

# MINUTES OF THE REGULAR MEETING OF THE AMES CITY COUNCIL

AMES, IOWA

AUGUST 12, 2014

The Regular Meeting of the Ames City Council was called to order at 7:00 p.m. on August 12, 2014, in the City Council Chambers in City Hall, 515 Clark Avenue pursuant to law with Mayor Ann Campbell presiding and the following City Council members present: Gloria Betcher, Amber Corrieri, Tim Gartin, Matthew Goodman, Chris Nelson, and Peter Orazem. *Ex officio* Member Lissandra Villa was also present.

Mayor Campbell announced that the Agenda had been amended to add a Closed Session to discuss matters in litigation; however, staff has now pulled that off the Agenda.

**PRESENTATION OF SPECIAL ACHIEVEMENT IN GIS AWARD TO PUBLIC WORKS:** City GIS Coordinator Ben McConville introduced Lisa Mondt and Dominic Roberge, GIS Specialists. Mr. McConville stated that the City's Public Works Department GIS Work Group had been honored with an award from the Environmental Systems Research Institute for implementation and use of GIS systems, and in particular, the use of new and upcoming mobile and on-line technologies. Mr. McConville thanked Ms. Mondt and Mr. Roberge, the City's Information Technology Division, City management, and the GIS users for their hard work and/or support.

**PROCLAMATION CELEBRATING 40<sup>TH</sup> ANNIVERSARY OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM:** Mayor Campbell read a Proclamation in observance of the 40<sup>th</sup> Anniversary of the CDBG Program and recognized the significant positive impacts that the funding has had on the housing development needs in Ames. Accepting the Proclamation was Vanessa Baker-Latimer, City Housing Coordinator. The Mayor introduced Steve Eggleston, Head Field Officer of the Des Moines Housing and Urban Development (HUD) Office. Mr. Eggleston thanked Housing Coordinator Baker Latimer for her good work in using this tool to address the housing needs of the Ames community.

**CONSENT AGENDA:** Council Member Gartin asked to pull Items numbered 17 (2015/16 ASSET priorities) and 22 (requests from KHOI Radio for Grassroots Radio Conference) for separate discussion.

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

1. Motion approving payment of claims
2. Motion approving minutes of Regular Meeting of July 22, 2014
3. Motion approving certification of civil service applicants
4. Motion approving contract change orders for July 16-31, 2014
5. Motion approving renewal of the following beer permits, wine permits, and liquor licenses:
  - a. Class C Liquor – Olde Main Brewing Co., 316 Main Street
  - b. Class C Liquor & B Native Wine – The Mucky Duck Pub, 3100 South Duff Avenue
  - c. Class C Liquor – Es Tas Stanton, 216 Stanton Avenue
  - d. Class C Liquor – El Azteca, 1520 South Dayton Avenue
  - e. Class C Liquor – Okoboji Grill, 118 South Duff Avenue
  - f. Class C Beer & B Wine – Hy-Vee Gas #5013, 4018 Lincoln Way
  - g. Class C Liquor – Deano's, 119 Main Street
6. Motion approving 5-Day Class B Beer Permit & Outdoor Service for Bar at Zylstra Harley Davidson, 1219 McCormick Avenue
7. Motion approving 5-Day Class C Liquor License for Dublin Bay at Reiman Gardens, 1407 University Boulevard

8. Motion approving 5-Day licenses for Olde Main Brewing at ISU Alumni Center, 420 Beach Avenue:
  - a. Class C Liquor (August 26-30)
  - b. Class C Liquor (September 6-10)
9. Motion approving Outdoor Service Privilege on September 6 and 7 for The Mucky Duck Pub, 3100 South Duff Avenue
10. Motion approving Outdoor Service Privilege for El Azteca, 2727 Stange Road
11. Motion directing City Attorney to draft ordinance pertaining to parking regulations on new streets and corrections at various locations
12. RESOLUTION NO. 14-421 confirming appointment of Peter Hallock, Old Town District representative, to fill vacancy on Historic Preservation Commission
13. RESOLUTION NO. 14-422 approving payment of City's share of Intermodal Facility Operating Subsidy to Iowa State University
14. RESOLUTION NO. 14-423 approving Official Statement and setting date of sale of General Obligation Corporation Purpose Bonds Series 2014 in an amount not to exceed \$9,985,000
15. RESOLUTION NO. 14-425 accepting the 2014 Edward Byrne Memorial Justice Assistance Grant and authorizing the Police Department to participate in the Program
16. RESOLUTION NO. 14-426 approving Emergency Management Agency 28E Agreement
17. RESOLUTION NO. 14-427 approving 36-Month Internet Service Agreement with Century Link
18. Requests from Youth and Shelter Services for 100<sup>th</sup> Anniversary Celebration on Wednesday, September 10:
  - a. RESOLUTION NO. 14-428 approving closure of Kellogg Avenue, from 5<sup>th</sup> Street south to the alley, from 1:00 p.m. to 9:00 p.m.
  - b. RESOLUTION NO. 14-429 approving waiver of parking meter fees and enforcement
19. Requests from Main Street Cultural District for Oktoberfest on September :
  - a. Motion approving Blanket Temporary Obstruction Permit and Blanket Vending Permit
  - b. Motion approving 5-day Class B Beer Permit & Outdoor Service (pending dram shop insurance coverage)
  - c. RESOLUTION NO. 14-431 approving closure of Main Street from Kellogg to Douglas from 10:00 a.m. to 2:00 a.m., including closure of 46 parking spaces; and waiver of fees for Blanket Vending Permit, meter costs for parking space closures, and costs for use of electricity in the 200 block
20. RESOLUTION NO. 14-432 approving preliminary plans and specifications for 2014/15 Right-of-Way Restoration; setting September 3, 2014, as bid due date and September 9, 2014, as date of public hearing
21. RESOLUTION NO. 14-433 changing bid due date from August 26, 2014, to August 27, 2014, for Water Pollution Control Facility Digester Improvements
22. RESOLUTION NO. 14-434 approving preliminary plans and specifications for Information Technology Fiber Optic Deployment; setting September 10, 2014, as bid due date and September 23, 2014, as date of public hearing
23. RESOLUTION NO. 14-435 awarding contract to WESCO Distribution of Des Moines, Iowa, for Aluminum Cable in the amount of \$74,472
24. RESOLUTION NO. 14-436 awarding contract to PCI of Lansing, Kansas, in the amount of \$48,452.95 for Custodial Services for Ames Public Library
25. RESOLUTION NO. 14-437 approving contract and bond for Water Treatment Plant Five-Year Well Rehabilitation Project (Year 3)
26. RESOLUTION NO. 14-438 approving changes in project sequence for Screw Pump Rehabilitation CIP project for Water & Pollution Control
27. RESOLUTION NO. 14-439 approving Change Order to contract with ABC Companies for purchase

and refurbishment of used CyRide buses in the amount of \$15,215

28. RESOLUTION NO. 14-440 approving Change Order #44 to contract with Henkel Construction Company for CyRide Bus Facility Expansion Project in the amount of \$10,582.70
29. RESOLUTION NO. 14-441 approving Change Order with FOX Engineering to delete the unexpended balance related to the redesign of the aerators in the amount of \$62,007.09
30. RESOLUTION NO. 14-442 approving contract renewal with Baldwin Pole & Piling, Inc., of Des Moines, Iowa, for purchase of Electric Distribution and Transmission Utility Poles
31. RESOLUTION NO. 14-443 accepting completion of Public Library's Wood Window Restoration Project
32. RESOLUTION NO. 14-444 accepting completion of Hickory Drive (Lincoln Way - Westbrook Drive)
33. RESOLUTION NO. 14-445 accepting completion of 2012/13 West Lincoln Way Intersection Improvements (Lincoln Way and Dotson Drive)
34. Brookview Place West, 4<sup>th</sup> Addition:
  - a. RESOLUTION NO. 14-446 approving partial completion of public improvements
  - b. RESOLUTION NO. 14-447 approving Final Plat
35. South Fork Subdivision, 6<sup>th</sup> Addition:
  - a. RESOLUTION NO. 14-448 approving partial completion of public improvements
  - b. RESOLUTION NO. 14-449 approving Final Plat

