iowa State property. This doesn't mean that tailgating will go away; it just means it will not happen on Iowa State property.

Mike Norton stated they appreciate the partnership between the City and ISU. Mr. Norton explained that on Campus they started out with a policy that masks are expected, but feedback was received that language was not strong enough. Their biggest concern has always been enforcement, but have they progressed from the expectation of wearing a mask until now when it is required. The concerns about enforcement haven't gone away, but the impact of that change has been felt around Campus. They are working on educating the students and providing masks when students forget. He noted that they have had 100% compliance in the classrooms, and on Campus, there is a high-level of compliance, but not 100%. Mr. Norton mentioned that while he completely understands the enforcement challenges for the City, he does think even if it is largely symbolic, the symbolism will have an important effect on the community and the students. Mr. Norton explained that from ISU's perspective, whatever can be done to strengthen the possibility that masks will be worn in the Ames community would be important. Mayor Haila inquired as to what is required in the residence halls. Mr. Norton stated that masks are required everywhere except for in the student's own dwelling space. Mayor Haila wanted to know how compliance was working in the residence halls. Chief Newton explained that the PAs need to do some reminders, but for the large part, they are seeing compliance. The ISU officers are doing walk-throughs in the residence halls and have had to do a few gentle reminders. Chief Newton mentioned that law enforcement isn't equipped to or have the staffing to be the enforcement arm. It was noted that they are trying to get a good partnership with some of the rental building's landlords to talk about the capacity of some of the parties.

Commander Geoff Huff commented that they were a little disappointed with the way "801 Day" looked. What they saw this year was exactly the same as it was last year. Compliance with social distancing and masks was low. Commander Huff mentioned that around this time of year they like to do a lot of education. Their hope is to do a lot of education to hopefully avoid enforcement. He is concerned about how tailgating will be this year; since tailgating is not allowed on ISU property, it will happen somewhere else. Commander Huff pointed out that there is Nuisance Party Ordinance, and while it doesn't address masks or social distancing, it does address some of the other problems and does give the Police Department a tool to use. The Nuisance Party Ordinance was not helpful during "801 Day" as the entire block was engaged in a party, and it only moved the students from one spot to the next. Going forward it will be a tool to use, but he is not sure what is going to happen during football season.

Mayor Haila asked the Commander to speak about the situation with bars. Commander Huff stated that they have had a few reports about the bars not following the Governor's Proclamation, and one of the bars shut down voluntarily until August 23 in order to get more guidance from the state. It was noted that the Police Department has a great relationship with the bars in Ames and have good compliance. The Alcoholic Beverages Division and the Department of Inspections and Appeals will be coming to town to do some spot-checking. Commander Huff explained they are using a similar strategy with reaching out to landlords. A lot of what took place on "801 Day" violated leases in some way. The

Police Department will be working with the landlords to help them understand the process and have a way to reach out to their own tenants.

Council Member Betcher asked how many of the parties that were held were at student/parent-owned houses and not rentals. Commander Huff stated that the majority were rentals, but the Nuisance Party Ordinance has a three-step process. The first violation the people in charge of the party are cited, the second violation is a higher fine, and the third violation goes to the property owner or manager. There is the possibility if the property owner or manager is not willing to step up and help, they could eventually be cited; however, the Police Department is hoping they will not have to do that. It was pointed out that “801 Day” was a bit of an anomaly; he doesn’t believe the parties happen that much on normal weekends.

Mayor Haila asked if the Nuisance Ordinance could be modified to incorporate public health emergency situations. He also wanted to know what the financial impact would be on someone for violating the Ordinance. City Attorney Lambert commented that the Council could amend the Ordinance, but he is not sure if it would change anything as it would be the same as the Governor’s Proclamation. Currently, under the Governor’s Proclamation, it would be a simple misdemeanor. Commander Huff stated that the Nuisance Party Ordinance can be a municipal infraction or a simple misdemeanor. The Nuisance Party Ordinance covers a lot; examples given were underage drinking, public urination, garbage, parking violations, etc. A municipal infraction is \$100 for the first violation, \$250 for the second, and \$500 for the third. Mayor Haila wanted to know if the fees were set by *State Code* or if the Council could change the amounts. Attorney Lambert explained that there is a limit to the amount that can be charged per the *State Code*.

