

## MINUTES OF THE REGULAR MEETING OF THE AMES CITY COUNCIL

AMES, IOWA

AUGUST 25, 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 stated that it was 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 was 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.

The Mayor announced that the Council was working off an Amended Agenda. City staff had added a Resolution approving an Amendment to the Public Improvements Agreement for Kingsbury Subdivision, 4<sup>th</sup> Addition, to the Consent Agenda. Also added was a discussion regarding the suspension of City-sponsored Block Parties due to COVID-19 under the Administration portion of the Agenda.

**CONSENT AGENDA:** Mayor Haila stated that staff had requested to pull Item No. 7, Resolution approving extension of the Service Agreement with RFID Library Solutions for the automated materials handling system, Item No. 13, Resolution approving contract and bond for Unit 8 Crane Renovation, was also pulled due to staff not receiving the contract and bond.

Moved by Betcher, seconded by Beatty-Hansen, to approve the following items on the Consent Agenda.

1. Motion approving payment of claims
2. Motion approving Report of Change Orders for period August 1 - 15, 2020
3. Motion approving renewal of the following Beer Permits, Wine Permits, and Liquor Licenses:
  - a. Class E Liquor License with Class B Wine Permit, Class C Beer Permit (Carryout Beer), and Sunday Sales - Cyclone Liquors, 626 Lincoln Way
  - b. Class B Liquor License with Catering, Outdoor Service and Sunday Sales - Hilton Garden Inn Ames, 1325 Dickinson Avenue
  - c. Class C Liquor License with Catering, Outdoor Service and Sunday Sales - Whiskey River, 132 - 134 Main Street
  - d. Class C Liquor License with Sunday Sales - El Maguey Mexican Restaurant Inc., 217 S. Duff Avenue
  - e. Class C Liquor License with Outdoor Service and Sunday Sales - Wallaby's Grille, 2733 Stange Road
  - f. Class C Liquor License with Catering, Class B Wine, Outdoor Service and Sunday Sales - +39 Restaurant, Market, & Cantina, 2640 Stange Road - pending dram shop
4. RESOLUTION NO. 20-455 for Iowa COVID-19 Local Government Relief Fund Claims and Designating Finance Director to request reimbursement under the Program
5. RESOLUTION NO. 20-456 approving FY 2020/21 Human Services Contract for Mid-Iowa

- Community Action, Inc., (MICA)
6. RESOLUTION NO. 20-457 endorsing submission of Transportation Safety Improvement Program Grant for the 2020/21 S. Dayton Avenue Improvements
  7. RESOLUTION NO. 20-459 approving preliminary plans and specifications for Unit No. 8 Boiler Repair; setting October 14, 2020, as bid due date and October 27, 2020, as date of public hearing
  8. R RESOLUTION NO. 20-460 approving preliminary plans and specifications for 2018/19 Shared Use Path System Expansion (Trail Connection South of Lincoln Way); setting September 15, 2020, as bid due date and September 22, 2020, as date of public hearing
  9. RESOLUTION NO. 20-461 awarding contract for 2019/20 Multi-Modal Roadway Improvements (Mortensen Rd, west of South Dakota Ave) to Con-Struct, Inc., of Ames, Iowa, in the amount of \$65,495.95
  10. Electric Meter Supply Contract:
    - a. RESOLUTION NO. 20-462 awarding a contract to Vision Metering of York, South Carolina, for the purchase of electric meters in Groups 1, 3, and 4 in accordance with unit price bid
    - b. RESOLUTION NO. 20-463 awarding a contract to Van Wert Company of Grundy Center, Iowa, for the purchase of electric meters in Groups 2, 5, and 6 in accordance with unit price bid
  11. RESOLUTION NO. 20-464 approving contract and bond for Power Plant Maintenance Services Contract
  12. RESOLUTION NO. 20-458 approving Amendment to Public Improvements Agreement for Kingsbury Subdivision, 4<sup>th</sup> Addition
  13. RESOLUTION NO. 20-466 approving Plat of Survey for 702 Ridgewood Avenue
  14. RESOLUTION NO. 20-467 accepting completion of 2018/19 Traffic Signal Program (U.S. Hwy. 30 westbound and South Dakota

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.

**DISCUSSION WITH ASSET VOLUNTEERS REGARDING FY 2020/21 ASSET PRIORITIES:** Assistant City Manager Deb Schildroth explained that the ASSET funding process for FY 2021/22 will be beginning soon. ASSET volunteers will conduct their agency visits to discuss services, gather information, and submit written report, which will be used for the agency hearings and work sessions. Ms. Schildroth explained that the priorities listed in the Report were the same as last year. She reminded the Council that last year the priorities underwent significant changes. The City's ASSET volunteers had recommended 1) prioritizing the sub-bullets and 2) adding more specificity to some of the priorities. It was anticipated that the Community Needs Assessment would have reached a state of completion by now where the top needs would've been identified and included in the Joint Funder's shared priorities so that the shared priorities could have been piloted during the FY 2021/22 ASSET process. Unfortunately, the work on the Community Needs Assessment was put on hold in March due to the COVID-19 pandemic. This month, work has

re-started with a different approach given the information and lessons learned during the first few months of the pandemic. The completion of the Assessment has now been delayed until early 2021.

ASSET Volunteer Jennifer Schill explained that it was helpful to have the priorities in order, which helped make it a lot easier to make decisions on what agencies would get some of the left-over funds or the bulk of the funding.

ASSET Volunteer Tim Lubinus mentioned that the feedback from the Council is very valuable to the volunteers. As a process, they want to keep in mind the priorities that need to be verified and the changes the Council made had helped the process.

Council Member Beatty-Hansen stated that disaster response is listed in Priority 1, but listed as the last bullet, and she wondered if that was the appropriate place or if it should be listed higher on the prioritized sub-bullets. Ms. Schildroth explained that what services are in the ASSET portion of the disaster response are primarily from RSVP (volunteer management for disaster services and recovery) and Salvation Army (staff who attend the disaster coalition and help plan and respond to disaster). Ms. Schildroth stated that she had been asked earlier if the sub-bullets were followed in the order that are listed under listed Priority 1. She explained that all the priorities are looked at in conjunction with what the agencies are requesting in their budget. Some agencies may request the same amount of money as they previously received, more money, or less money. The priorities help when looking at a service; it may raise up higher on the City's priorities list, but not United Way's or the County's, so the City may take the lead to make sure there is adequate funding. It was noted that if the Council wanted to move the disaster response up on the sub-bullets they could, but it doesn't change its importance based on where it is on the list.

Council Member Betcher commented that the ASSET team has done a great job with limited funds and interpreting the multiple joint funders priorities. She is continually impressed and thanked the ASSET team.

Mayor Haila asked if the ASSET team only looked at Priority 1 to begin with and tried to fill all those first before moving on to Priority 2 or 3. He explained that he was questioning this due to the fact that more mental health and other issues may come up due to COVID-19. Assistant Manager Schildroth mentioned that, with knowing the kind of year 2020 has been so far, other needs are going to arise as they begin to work through the budget. There will be two new agencies in the process: Primary Health Care (dental clinic) and Wings of Refuge (helping individuals recovering from human trafficking). She reassured the Council that ASSET tries to look at everything comprehensively and look at every funder in order to provide funding to the best of their ability. The other piece in all of this is outcomes, which has been discussed for a long time, and moving in that direction with the Clear Impact Score card and with the other reporting that Agencies do. They want to make sure they are meeting the needs of the community.

Moved by Gartin, seconded by Betcher, to approve the City of Ames ASSET Priorities for the FY 2021/22 Funding Cycle.

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

**DISCUSSION OF DRAFT FACE-COVERING ORDINANCE:** Mayor Haila explained that 15 days ago the City of Ames was hit by a city-wide storm. Shortly afterwards there was an amazing outpouring of people in the community working and helping one another. City staff had worked countless hours in order to have the power turned back on for the community. Mayor Haila stated that in a similar way the City has been fighting the effects of the COVID-19 virus. He noted that the County, local healthcare providers, school districts, local Mayors, and ISU have all worked extremely hard and cooperatively during both the city-wide storm and the pandemic. The Mayor explained that he has a heavy heart about this topic and the effect it can have on the community. The Council will attest to the fact that they have received around 200-300 emails on the topic of face coverings over the past couple of months. Mayor Haila said he wants to do the best for the community and believes each citizen is looking to do the same. He acknowledged that the decision that the Council makes tonight will not make everyone happy and encouraged citizens to work together to come up with a positive outcome.

