

REGULAR MEETING OF THE AMES CITY COUNCIL

AMES, IOWA

DECEMBER 16, 2014

The Regular Meeting of the Ames City Council was called to order by Mayor Campbell at 7:00 p.m. on the 16th day of December, 2014, in the City Council Chambers in City Hall, 515 Clark Avenue. Present from the Ames City Council were Gloria Betcher, Tim Gartin, Matthew Goodman, Chris Nelson, and Peter Orazem. Council Member Amber Corrieri arrived at 8:07 p.m. *Ex officio* Member Lissandra Villa was also present.

Mayor Campbell announced that the Council would be working from an Amended Agenda. A correction was made to Item No. 27 (Hearing on Urban Revitalization Area Plan Amendment) to indicate that approval would require a resolution instead of an ordinance.

PROCLAMATION FOR AMES SESQUICENTENNIAL: Herman Quirmbach, State Senator, read Senate Resolution 111 in honor of the Sesquicentennial of Ames.

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

1. Motion approving payment of claims
2. Motion approving minutes of Regular Meeting of December 9, 2014
3. Motion approving renewal of the following Beer Permits, Wine Permits, and Liquor Licenses:
 - a. Class C Liquor & Outdoor Service - Mangostino's Bar and Grill, 604 East Lincoln Way
 - b. Class B Beer – Pizza Pit, 207 Welch Avenue, Suite 201
 - c. Class B Liquor – Quality Inn & Suites, 2601 E. 13th Street
4. Motion setting January 27 and February 24, 2015, at 6:30 p.m. as Conference Board meeting dates
5. RESOLUTION NO. 14-641 approving and adopting Supplement No. 2015-1 to *Municipal Code*
6. RESOLUTION NO. 14-642 confirming appointment of GSB Representative Abhijit Patwa to fill vacancy on Transit Agency Board of Trustees
7. RESOLUTION NO. 14-643 approving Certification of Local Government approval on behalf of non-profit organizations receiving Emergency Shelter Grant
8. RESOLUTION NO. 14-644 in support of Iowa State University Bioeconomy Institute research grant
9. RESOLUTION NO. 14-645 setting date of public hearing for January 13, 2015, on vacating easements in Westwood Village Subdivision
10. RESOLUTION NO. 14-646 approving Professional Services Agreement for Design, Bid, and Construction Phase Engineering Services with HDR Engineering in an amount not to exceed \$90,135 for WPC Bar Screen Replacement
11. RESOLUTION NO. 14-647 approving preliminary plans and specifications for 2014 Softball Field Irrigation System Replacement in River Valley Park; setting January 28, 2015, as bid due date and February 10, 2015, as date of public hearing
12. RESOLUTION NO. 14-648 approving preliminary plans and specifications for 2014/15 Concrete Pavement Improvements #1 (Hayward Avenue); setting January 21, 2015, as bid due date and January 27, 2015, as date of public hearing
13. RESOLUTION NO. 14-649 approving preliminary plans and specifications for 2014/15 Collector Street Pavement Improvements (West Street & Woodland Street); setting January 21, 2015, as bid due date and January 27, 2015, as date of public hearing
14. RESOLUTION NO. 14-650 approving preliminary plans and specifications for 2014/15 CyRide Route Pavement Improvements (24th Street & Bloomington Road); setting January 21, 2015, as bid due date and January 27, 2015, as date of public hearing