Mayor Haila inquired what some challenges would be that could have to be faced if enforcement was necessary and what would be achievable. Commander Huff commented that it will put the Police Department in a bad light sometimes, especially when there are 200 people at a party. He noted that being heavy-handed is not what people are looking for right now, and they would need to be careful on how to approach those situations. They will continue to rely on outreach and building relationships. Chief Newton explained that they need to set the right stage by being firm, but gentle, at the same time. He noted that if they can set the stage within the first 45 days, it will make a difference for the rest of the academic year. Chief Newton mentioned that peer pressure goes a long way to get a social movement going. What they are seeing in regards to compliance is students stating that “their friends are going and then I get there and don’t know what to do” and if they can work together to educate the community and get buy-in from the entire community, it will be helpful.

Mayor Haila asked *ex officio* Nicole Whitlock what the Student Government is doing. Ms. Whitlock stated that the Student Government had already sent a letter to the Governor requesting a mask mandate. The Student Government is fully recommending anything to do with a mask. Ms. Whitlock commented that it was worrisome to her personally with “801 Day” knowing she was going to be around a lot of those students on Campus. She commented that masks are not fully required when outdoors on Campus and she felt this was an issue. Mayor Haila asked if she had any suggestions on how to help get students on-board with wearing masks. Ms. Whitlock stated that ISU has been handing out masks and if you show your student ID, you can get two masks. In classrooms masks have been worn. Making it more social or “cool” to wear masks would help. She stated that making students more

comfortable wearing them and for those wearing one to not be judged would also help.

Council Member Junck mentioned she agreed with what *ex officio* Whitlock stated. What students do off Campus directly affects how they act on Campus. She pointed out that even if a student is wearing a mask on Campus, they could contract COVID-19 while off Campus. It is crucial that everyone in Ames should have a face covering. Ms. Junck stated that having a Resolution or an Ordinance from the City to strongly enforce face coverings would be helpful.

Council Member Gartin asked if public input would be taken tonight. Mayor Haila stated this was a Staff Report and he is not sure if he will open public input tonight as the Council already received several emails regarding this topic.

Council Member Junck commented that, in the Staff Report, it lists the factors that would be considered in triggering a city-wide face covering, and she wanted to know how those factors were decided upon. Assistant Manager Schildroth explained that the factors are examples and could be modified. The information was given during their weekly Executive Leadership Community partners meeting. Ms. Junck wanted to know if other cities were using similar factors or if it more anecdotal. Ms. Schildroth stated it was more anecdotal. It was noted that several communities are still closed to the public.

Council Member Corrieri stated that a lot of the key factors was to be pro-active. She noted that, while the information in the Staff Report was great, what needs to be decided is if the City of Ames wants to take a more proactive approach. Ms. Corrieri liked what Chief Newton said about setting the stage within the first 45 days; that is a great idea.

Mayor Haila noted that Story County also wrote a letter to the Governor requesting to have a face mandate and a lot of the big box stores have gone along the route of requiring masks. He mentioned that there have been a number of times he has been asked if the City of Ames was going to issue a mask mandate.

Council Member Betcher inquired about the factor that stated that “the percentage of positive COVID-19 cases in Story County reach 10% (red zone) and continue rising.” She wanted to know why 10% when 175 students have tested positive and suddenly the City added over 10,000 people. Ms. Betcher stated that it seemed odd to go by the percentage when the numbers keep going up. She pointed out that 175 cases within the first two weeks is a lot, but because of the influx of students returning, the percentage is still relatively low. Ms. Betcher wanted to know how accurate the percentage would be in recognizing a “hot-spot.” Ms. Schildroth commented that the 10% is the benchmark that the state has used. When the Staff Report was written the COVID-19 testing was just starting. She explained that factor could be changed based on the information that has now been received.

Council Member Betcher explained that she has been involved in discussions with the University’s Communities Council and the International City and County Management Association over the past 10-12 weeks. At State College, Pennsylvania the manager reported the next day their city staff was inundated with horrible phone calls, emails, and really horrible comments directed at staff. She would like to get the City Manager’s opinion on the fallout from mandating masks with the Police

Department or other staff who will have to deal with outraged citizens. City Manager Schainker stated he doesn't have the data, but he believed that the majority of the citizens of Ames would be supportive of a mask mandate. He noted that there is also a substantial number of citizens who believe it is their right to not wear a mask and those people will be more volatile in their responses, and the City will be chastised by those people. Ms. Schildroth stated that she spoke with the City Manager in Iowa City and they stated that a majority of the calls were from business and individuals asking for clarification and interpretation of what was expected. Mr. Schainker stated that once, it is passed, there will a lot of people calling to report people not wearing masks and demanding the City to enforce, but it will be impractical to do with a few people here and there.