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

**2015/16 ASSET PRIORITIES:** Council Member Gartin said that he had requested to pull this item for separate discussion so that staff could highlight the ASSET funding priorities for the upcoming year.

Assistant City Manager Melissa Mundt listed the three priorities: (1) Basic Needs, (2) Health-Related, and (3) Youth. Ms. Mundt explained the process that identified and ranked the priorities.

Moved by Gartin, seconded by Goodman, to adopt RESOLUTION NO. 14-424 approving the 2015/16 ASSET priorities.

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

**REQUESTS FROM KHOI RADIO FOR GRASSROOTS RADIO CONFERENCE ON AUGUST**

**14-17:** Council Member Gartin stated he wanted to ensure that the City had confirmation from the property owners affected by the street closure that they had been notified of that closure. City Manager Steve Schainker said that, per the City's policy, event representatives are to contact the property owners. Event coordinator Joe Lynch stated that the property owners had been contacted.

Moved by Gartin, seconded by Betcher, to approve a Temporary Obstruction Permit for two metered parking stalls in front of 323 Main Street on August 17.

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

Moved by Gartin, seconded by Betcher, to adopt RESOLUTION NO. 14-430 approving the closure of Douglas Avenue, from 5<sup>th</sup> Street south to the alley, from 3:00 to 8:00 p.m. on August 14.

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

**PUBLIC FORUM:** No one came forward to speak, and Mayor Campbell closed Public Forum.

**BRECKENRIDGE DEVELOPMENT:** Mayor Campbell announced that public comment on the hearings for the proposed rezoning of 205 South Wilmoth, the proposed rezoning of 601 State Avenue, and the Breckenridge Development Agreement would be taken prior to City Council action on any of the three items.

Planning and Housing Director Kelly Diekmann advised that staff would be making presentations on the North Parcel, South Parcel, and proposed Settlement Agreement. Concurrent public hearings will then occur on the North and South Parcels, and public comments will be heard on the proposed Settlement Agreement. The applicant will speak first and be followed by members of the public. Mr. Diekmann stated that the North Parcel rezoning was independent of the South Parcel rezoning. The proposed Settlement Agreement will be a third independent action.

1. Hearing on Rezoning 205 South Wilmoth Avenue: City Planner Karen Marren explained the request to rezone the North Parcel located at 205 South Wilmoth Avenue from Special Government/Airport (S-GA) to Residential Low Density (RL). She described the next steps that would occur should the Council decide that RL is the appropriate zoning for the property in question. If the City Council determines that Low-Density Residential is appropriate for the area in question, the next subsequent step in the review process would be subdivision. Low-Density Residential only allows single-family detached homes, which would require that the applicant subdivide each home on an individual lot.

At the request of Council Member Corrieri, Planner Marren and Director Diekmann explained the comments that had been made by members of the Planning and Zoning Commission at a hearing held on June 4, 2014, regarding rezoning this Parcel to RL.

Council Member Betcher asked Director Diekmann to confirm that there is no dispute about net acreage and the maximum number of lots that may be developed on the Parcel as being 40-50. Mr. Diekmann answered that a decision was made that a Master Plan was not required because of only one use being allowed and no site constraints. Staff had estimated 40-50 lots; literally, it is 7.26 units x 8.23 acres, but that includes public streets.

2. Hearing on Rezoning of 601 South State Avenue: The request to change the zoning designation from S-GA to RL for the portions of the property north of College Creek and Suburban Residential Low-Density (FS-RL) for the property south of College Creek was described by Director Diekmann. He added that, if that is the action chosen by the City Council, it would allow for the development of up to a maximum of 194 dwelling units.

According to Director Diekmann, the Council might want to consider tabling this hearing to allow staff time to gather more specificity behind some potential conditions that might be appealing to the City Council.

Mr. Diekmann explained each of the six alternatives:

1. Approve rezoning of approximately 1.63 acres north of College Creek from S-GA to RL and approximately 27.37 acres of land south of College Creek from S-GA to FS-RL, all located at 601 State Avenue with a signed Zoning Agreement prior to third reading of the ordinance.

This is the applicant's requested zoning change and is based on the assumption that up to

190 dwelling units may be built.

2. Approve rezoning of approximately 1.63 acres north of College Creek from S-GA to RL and rezoning approximately 27.37 acres of land south of College Creek from S-GA to FS-RL, all located at 601 State Avenue, with a signed Zoning Agreement prior to third reading, agreeing with potential moving of the bike path, agreeing that the developable acreage of the area is 10 - 14 acres, and agreeing to participate in the off-site traffic improvements required on Mortensen and State.

This alternative would give direction regarding location of the bike path, would clarify Council's agreement with staff's interpretation of the maximum density formula, and would secure a proportional contribution to the cost of a nearby traffic improvement that is impacted by development of the parcel.

3. Approve rezoning of approximately 1.63 acres north of College Creek from S-GA to RL and rezoning approximately 27.37 acres south of College Creek from S-GA to RS-RL, all located at 601 State Avenue with conditions other than those listed under Alternative 2.
4. Deny the request for rezoning of approximately 29 acres of land located at 601 State Avenue from S-GA to RL and FS-RL.

This is the recommendation from the Planning and Zoning Commission. Under this alternative, the developer would not be able to file the same zoning application for one year.

5. Indicate its willingness to approve rezoning of approximately 1.63 acres north of College Creek from S-GA to FL and rezoning of approximately 27.37 acres south of College Creek from S-GA to F-PRD (Planned Residential District).

This option would require the developer to withdraw the current rezoning request and to then apply for F-PRD zoning of the portion south of the Creek.

6. Postpone action on the request and refer back to staff and the applicant.

Under this alternative, Council could provide direction to staff and the applicant to confirm the desired conditions in a written Zoning Agreement prior to Council approval of first reading of a rezoning ordinance. In contrast to Alternative 4, this would avoid the requirement that one year pass before the developer may seek FS-RL zoning of the parcel.