15. RESOLUTION NO. 14-651 approving preliminary plans and specifications for WPC Screw Pump Repainting and Drive Replacement; setting February 11, 2015, as bid due date and February 24, 2015, as date of public hearing
16. RESOLUTION NO. 14-652 awarding contract to Titan Machinery of Des Moines, Iowa, for Tractor Loader Backhoe in the amount of \$89,300, and accepting Titan's trade-in offer of \$34,000 for City's existing Tractor Loader Backhoe, for net cost of \$55,300
17. RESOLUTION NO. 14-653 approving contract and bond for Unit #7 Feedwater Heater Replacement
18. 2013/14 CyRide Route Pavement Improvements Contract #1 (Jewel Drive, Emerald Drive, Ken Maril Road, Duluth Street):
 - a. RESOLUTION NO. 14-654 approving Change Order No. 1
 - b. RESOLUTION NO. 14-655 accepting final completion
19. 2013/14 Water System Improvements Program – Water Service Transfer Program #1 (10th Street):
 - a. RESOLUTION NO. 14-656 approving Change Order No. 1
 - b. RESOLUTION NO. 14-657 accepting final completion
20. RESOLUTION NO. 14-658 accepting final completion of 2013/14 Arterial Street Pavement Improvements - Lincoln Way (Thackeray Avenue to Hickory Drive)
21. RESOLUTION NO. 14-659 accepting final completion of 2012/13 Concrete Pavement Improvements Contract #1 (Wheeler Street)
22. RESOLUTION NO. 14-660 accepting final completion of 2013/14 Water System Improvement Program - Water Main Replacement (Sheldon Avenue)
23. RESOLUTION NO. 14-661 accepting final completion of 2013/14 Asphalt and Seal Coat Reconstruction and 2013/14 Water Main Replacement (South Franklin, Tripp Street, and Village Drive)
24. South Fork Subdivision Memorandum of Understanding (Lincoln Way/Franklin Intersection):
 - a. RESOLUTION NO. 14-662 approving release of the Letter of Credit for Outlot U
 - b. RESOLUTION NO. 14-663 approving reduction in the Letter of Credit for Outlot R
 Roll Call Vote: 5-0. Resolutions/Motions declared adopted/approved unanimously, signed by the Mayor, and hereby made a part of these Minutes.

PUBLIC FORUM: There being no one requesting to speak, the Mayor closed Public Forum.

HEARING ON REPEAL AND REPLACEMENT OF CHAPTER 31: HISTORIC PRESERVATION: Planning and Housing Director Kelly Diekmann recalled that, on January 28, 2014, the City Council directed staff to proceed with a comprehensive update of *Ames Municipal Code* Chapter 31 - Historic Preservation. According to Director Diekmann, the update of Chapter 31 is extensive in its format and content and is a complete re-write of the Code Chapter. Mr. Diekmann advised that Chapter 31 is not just applicable to Historic Old Town; it is of general applicability in regards to process and definitions. It does contain specific requirements for designated historic districts and landmarks. The changes were classified within the following four categories:

1. Historic District Classifications of Properties/Structures
2. Design Issues
3. Materials
4. Approval Process

The significant changes contained within the Chapter 31 update were highlighted by Mr. Diekmann. He detailed the garage design guidelines. The definitions of “Alteration” and “New Construction” have been changed. Staff will have more authority to approve projects with the update. Alterations may be approved by staff, while the Historic Preservation Commission must approve New Construction. The proposed guidelines clarify where additions can be constructed. Materials permitted for alterations are different than those allowed for new construction. The materials used are no longer determined on the basis of location, but rather are determined by the design features affected by the proposed alterations or the new construction.

Peter Hallock, 114-8th Street, Ames, identified himself as an appointee to the Historic Preservation Commission to represent the Historic Old Town (HOT). He indicated that the HOT had no major issues with the proposed regulations.

Anne Kinzel, 720 Duff Avenue, Ames, asked how “cost prohibitive” would be determined. Director Diekmann said it is not defined by household income; however, if someone can prove that the cost of the material is unreasonable compared to its alternative, it would be unreasonable for the person to bear the cost of the material. He said that the allowances for substitute materials vary based on the types of features to be altered. HPC recommends allowing for case-by-case review of non-listed substitute materials by the HPC based upon stated criteria. Current standards for substitute materials state that substitute materials may be used as an acceptable alternative to the historic materials if all of the conditions are met.

Council Member Orazem noted that 19 additional properties had been added to the Historic District. He read the requirement for notification in the Ordinance and asked if each property owner had been notified by Registered Mail. Director Diekmann advised that each property owner and/or tenant in the District had been notified. He believed that the notification had been by Regular U. S. Mail.