Council Member Betcher wanted to clarify that the Ordinance that State College had passed had very strict regulations; there is a limit of ten people outside of bars, ten or fewer people in housing, and they limited public gatherings to 25 people. The first fine is \$350, and if a repeat offender, you can be removed from the city, but that seems a bit draconian.

Chief Newton commented that ISU has gotten more positives than negatives. They have gotten some calls about when people are not wearing face coverings, but they typically don't respond unless they are in the area. He noted that what they are finding is that citizens are unsure of when or when not, they should be wearing face coverings. This is where education is a huge piece for whatever is going to be done. Commander Huff explained that education is being discussed; but education is not the issue as everyone is aware of what is going on with COVID-19 and it is a disregard. He is concerned about putting their officers in a position for more confrontations. Commander Huff mentioned that those calls about citizens not wearing masks will be low priority. He believed that most citizens will do the right thing and wear a mask. Council Member Betcher stated that if people do not live within Ames for the entire year, they don't necessarily care what happens, but building a sense of community may make a difference.

Mayor Haila stated that he would not normally open public comment on a Staff Report, but he will open it tonight based on the feedback so far from the Council.

Jon Emory, 5422 Cervantes Drive, Ames, stated that the City of Ames does need a mandate and the City doesn't need to wait for the Governor. He recommended an Ordinance cover the entire City including Campustown. Mr. Emory mentioned it might be helpful to say that all businesses have to have a mask mandate, but not sure if that would help. He agreed that Ames needs to show some type of leadership.

Mayor Haila closed public comment.

Mayor Haila asked City Attorney Lambert what would happen if the Council requested to do an ordinance. Mr. Lambert stated they would need direction from the Council regarding what they want to put into the ordinance. He noted that they would need at least two City Council meetings; one to review the draft ordinance, and the other to pass the ordinance. Mayor Haila inquired if any public notification was required to pass an ordinance. Attorney Lambert commented that a notice would be required, but would need to double check the length of time needed.

Council Member Gartin mentioned that normally when an ordinance is passed there is an amount of time before the Ordinance goes into effect. He inquired what the normal timeframe would be. Mayor Haila mentioned that once the Council has the third reading, the ordinance is adopted effective upon the publication in the newspaper. Attorney Lambert commented that it is usually the Friday after a Council meeting. Mr. Gartin asked if that same time frame would apply to an Ordinance that has penalties in it. Council Member Beatty-Hansen stated that the City would warn citizens and educate them first before a penalty would be applied. Council Member Gartin inquired if any of the other cities' ordinances apply to children. Mr. Lambert explained that the majority of the other cities have an exemption for children three years of age or younger. City Manager Schainker stated if the Council is thinking of doing an ordinance, they need to provide as much specificity as possible. He asked if the mask mandate would apply to backyard parties, citizens in their own yard, etc.

Mayor Haila asked the Council what they are looking to accomplish; is it ensuring that every person in the City is wearing a mask or is it to be applied to large parties or mass gatherings. Chief Newton stated that those would be two separate things. He believed, overall, anything they can do to get more people to fully embrace face coverings everywhere would be advantageous to the City. Council Member Betcher mentioned that the Council does have the recommended face coverings guidance from the Story County Board of Health and commented that this was a Resolution recommending face coverings. Council Member Martin mentioned that the initial draft was a Resolution to encourage municipalities to adopt a Resolution, but he doesn't think the Board put a lot of stock in the face covering mandate being a Resolution versus a mandate or an ordinance. Ms. Betcher commented that the Board put the language into the guidance letter that is in the packet that would be helpful for a Resolution.

Council Member Betcher stated that the ordinance process is lengthy, and if the Council wanted to move faster, they could also do a Mayors Proclamation or a resolution. She also inquired if an Ordinance could supersede an intermediate proclamation. Attorney Lambert explained that the Council could do a Mayor's Proclamation and then an ordinance later. If they are to give citizens more notification, an ordinance would give more time. Mr. Lambert mentioned that an Ordinance is normally three readings, but the Council could do all three readings in one night.

Mr. Lambert explained that he double-checked, and the City does not have a publication requirement for this type of Ordinance. A publication notice is required for budgeting, Zoning, or a Flood Plain Amendment. He noted that ordinances get passed all the time and they go into effect the Friday after the Council meeting. Attorney Lambert mentioned the Council could put an effective date into the ordinance if they want a later effective date.

Council Member Beatty-Hansen explained that an ordinance does take longer to draft and approve, but as soon as the Council says "hey staff, draft an ordinance" it will hit the media and have the same effect as a Mayor's Proclamation. Mayor Haila questioned if a mandate would it be hollow without any kind of penalty. If there was a mandate without any penalty, it would relieve a lot of issues with law enforcement and confrontation; the police would then be able to tell the citizens that there is an ordinance and then give education. Mayor Haila wondered if a mask mandate void of any penalty would be seen as a joke to the community. Mayor Haila stated that in Iowa City they have not written any citations.