Director Diekmann again suggested that the City Council might want to consider continuing the hearing if it does not feel it has enough information. Staff had highlighted some discrepancies in the Master Plan in terms to commitments of the applicant to the development of the property. Mr. Diekmann advised that, late yesterday afternoon, the applicant had provided additional information concerning the bike path, commitments to the off-site traffic impacts, and about the applicability of what developable area means on a Master Plan versus a net density calculation that may be appropriate at the subdivision stage. Other core issues are the range of unit types, actual building types, and where is the area that they will be built. The bike path influences that; there is approximately 1.7 acres just within the bike path easement that currently exists. In the developer's proposal for just over 21 acres of developable land, it is assumed that the bike path is moved and that that area is available for development. Even if the bike path is not moved, they are still assuming that as developable area even though literally a home would not be placed on

the bike path.

According to Director Diekmann, at question is the amount of developable net acreage. The developer alleges that approximately 21 acres are developable, which leads to a maximum density of 194 units and 582 beds for student housing. While the proposed zoning is consistent in its request of a base FS zoning, there are unknowns within the rezoning and Master Plan related to the development intensity of the site. Outstanding issues include the advisability of relocating the bike path, agreement by the City to relocate the bike path, off-site traffic impacts, lack of CyRide service for a significant population of proposed students, and the overall design of the site in relation to the current site constraints and the surrounding area. According to Mr. Diekmann, given the unresolved nature of the density interpretation issue, the bike trail location, and the developer's commitment to off-site traffic improvements, it is staff's recommendation that the hearing be continued until the core issues are resolved.

Council Member Gartin pointed out that there is nothing to preclude the developer from bringing in dirt and building up an area to expand the number of acres to the area north of the bike trail. Mr. Diekmann advised that the "control on fill is at the subdivision stage." At that stage, grading plans are reviewed. Director Diekmann stated that, if a tremendous amount of fill dirt had to be brought in to make the area developable, the grading plan would not meet the Land Use Policy Plan expectation for natural resource preservation and also the subdivision lay-out criteria.

Council Member Betcher asked Director Diekmann to explain how a "proportional share of off-site improvements" is calculated. She also asked if the City usually required a developer to pay for all off-site improvements. Mr. Diekmann indicated that this situation has an existing deficiency and the development would be taking a sub-par condition and exacerbating it. Since it is already part of a problem, the City would calculate a proportional share. The developer would not be obligated to fix something that is already failing at its sole cost. If the development would cause a negative impact to occur, the developer would be required to pay the full cost of the improvement. In this case, there is already a deficient intersection that would be made worse by the operations of the proposed development. City Manager Steve Schainker further explained that there are two types of off-site improvements. One type is when it is immediately adjacent to new development – normally paid wholly by the developer. The other is when off-site improvements are not adjacent to the new development; however, impacts from the new development are felt a distance away, so a proportional share is paid by the developer.

City Attorney Judy Parks explained the Development Agreement in detail. The Agreement was contemplated originally as a proposal that came at the public presentation on July 8, 2014. The concepts of that proposal have been put into a more formal document with more detail on how they would be effectuated at the Council's approval. The Development Agreement is an alternative to the three zoning applications being granted as proposed by the applicant.

At the inquiry of Mayor Campbell, Director Diekmann noted that one of the exhibits to the Agreement shows where the buildable area is, and the assumption is that a clubhouse and 305 beds could fit within that area of the South Parcel.

Ms. Parks summarized that one rezoning had already been approved, i.e., the Middle Parcel; one rezoning is in the process and may be able to go forward tonight because nothing had changed; and one, i.e., the South Parcel, which at this point is still a work in progress. In order for the Council to know what the base zoning would look like for all three Parcels, Ms. Parks advised that it would be inappropriate for the Council to act on the Agreement tonight because it is

unknown what is going to happen with the South Parcel yet. Ms. Parks pointed out that new information pertaining to the South Parcel was provided to the City late yesterday by the developer's attorney Brian Torresi.

Outlining the Council's options, Ms. Parks stated that the developer has clarified that it wants this to move forward, which means the Council has two choices: (1) the basic zonings of RL, RL, and FSRL, as the developer as proposed; or (2) the Development Agreement.

Director Diekmann reiterated that, on August 11, the applicant's attorney Brian Torresi had submitted some revisions to the Master Plan where they changed the numbers. Those revisions were distributed late and not all members of the Council had a chance to review them. In correspondence accompanying the Master Plan changes, Mr. Torresi addressed comments in the Staff Report on:

1. Determination of the location of a bike path. The developer approves it staying where it currently exists or the City resolving where to move it. Breckenridge feels that the bike path issue is a non-issue.
2. Breckenridge to pay a proportionate share of the cost of off-site traffic improvements at the intersection of Mortensen Road and State Avenue. Breckenridge understands and agrees that it will have to pay a proportionate share of the cost of off-site improvements at that intersection; therefore this is also a non-issue.
3. Resolution between staff and Breckenridge related to various interpretations concerning how net acreage is to be calculated. Section 29.1202(6) of the *Ames Municipal Code* provides that regulations for the FS zone are provided in Table 29.1202(b). That Table was recently amended by the City Council on July 22, 2014 by adding the word "only" to the formula for determining net acreage. According to Mr. Torresi, it had always been the practice for development in the City of Ames in FS-RL zones that the seven areas that may be subtracted from gross acreage to determine net acreage, as identified in the Table, were allowed to be subtracted, but did not have to be subtracted. By requiring Breckenridge to determine the net acreage of the property by subtracting all of the areas identified on the Table, the Council will be taking a position that appears to be targeted toward Breckenridge's development and contrary to the stated intent of the Table.

Attorney Torresi indicated that Breckenridge supported Alternative 1 as contained in the Council Action Form with the revised plan and a modified version of Alternative 2 as long as subsections (a)(I) and (b) are removed.

In reference to the Development Agreement pertaining to the North Parcel, Council Member Betcher asked, if the base zoning were to be RH, would there was anything to preclude the developer from constructing a building over five stories high to meet the 500+ beds that they desire. Director Diekmann advised that, in theory, the building could be taller than five stories; building height is not covered in the Development Agreement, but would be covered under Major Site Plan review. The height limit in RH is nine stories or 100 feet.

Brian Torresi, Davis Brown Law Firm, Ames, addressed what he alleged to be inconsistencies in staff's testimony in that the letter received yesterday by staff was in direct response to the Council Action Form, which was published after 5:30 p.m. on Friday, August 8. He added that staff was not working on Saturday or Sunday, so Monday was the first time that he could

respond to the staff report. Mr. Torresi said the City Council could choose to move forward with the Development Agreement. Attorney Torresi emphasized that the Development Agreement was not forced upon the City in threat of litigation. According to Mr. Torresi, the Development Agreement represents the best way to develop the three parcels based on input from the neighbors, the University, and the City. If the Council members should decide not to move forward with the Agreement, the developer is asking that they approve RL for the North Parcel. Mr. Torresi added that the developer believes that the Parcel should not be RL along Lincoln Way; however, the Land Use Policy Plan (LUPP) designates it as RL, and that is, therefore, their request. Pertaining to the South Parcel, the developer's application is in accordance with the LUPP, and it has the option to choose between FSFV and F-PRD. Mr. Torresi stated that the City Council can't zone that Parcel FSFV or F-PRD unless it finds that the applicant actually selected one of those zones. The applicant selected FS, and the least-intense zone in FS is FS-RL, which is what the applicant is requesting. Mr. Torresi reiterated that the revised Master Plan was submitted yesterday in response to the Council Action Form. He pointed out that the changes decrease the maximum number of developable units.