Mayor Haila pointed out that the item being discussed is a Draft Ordinance; it is not the first reading. Public input will be allowed this evening. The Council will give direction to staff to either proceed with the Ordinance or make any recommended changes. He asked Attorney Lambert to point out what is and what is not possibly going to be required.

Attorney Lambert explained that he started out with adding a Preamble into the Ordinance, which is normally not done, but in this case, he thought it would be a good idea. The Preamble lays out the public health and legal argument in favor of cities passing this type of ordinance. The basic requirement is that children age three or older must wear a face covering that completely covers the person's nose and mouth under the following circumstances:

1. Outside whenever the person cannot stay at least six feet away from others
2. Inside any indoor setting or establishment where the public is invited in including, but not limited to: grocery, retail, hardware stores, gas stations, convenience stores, fitness centers, pharmacies, any other indoor public setting when with persons who do not live in the person's household, and other public settings that are not the person's place of residence.

Mr. Lambert pointed out that it was a draft ordinance; changes can be made. He then explained that a person is not required to wear a face covering at the following places or times: 1) While traveling in a personal vehicle alone or with household members, 2) while a person is in the person's household or the household's yard, or in another person's household, 3) while outside, where at least six feet of physical separation from others can be maintained, 4) while at a person's place of employment where at least six feet of physical separation from others can be maintained, 5) while exercising at moderate or high intensity, such as jogging or biking, while engaging in or practicing for sporting activities, 6) while seated inside or outside at a food establishment in the process of eating or drinking, 7) while seated inside or outside at a bar in the process of eating or drinking, 8) while obtaining a service that would require temporary removal of the person's face covering, and 9) when federal or state law prohibits wearing a face covering or requires the removal of the face covering.

When reviewing other cities ordinances and looking at adding language, there will be some people

who are exempt from wearing a face covering and those are: 1) persons younger than three years of age, 2) anyone who has a medical condition causing difficulty of breathing or is on oxygen or a ventilator, 3) anyone who is unconscious, incapacitated, or otherwise unable to remove the face covering without assistance, 4) anyone who has been advised by a medical or behavioral health professional not to wear face coverings, and 5) anyone actively engaged in a public safety role, including, but not limited to, law enforcement, firefighters, or emergency medical personnel, although a face covering should be worn, if possible.

A \$50.00 fine was added to the draft Ordinance. Attorney Lambert stated that the amount was sufficient enough to have citizens comply and is not excessive. The fine would be \$50.00 per incident and a note was added that compliance would be done first through education and encouragement, with a citation being a last resort. Mr. Lambert explained he also added a Sunset Clause as he doesn't believe this would be a permanent ordinance as hopefully the pandemic will end. He added that the Ordinance will expire and become null and void after May 31, 2021, unless the date in the clause is amended or the Ordinance is repealed sooner.

Council Member Martin mentioned that the Council has recognized that there are some legal issues with the way the current draft Ordinance had been written. Mr. Martin explained that the Council was previously advised that an ordinance such as this one might not pass "legal muster" given the current circumstances. Attorney Lambert stated that was correct and explained that the Iowa Attorney General issued an informal opinion that stated, "when the Governor has exercised her authority to declare a public health emergency, the Governor has all the authority." There is a section of the *Iowa Code* that states the Governor can delegate the authority, but at this time, that has not been done. Mr. Lambert mentioned that there are other legal opinions that there is a provision in the *Iowa Constitution* about "Home Rule" authority and that cities can legislate on any topic if it does not conflict with state law. Under that legal analysis, there are attorneys who believe cities have the authority to issue a mask mandate. Attorney Lambert stated that he is not advising the Council that it is unlawful to pass the ordinance. He is advising that the Attorney General's opinion is correct.

Council Member Martin asked what the Council could do to the Ordinance to be completely clear of any legal ramifications. Attorney Lambert stated that the Council could remove the penalty fee and affirmatively stated that there would be no penalty. If the Council passed the Ordinance with a statement that there is no penalty for violation of it, he does not see how a court could view the ordinance as conflicting with the Governor's authority.

Council Member Gartin asked if there were any other examples in the *City Code* that required something, but there is no penalty to encourage enforcement. Attorney Lambert commented that there were none that he could think of, and this one would be unique. Mr. Gartin asked what the difference would be by passing a resolution that the Council strongly encourages masks versus a mandate that has no penalty and no enforcement. He asked if they would be functionally equivalent. Mr. Lambert commented that they would be functionally equivalent, but believed it sends a stronger message by having an ordinance. Attorney Lambert stated he is not advocating for taking out the penalty. Council Member Gartin asked if someone did not have a mask would there be any

enforcement at all if there is no penalty. Mr. Lambert stated that would be fair to say as he doesn't believe the Police will be telling people they had to wear a mask, because without a penalty it is not really a mandate. Mr. Gartin asked if the City Attorney looked at any of the other cities that had a penalty to see what amount they were charging. Mr. Lambert explained that he looked at other cities in Iowa and it ranged from \$10 to a simple misdemeanor, but did not look at other states. Mr. Gartin stated he did some research and pulled up an article on the municipalities in California that have varying fines. Council Member Gartin explained that normally the level of the fine is based on the level of the offense to communicate the seriousness of the offense. Mr. Gartin worried about what it communicates to the public when there is no fine at all.

Council Member Betcher wanted to know if there were any ordinances that have steep fines, but were rarely, if ever, imposed on anyone. Mr. Lambert stated he believed there were a few. Ms. Betcher stated she is not sure if the amount of a fine is acting as a deterrent consistently in Ames. Her experience is that the City of Ames tends to educate before imposing any citation or fine. She is not sure if having any amount of fine is going to act as a deterrent when evidence in the past says otherwise. Ms. Betcher commented that if the Council's goal is to have consistent messaging and education opportunities then having a tool available to make changes would be helpful if the situation changes. She felt the ordinance made more sense as a means of establishing what they want to do, and to meet the Council's goals.

Council Member Junck noted that the Sunset Clause is set for May 31, 2021. She wanted to verify that the date could be changed to an earlier or later date. Mr. Lambert stated that was correct and the Council could recommend a different date tonight.

Mayor Haila opened public comment. Mayor Haila mentioned he would like to take an informal, unscientific poll to find out if the citizens who are online are in favor or opposed to the draft ordinance that was presented. Assistant City Manager Brian Phillips asked for those online who were in favor to raise their hands. There were 12 hands that were raised in favor of the draft ordinance and 37 hands raised who were opposed to the ordinance.

Cindy Paschen, 2117 Graeber Street, Ames, stated she was speaking as a surrogate for her husband, Dr. John Paschen, Chair of the Story County Board of Health. She explained that her husband has volunteered to serve on the Story County Board of Health for the past 20 years. Ms. Paschen commented that her husband's main statement as a Pediatrician and Chair of the Story County Board of Health is that masks do work. The evidence that was in the email to the Council was from a hair salon in Missouri, where two stylists wore their masks and developed COVID-19, but none of their clients turned up positive. The other instance was in Georgia at a sleep-over camp where masks were not required, and a lot of children and staff developed COVID-19. There was a thought early on that children could not pass COVID-19 on to other people and that was found to not be true.

Drew Meyer, 3805 Calhoun Avenue, Ames, stated that he found it ironic that the leadership of Ames is considering further restrictions in the mist of the pandemic on the very day that Story County reported zero hospitalizations. He also found it ironic that there were not any trends or metrics being reviewed to make decisions. Mr. Meyer strongly encouraged the Council to consider religious

exemptions from any further restrictions as they move forward with the pandemic. He was appalled at how quickly the house of worship exemption was dismissed at the last City Council meeting. He believed that houses of worship should be safe havens from the over-politicized and derisive culture. Mr. Meyer thanked the Council for their time and for serving on the Council during these difficult times.

LeeAnn Willson, 5326 Springbrook Drive, Ames, mentioned that she sent an email earlier to the Council that conveyed her concerns; she is in support of a mask ordinance. She hoped that the action of the City of Ames to adopt a mandate will get rid of the problem of the Governor not issuing a state-wide mandate.

David Gravlin, 3425 Taft Avenue, Ames, thanked the Council for the open process that they have followed for this issue. When talking about putting an ordinance in place and amending it later, he questioned why they can't wait to pass an ordinance later if it could be amended later. Mr. Gravlin wanted to know about education and why the City of Ames doesn't focus on education exclusively and convince citizens to wear a mask instead of spending a lot of time and legal effort on something that might not be needed. He wanted to remind citizens that this is not a critic on the effectiveness of masks, but more on the authority and enforcement of a mandate in the City of Ames. He explained that he sees the mandate as unnecessary and divisive in nature, even though he understands the intent is good.