Mr. Schainker stated that if the Council wanted to add a penalty to an ordinance, he doesn't believe a \$10 penalty would be effective. Mr. Schainker wanted to know if the Police Department is supposed to go into all businesses (barbershops, grocery stores) and enforce if someone is not wearing a mask. Ms. Schildroth commented that the majority of the cities are written that way and quoted Dubuque's Ordinance stating "No business that is open to the public may provide service to a customer or allow a customer to enter the premises unless the customer is wearing a face covering as required by this Ordinance."

Council Member Corrieri stated she is very sympathetic to the burden a mandate would put on the Police Department and staff; however, the City of Ames is one of the few places in the country that does not have something like this in place. The penalties are not the goal, but a tool in the "toolbox" to help with enforcement if education is not working.

Moved by Corrieri, seconded by Betcher, to approve Option 4 that would adopt an ordinance mandating face coverings to be worn indoors in public places and outdoors when social distancing (at least 6 feet) cannot be achieved.

Council Member Gartin stated that a lot of time has been spent tonight discussing the substance of a mask mandate, but very little time discussing whether the Council has the authority to do so. He noted that the Counsel took an oath to support the Iowa Constitution and at a minimum they need to act within the scope of the authority that the municipal government has. Mr. Gartin explained that the City's Legal Council is saying that the Council should follow the position of the Attorney General. He felt that adopting an Ordinance would set a precedent and the City does not have the authority to do so. Mr. Gartin commented that the Council has already ignored the guidance of the CDC regarding pools and now by not even listening to the City Attorney.

Council Member Martin asked the City Attorney if the Council went against his advice, would he tell the Police Department that the Ordinance has no authority. Attorney Lambert stated he would advise the Departments on how to enforce the Ordinance. He will presume it is valid until told otherwise. Mr. Lambert explained that there is no clear answer regarding a mask mandate, and he is giving his advice based on his years as an attorney, looking at governmental issues, and reading the Attorney General's Opinion. Mr. Lambert believed the Attorney General is correct. He stated if the Ordinance is passed it is still his job to enforce it. Mr. Gartin inquired if Mr. Lambert had been in contact with the Story County Attorney's Office regarding their position. Mr. Lambert explained that Story County is in agreement that the Attorney General's Opinion is correct.

Council Member Corrieri stated that she does not take likely Attorney Lambert's opinion, but right now, she is willing to do something contrary to his opinion. She weighed the risks and believed the risk to the public health and to the local economy is driving what would be in the best interest of the City. Ms. Corrieri stated her number one priority is to address indoor public settings.

Council Member Gartin stated that the entire Council agreed to follow certain principles and one of those was the law, and sometimes that means setting aside strongly held positions. He is not sure how he would vote on the issue if Governor Reynolds allowed the Council to make that decision locally. He would like more input from Mary Greeley Medical Center. Mr. Gartin explained that in his six

years on the Council he has never seen such an open disregard for the rule of law.

Mayor Haila commented that Mary Greeley did put out a notification last week. Council Member Corrieri stated that Mary Greeley's had released a statement that they would be requesting a face covering mandate.

Council Member Junck asked for a clarification if it would be for indoor face coverings only, but other elements would be in the draft Ordinance as well. Council Member Martin stated he wanted to clarify that the ordinance addresses indoor public settings and has penalties in it, but the current City Attorney's advice would be that there is no authority for assessing the sort of punishment for the draft ordinance that is on the table at the moment. Council Member Corrieri stated that the Council is going to have a vote whether there is an agreement among Council members to have a face covering mandate; no details have been discussed yet.

Council Member Corrieri withdrew the motion.

Moved by Corrieri, seconded by Junck, to draft an ordinance that would require face coverings within the City of Ames.

Council Member Martin asked Mr. Lambert if he understood the motion to be against his advice. Attorney Lambert confirmed that would be correct. City Manager Schainker stated that the Attorney can disagree, but the question should be if the City Attorney believes the Council would be passing an ordinance that is illegal. Mr. Lambert explained that he cannot say with certainty that it would be unlawful.

Roll Call Vote 4-2. Voting Aye: Corrieri, Beatty-Hansen, Betcher, Junck. Voting Nay: Gartin, Martin.

Mayor Haila asked what else would need to be included in the draft ordinance.