Mr. Diekmann advised that the proposed regulations provide staff with the authority to administratively approve alterations to the principal structure, garages, and other outbuildings, and the new construction of fences and retaining walls. This authority is given provided that the alterations or new construction meet the adopted Design Guidelines and Design Criteria, and substitute materials are not proposed other than those specifically listed in the Design Guidelines.

Director Diekmann noted that the proposed regulations allow the HPC to grant exemptions to the requirements if it determines that, for an alteration, the cost of replication is prohibitive. It was reiterated by Mr. Diekmann that granting of the exemption is not based upon “economic hardship.”

Mayor Campbell opened the public hearing. There being no one wishing to speak, the hearing was closed.

Moved by Betcher, seconded by Orazem, to pass on first reading an ordinance repealing and replacing Chapter 31 of the *Municipal Code*.

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

HEARING ON SOUTHEAST 16TH STREET FIRST (DEERY BROTHERS) URBAN REVITALIZATION AREA PLAN: City Planner Charlie Kuester reminded the Council members

that they had, on October 14, 2014, approved an amendment to the Development Agreement with Deery, Deery, and Deery, LLC (Deery Brothers) for the properties located at 1700 SE 16th Street. The Amendment reflected the changes that had occurred from the project's initial approval in October 2012 to its completion in October 2014. Those changes were noted by Planner Kuester. The Development Agreement was approved in conjunction with an Urban Revitalization Plan that relied upon the same development plan exhibits as part of the basis for eligibility for receiving tax abatement. Council's approval of the Development Agreement Amendment then necessitated a corresponding change to the Urban Revitalization Plan.

Director Diekmann noted that the proposed change to the Urban Revitalization Plan does not change the performance standards for flood mitigation required by the urban revitalization criteria. The applicant will still need to demonstrate compliance with the qualifying criteria to be eligible for tax abatement even with the changes to the site improvements.

The public hearing was opened by Mayor Campbell. The hearing was closed after no one else asked to speak.

Moved by Nelson, seconded by Orazem, to adopt RESOLUTION NO. 14-669 amending the Southeast 16th Street First (Deery Brothers) Urban Revitalization Area Plan.

Roll Call Vote: 4-1. Voting aye: Betcher, Gartin, Nelson, Orazem. Voting nay: Goodman. Resolution declared adopted, signed by the Mayor, and hereby made a part of these Minutes.

ASSET FUNDING ALLOCATION FOR FY 2015/16: Assistant City Manager Melissa Mundt reviewed the 2015/16 human service agency funding priorities that had been adopted by the City Council in July 2014.

According to Ms. Mundt, for 2015/16, the total City ASSET funds requested by agencies was \$1,295,872, up 14.43% over 2014/15. No new agencies are joining ASSET for 2015/16. It was noted that Orchard Place dropped out of the ASSET process and did not reapply. A detailed summary of the requests for the City for each Panel: Health Services, Basic Needs Service, Children's Services, and Prevention/Support Services had been provided to the Mayor and City Council.

It was noted by Ms. Mundt that, under Panel 1 - Health Services, Eyerly Ball had requested \$18,022 to support a new crisis mental health program with the City. The program would coordinate with the Police Department to help in the evening with individuals in need. According to Ms. Mundt, the cost of the new crisis program accounts for approximately 1.4% of the overall increase in requests for the City in 2015/16. Chief Chuck Cychosz spoke in support of the new crisis mental health program. He noted the volume of calls that presently must be responded to by uniformed officers.

Assistant City Manager Mundt brought the Council's attention to Panel 2 - Basic Needs Service, which is the City's No. 1 priority area. The significant increase in the requested is due to the request from ACCESS. It is seeking \$17,256 increase in funding for its domestic abuse shelter. At the inquiry of Mayor Campbell, Ms. Mundt advised that, of the number of people not being served, it is not known how many of those turned away are Ames residents. Another agency that is not able to meet the needs is Good Neighbor, which provides emergency assistance for basic material needs.

