

REGULAR MEETING OF THE AMES CITY COUNCIL

AMES, IOWA

DECEMBER 17, 2013

The Regular Meeting of the Ames City Council was called to order by Mayor Ann Campbell at 7:00 p.m. on the 17th day of December, 2013, in the City Council Chambers in City Hall, 515 Clark Avenue. City Council Members present were Jeremy Davis, Matthew Goodman, Jami Larson, Peter Orazem, Victoria Szopinski, and Tom Wacha. *Ex officio* Member Alexandria Harvey was also present.

Mayor Campbell noted that the Council would be working from an Amended Agenda. Added, under Permits, Petitions, and Communications, was a 5-Day License for Olde Main Brewing Company at Reiman Gardens.

CONSENT AGENDA: Council Member Goodman asked to pull Item No. 14, the Plat of Survey for 2316, 2318, and 2330 Lincoln Way and 2335 Chamberlain Street. He indicated that he had a conflict of interest; therefore, needed to abstain from voting on the issue.

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

1. Motion approving payment of claims
2. Motion approving Minutes of Regular Meeting of December 10, 2013
3. Motion approving renewal of the following beer permits, wine permits, and liquor licenses:
 - a. Class C Beer - Casey's General Store #2298, 428 Lincoln Way
 - b. Class B Beer - Pizza Pit, 207 Welch Avenue Suite 201
 - c. Class C Liquor & Outdoor Service - Cazador, 3605 Lincoln Way
 - d. Class B Liquor - Quality Inn & Suites, 2601 E. 13th Street
4. RESOLUTION NO. 13-559 approving and adopting Supplement No. 2014-1 to *Municipal Code*
5. RESOLUTION NO. 13-560 approving appointment of Andrew Potter to fill vacancy on ASSET
6. RESOLUTION NO. 13-561 approving appointment of Nathan Joens to fill Student Tenant vacancy on Property Maintenance Appeals Board
7. RESOLUTION NO. 13-562 approving appointment of Beth Romer to fill vacancy on Public Art Commission
8. RESOLUTION NO. 13-563 approving designation of City representatives to Central Iowa Regional Transportation Planning Alliance (CIRTPA)
9. RESOLUTION NO. 13-564 approving preliminary plans and specifications for 2012/13 Traffic Signal Program (Lincoln Way and Hayward Avenue); setting January 22, 2014, as bid due date and January 28, 2014, as date of public hearing
10. RESOLUTION NO. 13-565 approving preliminary plans and specifications for 2013/14 Traffic Signal Program (Grand Avenue and 20th Street); setting January 22, 2014, as bid due date and January 28, 2014, as date of public hearing
11. RESOLUTION NO. 13-566 approving preliminary plans and specifications for 2013/14 Collector Street Pavement Improvements Program - Sheldon Avenue (Lincoln Way to Hyland); setting January 22, 2014, as bid due date and January 28, 2014, as date of public hearing
12. RESOLUTION NO. 13-567 approving preliminary plans and specifications for Furnishing Control Panels for Haber Road Substation; setting January 15, 2014, as bid due date and January 28, 2014, as date of public hearing
13. RESOLUTION NO. 13-568 awarding contract for purchase of six CyRide buses to Gillig Corporation of Hayward, California, in the amount of \$2,491,785
14. RESOLUTION NO. 13-570 accepting completion of 2009/10 Low-Point Drainage Improvements (Crystal Street)

15. RESOLUTION NO. 13-571 accepting completion of 2011/12 Asphalt Pavement Improvements (Barr Drive and Indian Grass Court)
Roll Call Vote: 6-0. Resolutions/Motions declared adopted/carried unanimously, signed by the Mayor, and hereby made a portion of these Minutes.

PLAT OF SURVEY FOR 2316, 2318, AND 2330 LINCOLN WAY AND 2335 CHAMBERLAIN STREET: Moved by Davis, seconded by Orazem, to adopt RESOLUTION NO. 13-569 approving Plat of Survey for 2316, 2318, and 2330 Lincoln Way and 2335 Chamberlain Street (Gilbane Project)
Roll Call Vote: 5-0-1. Voting aye: Davis, Larson, Orazem, Szopinski, Wacha. Voting nay: None. Abstaining due to a conflict of interest: Goodman. Resolution declared adopted, signed by the Mayor, and hereby made a portion of these Minutes.