Council Member Junck stated that she liked the appendix that the Story County Board of Health had released regarding recommendations. Ms. Corrieri commented that it would be similar to the Dubuque Ordinance. Council Member Martin explained that a lot of the other cities' ordinances are similar, but the Waterloo ordinance doesn't have the same requirements for things in one's household as this Appendix. Council Member Betcher commented on public transportation and asked if the Council would have authority to add it to the ordinance or would that need to go to the Transit Board. Attorney Lambert advised that the Council has, through the *Municipal Code* delegated its authority to make operational decisions to the Transit Board; however, when passing a broad ordinance, it would apply to buses as well.

Moved by Junck, seconded by Corrieri, to include the recommendations in Appendix 1 in the draft Ordinance.

Council Member Martin stated that he has one concern as it requires face coverings within one's household if individuals who do not live in the household are present. He noted that is within someone's house and would be hard to enforce.

Council Member Junck, seconded by Corrieri, to amend the previous motion to remove the last three bullets in the first section and remove “or in a residence with persons who do not live in their household” in bullet one.

Council Member Martin asked if churches or houses of worship would be exempt from the ordinance and if the City would be going into churches to do enforcement. Mr. Lambert explained that would be up to the Council. Council Member Betcher stated that the Governor had already given specific guidance on churches.

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

Moved by Martin, seconded by Gartin, to further exclude houses of worship from the requirements of the draft ordinance.

Council Member Junck asked if this exemption was found in other cities examples. Mr. Lambert mentioned he did not recall it being addressed by other cities.

Council Member Gartin explained that if the motion doesn't pass it would be allowing the Police Department to go inside churches and cite the parishioners. Ms. Beatty-Hansen wanted to know why a place of worship was different from a business or any other public setting where there are a lot of people. Mr. Gartin explained that they have given special precedence and exemption to houses of religious worship. Mr. Lambert asked the Council to decide one way or the other, and when he is preparing the draft ordinance, he will review the Governor's Proclamations. Mr. Schainker stated that the whole ordinance would be in conflict as fitness centers have been released from the requirements by the Governor.

Vote on Motion: 3-3. Vote on Motion: Gartin, Martin, Betcher. Voting Nay: Beatty-Hansen, Junck, Corrieri.

Motion failed.

Council Member Corrieri stated that a penalty should be put in place, but doesn't want to be the one to set that amount. Mayor Haila mentioned that Dubuque has a \$10 penalty and Iowa City had a simple misdemeanor; citation should be last a last resort to maintain compliance. Mayor Haila inquired what a simple misdemeanor would mean. Attorney Lambert explained that the citizen could get 30 days in jail, get a fine, or both. The fine could be \$855, but the court would be the one to impose the penalty. Mr. Lambert stated the majority of the ordinances are municipal infractions or simple misdemeanors. Mr. Schainker asked what the cost would be for a municipal infraction. Commander Huff stated that it could be \$50 or \$100. Mr. Schainker recommended using the language from Iowa City's Ordinance.

Moved by Corrieri, seconded by Junck, to add language about the penalty being a municipal infraction. Vote on Motion: 6-0. Motion declared carried unanimously.

Mayor Haila asked the Council about the enforcement. Council Member Betcher stated that she assumed it would be up to the discretion of the Police Officer. City of Ames Police Officers prioritize how to handle a situation. Ms. Betcher stated what she had been hearing from other cities was that just

the potential of enforcement has been helpful.

Council Member Martin stated he agrees with Mr. Gartin that, in order to support the ordinance, you would have to have a good faith belief that the authority does exist, and you might win in court.

The meeting recessed at 9:39 p.m. and reconvened at 9:47 p.m.

DISCUSSION OF CITY COUNCIL CONFERENCES IN FY 2020/21: Assistant City Manager Phillips explained that this item is described in the memo provided to the Council. Staff wanted to provide an opportunity for the Council to discuss and decide how they wanted to handle conferences. City staff has suspended travel for conferences and training, and is proceeding cautiously with expenditures until all the impacts are fully known. Mayor Haila pointed out that the Iowa League of Cities and the National League of Cities have both gone virtual.

Council Member Betcher stated she is in a tough position on this topic because as the Chair of the Universities Communities Council, the expectation is that she will attend and chair the meeting. Mayor Haila inquired if she had to be there in-person or is it virtual only.

Mayor Haila asked if this would be for traveling to a conference or the fees for attending a virtual meeting. Mr. Phillips stated that City staff will only attend training that is required to maintain licensure or other credentials.

City Manager Schainker stated that one of the Council's goals was to educate themselves about equity inclusion and diversity and felt these needed to be done no matter what.