Questions were asked about adequate data being provided, such as residency of those being turned away. Ms. Mundt stated that the Salvation Army does have a tracking program. She said that some of the agencies have begun to use "Service Point" software to track data.

Ms. Mundt reported that the requested amount under Panel 3 - Children's Services had increased by 14.46% over last year's request. Additional funds were requested for social development programs that currently are funded by the City and an additional \$12,482 for day care for all ages. Specifically noted by Ms. Mundt was the number of children on the waiting list at ACPC for both the toddler and school-age programs.

Under Panel 4, Ms. Mundt pointed out that Raising Readers is requesting new funding for its advocacy program in the amount of \$25,000. She noted that the City was unable to fund this program last year.

Council Member Gartin asked City Manager Steve Schainker what the anticipated increase in Local Option Sales Tax was going to be in 2015/16. Mr. Schainker stated that the increase is anticipated to be 5% higher than the Adopted.

Council Member Goodman pointed out that the Local Option Sales Tax Referendum passed by the voters was that 40% was to go for Human Services and the arts. He noted the importance of ASSET dollars creating the impacts that the City Council desires.

Moved by Goodman, seconded by Orazem, to increase the funding allocation for ASSET for 2015/16 by 7% (based on last year's contracted funding).

It was clarified that the ASSET Administrative Fee also needed to be paid (estimated at \$3,677); that would be in addition to the 7%.

Vote on Motion: 5-0. Motion declared carried unanimously.

ENGINEERING SERVICES FOR UNITS 7 AND 8 COOLING TOWER REPLACEMENT:

Donald Kom, Electric Services Director, reported that two recent evaluations of the cooling towers have confirmed that both structures have reached a state of unacceptable deterioration. This is due to erosion and decay from nearly continuous operation since 1967 for Unit #7 and 1982 for Unit #8. The conclusion of the original equipment manufacturer and third-party inspections was to change the project from a repair to a total replacement of both towers being rebuilt on their existing concrete basins. According to Director Kom, the project is crucial because the Power Plant turbines cannot operate without functioning cooling towers. This directly affects power production and lowers Plant operating efficiency.

Mr. Kom specifically reviewed the bids from Zachry Engineering, Brown Engineering, and Kiewit Engineering and explained staff's rationale in recommending awarding the contract to Zachry.

Moved by Betcher, seconded by Goodman, to adopt RESOLUTION NO. 14-664 awarding a contract to Zachry Engineering of Minneapolis, Minnesota, for Engineering Services for Units 7 and 8 Cooling Tower Replacement in an amount not to exceed \$121,000.

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

SPRING 2014 UNIT #8 BOILER REPAIRS: Electric Services Director Kom provided the history behind this project. He noted that, on December 10, 2013, the City Council awarded a contract to ProEnergy Services for the Spring 2014 Boiler Repairs. It was anticipated that there would be change orders with the original scope of work, but the extent and scope of work was unknown until disassembly. The history of the change orders was provided by Director Kom. Regarding Change Order No. 4, after the project work was done, ProEnergy's management determined and subsequently advised City staff that the authorized amounts were insufficient since their actual costs were substantially higher due to several weeks of additional labor. ProEnergy recognized that it was their responsibility to track costs and keep City staff informed. In order for staff to consider payment of the extra costs, ProEnergy opened its project financial data, timesheets, etc., to the City for review.

Moved by Goodman, seconded by Betcher, to adopt RESOLUTION NO. 14-665 awarding a contract to Zachry Engineering of Minneapolis, Minnesota, for Engineering Services Units 7 and 8 Cooling Tower Replacement in an amount not to exceed \$121,000.

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

Council Member Corrieri arrived at 8:07 p.m.