PUBLIC FORUM: No one spoke during this time.

MOSQUITO CONTROL PROGRAM: Parks and Recreation Director Keith Abraham introduced Joshua Thompson, newly promoted Parks and Facilities Superintendent, and Kellee Omled, newly hired Recreation Superintendent.

Director Abraham reminded the City Council members that they had referred correspondence from Iowa State Agronomy Professor Matthew Liebman wherein he expressed concerns about the City's Mosquito Control Program. Mr. Liebman's main issues were the time of day when the City begins mosquito fogging and the chemical being used.

Mr. Abraham provided the history of the Program, which dates back 40 years. He informed the Council about the Program, which implements the use of pesticides only when mosquito population numbers determine that it will be most effective. The Iowa State University (ISU) Entomology Department collects data from strategic areas of the City and makes the recommendations as to when the City should begin implementing control procedures.

According to Director Abraham, the City relies on two methods to control mosquitoes: larvicide and fogging. The applications are performed by staff who are licensed pesticide applicators through the Iowa Department of Agricultural Pesticide Bureau. Mosquito control is only done on City-owned property. Mr. Abraham noted that having a preventative program helps reduce the risk of disease, e.g., West Nile Virus, and increase the comfort of those using City parks. He also pointed out that the EPA has sanctioned the use of the chemical that is currently being used in the fogging operations.

It was reported by Mr. Abraham that one of the concerns expressed by Mr. Liebman was the use of the insecticide Mosquitomist One and its possible impact on humans, animals, and the environment. According to the ISU Entomology Department, Mosquitomist One has the least residual effect, but optimum efficacy, as any product currently on the market. Mr. Abraham reviewed the health hazard data. He pointed out that those warnings were written for the handlers (producing the chemical or applying it); they were not written for the bystanders or those in the park. The chemical has been registered for mosquito control; therefore, it has been determined that it will not cause unreasonable risk to human health or the environment. Bystandards are not affected by that chemical.

The application schedule for fogging and larviciding was explained by Director Abraham. He also listed the surrounding communities with mosquito control programs. The City's budget for FY 2015/15 includes \$10,103 for the Mosquito Control Program.

At the inquiry of Council Member Goodman, Director Abraham stated that if fogging were done after 10:30 p.m., no overtime costs would be incurred by the City. Mr. Abraham said that was not a concern because a student from the Entomology Department does the spraying and would not be paid overtime by the City. He noted, however, that it has been determined that that time of night is less effective as the mosquitoes are most active around dusk.

Council Member Orazem asked if the public were notified of the date and time of spraying. Mr. Abraham replied that the City does press releases to inform the public.

After being questioned by Council Member Wacha, Director Abraham said that he had had no additional conversations with Mr. Liebman; however, he will be following up with him after this meeting.

It was asked whether the City could use larvicide only and not fog. Mr. Abraham stated that the entomologist whom he had spoken with had stated that the only way to kill the mosquitoes that might be carrying the West Nile Virus is by fogging; larvicide alone would not do it.

Moved by Davis, seconded by Orazem, to direct staff to continue the Mosquito Control Program as it is currently performed and initiate a public education campaign to inform residents.

Vote on Motion: 5-1. Voting aye: Davis, Goodman, Larson, Orazem, Wacha. Voting nay: Szopinski. Motion declared carried.

COMMUNITY GARDENS: Director Abraham recalled that the City Council had referred to staff a request from David Hoffman that the City acquire property between Mesa Verde Place and Garfield for a community garden. He said there were several policy questions that the Council would need to answer, i.e., Should the City expand its financial commitment to provide community gardens? If so, what level of service should be provided? If so, where would the gardens be located?

Mr. Abraham reported that, in 1998, City-owned land was converted to community garden plots at the Squaw Creek Park located on South Maple. There are currently 39 garden plots at that location available for rent for \$20/year. Services provided by the City include spring and fall tilling, water, and mulch. Fencing is also provided on one side of each row of plots. The number of plots rented for the last five years was given by Mr. Abraham. He pointed out that not all of the plots have always been rented up until two years ago when the City began receiving more requests for the plots than it had available. It was also reported by Mr. Abraham that there are other community gardens available in the City: Trinity Christian Reformed Church (Food at First), Eastwood Community Garden, Beloit Garden, 13th Street Garden ("The Farm"), Iowa State University Village Garden, Iowa State University Organic Farm, School Gardens (High School, Middle School, Mitchell & Sawyer), and Mustard Seed Community Farm.