Council Member Gartin asked what the cost would be for joining virtually opposed to a flight and hotel. Mr. Phillips explained that a conference attended in person would cost several thousand of dollars per attendee while the virtual conferences would range around \$150 per person. Mr. Gartin stated that given the expense of in-person training he would recommend limiting the Council to virtual conferences only and forgo traveling to conferences at this time. He felt that it is important to send a message to staff that the Council is in it with those who have had to make significant budget cuts.

Moved by Gartin, seconded Betcher, to have the City Council limit conference participation to virtual participation only.

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

HEARING ON PROPOSED CONVEYANCE OF A PORTION OF VACATED CITY RIGHT-OF-WAY ADJACENT TO THE SOUTH EDGE OF 2400 SE 16TH STREET (CONTINUED FROM JULY 28, 2020): The public hearing was opened by the Mayor. He closed the hearing after no one asked to speak.

City Manager Schainker wanted to confirm that the easement had been received. Public Works Director John Joiner confirmed it was.

Moved by Corrieri, seconded by Betcher, to adopt RESOLUTION NO. 20-452 approving the

conveyance of a portion of vacated City right-of-way adjacent to the south edge of 2400 SE 16th Street to Van Wall Equipment, Inc., in the amount of \$28,410.06.

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

HEARING ON UNIT 8 CRANE RENOVATION (CONTINUED FROM JULY 28, 2020): Mayor Haila opened the public hearing and closed it when no one came forward.

Moved by Betcher, seconded by Corrieri, adopting RESOLUTION NO. 20-453 approving the final plans and specifications and awarding a contract to Miner Corporation, dba MHC Systems, LLC, of Urbandale, Iowa, in the amount of \$273,439.10 (inclusive of Iowa sales tax).

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

HEARING ON INTEGRATED SITE PLAN (MAJOR SITE DEVELOPMENT PLAN AND PRELIMINARY PLAT) FOR 3619 STANGE ROAD: The Mayor opened the public hearing and closed it after there was no one wishing to speak.

Moved by Beatty-Hansen, seconded by Corrieri, to adopt RESOLUTION NO. 20-454 approving, with conditions, the Integrated Site Plan for 3619 Stange Road.

Roll Call Vote: 5-0-1. Vote on Motion: Voting Aye: Betcher, Beatty-Hansen, Corrieri, Junck, Martin. Voting Nay: None. Abstaining due to Conflict of Interest: Gartin.

Resolution declared adopted, signed by the Mayor, and hereby made a portion of these Minutes.

STAFF REPORT ON REQUEST FROM DICKSON JENSEN FOR SIDEWALK WAIVER ADJACENT TO BRICKTOWNE DEVELOPMENT: Mayor Haila asked the Council if they had any questions for staff and when hearing none, he opened public comment.

Dickson Jensen, 4611 Mortensen Road, Ames, stated that he has been in the community for the past 50 years, developing and conducting business. He wanted to take a moment to state he couldn't believe the conversation earlier tonight. Mr. Jensen commented that the lawlessness and not respecting the City Attorney is why we are in the world today the way it is. He commented that the Council is going to make a decision on his sidewalk that doesn't mean anything, but the Council will do things that is against what the Governor, Attorney General, and City Attorney have recommended.

Mr. Jensen stated he has a ditch by Highway 69 that was not installed correctly. He commented that he had given the City the property right-of-way to put the sidewalk in, but the ditch was not designed correctly. He noted that the City is asking him for more land, which was not in the original Development Agreement, and he doesn't want to give the City any more land. In the Staff Report, it notes that there is supposed to be a bench on the sidewalk for people to sit on, but there is no ditch. He noted that clearly the bench is in the middle of the ditch. This has been going on for the past three to four years. Mr. Jensen asked the Council for a waiver of the sidewalk requirement.

Council Member Betcher asked if this is a slightly different version than what was discussed with the Southdale residents at the church. Mr. Jensen stated that it was the same issue as it was never installed correctly. He explained that the Council will hear from those residents at another meeting as he was told the items could not be discussed at the same time. He stated that he couldn't get any more Building Permits from the City until the sidewalk is done.