Justin Maynes, 427-13<sup>th</sup> Street, Ames, explained that he believed the mask ordinance is unnecessary and a very divisive issue. He commented that the City of Ames would be inviting people who wouldn't normally be polarized by these issues to stand firm. Mr. Maynes wanted to have everyone enjoy their freedom and enjoy life. By making a mandate that affects how they operate every day is a strong restriction on the freedoms everyone enjoys. He is a business owner and commented that he would have a hard time telling his construction crew that they must wear a mask in 90-degree weather. He thanked the Council for their time and understands this is not an easy topic to discuss. He wanted to know if any of the Council members had questioned the Governor to find out why she has not put something in place. Mr. Maynes would like to see that all efforts have been exhausted to implore a mask mandate instead of taking it into the City's own hands and revolt against the Governor.

Joe McGovern, 531 Crystal Street, Ames, voiced his appreciation for all the work the Council had done regarding this topic. He really appreciated the community and being concerned with protecting one another and keeping each other safe. His concern with the current means by which the Council is going to enact such a desire into law is very dangerous. The decision is opposing the City's legal counsel and the State's legal counsel. Mr. McGovern stated it is outside of the city's scope of authority within the context of the state democracy. He explained that ignoring the City's Legal counsel sets a very dangerous precedence as it will allow future decisions by the Council to reference this decision as a reason why they could ignore legal counsel. Mr. McGovern believed that the authority of the local government becomes void if they do not submit to state government. He noted that just because other municipalities in the state are abusing the limits of its power doesn't mean that the City of Ames has to as well. Mr. McGovern commented that he strongly opposes the

mask mandate.

Ruth Hulstrom, 214 E. 16<sup>th</sup> Street, Ames, explained that she had some concerns about how the draft ordinance is written for children three and under. She has two small children and one is a five-year-old who she has trouble with keeping his mask on. She supports the idea of wearing masks under the right circumstances. Ms. Hulstrom is concerned about the age requirement and how it could potentially impact childcare providers who need to engage closely with young children. Some childcare centers do not wear masks as they need to have the face-to-face connection. She was also concerned about what the legal costs would be for the City and where the financing would come from. Ms. Hulstrom wanted to know from the City Attorney what the cost may be.

Chris Campbell, 2412 Eaton Avenue, Ames, mentioned he does not have a background in law so he will leave the legal issues to people who have that background. His background is in science and wanted to know if there was any scientific data that supports the idea that a mask ordinance would reduce the number of positive test cases. Mr. Campbell also wanted to know if there was any scientific data that support the idea that children are at risk of getting seriously ill or spreading the disease to other people. As someone who has a young child, it is not realistic to expect a three-year-old child to keep a mask on. When he mentions scientific evidence, he is referring to randomized control trials. He has heard a lot of anecdotes, but nothing scientific. Mr. Campbell commented that it is great that people are passionate about the issue and no one wants anyone to get sick, but passion isn't a good way to make public policy. He wanted to know what the goal was; if it was to reduce the number of people coming up with the virus, there should be scientific data before a mask mandate is introduced to the public.

Dan Burns, 4010 Brickman Avenue, Ames, explained that he had written an email to the Council, but wanted to make a few follow-up points. He noted that from a scientific standpoint if you were to look up the trials and studies, they should be limited to pre-2020 to avoid any politicized studies. Mr. Burns commented that the sub-N95 masks are about .3 microns and bioparticles are .125 microns; because of those numbers he stated it did not make any sense how anyone could limit the viral spread. He noted that there are some good videos online that demonstrate the inefficiency of masks. Mr. Burns mentioned that fundamentally it violates the right to an individual's body, and mandating masks will open the door to vaccine mandates. He explained he is not sure why the City of Ames needs to take such extreme measures when they are on the downslope of the virus.

Daniel Bell, 419-18<sup>th</sup> Street, Ames, pointed out that there was some ambiguity in the unscientific poll that was taken earlier. He requested to pose the question of "yes, in any form" versus "no, in any form the next time."

Tobias Gassman, 1605 Burnett Avenue, Ames, explained that he does like wearing a mask as he has family members that are high-risk, but doesn't think the City should mandate masks in churches and other religious institutions within the City. Mr. Gassman felt a mask mandate would open the City up to a bunch of legal issues down the road if someone was to sue.

Brigitte Gassman, 1605 Burnett Avenue, Ames, explained that we had spoken to one of her sons

before her. One of the issues for her is the City going against state law and this will lead to lawlessness. When doing this, it is sending the message that, as a City, we are above the law of the state. She noted that her family wears masks due to medical issues, and her statement is not against wearing masks, but against the City Council deciding that the City is above state law. This action could lead to lawsuits. She asked who is going to pay for the legal services. Ms. Gassman mentioned if there is a \$50 fee, who is going to enforce the fine when it goes against state law.

Curtis Powers, 731-5<sup>th</sup> Street, Ames, said he appreciated the work of the Council. He stated his family social distances themselves and wears masks, but is against the draft ordinance as it is currently written. He mentioned he liked what he heard about what Des Moines is doing to educate their citizens and handing out masks where needed. Mr. Powers felt that exempting religious institutions and kids under age 12 would be helpful if moving forward with a mask mandate. He did like the discussion earlier about moving forward with the mask mandate, but removing the penalty. If removing the penalty would make the ordinance more solid legally, he would be more supportive. Mr. Powers would like to see all efforts being exhausted first before having a mandate. He did mention it may be a little more worrisome in the winter when people are moving to more inside events.

Brian Woerth, 3515 Emerald Drive, Ames, stated he wanted to promote moving forward with the process. He explained he is going against the assumption that the science of masks being protective and safe assuming that the City believes that masks can reduce the virus then moving forward with the process is an important step. The virus can decimate and hurt a community quickly, but if this process is going to take a few months to go through, this process needs to move faster. He is afraid that when the city is going to need a mask mandate it will not be ready. Mr. Woerth explained that at this point in time the Council should just take the next step and move on. He recommended developing a set of metrics that says that if the community is suffering “x” amount of bad because of the virus then the city needs to take steps to protect the community. He felt that if a metric could be built into the Ordinance it would be a great way to approach the pandemic. Mr. Woerth pointed out that as of August 31, 2020, there will be a Test Iowa site in Ames, which will help give Ames a better idea of what is going on.

Traci Jennings, 1606 S. Duff Avenue, Ames, explained that she owns the business at the address given. She believes this is a serious virus and is compassionate to those who have lost loved ones to the virus or have gotten sick. Ms. Jennings believed this is a reactive proposal due to the recent community buzz from the state and local media regarding ISU students returning to Campus. A mandate requiring a mask infringes on the freedoms that she believes the United States of America bestows upon citizens. The public has a right to make their own choices, and if someone fears for their safety, they have a right to choose where they go, where they shop, and the people they surround themselves with. Ms. Jennings stated if you do not fear the virus you should be able to make other choices. She is worried about the ability to enforce the mask mandate as the police force would be tasked with such a matter. Ms. Jennings commented that due to her business, she visits with people from around the world, and she wondered how the City would educate visitors to the community about the mandate.

Nicole Barnes, 1315 Roosevelt Avenue, Ames, thanked the Council and commented that navigating through these challenging times is not easy; she appreciated how the Council is representing the City. She believes there are some ethical concerns from the last City Council meeting regarding the disregard of legal counsel. This was alarming to her as she believes the City is overstepping its authority. Ms. Barnes wanted to point out the disregard of protecting religious freedoms and houses of worship. If the mask mandate is moved forward, a religious exemption should be something to consider. She can't support the action, but does believe the effectiveness of masks is something that citizens should understand and make their own choice.

Vanessa Burnett, 2805 Northridge Parkway, Ames, stated she is a disaster management professional. She had spent nine years in the US Department of Homeland Security and has done some pandemic planning. Ms. Burnett is happy to see that the City is considering mandating masks, but is a little frustrated by some of the public comments. She noted it is a public health best practice to wear a mask. It has been well demonstrated to reduce the risk in other countries and other jurisdictions within the United States. There is good data that show that wearing masks could help the City of Ames stabilize the economy. Wearing masks helps citizens feel safer and protects the employees of a store and other places where people are out in public. She has heard the concerns from other citizens about the state versus local authority. Ms. Burnett pointed out that this country was built on federalism. The country has a lot of principles, but federalism allows local and state government to have power, and in this case she believes it is a good move for the City to exercise some of the power when the state is failing to implement public health practices that could save lives and the economy. Ms. Burnett mentioned that the science is well-established, and the CDC recommends wearing masks to minimize the spread. Ms. Burnett commented that most of the speakers tonight are not talking about the risks that masks mitigate. The virus kills and harms a lot of people and is highly infectious. She stated this is a public health emergency and the City of Ames needs to act like it. This is more about keeping people alive than it is freedoms. Ms. Burnett noted that people who do not wear masks impede her freedom to stay alive.