The Council was advised by Mr. Abraham that if it would like to expand the community gardens, staff believes that, rather than purchase more land to create gardens throughout the community, existing park land could accommodate that need. Staff had identified four neighborhood park locations in four quadrants of the City where additional potential garden

plots could be placed: Patio Homes West, Christofferson Park, Carr Park, and Lloyd Kurtz Park. Two of those parks have parking lots, and two have adequate on-street parking. Director Abraham provided the estimated costs to develop a portion of those Parks for community gardens. The total cost to provide water to the four additional areas would be approximately \$4,300. In addition, fenced-in garden space would increase the cost.

Mr. Abraham stated that the gardens in the four different parks would not be done all at once. As demand increases, the garden spaces would be developed.

Council Member Orazem noted that the original requesting party lives near Emma McCarthy Lee Park and asked why that Park was not one being recommended for a community garden. Mr. Abraham advised that parking is somewhat limited at that site and water is not readily available.

Council Member Goodman referenced the community garden program of the Ames Community School District (ACSD), specifically, at Kate Mitchell and Sawyer. He recommended that City staff reach out to the School District to see if it is willing to expand its program. It was Mr. Goodman's opinion that there would be benefits of cost-sharing. Director Abraham advised that staff would be very willing to talk with the School District.

Moved by Goodman, seconded by Orazem, to direct that community gardens be located in the parks located in Patio Homes West, Christofferson Park, Carr Park, and Lloyd Kurtz Park and that the costs associated with the creation of the gardens be included in the FY 2014/15 Operating Budget..

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

Moved by Goodman, seconded by Wacha, to direct staff to reach out to the ACSD to see if there was interest in expanding its community garden program, which would be an opportunity for cost-sharing and cooperation.

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

CHILDREN'S MEMORIAL PARK: It was noted by Director Abraham that the City Council had referred a request from Angie DeWaard that the City consider constructing a Children's Memorial Park. Her idea was for a quiet place in a new park or within an existing park for parents and families who have suffered the loss of a child to be able to reflect and find hope.

According to Mr. Abraham, the Parks and Recreation Commission discussed the concept at its Capital Improvements Plan workshop on December 5, 2013, and expressed support for the development of a children's memorial park within Moore Memorial Park. The project will be funded mainly through donations. Mr. Abraham pointed out that there are other parks in Ames that have memorial benches and trees, and that practice will continue even if and when Moore Memorial Park becomes the official children's memorial area. He also noted that the City currently has a Commemorative Tree Program, which will be expanded to include other memorials, such as bricks, stones, and plaques, as well as park bench memorials.

City Manager Schainker advised that if the Council agreed with the recommendation of the Parks and Recreation Commission, no action was required; staff will move ahead to formalize Moore Memorial Park containing a children's memorial area.

5-DAY CLASS C LIQUOR LICENSE FOR OLDE MAIN BREWING COMPANY AT REIMAN GARDENS: Moved by Davis, seconded by Larson, to approve a 5-Day (January 11-15, 2014) Class C Liquor License for Olde Main Brewing Company at Reiman Gardens, 1407 University Boulevard.

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

HEARING ON VACATION OF EASEMENTS LOCATED AT 3910 MARICOPA DRIVE:

Mayor Campbell opened the public hearing. No one wished to speak, and the hearing was closed.

Moved by Davis, seconded by Szopinski, to adopt RESOLUTION NO. 13-572 vacating the open space easement and storm water flowage easement located at 3910 Maricopa Drive.

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

Moved by Davis, seconded by Larson, to adopt RESOLUTION NO. 13-573 approving the Plat of Survey for 3910 Maricopa Drive.

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

HEARINGS ON VACATING AND SALE OF HUTCHISON STREET RIGHT-OF-WAY: the Mayor opened the public hearings. After no one came forward to speak, the hearing was closed.

Moved by Davis, seconded by Orazem, to adopt RESOLUTION NO. 13-574 approving the vacation of the Hutchison right-of-way legally described as Block 4, Ontario Old Town Subdivision, except the West 10 feet.