CONSULTING SERVICES RELATED TO THE CLEAN AIR ACT: Electric Services Director Kom recalled that the City Council, in September 2009, approved an engagement and retainer agreement with The Ritts Law Group of Alexandria, Virginia, for legal services related to regulatory compliance with the Clean Air Act. Mr. Kom reported that additional funding is needed for the City to continue to receive analyses and legal advice from The Ritts Law Group regarding existing Clean Air Act issues and proposed regulations that currently affect the City's Electric Utility or are critical in planning and mapping out the future of the Utility's energy-producing resources. Mr. Kom advised that staff is now in the process of filing permits for the Power Plant fuel conversion, which requires specialized environmental legal support and extensive environmental analysis.

Moved by Nelson, seconded by Orazem, to adopt RESOLUTION NO. 14-666 approving Change Order No. 7 in the amount of \$100,000 to The Ritts Law Group for specialized environmental legal support, extensive environmental analysis, and Iowa DNR construction permit preparation work.

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

REPORTING REQUIREMENTS FOR PAWNBROKERS AND OTHER SECONDHAND-GOODS DEALERS: Police Chief Cychosz reported that the Ordinance in question was adopted by the City in 1992. A change since that time has been an increase in the number of organized burglary rings. The burglary rings look for outlets that will buy the stolen goods, which puts pressure on the local pawnbrokers and other secondhand-goods dealers.

Management Analyst Brian Phillips advised that the *Ames Municipal Code* currently requires pawnbrokers and itinerant dealers to keep physical record books of their transactions. According to Mr. Phillips, although the vast majority of transactions conducted by these dealers are bona fide, shortcomings in the current record-keeping system create opportunities for stolen goods

to unknowingly be bought and sold. The challenges were described by Mr. Phillips: (1) cumbersome conversion process from paper records to electronic spreadsheets of transactions, (2) level of detail in the records varies from dealer to dealer; and (3) using paper records makes it very difficult to recover stolen items once they have left the City.

Mr. Phillips shared that electronic recordkeeping is required in Bettendorf, Davenport, Des Moines, Dubuque, Sioux City, and other jurisdictions outside Iowa. The use of that type of system is advantageous to secondhand dealers in that it is relatively efficient to use and helps deter thieves from selling them stolen goods.

The Council was informed by Commander Geoff Huff that local businesses: Express Pawn, EZ Pawn, EcoATM, Best Buy, Gamerz, and GameStop use a service called *Leads Online* to record transactions of used goods. EcoATM, Radio Shack, Sam's Club, and Walmart use similar methods to electronically record seller details for their purchases of used electronics. Those internet-based services record photos of the item sold and the seller's ID card, details about the transaction and the seller, and any other pertinent information. If the Police receives a theft report for an item matching that description, the item can be looked up in the database and located.

According to Mr. Phillips, the *Municipal Code* does not require stores other than pawnbrokers and itinerant dealers to keep records of transactions, even though other businesses purchase items of value, such as used electronics or precious metals—items that are frequently subject to theft. In addition to pawnbrokers, approximately ten other Ames businesses purchase video games and video game systems, electronics, jewelry, precious metals, coins, and gemstones. These establishments are under no City requirements to hold items or to track them; meaning they can be immediately resold, transferred, or in the case of precious metals, melted, making recovery difficult or impossible if those goods have been stolen.

Commander Huff noted that theft records from 2012, 2013, and 2014 (projected) show that Ames averages approximately \$150,000 in stolen goods reported each year. That figure does not count unreported thefts, thefts of motor vehicles, or theft reports taken by ISU Police. Electronics comprise 39% of total stolen goods by value; while jewelry and precious metals represent 21%. At least 75% of the value of stolen items is comprised of goods that could be resold through a legitimate pawn, jewelry, electronics, or coin business for cash or other goods. According to Commander Huff, more sophisticated criminals are likely to take goods out of the area before attempting to exchange them for cash. Changes to record-keeping processes in Ames cannot be guaranteed to thwart such crimes. It was noted that the Police Department has had some success in recovering stolen items using *Leads Online* on a trial basis.

It was reported by Mr. Phillips that City staff had consulted with precious metal dealers in Ames who buy jewelry from customers about the concept of using a reporting system. Most reported that those type of transactions are infrequent and for small dollar amounts with low-value broken jewelry being the most common type of jewelry bought from customers.