Charles Long, 620 Barr Drive, Ames, mentioned that he had been mulling over this topic for a few days and felt that what the City of Ames is doing is great. He had a couple concerns and is worried about the possible cost if the state decided to sue the City. Mr. Long mentioned that he had contracted the virus back in May and didn't have any symptoms. He works for Cy-Ride and they wear masks all the time. Due to previously having the virus, he now has acute asthma, which he never had before in his life. Mr. Long mentioned that people talk about the costs of their freedom, but where is his freedom now that he always has to have an inhaler with him. He explained that the doctors are hoping he will get over the asthma, but since the virus is new, there is no way of telling. As a citizen, whether or not it is legal for the City, citizens should just wear a mask. Mr. Long explained that during this time people everywhere need to look out for each other.

Sehba Faheem, 1930 Long Road, Apt C, Ames, explained she feels very strongly about this topic. She understands this is a difficult decision to make, but is upset that this conversation is happening now. The conversation should have happened months ago and before 30,000 people came back to Ames for school. Ms. Faheem stated that right now, the City of Ames is a petri dish for the virus. She noted that 13% of students have already tested positive and testing is not even widespread

among the students yet. There is no question that the students interact with other citizens of Ames as they go to businesses, restaurants, and libraries. She pointed out that this is not even just Ames as there are some students who commute to school from other cities. Ms. Faheem is in favor of having a mask mandate and stated that wearing a mask is not about yourself, but is about everyone else.

Luke McGrath, 2519 Chamberlain Street, #312, Ames, mentioned that he is a student at Iowa State University. He feels that everyone should be wearing a mask. The City can have a mandate, but it doesn't have to be permanent. The majority of the United States Government is in favor of wearing masks. When looking at the effectiveness of masks, he stated if you look at pictures of the Spanish flu in 1918, people were wearing masks. It is factual evidence that it may not mitigate the spread, but it does a lot more than doing nothing.

Council Member Corrieri explained while waiting to speak, she looked at Mary Greeley Medical Center's data. There are currently nine people in the hospital for COVID-19 and three of them are in the ICU.

Council Member Betcher stated she is not sure if everyone had seen the report from ISU, but in the first week of classes, there were another 130 students, staff, and faculty added to the already 175 people who had tested positive during move-in. Council Member Junck mentioned that the test rate this week on Campus was 13%.

Ms. Betcher also mentioned that Chris Campbell had asked about any studies that had been done on children and the transmission of the virus from children. She explained there was a JMA article published on July 30, 2020, which focused on the efficiency of transmission of COVID by small children. Ms. Betcher is not sure if the article focused on the severity of the impact on the small children.

*Ex officio* Member Nicole Whitlock wanted to mention that the N95 masks do block around 90% of the particles and even the cheaper masks will block more than nothing.

Mayor Haila closed public input.

Council Member Betcher stated that they received a lot of comments from emails and from earlier this evening about authority concerns. She knows that there have been some people who stated that the Council is not following the oaths they had taken, but in talking with the City legal counsel, the Preamble to the Ordinance is positive. The Preamble does state the authority by which they are asserting they can pass the ordinance, which is the "Home Rule" authority is granted to the City under the Iowa Constitution that the Council swore to uphold. Ms. Betcher mentioned they also swore to uphold the laws of the state, but in this case, the legal situation has not been settled. There has been no clear indication that what has been done is illegal and she felt the Council had the legal authority to issue a mask mandate.

Mayor Haila asked Attorney Lambert to address the questions about legal costs and where the City

would come up with the money. Attorney Lambert stated he wanted to reiterate that the Attorney General's Office has said that while the Governor's Proclamation is effective that cities do not have the authority to issue mask mandates, he has advised the Council to follow the Attorney General's statement. Mr. Lambert explained that he has also told the Council that it is unsettled law, and it is not clear. There is the argument that there is the "Home Rule" authority and he believes it is a valid argument, but it has not been ruled on by a Court. Attorney Lambert stated he could not clearly state that it is unlawful for the Council to pass the ordinance. Mr. Lambert mentioned regarding the cost that there is insurance coverage that provides coverage for the Council and other City officials. The vast majority of the cost for any litigation against the City would be covered by the insurance carrier. There would be a co-pay, but Attorney Lambert is not sure of the amount.

Attorney Lambert explained he wanted to address the concerns about children wearing masks and the Story County Board of Health had recommended that children two years of age and under should wear masks, and he thought that would be tough. He had changed the age to three, but the Council could change it to what they wanted. Mr. Lambert mentioned there was also the question of why pass the mask mandate now without the penalty. He noted that one advantage to passing the face covering Ordinance now is that any other changes the Council wanted to make would already be worked out and the only change that would need to be made is adding the penalty.

Mayor Haila stated that one of the questions was if issuing the ordinance was outside the authority of the Council. Attorney Lambert explained that he cannot say that it is outside of the scope of the City's authority. Council Member Gartin asked for a brief explanation on the state's power versus a municipal government's power. Attorney Lambert stated, on the state level, local governments are entities of the state. Local authority is subservient to the state government. State government can set whatever rules they want; they can tell cities what they can and can't do. In 1978, the *Iowa Constitution* was amended to establish a "Home Rule" authority for cities. The "Home Rule" authority says that cities may legislate, and may pass ordinances on any topic, except if they are prohibited from doing so by the state or if the local ordinance would conflict with a state law. Mr. Lambert mentioned that in this circumstance there is not a clear statement in the law that cities may not legislate on this matter. There is only an interpretation from the Attorney General.

Council Member Gartin wanted to know if the City wanted to get into a fight with the State over who has the right to regulate the area; who would win. Attorney Lambert stated the State would win. Mr. Gartin explained that on August 6, 2020, Governor Reynolds stated, "We don't believe during a public health emergency that the local governments have the authority to supersede what has been put in place at the statewide level by the Governor." He pointed out that statement was in US News and World Report. Mr. Gartin stated that Governor Reynolds has made it very clear that she does not believe the City of Ames has that authority. He commented that Attorney Lambert had advised the Council against taking action, and that is also the opinion of the Story County Civil Attorney. Mr. Gartin pointed out that the majority of the attorneys in the area have taken the same position as the Attorney General. On July 14, 2020, the Council requested that Mayor to send a letter to Governor Reynolds asking for authority because the Council didn't feel they had the authority. He is concerned that the Council believes they have the authority. Mr. Gartin commented that he is opposed to the Ordinance, but if things go as they did last week the Ordinance will still pass. Mr.

Gartin stated he did his own count, but within the past week, he had 67 emails that were in favor of the mandate and 168 opposed to the mandate. He stated that the community has spoken and are opposed to the mandate.

Mayor Haila stated he wanted to follow-up on the letter that was sent to Governor Reynolds. He explained that the Governor has not responded, acknowledged, or said anything regarding the letter, which is a disappointment. Mayor Haila mentioned he had also reached out to Governor Reynolds' staff by email asking to have a conversation with her in advance of last week's meeting. What is disappointing is the Governor has given her opinion, but has not put it in writing.

Mayor Haila re-opened public comment.

Susie Petra, 2011 Duff Avenue, Ames, explained that she wanted to comment that the more cities participate with a mask mandate it will pressure the Governor to give local authority. She stated when talking about freedom, she wanted to remind people that initially people were not comfortable with wearing seatbelts, but everyone does it now.

Mayor Haila closed public comment.

Mayor Haila asked Assistant City Manager Brian Phillips if he was aware what the City's co-pay would be. Mr. Phillips stated that the deductible for general liability claims is \$25,000, and there are some claims that will have higher deductible amounts under the Agreement with ICAAP. Mr. Phillips was not entirely sure in this instance if someone was challenging a citation that was issued if damages could be demanded for that. If that is not the case, he doesn't believe the City would be responsible for anything except the deductible.

Council Member Betcher pointed out that when she looked over her notes about the number of emails the Council had received, it turns out that the numbers are not a landslide in either direction. There were 225 total in favor of a mask mandate and 211 against the mandate. She noted that the Council is hearing from both sides equally.