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

Moved by Davis, seconded by Wacha, to adopt RESOLUTION NO. 13-575 approving conveyance of the Hutchison right-of-way legally described as Block 4, Ontario Old Town Subdivision, except the West 10 feet, as follows:

- a. North ½ to the property owner of 1401 Georgia Avenue (Anderson Business Enterprises)
- b. South ½ to the property owner of 1311 Georgia Avenue (Lowell D. Elwick and Norma J. Elwick)

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

BROWNFIELD/GRAYFIELD TAX CREDIT APPLICATION FOR SHELDON MUNN:

Moved by Davis, seconded by Wacha, to authorize the Mayor to sign a Letter of Support for sponsorship of the Brownfield Tax Credit application for the Sheldon Munn.

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

BROWNFIELD/GRAYFIELD TAX CREDIT APPLICATION: Moved by Davis, seconded by Orazem, to adopt RESOLUTION NO. 13-576 supporting the application of Kingland Systems to the IDEA for Brownfield/Grayfield Tax Credits.

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

NORTHERN GROWTH: Assistant City Manager Bob Kindred explained that staff had been working diligently since the Council had given its direction to staff to attempt to get satisfactory Agreements pertaining to the City's expanding to the north.

Water Service Territory Agreement with Xenia Rural Water District. Mr. Kindred reminded the Council that the developers had been working privately with Xenia Rural Water for months to negotiate agreements whereby they would agree to pick up the costs privately to buy-out Xenia's service territory rights. He informed the Council that yesterday, the Xenia's Board of Directors approved agreements with the developers of Quarry Estates, Hunziker North, and Hunziker South. The developers had agreed to pay Xenia \$2,700/future customer who will be served by the City of Ames. The City has no obligation to compensate Xenia. As of yesterday afternoon, Xenia had approved agreements with the owners of Quarry Estates, Hunziker North, and Hunziker South. Xenia had also approved the format for an agreement with Athen; however, as of today, Xenia did not have a signed agreement from the Athen land; therefore, no application had been executed between those parties.

Assistant City Manager Kindred advised that Xenia and the City had also completed negotiations on a Service Territory Agreement that builds upon the developers' agreements. Mr. Kindred highlighted the key points of the Release of Service Territory Rights. According to Mr. Kindred, the City asked that the Agreement include all of the City's Northern Growth Area; however, in order to get an agreement approved by December 2013, Xenia staff felt it was vital to limit the agreement to only those areas for which they had signed developers' agreement. Mr. Kindred told the Council that Xenia would not make any provision for the remaining residential properties along Grant Avenue to utilize the \$2,700 buy-out of Xenia should those properties elect to hook up to City water. Xenia had indicated that those properties that are current Xenia customers would need to buy out their proportionate shares of the District's debt, which would be approximately \$20,000/customer. It was emphasized by Mr. Kindred that the City has no plans to require those homeowners to sever their ties with Xenia and connect to City water, whether they annex to the City or not. Therefore, there is no obligation for those owners to exercise the buy-out. Mr. Kindred emphasized that staff feels that it is important to reach an agreement establishing a process or formula whereby the remainder of the City's Northern Growth Area can be transferred to the City. Xenia staff had committed to continue working with the City to negotiate such an agreement and to take it to Xenia's Board and creditors for their approval.

Moved by Davis, seconded by Orazem, to adopt RESOLUTION NO. 13-577 approving the Water Service Territory Agreement with Xenia Rural Water District.

Roll Call Vote: 5-1. Voting aye: Davis, Larson, Orazem, Szopinski, Wacha. Voting nay; Goodman. Resolution declared adopted, signed by the Mayor, and hereby made a portion of these Minutes.

Pre-Annexation Agreements for Quarry Estates, Hunziker North, Hunziker South, Harold/Bette Frame property, Brian/Jamie Frame property, and Athen property. Assistant City Manager Kindred advised that staff had negotiated Pre-Annexation Agreements with five land owners along Grant Avenue. Signed Annexation Agreements had been received from the owners of Quarry Estates, Harold/Bette Frame, Brian/Jamie Frame, Hunziker North, and Hunziker South.