The proposed changes were explained by Mr. Phillips.

Gary Youngberg, owner of Ames Silversmithing, 220 Main Street, stated his opinion that including jewelry stores in the Ordinance as it is currently written is detrimental. He explained that the amount of resources needed to implement the proposed Ordinance would be onerous to

most jewelry businesses. Mr. Youngberg also said he feels strongly that certain transactions with his clients should be able to be kept private. He said he believes that the initial intent of the Ordinance is good, but that it has not been reviewed extensively enough, especially as it relates to jewelry. Council Member Goodman noted that what would be important would be what the item was; it doesn't really matter who the person was unless the item had been stolen, in which case, the name would need to be identified.

John Firmature, Express Pawn, stated that stolen goods accounted for approximately \$4,000 in merchandise that had been stolen. The majority of that was electronics; jewelry accounted for a very small percentage of the \$4,000. Mr. Firmature acknowledged the good working relationship his company has with the Ames Police Department. He stated that his company had purchased its own software to record transactions of used goods.

Mr. Youngberg noted that "being identifiable" was key. Some of the items would just have a very general description.

Moved by Gartin, seconded by Betcher, to direct staff to prepare an ordinance modifying the existing pawnbroker and itinerant dealer reporting requirements to provide electronic reporting.

Mayor Campbell clarified that that option would accomplish two objectives: (1) limit the reporting requirements solely to the same businesses that are currently required to report transactions (pawnbrokers and itinerant dealers) and (2) add the requirement for electronic reporting.

Motion withdrawn.

Moved by Goodman, seconded by Betcher, to request staff to answer the question on the stated client privacy concerns.

Vote on Motion: 5-1. Voting aye: Betcher, Corrieri, Gartin, Goodman, Orazem. Voting nay: Nelson. Motion declared carried.

Moved by Orazem, seconded by Goodman, to request staff to modify the regulation to take into account whether or not the item is identifiable.

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

Commander Huff recommended that it might be better to be precise as to the type of transaction.

Council Member Gartin said he also had a problem with placing a ten-day waiting period on jewelry stores for selling gold. Council Member Goodman disagreed, stating that the pawnbrokers already have and meet that requirement, and he does not feel it is fair to exempt jewelry stores from the requirement. Mr. Youngberg noted one difference in that pawnbrokers buy jewelry to resell it. His business buys jewelry to sell it to a refinery.

The meeting recessed at 8:51 p.m. and reconvened at 8:56 p.m.

URBAN REVITALIZATION AREA FOR 517 LINCOLN WAY: Planning and Housing Director Diekmann advised that the property owner of 517 Lincoln Way had submitted a request for creating an Urban Revitalization area in order to be eligible for tax abatement. The request is based on the City Council's Highway-Oriented Commercial (HOC) Criteria Matrix Policy. Mr.

Diekmann told the Council that the action to be taken by the City Council at this meeting was to determine if the request meets the conditions for eligibility under the Urban Revitalization Highway-Oriented Commercial Criteria, and if so, to initiate the proceedings for designating an Urban Revitalization Area.

At the question of Council Member Nelson, Director Diekmann advised that the previous building was demolished by 1995, and therefore, meets HOC Criteria #1 for a vacant site. Staff also confirmed that the Iowa Department of Natural Resources previously listed the site as contaminated by leaky gasoline storage tanks and that the contamination was remediated and monitoring wells confirmed by 2007; that no further remediation was necessary.

Moved by Betcher, seconded by Corrieri, to approve the application.
Vote on Motion: 6-0. Motion declared carried unanimously.

Moved by Betcher, seconded by Corrieri, to direct staff to prepare the Urban Revitalization Plan.
Vote on Motion: 6-0. Motion declared carried unanimously.

Moved by Betcher, seconded by Corrieri, to adopt RESOLUTION NO. 14-667 setting the date of public hearing for January 27, 2015.