Mr. Torresi stated that the developer has no issue with moving the bike path and there is no issue with the developer paying its proportionate share of off-site traffic improvements. He believes that determination of the net developable acreage is the only issue; that is for the engineer to determine. According to Mr. Torresi, there is nothing else that the applicant is going to ask for, and the property has to be rezoned. He said that "Breckenridge is not going to go away," and all three Parcels must be rezoned.

Council Member Goodman explained frustration that new information was received late yesterday by City staff from the developer's attorney. The Council did not receive this information until today, and members of the affected neighborhoods had not seen the information. He preferred that the hearing be postponed until the Council and public had had an opportunity to review the new information.

Council Member Betcher read a section of the letter that she construed to be "lawsuit fodder" and asked City Attorney Parks for her opinion. City Attorney Parks said that she could not address that at this point because she had not had adequate time to review the letter.

Mayor Campbell opened the hearings on 205 South Wilmoth Avenue and 601 State Avenue. She noted that public input concerning the Development Agreement would also be accepted.

Robert Lorr, 233 Hilltop Road, Ames, said that, by his calculations, 172 units with up to three people in each would mean 515 people. He understands that roommates would also be allowed, which would add to that number. Mr. Lorr believes that that kind of density added to the density in the North Parcel would equate to more than the developer originally started out requesting. It was noted by Mr. Lorr that Ames has been named as one of the best places to live and retire, and two of the reasons for identifying Ames as a good place to live included a low crime rate and high quality of neighborhoods. According to Mr. Lorr, if this development goes the way that this developer's other projects have gone in other communities, it is a disaster waiting to happen." According to Mr. Lorr, one of Breckenridge's similar developments has an average of 30 police calls/day and weak infrastructure because the design is not conducive to the climate. Mr. Lorr urged the Council to reject the Development Agreement.

Ken Platt, 3620 Woodland Street, Ames, said that he was very confused by the recent revisions. He acknowledged that Breckenridge is here to stay; however, believes that density is the



problem. Mr. Platt believes that Breckenridge is proposing to place too many people in too small a place. He does not support the Settlement Agreement. Mr. Platt indicated his support for the RL designation for both the North and South Parcels; however, does not support RL for the Middle Parcel because he does not believe anyone would purchase a home between two highly concentrated student housing complexes with clubhouses. He thinks that parents would purchase the single-family residents for their students to live, which would mean another 300 people added to the approximately 900 students, equating to a total of around 1,200 people. Mr. Platt recommended that the North Parcel be zoned RL. He expressed his opinion that developing the land in question as being proposed by Breckenridge would be very, very detrimental to the surrounding neighborhoods. He can find no logic to it, and he urged the Council to reject the development proposal. It was also pointed out by Mr. Platt that ISU officials have stated that the area in question is not suitable for high-density student populations. He said that it is unfortunate that the City had been “saddled” with this situation, but the best way to deal with the problem is by minimizing the negative effects, which can be done by keeping the designations as RL. Mr. Platt stated his opinion that actions should not be taken by the City Council to avoid a lawsuit; that would be a bad choice. A question posed by Mr. Platt was what happens if the student population decreases; he doesn't know who would buy the units.

Sarah Cady, 2812 Arbor Street, Ames, pointed out that the neighborhood does not want this development, the City does not want this development, and the University does not want this development. She said that she does not see an obvious path to stopping it, however. It was pointed out by Ms. Cady that the developer is already being sued in other municipalities for his inability to provide adequate heat and running water to its residents. She said that development had not even started, and Breckenridge had already violated City of Ames Code with illegal signage on the Middle and North Parcels. Ms. Cady stated her belief that the proposal for 500 - 600 bedrooms in the South Parcel would be too taxing on existing infrastructure. She also said that, despite what the developer has said about the project being one-half mile from the ISU Campus, only the northeastern corner of the Middle Parcel is within one-half mile of the southeastern edge of the Campus and State Gym area. There is no public transit along State Avenue, meaning the most residents of the South and Middle Parcels would have to drive during the winter months. According to Ms. Cady, the FOX Engineering Traffic Analysis indicated that, even with a 20% reduction in vehicle count relative to the proposed number of residents, trip count on State Avenue could increase up to 25% with a 10 to 15% increase in east/west traffic at the State and Mortensen intersection, and a 80 to 90% increase in north/south traffic at the same intersection. Ms. Cady believes those traffic counts coupled with the unique traffic patterns of a student-focused apartment complex could mean a traffic disaster for adjacent neighborhoods. She is also very concerned that the developer apparently plans on building to the maximum density possible on the South Parcel as that will significantly disturb the natural topography and creek buffer. Ms. Cady stated that she was in favor of RL zoning for the South Parcel. She told the Council that she supports the proposal because it is the lesser of all evils. Ms. Cady does not believe that the detached rental houses would be repurposeable as owner-occupied in the future. She would like to see a realistic layout and plan. Regarding the North Parcel, she would like to see what is proposed for building size, buffer options, ingress/egress from the neighborhood, an on-site parking layout, and traffic mitigation. For the South Parcel, Ms. Cady would like to see a plan that includes more preservation of severe slopes in the conservation easement, and a tentative layout of parking, streets, and the bike path. It was noted that the City does not currently have language in its Zoning Code limiting the number of rental houses in low-density neighborhoods. She indicated her desire that the zoning language be changed before any more large tracts of government property are sold. Ms. Cady asked the Council to make a decision for the long-term stability and strength of Ames neighborhoods.

Carolyn Bolinger, 2718 Valley View Circle, Ames, said that she had lived in Ames for 43 years and had always felt that the City Council members had carefully thought-out all issues before resolution was decided. She made reference to the numbers of apartment buildings being built that are visible from her property. Ms. Bolinger stated that she would like to see the current Council carefully consider what is going into the proposed development and those whom would be directly impacted.

Sharon Guber, 2931 Northwestern Avenue, Ames, expressed her disapproval of the City Council holding a hearing on two rezonings and discussion on a complicated Development Agreement at one meeting; she hoped the Council would never do that again. Ms. Guber pointed out that it is the job of the City Council to plan for the future and act in the present. She urged the City to consider what is appropriate for the area in question; in her opinion, that is RL zoning. Ms. Guber showed a map of the topography, showing the slopes that exist, and urged that the bike path remain where it is. It was also pointed out by Ms. Guber that the City Council has the prerogative to see details at this point; they should exercise that option. A listing of other Aspen Heights locations and the number of bedrooms in each development was shown by Ms. Guber. She asked that the Council approve RL zoning for the North, Middle, and South Parcels.

Catherine Scott, 1510 Roosevelt, Ames, spoke first about the South Parcel, telling the Council that the big decision it has to make is the number of college students that are appropriate for that Parcel. If the maximum number is known, it should be easier to choose a zoning designation that will keep the number at or below that number. She encouraged the Council to take the advice of the neighborhood residents as to what number of new residents that would best protect their quality of life. Ms. Scott indicated her support for Alternative 4, to deny the FS-RL zoning request, which was the recommendation of the Planning and Zoning Commission. She believed that RL zoning would be appropriate for all three parcels. She also believes that no zoning change should be approved until all information is received and nothing should be left open to interpretation.