Also, Council Member Betcher stated one of the items in Section 1 of the draft ordinance mentions that mask-wearing in other public settings, and some private settings, is excluded (i.e. offices). She wanted to know how Attorney Lambert figured out what was a private versus a public setting. Mr. Lambert explained that drafting an ordinance like this one was not easy. He had spent a lot time speaking with the other attorneys in his office about how to define that. A public setting is anywhere the public is invited in. If someone owned a business and worked in their office all day, and the public did not come in then that would not be a public setting. Ms. Betcher stated one citizen mentioned childcare providers and wanted to know if that would be considered a public setting. Attorney Lambert commented that he would argue that it would be, but they could specify that in the ordinance. Council Member Betcher noted they received a question via email regarding Section 2b, which mentioned the exclusion of a person's household or household yard or another person's household, but excludes the yard. She commented that the public would want to know why the neighbor's yard was not also excluded. Attorney Lambert mentioned if an exception was added to

the ordinance for going into another person's yard, it was thought that it could be a major loophole for parties in yards without wearing face coverings.

*Ex-officio* Member Whitlock explained that she wanted to make a personal statement. She mentioned that her roommate is from Chicago, where there is a mask mandate, and she just moved in about a week ago. Her roommate was very scared because of everyone not wearing masks, it made her very uncomfortable, and she can't believe the City of Ames does not have a requirement.

Council Member Junck stated that Attorney Lambert's advice is that it is unsettled law and they do not know the legality of the issue at this time. Until then the City of Ames needs to take responsibility to protect its citizens. She noted since the Governor has neglected her responsibility to issue a mask mandate, delegate the authority, or respond to the City of Ames letter, she felt it is the Council's duty to take up the issue. They have seen the signs of how face coverings work to minimize the spread and she believes the scientific and medical community. Ms. Junck thinks the Council should keep the bulk of the ordinance, including the enforcement piece, to keep it as strong as possible. She would be in favor of making minor changes, but doesn't understand how passing an ordinance without any enforcement is any different than supporting the "Cyclones Care" campaign.

Council Member Beatty-Hansen explained that she is in the same boat as the science is clear and the medical community has weighed in. In terms of freedoms being infringed, she is sorry that people feel that way, but everyone's freedoms are infringed in many ways by living in a society with government. She mentioned there are a lot of laws that govern how people have to conduct themselves. Ms. Beatty-Hansen understands where the concerns are coming from, but for the public's health and safety, this is a time to take a stand. This is an untried area where they have the Attorney General's informal opinion, but they don't have a formal statement from the Government.

Council Member Gartin asked Attorney Lambert that if it came down to a "tug-of-war" between the Governor and the City of Ames, who would win. Attorney Lambert stated there is not a clear answer to that question as it depends on what form the "tug-o-war" takes. Mr. Gartin asked if the Governor issued a Proclamation stating that cities are not allowed to issue individual mandates, what would the decision be. Mr. Lambert stated in that type of situation it would be unlawful for the City to have a mask mandate. Mr. Gartin explained that there is not a Proclamation, but a clear statement from the Governor stating that cities don't have the authority to issue mandates for face coverings. Mr. Gartin wanted to know why the City was going through this with an Ordinance versus a Proclamation. Attorney Lambert stated the Governor could clearly settle the dispute by putting something in a Proclamation, but she hasn't done that yet. Mayor Haila mentioned that many cities have asked the Governor to state something in a Proclamation.

Council Member Corrieri wanted to clarify that the state has not challenged any of the cities that have passed mandates. Mr. Lambert stated that there has not been any yet. Attorney Lambert stated that a challenge may come from private citizens too, who file a suit to challenge the Ordinance. Council Member Corrieri stated she is generally not supportive of an ordinance that doesn't have a mechanism for enforcement. She explained that it would render the ordinance useless if you don't

have an enforcement tool. The City has clearly indicated that they would not have the Police Department walking up and down the streets looking for anyone without a mask, but having the mechanism in the toolbox is important to have. Ms. Corrieri stated it has been said by the others, but she felt it needed to be repeated that there is a consensus within the medical community that this is an important step to take to protect the public health and boost the economy. That has been the motivation behind why she would support the ordinance and will continue to do so.

Moved by Junck, seconded by Beatty-Hansen, to continue with the Ordinance as drafted.

Council Member Beatty-Hansen stated this is a hard one and there will be a lot of people that are not pleased. She appreciated everyone reaching out, and have read through each one, who respects everyone's opinion, but the Council is trying to do what is best for the community.

Council Member Gartin wanted to clarify that the ordinance included a \$50.00 fine. Mayor Haila stated the motion by Council Member Junck is as drafted. Council Member Martin wanted to clarify if the motion was to bring back the Ordinance that was presented tonight for a first reading or if there could be subsequent motions for edits. Mayor Haila stated the motion is as is right now; if changes need to be made the Council would need to do that first.

Council Member Betcher stated it is difficult for her to support the motion with the penalty included. She doesn't believe the penalty in the Ordinance is enough to change anyone's behavior. If removing the penalty means they would not be opening themselves up to legal arguments, then she can't support the draft as written. She would be open to supporting the Ordinance without the penalty clause.

Council Member Beatty-Hansen stated that what Council Member Gartin said earlier was correct that without the penalty it is just a Proclamation saying they recommend it; there needs to be something to attempt to enforce face coverings. Ms. Beatty-Hansen commented that education will be done first, and someone will only be charged a fine as a last resort.

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

Motion failed.

Moved by Betcher, seconded by Martin, approve the draft ordinance replacing the current language of Section 4 with a statement that there is no penalty to be drafted by the Legal Department.

Council Member Gartin stated that this is rather odd as it would be a mandate without a penalty. He stated that they can't deter anyone without a penalty.

Council Member Martin commented that he understands that sentiment and it weakens the Ordinance to not have any penalty, but on the other hand, he thinks a lot of people want to abide by what they understand the community norms to be. An ordinance that says that people are required to wear face covering will have more people than before responding to the Ordinance.

Mayor Haila mentioned that there were a couple comments from the public recommending exemption for places of worship and daycare centers. Council Member Corrieri explained that she doesn't consider daycares to be open to the public. She stated that random people can't walk into a daycare.

Council Member Corrieri proposed a friendly amendment to add that daycare's do not fall under public places.

Council Member Corrieri wanted to be clear that the Council is wanting to pass an ordinance that is going to take six weeks to pass and it is not enforceable. She commented that she is not sure what the Council is doing other than wasting a lot of people's time. Council Member Betcher stated she is assuming it will give the opportunity to offer more educational opportunities and to be able to add a penalty clause in the future should it be determined to be necessary. Council Member Junck stated that Attorney Lambert mentioned earlier that, if there was no enforcement penalty, there would virtually no enforcement at all and that would include education. Council Member Beatty-Hansen confirmed that was stated earlier. *Ex officio* Whitlock stated she would also argue that adding some sort of enforcement including a fine would not preclude anyone from offering education. Ms. Junck asked *Ex officio* Whitlock, in her student opinion, would enforcement cause more students to comply or would it be the same for an ordinance without any enforcement. Ms. Whitlock commented that if there is not a fine, the students are not going to care as there is nothing to stop them from not wearing a mask. In her opinion the students would follow the Ordinance more if there was a penalty. Council Member Betcher stated that the students are already under the student conduct code according to the President's letter. The students behavior should not be falling to the Ames Police. Ms. Whitlock stated that the process at ISU is going to take a long time to get back to the student(s) responsible.

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

Motion declared carried.

Mayor Haila recessed at 8:39 p.m. and reconvened 8:46 p.m.

**DISCUSSION OF APPEAL OF CHARGES FOR WATER METER REPLACEMENT:** Water and Pollution Control Director John Dunn mentioned that he provided a thorough Staff Report and was available for any questions.

Council Member Gartin wanted to verify that this type of situation has come up before and that the staff position in the report is consistent with what has been done in prior years. Mr. Dunn explained that frozen meters happen a dozen times per year, depending on the weather, and the Staff Report is the same response that they follow.

Mayor Haila opened public comment and closed it after no one came forward.

Moved by Martin, seconded by Beatty-Hansen, to deny the appeal.

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

**DISCUSSION OF SUSPENSION OF VENDING LICENSES DUE TO COVID-19:** Assistant City Manager Brian Phillips explained that he was seeking direction from the City Council as to whether to continue the suspension of Vending Licenses (except those approved as part of organized special events). Mr. Phillips explained that staff is receiving requests from new vendors requesting to vend on City streets and sidewalks. There are a number of existing licensees that have found other locations on private property to vend, which is not regulated by the City's Vending Ordinance. He pointed out that one concern is that vending late at night around the bars tends to cause larger crowds to form and is a point of concern due to COVID-19. Staff is recommending that vending continues to be suspended on City streets and sidewalks (except those approved as part of an organized special event) through the end of the year.