Mr. Kindred gave the history behind the Pre-Annexation Agreement with the owners of the Rose Prairie Subdivision. That Agreement listed various responsibilities of both parties associated with development of that land. It included the developer's commitment to pay the following:

- 37% of the cost of constructing Grant Avenue from the current city limits north to 190th Street
- \$185,000 as a prorated portion of the city's eventual cost to improve the Bloomington Road intersections with Grand Avenue and Grant Avenue
- Any buy-out amount due to a rural water provider
- A prorated portion of the City's costs for installation of the water and sanitary sewer mains serving this area.

It was stated by Mr. Kindred that, after annexation, the next step would be rezoning, and then subdivision. He emphasized that the subdivisions would be done in accordance with the City's Conservation Subdivision Ordinance.

Assistant City Manager Kindred pointed out that Rose Prairie was notably absent from the discussions. Even though it was annexed nearly three years ago, it has not yet entered into an agreement with Xenia to buy out the Rural Water Territory. Since the land appears to be changing owners again, the new owners will have to negotiate a buy-out agreement, and the Agreement with the City will then need to be revised.

Mr. Kindred announced that the Hunziker South parcel does not consist of enough land to come in due to adjacent owners who do not want to be annexed. He provided additional information about how Hunziker South could possibly be annexed as an 80/20, even if those adjacent property owners will not consent.

Also, Assistant City Manager Bob Kindred informed the Council that the Hunziker developers had decided not to approve the provision contained in the Annexation Agreement as it related to special assessments for Grant Avenue; specifically, the owners of the Hunziker North and South properties had stricken the provision in the Agreement pertaining to assessment waivers. Mr. Kindred reported that a legal analysis had been performed by City Attorney Judy Parks. Ms. Parks explained the provisions contained in Attachment C that provided for the process of allocation of costs to be done by special assessment. She cited the strict statutory process contained in the *Iowa Code* that must be followed to allow the Special Assessment process to be done by agreement. According to Ms. Parks, that is beneficial to the property owner as it allows the payments to be spread out over a period of year. The agreement may be negotiated. Some time ago, it had been determined that the paving of Grant Avenue would be paid for by special assessment shared by developers of the land adjacent to that road; therefore the Special Assessment Agreement for all properties being assessed needed to have identical terms and signed by all property owners of record. Ms. Parks indicated that the striking of that provision by the developers of Hunziker North and Hunziker South would place the special assessment process in flux.

Council Member Larson noted that the amount of the assessment is not known, and he understands why the developer might not want to forfeit their right to object to the assessment amount. He said he recalled that, at the request of the developer, staff had given a preliminary cost estimate of the cost of the road improvements. Mr. Larson suggested that estimate could be used as the cost to be used as the assessment amount with the percentages to be paid by each

developer remaining fixed. It was noted by City Manager Schainker that the project had not been bid yet, so the true cost of the road improvements was not known.

Chuck Winkleblack, 105 SE 16th Street, Ames, recalled that the Hunziker developers wanted to opt-out of the agreement from the very beginning, but had been told by staff that that would be too complicated and could not be done. Mr. Winkleblack advised that, for the Hunziker North and South parcels, the developer just wanted to pay for its share of the paving of the road; they wanted to bid their section themselves and have the work done. He said in order to be part of this project, Hunzikers have agreed to costs that had not been borne by other developers who should have paid for the improvements when their land was developed. Mr. Winkleblack referenced the Rose Prairie agreement, which the City is holding as the “gold standard,” noting that the original property owner had gone bankrupt, and the property was now on its fourth owner. Mr. Winkleblack said that he feels he is being “held hostage” by an agreement that he had nothing to do with. It was stated by Mr. Winkleblack that he just wanted to have a say in the assessment process.

Kurt Friedrich, 100 Sixth Street, Ames, noted that the City is a partner to this project. He pointed out that he would like to have some involvement in the bidding process and hopefully collaborate to get the best results possible. Mr. Friedrich said that staff had been very conservative in its estimate of the cost of the road, and he was willing to trust that that will happen. He wants this project to move forward.