Sharon Stewart, 437 Hilltop Road, Ames, asked that the decision on the three Agenda items be delayed until the most-recent changes to the Master Plan can be adequately reviewed. She contended that Breckenridge follows a continuous pattern where appropriate information is not given at appropriate times. According to Ms. Stewart, that should be unacceptable and it would set a very bad precedent if the Council were willing to accept that from a developer. Ms. Stewart urged that the Council require a more detailed and complete Master Plan. She also noted that Section 23.201 (38) of the *Municipal Code* clearly defines net acreage. In looking at the topography of the land in question and reading the definition, Ms. Stewart believes this is very clear. She spoke next about the Settlement Proposal and gave the reasons why she believed that it should not be approved. Ms. Stewart strongly encouraged the Council to require Breckenridge to subdivide.

Michael Petersen, 3302 Morningside Street, Ames, addressed flooding and wildlife concerns in relation to the City Code if the proposed development is allowed. Mr. Petersen identified himself as a professionally trained wildlife biologist. He presented some of his concerns regarding potential effects that Breckenridge's proposal would have particularly on the environmentally sensitive South parcel if rezoned to FS-RL, as well as other effects on the two remaining Parcels and on the surrounding residential neighborhood. Mr. Petersen specifically raised the issue of the culvert under State Avenue. According to Mr. Petersen, during flooding rains, the result is a large lake that backs up onto his and his neighbor's property. Four 500-year

floods have inundated that area since 1984, yet Breckenridge has never given specifics on how it plans to protect the area from the added threat of floods. Concerns about the loss of critical wildlife habitat and wildlife that would occur if Breckenridge develops the area were expressed by Mr. Petersen. It was Mr. Petersen's belief that the City has a unique opportunity to preserve some remaining wildlife habitat that is essential for a number of species that are in jeopardy. A map was shown of an extended conservation easement proposal being requested from the College Creek/Old Middle School Neighborhood. According to Mr. Petersen, City Planning and Housing Department and Parks and Recreation Department have been informed of the requested larger conservation easement. Mr. Petersen also raised the issue of net developable areas, noting that net acres are to be determined by subtracting areas having 10% or greater slopes. He urged the Council to zone all three parcels as RL and make them be subdivision-compliant.

Warren Madden, Iowa State University Senior Vice-President for Business and Finance, stated that the University continues to believe that the area in question would best be served by single-family homes. It does not believe that the area in question is the best place for a concentration of under-graduate student housing, which is what is being proposed. The University intends to retain the area to the south of the property in question for agricultural research and teaching purposes. The land to the east will continue to be used for the ISU cross country track and arboretum. According to Mr. Madden, initially, the University felt that some of the items in the proposed Development Agreement could result in a community and University benefit and potentially benefit the neighborhood. However, it appears that the neighborhood and Breckenridge can't come together on an acceptable density level. There is an apparent inability to negotiate. There is a lack of clarity on the development of the plans, particularly as it relates to density. In addition, some of Breckenridge's management issues in other community have raised concerns about how the high-density development would be managed. These concerns make it very difficult to move ahead with the proposal. Based on the University's assessment, it has concluded that the neighborhood recommendations for RL zoning on all three parcels is probably the best alternative. If the density questions were answered and people could see the impact of the proposal, there might be a possibility that a Development Agreement could work; however, based on the information known today, it is not believed that is possible.

Sue Ravenscroft, 455 Westbrook, Ames, spoke. She indicated that she had watched zoning processes in Ames for at least ten years and had never seen one that was made as complicated as the one in question – all brought about by the developer. Ms. Ravenscroft believes that residents want predicability and assurance that their neighborhood will not suddenly become an expensive student “ghetto.” Ms. Ravenscroft believes that the developer has created as much confusion and uncertainty as possible. She is concerned that the developer hopes to win by wearing down the neighbors and City staff with contradictory proposals. Ms. Ravenscroft believes that placing 63 bedrooms per acre on the North Parcel is unacceptable. That density will cause major traffic issues, not just at State and Mortensen, but also on Lincoln Way from Franklin to State; this will have disastrous results. She urged the Council to zone the North Parcel RL and the South Parcel RL. Ms. Ravenscroft noted that the South Parcel is environmentally sensitive, and the ISU research plots impose further considerations, such as protection from light pollution. The South Parcel should have an extensive conservation easement. In addition, Ms. Ravenscroft expressed her opinion that the Settlement Proposal should be rejected in its entirety.

Tony Ramey, 425 Hilltop Road, Ames, indicated that he was in favor of rezoning the North Parcel to RL. Regarding the rezoning of the South Parcel, he is opposed to RL north of College Creek and FS-RL south of College Creek. Mr. Ramey is also opposed to the Settlement Proposal

with Breckenridge that will sell the Middle Parcel for single-family dwellings and allow more than 800 beds for student rental to be developed by Breckenridge on the North and South Parcels. The Council was asked by Mr. Ramey to fight the litigation by Breckenridge to avoid the requirement to provide subdivision compliance for all three RL zoned parcels and fight any litigation that Breckenridge might bring to resist the rezoning of the South Parcel to RL in its entirety. Mr. Ramey said that an alternative compromise that, in his opinion, would be fair would be for Breckenridge to sell the South Parcel to ISU and to develop the Middle and North Parcels according to the original Fall 2012 proposal of cottage-style buildings to support 300 bedrooms and student renters on the Middle Parcel plus 200 bedrooms and student renters on the North Parcel. He gave the reasons why that proposal appeals to him. He asked that the City Council do all it can to help the Neighborhood Association to achieve something closer to a genuine parity.

Rich Ketcham, 2923 Arbor Street, Ames, said that he lives about three houses from the proposed Breckenridge development. He encouraged the Council to take as draconian measure as possible within the bounds of the law to the whole Breckenridge development process. In Mr. Ketcham's opinion, Breckenridge has demonstrated time and time again that it has its own agenda; they have been disingenuous time and time again. What Breckenridge is proposing would be like having the City of Gilbert or Slater dropped into the neighborhood only they would be all students. Mr. Ketcham echoed Council Member Goodman's concerns about the last-minute changes. He encouraged the City to fight the proposed development with "every tooth and nail" that it has and help the neighbors preserve the values of their existing properties.

Dickson Jensen, 4611 Mortensen Road, Ames, identified himself as a local developer who owns and operates over 1,000 apartments in Ames. He indicated that he had never seen any process like what is being proposed by Breckenridge. His method of building is to follow the rules and get the job done; that is the way it is supposed to be. Mr. Jensen urged the City Council not to allow this to continue. He requested that the City to turn down the settlement and not associate litigation with zoning. Mr. Jensen expressed his opinion that both the North and South Parcels should be zoned RL. He asked how the City was going to enforce an owner-occupied 21-year covenant. It was Mr. Jensen's suggestion that the City stop the development that no one wants by buying the land in question.

Joe Doolittle, 406 Briarwood Place, Ames, said that his main concern as an educator is for the safety of the Middle School students. While the current bike path has been designated as a "safe path," Mr. Doolittle does not believe that it would be a safe situation for Middle School students to go through a development that has a clubhouse approximately 50 yards away from the bike path. He does not want students to be put in that situation. Mr. Doolittle urged that the City limit the number of students that are allowed to live on the South Parcel.