Council Member Gartin asked Public Works Director John Joiner to talk about Mr. Jensen's concern with the ditch. Director Joiner explained that the segment from his southern driveway on Jade Street south towards the church property was built with the Highway 69 widening. City Engineering staff communicated with the developer's representative during the design of the project, and during its construction, about the ditch design and leaving a flat "bench" along the property frontage to allow for sidewalk installation. The Department of Transportation (DOT) issued a construction permit for the sidewalk and then subsequently approved the construction of the widening of Highway 69. In April 2020 the DOT rescinded the Construction Permit and stated that they needed to have a four-foot offset between the top of the backslope and the front of the walk, so the bench was not built to construct that offset plus a five-foot sidewalk, plus they typically have a one-foot gap between the back of the walk and the property line. Staff didn't design for the new four-foot requirement offset, and that is why staff has asked for an additional five feet from Mr. Jensen.

Council Member Gartin wanted to know if there was another way around the sidewalk issue without taking more property from Mr. Jensen. Director Joiner stated that the ditch is designed to convey the appropriate amount of overflow and there is also design in the south part of the apartments for detention facilities. There would be overflow from the detention facilities that would overflow into the ditch. The ditch is designed as a system. Mr. Joiner commented that the ditch would need to be redesigned and enclosed to accommodate the overflow. Mr. Gartin inquired how this could have been done differently knowing what everyone knows now. Mr. Joiner explained that without knowing of the requirement by the DOT for the four-foot offset, the plans were approved by the DOT without the four-foot offset. Mr. Gartin asked whose fault it was and asked if it was the DOT for changing the rules. Mr. Joiner commented that he does not want to place fault, only that the four feet was a requirement that staff was not told about. He explained that if the City had known about the requirement the design, would have been done differently and they probably would have enclosed the ditch. Director Joiner stated that the other way would have been to get the additional five feet from Mr. Jensen as the project was being built.

Council Member Gartin verified that Mr. Jensen is requesting Option 1 which would waive 500 feet of sidewalk at the south end of the site and defer the construction of the commercial frontage until development of that portion of the site. Mr. Jensen stated the ditch drawing has the space in there, but that wasn't done by the contractor. He doesn't believe it was the DOT's fault, but the contractors. There is now erosion in the ditch and the sidewalk will now be undercut and will crack quickly if installed. Mr. Jensen pointed out that the sidewalk would lead to the church on the south and a cemetery on so the sidewalk would be leading nowhere.

Council Member Betcher asked if something is going to be coming from the church. Mr. Joiner stated he is unsure as they have been communicating with the Planning Department.

Mayor Haila stated that it is the assertion that the ditch was not built correctly and asked Director Joiner if that was an accurate statement. Mr. Joiner explained that the project engineer felt that the ditch substantially meets the plans and the project was closed out and approved by the DOT.

Council Member Gartin asked if they forgo some of the sidewalk on the east side does whether the City would be building additional bike infrastructure on the east side. Mr. Joiner explained that, with the project, they constructed a shared facility on the east side, which is separated from the roadway by bollards. With the new Comprehensive Plan if the southern area was to grow, Mr. Joiner believes they would connect it on the east side with a Shared Use Path. Council Member Gartin stated that is a good factor to think about when looking for accessibility. Council Member Beatty-Hansen mentioned they always regret it when they don't put in a sidewalk when they can, as it is hard to go back. Mr. Schainker inquired what the Complete Streets Plan called for. Director Joiner stated the Complete Streets Plan would advocate for the connectivity on both sides.

Council Member Betcher wanted to know why they are talking about this issue now when they will probably be seeing the southern half of the same question when the church brings forward its issue. The issue is a shared issue among Bricktowne, the church, and the neighbors across the street. Mr. Jensen stated the reason he was told was because the Planning and Housing Director Kelly Diekmann said they were two separate issues. Council Member Martin stated he is a Council Member and he has no idea what the issue about the church is and he is not sure how much they should discuss it.

Mayor Haila stated that the issue with sidewalks and requiring sidewalks on new developments is something the Council has committed to, and by leaving any sidewalk gaps, it makes problems for future Council members.

Council Member Gartin stated that they are just taking from Mr. Jensen and he would recommend going with Option 1 unless there is some merit to waiting a bit longer while staff negotiates with Mr. Jensen. He explained that, from a pragmatic perspective, it makes sense to move the sidewalk over five feet, but he is concerned about the erosion.

Mr. Schainker explained that what it comes down to is whether the Council wants a sidewalk or not. Mr. Gartin mentioned that maybe there is some give and take that could be done with Mr. Jensen.

Moved by Gartin to table this request and direct staff to: 1) report back to the Council on the engineering aspects of the viability on the sidewalk given the potential erosion issues; and 2) to explore options of negotiating with the developer to find a way to reach an agreement on the additional five-foot strip.

Motion failed due to lack of a second.