Council Member Gartin stated they had talked before about an equal protection concept. He explained that someone can have a food cart on private property, but not on a public street that may be 10-feet away. He stated there should be some level of consistency. Mr. Gartin stated there is an economic impact as these are small businesses. He commented that he would be willing to remove the restriction and let vendors be on City property.

Council Member Martin doesn't see this as an equal protection situation. He understands there are some parallels between what people can do, but the Council can only regulate on City property.

Moved by Betcher, seconded by Beatty-Hansen, to approve Alternative 1, which states to continue the suspension of Vending Licenses through December 31, 2020, except those approved as part of a special event. Prior to that date, staff will re-evaluate conditions and present an update to the City Council.

Council Member Gartin asked what the Council is trying to accomplish with this motion except harming people's livelihoods. He stated the Council should either prohibit vending across the board or allow it across the board. City Manager Steve Schainker mentioned that they are not affecting people's livelihood as other vendors have made other arrangements, and are free to find a private-sector property on which to vend. Mr. Schainker pointed out that a lot of the vendors want to vend in Campustown and Welch Avenue, but that area is closed due to construction.

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

Motion declared carried.

**DISCUSSION OF CITY-SPONSORED BLOCK PARTIES DUE TO COVID-19:** Assistant City Manager Brian Phillips stated that in response to COVID-19, on May 12, the City Council approved cancellation of City-sponsored block parties through September 1. Staff is seeking direction from the City Council as to whether to continue the cancellation of City-sponsored block parties through the end of the calendar year. Several reservations have been made for the block party trailer for the first available weekend in September. Therefore, a decision must be made prior to that

date to allow the block parties to proceed, or to cancel them for the remainder of the season. The review of the criteria indicates that the circumstances have not changed to warrant the resumption of block parties.

Council Member Gartin wanted to know what the difference is from neighborhood gatherings versus a ribbon-cutting for a new project. He noted that at the ribbon-cutting last weekend, there was ice cream, people were social distancing, and wearing masks, but there were more than ten people. Mr. Gartin explained he is trying to distinguish why to prohibit the City's trailer and what people can already do. Council Member Betcher stated that in her mind the difference is if you are using the Block Party Trailer there are multiple touch points in the trailer that will be used by other people, and staff will have to clean and disinfect the trailer. She pointed out that in a block party there is usually a compressed area within where the event is occurring, but at the park dedication ribbon cutting they were spread out all over the park. Ms. Betcher sees the difference as the ribbon-cutting had more space to spread out and there was no trailer material; while the other is compressed and using the same material for multiple parties.

Moved by Gartin, seconded by Corrieri, to approve Alternative 3, which states to allow for the City-sponsored block parties on City rights-of-way, along with the use of the Block Party Trailer.

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

**REVISED CONTRACT FOR ECONOMIC DEVELOPMENT SERVICES BETWEEN THE CITY OF AMES AND THE AMES ECONOMIC DEVELOPMENT COMMISSION FOR FY 2020/21:** City Manager Steve Schainker stated this contract deals with the personal services from the Ames Economic Development Commission (AEDC). The contract was delayed in being approved as the Council asked the City Manager to craft new language that more accurately represented how the contract was being operationalized. In addition, the City Council requested that a new task be specified in the contract that requires the AEDC to encourage and support minority-owned businesses in the community. Mr. Schainker pointed out that in the updated contract, Article II B., paragraphs 2, 3, 14, and 15 are where changes had been made.

Mayor Haila opened public comment. It was then closed when no one came forward.

Moved by Betcher, seconded by Junck, adopting RESOLUTION NO. 20-468 approving the Revised Contract for the Economic Development Services between the City of Ames and the Ames Economic Development Commission for FY 2020/21.

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

**ESSENTIAL CORPORATE PURPOSE GENERAL OBLIGATION AND REFUNDING BONDS, SERIES 2020A:** Finance Director Duane Pitcher explained the City had accepted bids on bonds this morning. They were favorable with an interest rate under 1% on the combination of the bonds to fund the projects as shown in the Council Action Form, and also refunding of some of the

older bonds that will project some savings. He believed the interest rate was .924%. Director Pitcher introduced Susanne Gerlach, PFM, who is the City's registered municipal financial advisor and asked her to give a summary of the sale.

Susanne Gerlach, PFM, told the Council that eight bids were received from over 46 different firms. The True Interest Cost (TIC) ranged from .924% to 1.06%. The winning bid came from Piper Sandler. She noted that the City of Ames is rated as Aa1, which is one step below the highest rating. There were three series of outstanding bonds that were refunded: 2010A, 2011B, and 2012. The goal for a cut refunding was a 3% savings and the City was able to save 6.7% (\$613,000) for taxpayers. She congratulated the City on a good sale.

Council Member Gartin asked over what period the savings would occur. Ms. Gerlach mentioned it would be between now and 2032.

Mr. Pitcher stated he wanted to give an idea on the impact of next year. For 2021/22 the City will have about \$266,000 less in debt service than anticipated.

Mayor Haila opened public comment and closed it when no one spoke up.

Moved by Martin, seconded by Junck, to adopt RESOLUTION NO. 20-469 accepting bids and authorizing the sale and issuance of Essential Corporate Purpose General Obligation and Refunding Bonds in an amount not to exceed \$20,105,000.

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

**STAFF REPORT REGARDING STATUS OF URBAN REVITALIZATION AREAS:** Planning and Housing Director Kelly Diekmann stated the City Council had requested a review of the established Urban Revitalization Areas (URA) and Programs in the Planning Division Workplan in order for the Council to determine if any adjustments were needed to meet their current goals. The focus of the report is three different issues; 1) Options related to existing URA's and Program objectives, 2) Options related to East University Impacted URA and Construction of new Greek housing, and 3) Error related to the property at 313 Lynn Avenue.

Within the past five years staff has started adding expiration dates to URAs. Staff is recommending repealing all completed projects and two other adjustments to areas that do not have an expiration date. Mr. Diekmann stated that they are recommending the repeal of the South Lincoln Neighborhood URA. Minimal redevelopment has occurred in this area and the structure of the criteria has not yielded the specific desired results in terms of design and character. This area is labeled in Plan 2040 as an area to be revisited for an updated sub-area plan and it would be appropriate to consider a new URA in the future. Additionally, it is also staff's recommendation that the Council modify the Downtown URA and request staff to develop eligibility criteria related to the recent addition of the Ames Main Street Historic District on the National Register of Historic Places. Based upon the requirements of increasing assessed value to benefit from tax abatement, adding criteria related to historic preservation may or may not be economically valuable to a

property owner, but it would encourage preservation.

Council Member Gartin asked for more guidance from Director Diekmann on exactly what he is looking for, and what the pros and cons would be. Mr. Diekmann explained that staff's recommendations would be: 1) Repeal Roosevelt Program and URA, 2) Repeal South Lincoln Neighborhood URA, 3) Repeal 405 and 415 Hayward URA - Iowa House, 4) Repeal 517 Lincoln Way URA - Squeaky Clean, and 5) Update Downtown to include the Historic Preservation Criteria. Director Diekmann stated that the areas that have no expiration date are a technical issue and would be fine to go in and clean up. They would need to be clear to those areas that the area is no longer eligible for tax abatement. He noted that the 517 Lincoln Way URA - Squeaky Clean was done for that project and there was no real intent to keep incentivising activity on the property. Director Diekmann stated that the South Lincoln Neighborhood area would be a policy question as they want to support reinvestment, but doesn't think the program has been successful. He commented that he thought it would be easier to repeal it now and then replace it in the future if needed.

Mayor Haila opened public comment and closed it when there was none.

Moved by Gartin, seconded by Betcher, to direct staff pursue Items 1-5 on page 6 of the Staff Report. The items would be to: 1) Repeal Roosevelt Program and URA, 2) Repeal South Lincoln Neighborhood URA, 3) Repeal 405 and 415 Hayward URA - Iowa House, 4) Repeal 517 Lincoln Way URA - Squeaky Clean, and 5) Update Downtown to include the Historic Preservation Criteria. Vote on Motion: 6-0. Motion declared carried unanimously.

Mr. Diekmann explained the next issue is the East University Impacted URA. There is a zoning standard where demolition of an existing or previously existing sorority or fraternity is prohibited without a determination by City Council that there is a hardship related to maintaining the building. There is an incentive program to give a tax abatement for building new fraternities and sororities on sites that were formally fraternities and sororities. Staff recommended going back to the original version of the URA, with additions being eligible for a tax abatement, and new construction would not be eligible. Mr. Diekmann explained another option would be to eliminate the East University Impacted URA altogether. He pointed out that staff is supportive of either option.