At the inquiry of Council Member Orazem regarding terms of the Agreement, City Attorney Parks reiterated that the Special Assessment and Waiver needs to be done for the process to meet the requirements of the *Iowa Code*. Some terms, e.g., the provision for providing fire sprinklers within the residential units were included in the Rose Prairie Agreement, but are not included in the Annexation Agreements for Quarry Estates, the Frames, Hunziker North, or Hunziker South. Terms such as that could change, but the Assessment provision may not be different.

At the request of Mayor Campbell, City Attorney Parks outlined the City’s bidding process.

Mr. Winkleblack pointed out that the City was asking the developers to waive the right to protest the assessment, whatever it might be. There are many unknowns at this point; however, he felt that it was unfair to not allow the developers to be involved. He specified that easements will be needed; however, it is not known if those can even be received. The Hunzikers might have to dedicate some of its land to make the road happen if easements cannot be received.

Moved by Wacha, seconded by Orazem, to direct staff to work with the Hunzikers and Friedrichs to develop language that could be put into the main part of the agreement to mitigate concerns by them regarding Item 4 of Attachment C (Special Assessment Contract and Waiver). Vote on Motion: 4-2. Voting aye: Davis, Larson, Orazem, Wacha. Voting nay: Goodman, Szopinski. Motion declared carried.

SOUTH BELL TIF AGREEMENT: City Planner Charlie Kuester explained that the City and Dayton Park, LLC, entered into a Development Agreement on February 4, 2009, to establish an urban renewal area and tax increment financing (TIF) district for the construction of the Ames Community Development Park, 4th Addition. The development created 14 lots for industrial development and completed the connection of S. Bell Avenue between E. Lincoln Way and SE 16th Street. According to Mr. Kuester, the Agreement required the developer to construct a series

of speculative buildings. The first building was required within 18 months after the completion of public improvements. Subsequent speculative buildings were required to be constructed within 12 months of the occupancy of each prior building until the ten small lots are developed or the City's debt is paid in full.

According to Mr. Kuester, the first speculative building was completed at 615 S. Bell Avenue and occupied by Solum on July 23, 2012. The second speculative building was then to be completed and available by July 23, 2013. A site plan and Building Permit have been approved for the second speculative building to be located at 2812 Hyatt Circle; however, the building is not finished. At the inquiry of Council Member Goodman as to why this is just coming before the City Council, Planner Kuester advised that the City does not track completion of buildings. Mr. Goodman also asked when the industrial assessment would have taken effect. Mr. Kuester stated that the new industrial valuation would have been assessed on January 1, 2015.

Mr. Kuester further advised that the Agreement also required the developer to grant to the City a first lien mortgage in the amount of \$350,000 encumbering not less than 6.36 acres of the Subdivision to ensure the completion of the required speculative buildings. However, the mortgage was never granted, and the City is currently holding no financial security to ensure that the developer performs the terms of the Agreement. The developer was never asked for the mortgage, and subsequently, never gave the mortgage to the City.

The Council was advised by Mr. Kuester that the City had constructed the infrastructure, streets, sanitary sewer, and water mains up-front with the goal of paying those costs with the increased property tax revenue from the increased land and improvement values. Mr. Kuester reported that state administrative rules changed during the creation of this project to allow the undeveloped lots in industrial subdivisions to be taxed at agricultural rates rather than at industrial rates. Therefore, the City does not receive any increased incremental property tax revenue from the vacant industrial land until it is developed, which has caused a reduction of \$21,000/year in revenue to help repay the TIF debt. Currently, the developers pay total annual property taxes of approximately \$22 to \$108 per undeveloped lot even though they receive the additional value of the TIF-funded infrastructure.

Mr. Kuester explained options available to the City Council. He noted that there are two instances where the developer is not in compliance with the terms of the Development Agreement: (1) timing of the completion of the second speculative building and (2) not submitting the required financial security to the City. He asked for Council direction regarding how to address the compliance issues.

It was noted by Mr. Kuester that the developer had requested an extension to the time frame to complete the second speculative building. The developer had indicated that he was open to providing a Letter of Credit in lieu of the mortgage, but is opposed to any change to the taxable value of vacant land.

Council Member Goodman said it was a performance issue on the part of the developer, and it seemed fair to him that the developer should pay back, from January 1, 2015, what the assessment would have been had the building been built.