Roll Call Vote: 5-0-1. Voting aye: Betcher, Corrieri, Gartin, Nelson, Orazem. Voting nay: None. Abstaining due to a possible conflict of interest: Goodman. Resolution declared adopted, signed by the Mayor, and hereby made a portion of these Minutes.

WIRELESS FACILITY SITING REQUIREMENTS: Director Diekmann brought two issues to the Council's attention regarding wireless facilities, as follows:

1. The first arose directly from a request by a cell provider to place small cell antennas on City street light poles. It implicates the City's proprietary and custodial roles for use of the right-of-way and access to City facilities. This was the first time that the City had received a request to install wireless equipment within the City's right-of-way on City equipment (street light poles).
2. The second issue will affect the City's regulatory zoning role, with mandatory federal rules for permitting of collocation of existing wireless facilities. This includes requirements to approve expansion and replacement of equipment.

Mr. Diekmann explained that the Federal Communications Commission (FCC) administers federal regulations of telecommunications infrastructure, including rule-making for consistency with federal requirements. He also stated that, in 2012, Congress passed legislation known as the Middle Class Tax Relief and Job Creation Act. A Section of that Act mandates that local governments approve collocation of eligible wireless facilities when there is no substantial change in the facility. On October 17, 2014, the FCC adopted new rules and definitions pertaining to cellular infrastructure deployment; those rules pertain to the regulatory process for collocation of wireless equipment of towers and base stations. In addition, the FCC has created rules preempting local governments from regulating certain aspects of cellular installations in support of rapid siting and build-out of cellular infrastructure. Mr. Diekmann noted that failure of a local government to act in a manner consistent with the FCC rules results in a "deemed approved" status of an application after 60 days. The rules are applicable to sites on both private property and within the rights-of-way. However, it does not affect terms of lease that may have

been agreed upon by affected parties. Existing regulations in the City of Ames were reviewed. Wireless facilities are allowed in all zoning districts; however, the Zoning Code requires a Special Use Permit to site new cellular installations.

According to Director Diekmann, the City's standards and processes for new facilities are unaffected by the FCC Section 6409(a) Rules; however, once approved, a wireless provider will have the right to alter the facility within the stated FCC parameters of height and width.

It was brought to the Council's attention that the City recently received a request to place small-cell antennas on City streetlight poles in the vicinity of North Grand Mall. It is believed that this will likely be a new technological tool of infill service by wireless providers for reasons related to technology, costs, and regulatory process. The City's Zoning Code never contemplated this type of technology being implemented in the rights-of-way. City staff has communicated to the requestor that more time is needed to establish policies and requirements for such installations

Mr. Diekmann told the Council members that no action was being required of them at this meeting. City staff will further investigate the ramifications of the new FCC requirements, which will involve a legal analysis. Once the new FCC regulations are published and the 90-day waiting period expires, any gaps in City policy may result in the creation of installations that are not desirable to the City Council. City staff will work to address those issues as quickly as possible and return to the Council with needed changes.

Moved by Nelson, seconded by Orazem, to authorize staff to proceed.

Council Member Goodman asked if it would be possible for staff to hold one public input session. Mr. Diekmann said that the information could definitely be posted on the City's Web site. A public input session could also be held.

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

LEAD HAZARD CONTROL PROGRAM: Housing Coordinator Vanessa Baker-Latimer noted that the Council had referred to staff a request from the City of Marshalltown to determine if Ames was interested in participating in its Lead Hazard Control Grant Program. Marshalltown currently administers the Program in Hardin, Marshall, and Tama Counties and 18 incorporated communities within those three counties. Marshalltown is seeking to expand its jurisdiction to include Story and Benton Counties. According to Ms. Baker-Latimer, Marshalltown was awarded a three-year Lead Hazard Control Grant from HUD in the amount of \$3,400,000. The Grant funds are to be used to eliminate lead hazards in homes with children under the age of six in properties built prior to 1978 for households with incomes at 80% or less of the Area Median Income limits.