Mayor Haila inquired if any communication would be sent out to the fraternities and sororities that haven't taken advantage of the tax abatement. Director Diekmann stated that they would as it is a discreet audience and this area has been very active in the past.

Mayor Haila asked Director Diekmann to let the Council know what the options would be for the area. Director Diekmann stated that Option 1 would be to remove new construction as a new improvement, Option 2 would be to eliminate the East University URA altogether, and Option 3 is to determine that no changes are needed to meet the City Council's desired goals for the East University Impacted URA.

Council Member Betcher mentioned that staff is recommending removal of the URA and she wanted to know if this was because evidence is showing that the Greek residences are thriving now. Mr.

Diekmann explained that in 2006, the City completed the University Sub-Area Assessment, and that is where the different overlays came in. During that time staff had wanted to make sure that reinvestment by the Greek system happened in the area. Director Diekmann pointed out during his time with the City, they have only seen interest in having fraternities and sororities located adjacent to Campus. If the idea was to stabilize the neighborhood, he believed the URA has accomplished that.

Moved by Betcher, seconded by Martin, to remove the Urban Revitalization Area from the East University Impacted Area.

Council Member Gartin mentioned that this area is complicated and he wanted to know what the downside would be. Mr. Diekmann stated the downside would be removing the benefit of tax abatement to do additions to the fraternities or sororities. The property would need to be improved and add taxable value. If able to retain 70% of the walls during the improvement, the building would be eligible for tax abatement. It was pointed out that any new construction would not get any tax incentive and any remodeling or additions would not get the incentive either. Mr. Gartin inquired why the Council would want to remove the URA and what would they be trying to accomplish. Mr. Diekmann explained when looking at the area objectively, you would start an Urban Revitalization Area program with certain goals. Hopefully, those goals are met and in the interest of saving tax dollars you would look toward ending the incentive. The question is then if it is worth ending the incentive or is it still worth doing individual tax abatement for the properties in the area. City Manager Steve Schainker inquired if there was an option that would be allowed for renovations, but not new construction. Mr. Diekmann stated that is what Option 1 would be. Mr. Schainker explained that if the Council was not comfortable with any of the options provided by staff, they could ask to get feedback from the fraternities and sororities. Mr. Gartin explained what is tricky for him is trying to work through the idea without understanding what each fraternity or sorority has for a Capital Improvement Plan. Mr. Diekmann mentioned they could add an end date to the URA and give everyone notice that the URA is going to end.

Mayor Haila asked if the motion was to repeal the URA in its entirety would the Council be able to bring it back to make changes. Mr. Diekmann explained that if it is the intent to amend the URA he would prefer a different motion as the current motion is to repeal the URA in its entirety, and he doesn't want to get caught up in the process and then have to start over with a different hearing process. Council Member Betcher questioned if there was a Sunset Clause would it still be considered a repeal. Mr. Diekmann explained that it is not repealing, but amending the Plan to when it is no longer effective. He mentioned that the notice process may be the same, but he couldn't say for sure at that moment.

Council Member Martin explained he liked the idea of exploring an extension before elimination as it would give the Council time to hear back from the citizens. Mr. Schainker asked Mr. Diekmann if there was a rush to get this URA repealed or if there was time to get more input from the fraternities and sororities. City Manager Schainker recommended that the Council take the time to give the fraternities and sororities the recommended options and get their feedback. Council Member Betcher wanted to know if the notification could be done quickly as she doesn't want to continue

to incentivize the demolition of Greek houses. Mr. Schainker mentioned possibly getting feedback and bringing the information back to the September 8, 2020, City Council meeting. Director Diekmann stated that would be an aggressive request to reach out in nine days and get the feedback needed. He mentioned that the Greek houses have participated in the past, but felt that a week and half was not enough notice. Mayor Haila inquired if the Council meeting on September 22 would be sufficient. Mr. Diekmann commented that would be a reasonable timeframe for staff to reach out to leadership to get their input.

Motion withdrawn by Council Member Betcher.

Moved by Betcher, seconded by Martin, to have staff get input from the fraternities and the sororities on the three options for the East University Impacted URA by the September 22, 2020, meeting.

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

Council Member Gartin commented that the Greek houses have always struck him as an odd part of what they do as a city government. He was worried that the Greek houses have become accustomed to the incentive and they may have forgotten what it was like to not have the incentive. Mr. Gartin is supportive of bringing the URA to a close, but it may be a shock to the Greek houses that the incentive will be going away or changed. Mr. Schainker explained that it may not go away completely as there are options to continue the incentive, but with different policies. Council Member Gartin mentioned it would be helpful to have some information about the fiscal impact to the taxpayers that the program gives. Director Diekmann explained that staff would be able to estimate that information based on the properties that have already received abatement, and work with the City Assessor's office to see what those figures would be.

Mr. Diekmann stated that City staff made an error a couple of years ago regarding the property at 313 Lynn Avenue. At the time the application was made, the applicant listed themselves as being located within the East University Impacted Area Overlay District, which is incorrect. The property is abutting the East University Impacted Area Overlay District, but located within the West University Impacted Overlay District. Director Diekmann explained staff had listed a couple of options for the Council to correct the error. The first option would be to amend the area to add 313 Lynn Avenue to the East University Impacted Urban Revitalization Area, and the second option is to notify the property owner that there was an error and they could no longer receive abatement. It was noted that the property owner is in its third year of a ten-year abatement schedule.

Council Member Gartin mentioned that Option 2 would be difficult as it seems harsh to pull the property from its tax abatement. He noted that if the property is similar to the others, it would be easiest to amend the boundary.

Moved by Betcher, seconded by Gartin, to amend the boundary to include 313 Lynn Avenue within the East University Impacted Urban Revitalization Area.

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

**HEARING ON UNIT 8 PRECIPITATOR ROOF REPLACEMENT:** The public hearing was opened by the Mayor. He closed the hearing after no one asked to speak.

Moved by Betcher, seconded by Beatty-Hansen, to accept the report of bids and delay the award of a contract.

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

**HEARING ON POWER PLANT UNIT 8 TURBINE GENERATOR OVERHAUL:** The Mayor opened the public hearing and closed it after there was no one wishing to speak.

Moved by Corrieri, seconded by Betcher, to accept the report of bids and delay the award of a contract.

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

**HEARING ON 2020/21 SEAL COAT PROGRAM - (FRANKLIN AVENUE):** Mayor Haila opened the public hearing and closed it when no one came forward.

Moved by Betcher, seconded by Corrieri, to adopt RESOLUTION NO. 20-470 approving the final plans and specifications and awarding a contract to Manatt's Inc., of Ames, Iowa, in the amount of \$946,841.53.

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

**HEARING ON 2020/21 SEAL COAT PROGRAM - (EAST 8<sup>TH</sup> STREET):** Council Member Betcher explained that she wanted to let the Council know that this project is a great example of how staff was able to work with the citizens, who live along this very small street, to come to a resolution on some disagreement about what the project should be like. She felt it was a successful process and hopes this will fix a lot of the problems for the citizens who live along East 8<sup>th</sup> Street.

The Mayor opened the public hearing and closed it after there was no one wishing to speak.

Moved by Betcher, seconded by Corrieri, to adopt RESOLUTION NO. 20-471 approving the final plans and specifications and awarding a contract to All Star Concrete, of Ankeny, Iowa, in the amount of \$161,610.46.

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

**HEARING ON 2020/21 RIGHT-OF-WAY RESTORATION (STANDARD VEGETATION):** The Mayor opened the public hearing and closed it when no one came forward.

Moved by Betcher, seconded by Corrieri, to adopt RESOLUTION NO. 20-472 approving the final plans and specifications and awarding a contract to Country Landscapes, Inc., of Ames, Iowa, in the amount of \$96,175.65.

Roll Call Vote: 6-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby

made a portion of these Minutes.

**HEARING ON 2020/21 RIGHT-OF-WAY RESTORATION (NATIVE VEGETATION):** The public hearing was opened by the Mayor. He closed the hearing after no one asked to speak.

Moved by Beatty-Hansen, seconded by Betcher, to adopt RESOLUTION NO. 20-473 approving the final plans and specifications and awarding a contract to Country Landscapes, Inc., of Ames, Iowa, in the amount of \$45,426.25.

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

**HEARING ON 2018/19 STORM WATER FACILITY REHABILITATION (LITTLE BLUESTEM):** The Mayor opened the public hearing and closed it after there was no one wishing to speak.