Chuck Winkleblack, 105 S. 16th Street, Ames, told the City Council that the mortgage was an oversight on the part of the developer. The developer had volunteered to provide a Letter of

Credit in the amount of \$350,000 in lieu of the mortgage; however, staff advised him to wait until after Council gives direction to staff on the issue. Mr. Winkleblack stated that it was his intention was to build the building in the spring. The demand was for housing, so the developer focused on housing, rather than a spec building. The Building Permit was for \$540,000 and it will likely be more than that; it would have a taxable value of \$11,300 at the current millage rate. He also noted that the City Assessor will put a partial value on the property as of January 1, 2014. Mr. Winkleblack alleged that the City would actually be out approximately \$5,000 in tax revenue.

Moved by Goodman, seconded by Szopinski, to direct staff to talk to the developer about getting compensation for them not building the building at its assessed value on January 1, 2014, when it is built.

After being questioned by Council Member Orazem, Council Member Goodman clarified that it is the lost tax revenue that he wanted as compensation to the City.

Planning and Housing Director Diekmann advised the Council that it would be better to direct staff to come up with a penalty in an amount certain for lack of performance.

Motion withdrawn.

Moved by Goodman, seconded by Szopinski, to direct that staff work with the developer to secure a Letter of Credit for future spec buildings and to secure a sum in the amount of the lost revenue.

Motion withdrawn.

Moved by Goodman, seconded by Orazem, to ask staff to work with the developer to get a LOC and ask that a penalty be assessed to the developer in the amount of \$12,000 for non-performance.

Council Member Goodman said he believes that the \$12,000 is larger than the net loss; however, he wants the additional due to the failure-to-perform issue.

Council Member Szopinski pointed out that there is no guarantee that the building will be done. She wants the City to be able to recoup the difference between what would have been assessed on a completed building and what will actually be received.

Vote on Motion: 4-2. Voting aye: Goodman, Orazem, Szopinski, Wacha. Voting nay: Davis, Larson. Motion declared carried.

Moved by Wacha, seconded by Larson, to grant a one-time extension for the second speculative building to be completed by June 1, 2014.

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

ENGINEERING SERVICES AGREEMENT FOR DESIGN OF LIFT STATION IMPROVEMENTS: Moved by Davis, seconded by Wacha, to adopt RESOLUTION NO. 13-578 approving Engineering Services Agreement with HDR for design of Lift Station Improvements.

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

ORDINANCE TO ADD DEFINITION OF FLASHING YELLOW ARROW TO MUNICIPAL CODE SECTION 26.18(2)(K): Moved by Davis, seconded by Larson, to pass on first reading an ordinance to add the definition of *flashing yellow arrow* to *Municipal Code* Section 26.18(2)(k). Roll Call Vote: 6-0. Motion declared carried unanimously.

ORDINANCE REZONING 3333 STANGE ROAD: Moved by Davis, seconded by Goodman, to pass on third reading and adopt ORDINANCE NO. 4166 rezoning 3333 Stange Road with the north portion of parcel from Agricultural (A) to Suburban Low-Density Residential (FS-RL) and south portion of parcel from Agricultural (A) to Suburban Medium-Density Residential (FS-RM). Roll Call Vote: 6-0. Ordinance declared adopted unanimously, signed by the Mayor, and hereby made a portion of these Minutes.

ORDINANCE ALLOWING CLUBHOUSES IN RESIDENTIAL HIGH-DENSITY ZONE: Moved by Goodman, seconded by Davis, to pass on third reading and adopt ORDINANCE NO. 4167 making a zoning text amendment to allow clubhouses in Residential High-Density Zone. Roll Call Vote: 6-0. Ordinance declared adopted unanimously, signed by the Mayor, and hereby made a portion of these Minutes.

COUNCIL COMMENTS: Mayor Campbell recognized the service of the four outgoing City Council members: Jeremy Davis, Jami Larson, Victoria Szopinski, and Tom Wacha. Each member reflected on their City Council experiences.

Moved by Goodman, seconded by Orazem, to refer to staff the letter from the Ames Foundation dated December 12, 2013, requesting that staff place the Ames 150 Anniversary on the January 14 Agenda as a discussion item.
Vote on Motion: 6-0. Motion declared carried unanimously.

ADJOURNMENT: Moved by Davis to adjourn the meeting at 9:18 p.m.

Diane Voss, City Clerk

Ann H. Campbell, Mayor