City Council Betcher asked for an explanation regarding the situation with the two different issues with the same section of sidewalk and ditch, and why they are showing up on two different agendas when it seems they are related and should be considered together. Planner Julie Gould stated she

can't speak directly about the sidewalk design to the south as that was handled by another Planner in the Department. She noted that it is likely coming separately as she doesn't believe the church had even applied for its Certificate of Occupancy yet. This specific sidewalk in front of Bricktowne was specifically laid out in the Development Agreement who was responsible for it and how it was to go in. She believes that it is a bigger issue than just the sidewalk going onto the property.

Council Member Gartin asked what the cost would be to put in the necessary piping for underground. Mr. Joiner stated a rough estimate would be \$40,000 without knowing much about the layout of the site. Mr. Gartin stated why doesn't the Council just spend the money and get it done. Mr. Joiner stated that one potential complicating factor is that the retention ponds to the south of the buildings are designed to go into the ditch so they would have to ensure that the overflow would still be accommodated with enclosing the ditch.

Moved by Gartin, seconded by Betcher, to table this item to give Public Works an opportunity to get obtain an estimate for enclosing the ditch.

Council Member Betcher stated she has concerns about the stability of the ditch based on what she saw last year. She wondered if they were going to have two projects and the engineers for the church are going to come before the Council at a later time stating they can't put in a sidewalk.

Vote on Motion: 4-2. Voting Aye: Gartin, Betcher, Beatty-Hansen, Corrieri. Voting Nay: Junck, Martin.

ORDINANCE REVISING MUNICIPAL CODE SECTION 17.33 PERTAINING TO SELLING, GIVING, OR SUPPLYING TOBACCO, TOBACCO PRODUCTS, OR CIGARETTES TO PERSONS UNDER 18 YEARS OF AGE: Moved by Corrieri, seconded by Betcher, to pass on second reading an ordinance revising *Municipal Code* Section 17.33 pertaining to selling, giving, or supplying tobacco, tobacco products, or cigarettes to persons under 18 years of age.

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

DISPOSITION OF COMMUNICATIONS TO COUNCIL: City Manager Steve Schainker stated that the first item is Water and Pollution Control's Director John Dunn's response to Dan Craig's request to waive charges incurred for a broken/replaced water meter. It was explained that Mr. Craig is requesting a waiver of the \$325 fee for replacing a broken water meter as he believes it is not his fault and the City should pay for the replacement.

Moved by Corrieri, seconded by Junck, to deny the request to waive the fee.

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

The second item was a letter from Ames Main Street Farmers' Market requesting to lift the restrictions related to music, tables and chairs, and food consumption at the Ames Main Street Farmers' Market.

Moved by Corrieri, seconded by Martin, to allow Ames Main Street Farmers' Market to lift the restrictions related to music, tables and chairs, and food consumption.

Vote on Motion: 4-2. Voting Aye: Corrieri, Beatty-Hansen, Gartin, Martin. Voting Nay: Betcher, Junck. Motion declared carried unanimously.

The last item was an email from Linda DeSchane regarding her concerns with a potential manufactured home development south and west of Sunset Ridge. Mr. Schainker noted that there have not been any rezoning requests and advised the Council to accept the letter and note her opposition to the potential development. Council Member Martin explained that he did reply to Ms. DeSchane's email letting her know that there is nothing before Council about the area at this time. Mayor Haila recommended taking it under advisement at this time. The Council agreed.

COUNCIL COMMENTS: Council Member Betcher wanted to welcome back the students and wish that they cared about the City of Ames. She is not on Campus this semester, but hopes to see students wearing their masks.

Mayor Haila commented that the City has gone through a lot of stress this past week as the City is working to get electric service back to all the residents. He appreciates everything that staff has done.

Council Member Gartin stated that they have had the most amazing, patient citizens and the comments that he had received from people were that they were grateful. He wanted to thank everyone for their hard work.

CLOSED SESSION: Mayor Haila asked City Attorney Mark Lambert if there was a legal reason to go into Closed Session. Mr. Lambert replied in the affirmative, citing Section 21.5(1)c, *Code of Iowa*, to discuss matters presently in or threatened to be in litigation.

Moved by Gartin, seconded by Martin, to go into Closed Session under Section 21.5(1)c, *Code of Iowa*, to discuss matters presently in or threatened to be in litigation.
Roll Call Vote: 6-0. Motion declared carried unanimously.

The Council entered Closed Session at 10:42 p.m. and reconvened in Regular Session at 11:49 p.m.

ADJOURNMENT: Moved by Gartin to adjourn the meeting at 11:49 p.m.

Amy L. Colwell, Deputy City Clerk

John A. Haila, Mayor

Diane R. Voss, City Clerk