Moved by Betcher, seconded by Martin, to adopt RESOLUTION NO. 20-474 approving the final plans and specifications and awarding a contract to J & K Contracting, LLC, of Urbandale, Iowa, in the amount of \$133,233.

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

**HEARING ON 2019/20 TRAFFIC SIGNAL PROGRAM (LINCOLN WAY & BEACH AVENUE):** Mayor Haila opened the public hearing and closed it when no one came forward.

Moved by Martin, seconded by Betcher, to reject all bids and direct staff to rebid the project.

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

**HEARING ON 2020/21 TRAFFIC SIGNAL PROGRAM (S. DUFF & S. 5<sup>TH</sup> STREET):** The Mayor opened public comment. It was closed when there was no one wishing to speak.

Moved by Martin, seconded by Corrieri, to adopt RESOLUTION NO. 20-475 approving the final plans and specifications and awarding a contract to Voltmer, Inc., of Decorah, Iowa, in the amount of \$208,696.51.

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

**HEARING ON 2019/20 MULTI-MODAL ROADWAY IMPROVEMENTS (13<sup>TH</sup> & CLARK AVE):** The public hearing was opened by the Mayor. He closed the hearing after no one asked to speak.

Moved by Gartin, seconded by Beatty-Hansen, to adopt RESOLUTION NO. 20-476 approving the final plans and specifications and awarding a contract to Voltmer, Inc., of Decorah, Iowa, in the amount of \$109,589.30.

Roll Call Vote: 6-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby

made a portion of these Minutes.

**HEARING ON BAKER SUBDIVISION IMPROVEMENTS:** Council Member Martin asked if the City was provisioning conduit as part of the infrastructure build for the purpose of providing fiber. Housing Coordinator Vanessa Baker-Latimer stated that when they submitted their 2019/23 Consolidated Plan; HUD now requires that high-speed Wi-Fi be a part of any new construction. Ms. Baker-Latimer explained that staff will be working with various Wi-Fi companies to get the service as part of the Subdivision development. Mr. Martin asked if that would mean conduit would be done when the City is trenching the area to put in electrical or just something that works. Ms. Baker-Latimer stated it has to be available to each household. Planning and Housing Director mentioned that the conduit for Wi-Fi is not listed in the plans and specifications, but staff will be working with providers to see who will be able to come out and coordinate with the construction timing to get the broadband internet installed while doing construction.

The Mayor opened the public hearing and closed it after there was no one wishing to speak.

Moved by Betcher, seconded by Beatty-Hansen, to adopt RESOLUTION NO. 20-465 approving the final plans and specifications and awarding a contract to Con-Struct, Inc., of Ames, Iowa, in the amount of \$1,317,872.65.

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

**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 Martin, seconded by Betcher, to pass on third reading and adopt ORDINANCE NO. 4419 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. Ordinance declared adopted unanimously, signed by the Mayor, and hereby made a portion of these Minutes.

**DISPOSITION OF COMMUNICATIONS TO COUNCIL:** Mayor Haila stated there were two items to be addressed. The first item was an informational memo from the Planning and Housing Department regarding a request to Amend the Ames Urban Fringe Plan map designation for approximately 4.3 acres located at 27107 Timber Road. Planning and Housing Director Kelly Diekmann explained that from time to time staff will get a request like this one, but in the past staff has not initiated this type of request, but it is up to the City Council if they want to put the request onto a future Agenda to discuss further.

Council Member Gartin inquired what the pros and cons would be for this request. City Manager Schinker explained that if the staff memo was not clear enough then the Council would need to put the item on a future agenda to discuss.

Moved by Betcher, seconded by Martin, to have the City Council not take any action.

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

The second item was a letter from Greg Northrup, President and CEO of Verbio North America requesting to annex a property located at 59219 Lincoln Highway to the City of Nevada. Mr. Schainker explained that this request involves two parts as it involves the City of Ames and the Annexation Agreement with Verbio that is going to expire this year and how it will affect Verbio. It was noted there is a time issue on the request and Mr. Schainker recommended the Council place the item on a future Agenda for discussion.

Moved by Betcher, seconded by Gartin, to place the request on a future agenda.

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

**COUNCIL COMMENTS:** Council Member Junck stated she wanted to clarify her “yes” vote earlier on the mask mandate discussion. She mentioned she was a little disappointed about how the discussion went. Ms. Junck explained that even though what was voted upon may be legal, it was not ethical, and it is frustrating to end up where they were before with an unenforceable expectation of mask-wearing. She voted “yes” because she thought that what was proposed was better than nothing, but in her opinion, the motion falls short of what the community and the residents need in the face of the public health crisis. Ms. Junck wanted to echo what was said during Public Forum, “people that don’t wear masks impede my freedom to stay alive,” it is important that they wear masks with the expectation to protect others and not just themselves.

*Ex Officio* Whitlock wanted to echo what Council Member Junck said as she made a lot of good points.

Council Member Martin stated that tonight’s discussion was tough and understands there are a lot of issues, as people analyze differently. He didn’t believe it was a question of behaving unethically and is grateful for the community and to move forward.

Council Member Betcher stated that she would agree with what Council Member Martin said. She noted that tonight’s vote was not easy. She appreciated all the input from citizens on both sides of the issues, and explained it is important for the Council to hear everything and understand where the constituents stand on important issues. Ms. Betcher mentioned that six members of the Council, including the Mayor, six members of Iowa State University staff, members of the Police Department, Facilities, Planning, and Management, and the Dean of Students Office are all going to be participating in the International Town and Gown Association sponsored “Race, Equity, and Leadership” training event with Leon Andrews in September. It will be a great opportunity for the Council to partner with Iowa State University.

Council Member Gartin stated that he had emailed the Council about a couple items. There is a vacant lot at 400 S. 4<sup>th</sup> Street that he believed it would be valuable to look at the location for a potential park to serve a neighborhood that is lacking that kind of space.

Moved by Gartin, seconded by Martin, to refer the vacant lot at 400 S. 4<sup>th</sup> Street to staff for consideration of a park.

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

Moved by Gartin, seconded by Beatty-Hansen, to recommend to staff to evaluate the risks of best practices of turning the water fountains on in the parks.

Mr. Gartin explained that he had provided the Council with a link from the CDC regarding recommendations in dealing with outdoor water fountains. He felt it would be a tremendous benefit to the public with very little risk. Council Member Betcher wanted to clarify that Mr. Gartin is just asking staff to put his request through analysis process and decide if they think it should be turned back on. Ms. Betcher stated that this request would be more in line with the Councils mandate to Parks and Recreation to assess their facilities and decide when it would be appropriate to open or not open. City Manager Schainker explained that if Mr. Gartin wanted to pull this particular item and present it to the Parks and Recreation Department it would be appropriate.

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

Council Member Gartin stated that there have been three properties that have been referred to staff that are in rough shape. He noted that there is a property in the 1200 block of Northwestern, a property on Grand, and a property on the west side. Ms. Beatty-Hansen commented that there is also a property on the 1500 block of Maxwell.

Moved by Gartin, seconded by Corrieri, to get a status report on all the properties that have been referred due to poor maintenance.

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

Council Member Gartin explained that they had received a memo regarding the Parks and Recreation response to the Courts, and he is not happy with the response from the Parks and Recreation Department.

Moved by Gartin, seconded by Corrieri, to put the item on the next Agenda so the Council can have a discussion about whether they would waive all or part of the fees associated with the Courts using the City Auditorium for jury selection. He noted this would be an important opportunity to partner with another branch of government.

Assistant City Manager Deb Schildroth explained that it is the County's responsibility to provide the space for the courts, in this situation. The County was looking for an alternative location and then paying for it if there were fees. The Board of Supervisors received a memo from Scott Hansen, to consider the Gates Hall as an alternate location besides the City Auditorium. Ms. Schildroth commented that she spoke with Board Chair Linda Murken and the Board of Supervisors did vote in support of using Gates Hall. Mr. Gartin commented that was unfortunate news and he wished it would have come to the Council. He stated that these would be Ames citizens that would have been better served by having the jury selection done in Ames, but more importantly it was a missed

opportunity to partner with the Courts in their hour of need.

Motion withdrawn by Council Member Gartin.

Moved by Corrieri, seconded by Betcher, to get a memo from staff on recommendations for potential additions or changes to the Property Maintenance Code that would provide staff with more tools for enforcement.

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

**ADJOURNMENT:** Moved by Gartin to adjourn the meeting at 10:21 p.m.

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Amy L. Colwell, Deputy City Clerk

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John A. Haila, Mayor

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Diane R. Voss, City Clerk