Joanne Pfeiffer, 3018 Morningside, Ames, said she had been asking herself if she should be expecting the City Council to protect her home and her neighbors' homes. She said that she has learned that the Council members are sworn to support the Constitution of the United States and the Constitution of the State of Iowa. The State of Iowa Constitution contains the Bill of Rights, and specifically, in the first section, all people have the right to acquire, possess, and protect property and to pursue and obtain safety and happiness. Ms. Pfeiffer noted that government is instituted for the protection and the security and the benefit of the people. She believes that the City Council members are in office for the protection, security, and benefit of the community and of the neighborhoods of Ames. Ms. Pfeiffer thinks that, in order to do that, the following is needed: accurate traffic studies and provisions for safe conditions on all roads and walkways;

providing safe places to exercise, walk, bike, and run; conditions for safe homes where residents feel secure, free from vandalism, violence, and altercations; conditions for social relationships, connectivity, support, trust among neighbors with informal social control of undesirable behaviors; a green space; accurate flooding studies and precautions that are needed to prevent flooding. Ms. Pfeiffer asked the Council to approve RL for all three Parcels. She believes that it is a matter of the peoples' rights and the legacy for future generations and is the Council's duty to protect residents' property, safety, and happiness.

Rich Ketcham, 2923 Arbor Street, Ames, again spoke, asking questions about the clubhouse being requested. He asked how the developer plans to facilitate the operation of a clubhouse in an RL zone, specifically asking if a variance would be required, if the clubhouse would be operated as a commercial business, and if it would be subject to liquor license requirements, parking requirements, etc.

Scott Renaud, FOX Engineering, Ames, indicated that the developer, from the beginning of this process, has been trying to follow the rules and to follow the Ames Land Use Policy Plan. Mr. Renaud provided the history of how Breckenridge came to own the Parcels in question. The School Board sold the land at an auction. According to Mr. Renaud, the local development community "sat on their hands" and did not bid on the land. Mr. Renaud contended that a larger supply of rental housing is needed; rents are on the rise because of the lack of supply. Regarding net developable acres, Mr. Renaud contended that easements and slopes may be in lots. They might not be buildable, but they can be included as part of the lot density. He said the final goal is to get to between 100 and 172 lots. The developer has been working with the City for over two years.

The meeting recessed at 9:45 p.m. and reconvened at 9:55 p.m.

Mayor Campbell closed the hearing on the North Parcel (205 S. Wilmoth).

Council Member Nelson asked for a summary of the bedroom ranges given the different zoning scenarios. Director Diekmann advised that for the North, it has been roughly estimated that there would be 40-50 units possible at three beds/unit for a total of between 120 and 150 at a maximum level. For the South, with the applicant's letter received yesterday, they state that they are willing to modify their Master Plan to no more than 172 units at three beds/unit for a total of 516 beds at a maximum level with FS-RL zoning. This is based on 21 acres of developable land. For the Middle Parcel, it would be roughly 50 units at three beds/unit for a total of 150 beds.

Moved by Orazem, seconded by Goodman, to approve the request for rezoning of approximately 8.36 acres of land located at 205 S. Wilmoth Avenue (North Parcel) from S-GA (Government/Airport) to RL (Residential Low Density).  
Roll Call Vote: 6-0. Motion declared carried unanimously.

Council Member Betcher expressed concerns about closing the hearing on the South Parcel (601 State Avenue) since new information from the developer's attorney had been received so late and the Council and the City Attorney were not able to adequately review it.

Moved by Betcher, seconded by Gartin, to continue the hearing until August 26, 2014.

City Attorney Parks explained that if the hearing were to be continued, there would still be the opportunity for additional public input and Council consideration of the issues that may have been

raised in the new communication.

Council Member Corrieri disagreed, noting that a valid Protest had been filed against FS-RL and five votes would be required to approve the rezoning to FS-RL. She did not believe that the new information would make a difference on how the Council would vote, and she did not want it prolonged. Ms. Betcher said it would not be responsible on the part of the Council to act on something that is different than what the public thought it was considering.

In addition, Council Member Betcher stated that she did not have concrete information about net developable acres; the numbers keep changing. She would like to suggest that Alternative 6 be approved with specific direction on a Zoning Agreement similar to that contained in Alternative 2.

At the inquiry of Council Member Orazem, Director Diekmann advised that the Master Plan goes with the rezoning; it is not a separate action.

After the question was raised by Council Member Betcher, Mr. Diekmann pointed out that one of the requirements of the Master Plan is to identify unit types, developable area, and net acreage associated with the building types. Ms. Betcher emphasized that the net acreage should be known before the item is voted on. Director Diekmann clarified that the expectation is for a reasonable estimate of the net acreage that will be buildable on the site; that is an element of the Master Plan.

Vote on Motion: 3-3. Voting aye: Betcher, Gartin, Nelson. Voting nay: Corrieri, Goodman, Orazem. Mayor voted aye to break the tie. Motion declared carried.

Moved by Betcher, seconded by Goodman, to instruct staff to come back on August 26, 2014, with a signed Zoning Agreement with the following conditions:

1. That the shared-use path remain in its current location and configuration
2. The developable areas of the site be reduced to 10-14 acres based on Code-allowed exceptions for constrained areas and the current configuration of the shared-use path.
3. The Developer agrees to pay a proportional share of the cost of traffic improvements at the intersection of Mortensen Road and State Avenue.

Council Member Orazem said that he definitely did not want the bike path going through the middle of the proposed development.

Moved by Orazem, seconded by Betcher, to amend the motion to state that the Master Plan includes allowance for relocating the shared-use path subject to approval by the City.

Director Diekmann clarified that if the Zoning Agreement that accompanies the diagram would state that the path may stay or may move as approved by the City, the decision on location would be made at the time of subdivision. Staff is not 100% sure that relocation of the shared-use path is feasible as it has not evaluated the current proposal pertaining to grades and it does not have confirmation from the School District that it is in agreement with relocating the path on its property to make those grades work.

Director Diekmann told the Council that the question before the City Council members at this meeting is whether they believed the Master Plan had adequate information per the Municipal Code requirements. Therefore, it could accept the Master Plan, as proposed, or request more detail, as staff is recommending. Staff position is that the Master Plan does not seem to get to the level of detail

that is appropriate on this site for what is really the developable area and the developer has not calculated an estimate of net acreage regarding the unit types that are being proposed on the site.

Council Member Goodman pointed out that if staff were going to do the “leg work” on FS-RL to determine the density, it would make sense to do the same for RL. He felt that it would be necessary to allow for a thorough understanding of the alternatives.

Council Member Orazem asked if a Master Plan would be required for RL zoning. Director Diekmann responded that the Council has the prerogative to require a Master Plan to accompany any rezoning request.

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

Vote on Motion, as Amended: 4-2. Betcher, Gartin, Nelson, Orazem. Voting nay: Corrieri, Goodman. Motion declared carried.

Breckenridge Development Agreement. Council Member Goodman noted that it will require five votes to approve rezoning to FS-RL because a valid Protest had been filed. He asked if this Agreement should even be discussed when it is felt that there would not be five votes in favor of rezoning to FS-RL. City Attorney Parks clarified that there is a statutory process in place that requires a super majority, i.e., five votes, if a valid Protest has been filed..

Moved by Orazem, seconded by Corrieri, to deny approval of the Development Agreement for the Breckenridge parcels.

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

**HEARING ON VACATION OF ACCESS EASEMENT AND SANITARY SEWER EASEMENT FOR 701 SOUTH DUFF AVENUE:** Eric Cowles, Civil Engineer, noted that Hunziker Land Development had worked with the Howes and Mr. Flummerfelt, and staff believes that the issues have been resolved.

The public hearing was opened by Mayor Campbell.

Jim Howe, 912 Clark, Ames, identified himself as the owner of the business located at 811 South Duff Avenue. He told the Council that he believes, after talking to Chuck Winkleblack, that they will still be able to get semis and large farm equipment in and out of his shop if the 16' easement is approved. Mr. Howe indicated that he is in agreement to move the easement for the Park Department that is located in back of his shop. He said that there is one remaining issue regarding getting very large equipment, e.g., a 53' tractor-trailer, into his business. There is still a concern about the corner, as it would be impossible to get very large equipment to Howe Welding without encroaching on Hunziker's property line. Mr. Howe said he believed, after talking with Chuck Winkleblack, that it is resolvable.

Chuck Winkleblack, 105 S. 17<sup>th</sup> Street, Ames, said it is Hunziker's intent to work with Jim Howe. He indicated that when they get to the point of constructing the wall, they will figure out what works; however, the easements will not change.

After no one else came forward to speak, the Mayor closed the hearing.

Council Member Gartin asked City Attorney Parks if the easement would run with the land. Ms.

Parks said that it would be related to what uses are on the land. Mr. Cowles said that the City will be a party to the 12' easement; it will be in perpetuity.

Moved by Nelson, seconded by Gartin, to adopt RESOLUTION NO. 14-450 approving the vacation of an access easement and sanitary sewer easement for 701 South Duff Avenue.

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

**HEARING ON VACATION OF PUBLIC UTILITY EASEMENT FOR 4540 MORTENSEN ROAD:** Mayor Campbell opened the public hearing and closed same after no one requested to speak.

Moved by Goodman, seconded by Corrieri, to adopt RESOLUTION NO. 14-451 approving the vacation of a public utility easement for 4540 Mortensen Road.

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

**HEARING ON 2014-2018 CONSOLIDATED PLAN IN CONNECTION WITH CDBG PROGRAM:** The hearing was opened by the Mayor. No one asked to speak, and the public hearing was closed.

Moved by Betcher, seconded by Goodman, to adopt RESOLUTION NO. 14-452 approving the 2014-2018 Consolidated Plan in connection with the CDBG Program.

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

**NEW WATER TREATMENT PLANT:** Water and Pollution Control Director John Dunn told the Council that the City had received the Construction Permit from the state on August 8, 2014; the project is now ready to be bid.

Moved by Nelson, seconded by Corrieri, to adopt RESOLUTION NO. 14-453 approving preliminary plans and specifications for construction of the new Ames Water Treatment Plant - Contract 2; setting September 24, 2014, as bid due date and October 14, 2014, as date of public hearing.

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

**CAMPUSTOWN URA CRITERIA FOR 2300 LINCOLN WAY:** Director Diekmann advised the Council that the URA criteria requires facades facing any street use only fixed windows, which is for the safety of pedestrians walking or standing near the building from projectiles that could be thrown through an open window. The applicant requested an equivalent proposal to meet certain criteria of the Campustown Urban Revitalization Area. The equivalent proposal is to install awning windows on the street facing sides of the building (Lincoln Way and Lynn Avenue) that swing out along the bottom edge of the window a maximum of four inches. The proposal has been reviewed by the Ames Police Chief, and the Police Department is in favor of it.

Moved by Goodman, seconded by Nelson, to adopt RESOLUTION NO. 14-454 determining that the developer's proposal to install windows that open on the street-facing sides of the building under construction at 2300 Lincoln Way is an equivalent alternative to the Campustown Urban Revitalization Criteria for fixed windows on the street-facing sides of the building, provided the



following conditions are met:

1. Windows installed on the street-facing sides of the building shall have fixed windows for the upper 5'6" of the height of each 7'6" window opening.
2. No more than the lower 2' of each window opening shall be an awning style of window that hinges at the top and swings out at the bottom.
3. Awning windows on the street-facing sides of the building shall open no more than 4".
4. Screens for the awning windows shall be made of heavy gauge aluminum, 1/8" thick, in a grid pattern with 1/2" openings.
5. Awning window screens shall be secured to U-shaped channels with tamper-resistant screens, and the U-shaped channels are secured to the jamb of the window with tamper-resistant screws.
6. City staff will inspect the installed windows and screens to confirm that the conditions for approval of the equivalent alternative have been met prior to consideration of a request for tax abatement for this property.

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

**DOWNTOWN FACADE GRANT FOR 121 MAIN STREET:** Council Member Nelson stated his concern that the City would be making payment to the contractor rather than to the building owner, to whom the grant was awarded. City Attorney Parks acknowledged that the grant process did not account for this type of situation where the building owner cannot be found. City staff has made several attempts to contact the applicant for the Grant, Caleb Matthews, but has not received a response. In addition, the property at 121 Main Street has now been sold.

Planning and Housing Director Diekmann advised that the owner of 121 Main Street has never requested payment of the Facade Grant, which is a requirement of the terms and conditions of the Grant. City staff has determined that Integrity Construction has never received payment for the completed facade work. Mr. Diekmann reiterated that the former owner, Caleb Mathews, cannot be found. He did pay fees for professional design services, but did not request reimbursement from the Facade Grant. Staff was recommending that the City Council authorize returning the unspent \$1,000 for design fees to the Downtown Facade Grant fund balance.

Mr. Nelson believes that the court system should decide to whom the Facade Grant should be paid.

Brad Heemstra, 623 Lincoln Way, Ames, owner of Integrity Construction, indicated that the property was to be sold under a Sheriff's Sale; however, a new owner satisfied the debt and no Sheriff's Sale was held. Integrity Construction's attorney has filed a Mechanic's Lien and is in first position.

Moved by Goodman directing staff to work with the new owners and Caleb Matthews to receive the Grant proceeds.

Motion died for lack of a second.

Director Diekmann noted that the former building owner is not entitled to the Grant proceeds because he failed to abide by the terms of the Grant Agreement. In essence, the City could void the Grant Agreement for non-performance. He confirmed that the work on the building had been done to the City's specifications; however, the contractor was not paid for the work.

Moved by Goodman, seconded by Orazem, to direct staff to take alternative action to resolve the remaining Downtown Facade Improvement Grant allocated for 121 Main Street.

Vote on Motion: 5-0-1. Voting aye: Betcher, Corrieri, Goodman, Nelson, Orazem. Abstaining due to a conflict of interest: Gartin. Motion declared carried.

**REQUEST FOR URBAN FRINGE PLAN AMENDMENT:** Chuck Brekke, 26772 U. S. Highway 69, Ames, advised that he had met with Story County officials on May 7, 2014. He said that Story County officials had indicated their approval of the proposal, but wanted approval of the City. Mr. Brekke stated that the parcel in question is separate from the business parcel.

Council Member Orazem asked what the City's position would be if this area were to be annexed, specifically what would be the use of the property. Director Diekmann said it would be industrial; however, the houses could stay as non-conforming uses in an Industrial zone. A map was shown of the Industrial Reserve land as shown in the Ames Urban Fringe Plan.

Council Member Goodman pointed out that the parcel in question is located in between two other parcels with existing houses.

Moved by Goodman, seconded by Orazem, to direct staff to move forward with the proposed amendment to the Ames Urban Fringe Plan.

Council Member Gartin cautioned that the Council would be setting a precedent if it approves a residential use in an area designated as Industrial Reserve. However, due to the unique circumstances around this request, he indicated that he would be in favor of the motion.

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

**DRAINAGE CONCERNS AT 4006 STONE BROOKE ROAD:** Civil Engineer Eric Cowles showed a map of 4006 Stone Brooke Road, which indicated the location of the storm sewer and surface water flowage easement.

Dan Carter, 4006 Stone Brooke Road, Ames, told the Council that, with even a two-inch rain, there is a very large rush of water to the creek channel that is located next to his home. Several times in the past, there has been enough force to carry 25-30' trees. Mr. Carter emphasized that the draining

ditch is not adequate. He asked if the City would investigate ways to address the problem. He would like to see a tile installed.

Mayor Campbell noted that the Drainage Channel Review was performed by Bolton & Menk, consulting engineers.

Charlie Martinson, 4313 Stone Brooke Road, Ames, identified himself as the President of the Stone Brooke Homeowners' Association. He indicated that contributing to the problem was Regency when it developed the area known as the Reserve and built a retention pond. The Kinyon development also built a holding pond. Northern Lights is a big contributor to the problem. The retention ponds hold back a little water, but since the surface has changed, the water runs to the creek in Stone Brooke. Mr. Martinson contended that the Bolton & Menk study concentrated on the Kinyon-Clark Subdivision and didn't mention the 300 acres being drained through other tiles.

Eileen Tramp, 1508 Stone Brooke Road, Ames, stated that she and her husband live a few feet from

the creek. Since 1995, there has been substantially increased water flow and velocity. It has become treacherous in the past few years. Erosion is also occurring. The creek narrows by her property and then overflows. According to Ms. Tramp, this causes a real safety concern for the area.

Mr. Cowles told the Council that the descriptions of the situations were accurate.

At the inquiry of Council Member Gartin, Mr. Cowles explained that the City now has a Post-Construction Ordinance; however, when the Stone Brooke town homes were constructed, those requirements did not exist.

Dan Carter stated that he and his wife had purchased their home approximately nine years ago. He had talked to the builder of the home prior to his passing away, and he had indicated that they never had any water problems. Mr. Carter said that he had sand-bagged around his home twice in the past years.

Mr. Cowles indicated that the City is responsible for the maintenance of the creek; however, not of the bridge.

Council Member Orazem believes that the Homeowners' Association should play a role in the improvements.

Moved by Gartin, seconded by Orazem, to accept the report and direct staff to investigate ways to protect the in-ground addition at 4006 Stone Brooke Road for overtopping of the adjacent creek.

Ms. Betcher stated her belief that the problem is broader than just Mr. Carter's property.

Moved by Betcher, seconded by Orazem, to amend the motion to not be specific to just 4006 Stone Brooke Road.

Council Member Goodman said he was not comfortable with the motion because it was too broad. His main concern is safety. Mr. Goodman suggested that creek stabilization occur and signage be placed warning of the danger of rushing waters after it rains.

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

Vote on Motion, as Amended: 4-2. Voting aye: Betcher, Gartin, Nelson, Orazem. Voting nay: Corrieri, Goodman. Motion declared carried.

**MAINSTREAM LIVING PARKING REQUESTS:** Moved by Orazem, seconded by Goodman, to direct the City Attorney to draft an ordinance designating parking restrictions and loading zone. Vote on Motion: 4-0-2. Voting aye: Betcher, Gartin, Goodman, Orazem. Voting nay: None. Abstaining due to a conflict of interest: Corrieri, Nelson. Motion declared carried.

**2013 CARBON FOOTPRINT REPORT:** Due to the lateness of the hour, the Mayor pulled this item from the Agenda and recommended that it be placed on a future agenda.

**UPDATE ON CITY COUNCIL GOAL TO STRENGTHEN HUMAN SERVICES:** Due to the lateness of the hour, the Mayor pulled this item from the Agenda and recommended that it be placed on a future agenda.

**ORDINANCE REZONING 4710 MORTENSEN ROAD:** Moved by Goodman, seconded by Corrieri, to pass on second reading an ordinance rezoning 4710 Mortensen Road from Community Commercial/Residential (CCR) to Floating Suburban Residential Medium-Density (FS-RM).  
Roll Call Vote: 6-0. Motion declared carried unanimously.

**ORDINANCE REGARDING ACCESSORY STRUCTURES FOR INSTITUTIONAL USES IN RESIDENTIAL ZONING DISTRICTS:** Moved by Goodman, seconded by Corrieri, to pass on second reading an ordinance making a zoning text amendment regarding accessory structures for institutional uses in residential zoning districts.  
Roll Call Vote: 6-0. Motion declared carried unanimously.

**ORDINANCE AMENDING CHAPTER 13 PERTAINING TO EGRESS WINDOWS:** Moved by Nelson, seconded by Corrieri, to pass on third reading ORDINANCE NO. 4190 amending Chapter 13 to only require below-grade egress windows in bedrooms.  
Roll Call Vote: 6-0. Ordinance declared adopted unanimously, signed by the Mayor, and hereby made a portion of these Minutes.

**COUNCIL COMMENTS:** Moved by Orazem, seconded by Goodman, to refer to staff the email from Maureen Ogle, 3002 Evergreen Circle, Ames, requesting a four-way stop at Northridge and Stange with a flashing light for motorists on Stange.  
Vote on Motion: 6-0. Motion declared carried unanimously.

Moved by Goodman, seconded by Orazem, to refer to staff the request of Scenic Development for a text amendment to the City's parking ordinance as it relates to front-yard parking.  
Vote on Motion: 6-0. Motion declared carried unanimously.

Council Member Goodman said he believed that it was time to have conversation about the possibility of creating some sort of balance in the New Lands or Existing Lands neighborhoods. He would like to see that come back on a Council Agenda soon.

Moved by Goodman, seconded by Betcher, to have Council review Planning & Housing Department's work priorities on August 26 and possibly move that project up on the list.

Motion withdrawn.

Moved by Corrieri, seconded by Gartin, to refer to staff the request from Stumbo & Associates on behalf of Larry Roden requesting a waiver or deferral of sidewalk installation for property located near the intersection of Freel Drive and Southeast 5<sup>th</sup> Street.  
Vote on Motion: 5-1. Voting aye: Betcher, Corrieri, Gartin, Nelson, Orazem. Voting nay: Goodman.  
Motion declared carried.

Moved by Gartin, seconded by Corrieri, to ask staff to come up with a "tweak" to the process when streets are closed to make the applicant be responsible for contacting the business owners and property owners to inform them of the closure.  
Vote on Motion: 6-0. Motion declared carried unanimously.

**CLOSED SESSION:** This item was pulled from the Agenda as it was no longer needed.

**ADJOURNMENT:** Moved by Goodman to adjourn the meeting at 12:34 p.m. on August 13, 2014.

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Diane R. Voss, City Clerk

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Ann H. Campbell, Mayor