Ms. Baker-Latimer highlighted provisions of the proposed 28-E Agreement. She informed the Council of the issues and concerns of City staff with the proposed Agreement. Staff had been in communication with the City of Marshalltown to discuss the proposed partnership. Staff members from the City of Marshalltown had stated that they would not be able to administer the Program differently or in conjunction with the City of Ames Program. It is felt by City of Ames staff that, without the ability to combine efforts on overlapping programs, it appears that the Program would be a duplication of City services and potentially confusing to Ames citizens.

Moved by Orazem, seconded by Corrieri, to decline to be a participating jurisdiction in the Lead Hazard Program as outlined by the City of Marshalltown.

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

BOEHRINGER INGELHEIM VETMEDICA, INC. (BIVI): City Manager Schainker stated that Boehringer Ingelheim Vetmedica is a global pharmaceutical company that develops, manufactures, and markets veterinary pharmaceutical products. The Ames facility is located in the ISU Research Park and is wanting to expand. BIVI has applied for economic development assistance from the Iowa Economic Development Authority (IEDA) with a local match provided by the City of Ames in the form of tax credits.

Moved by Nelson, seconded by Corrieri, to adopt RESOLUTION NO. 14-668 endorsing the Iowa Economic Development Authority Application for Financial Assistance for Boehringer Ingelheim Vetmedica, Inc., with local match in form of Industrial Property Tax Abatement.

At the request of Council Member Goodman, City Manager Schainker explained the City's 5-Year Industrial Tax Abatement program. He noted that this project will occur in Phase II of the Research Park expansion.

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

LAP DANCE ORDINANCE: City Attorney Judy Parks reiterated that the Supreme Court had decided that local government is expressly preempted from enacting or enforcing an ordinance that regulates live nude dancing as it is considered obscene material. Ms. Parks reviewed the direction that had been given to staff by the Council on December 9, 2014.

Moved by Orazem, seconded by Corrieri, to pass on first reading an ordinance repealing *Municipal Code* Section 17.31 pertaining to the Lap Dance Ordinance.

Council Member Gartin asked City Attorney Parks to expound on the adoption of the Lap Dance Ordinance in 1996. He asked her to give the Council her sense in the value of the City having a Lap Dance Ordinance. Ms. Parks responded that, initially, the City adopted the Ordinance to address certain behaviors that were occurring in an Ames establishment, and the City had been actively enforcing it since that time. She noted that, in light of the growing human trafficking problem in Iowa, taking away this tool (Ordinance) does severely limit the ability to remove the victim from that type of control.

Council Member Gartin asked Ms. Parks if it was unusual that the City would not seek public input as to whether there is merit to appealing the Decision. Ms. Parks agreed that it was unusual; however, the issue can be brought up again in the future if specific behaviors begin to recur.

Mr. Gartin asked the Police Chief for his take on the merits of the Lap Dance Ordinance. Chief Cychosz reported that Ames currently does not have the kinds of problems that were occurring at the time the Ordinance was initially adopted.

Council Member Gartin cited his frustration that this Council could so quickly dispense of an Ordinance that had been thoroughly debated by a former Council. He indicated that he would

vote for repealing the Ordinance due to the fact that it can be revisited if situations warrant in the future.

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

ORDINANCE TO INCREASE ALLOWABLE HEIGHT FOR CERTAIN ARCHITECTURAL FEATURES: Moved by Goodman, seconded by Gartin, to pass on second reading an ordinance making a text amendment to Section 29.401(4)(b) to increase the allowable height for certain architectural features in all zoning districts.

Roll Call Vote: 5-1. Voting aye: Betcher, Gartin, Goodman, Nelson, Orazem. Voting nay: Corrieri. Motion declared carried.

ORDINANCE TO INCLUDE AN ALLOWANCE FOR FRONT-YARD PARKING IN LIMITED CIRCUMSTANCES: Moved by Nelson, seconded by Orazem, to pass on second reading an ordinance making a text amendment to Section 29.406(7) to include an allowance for front-yard parking in limited circumstances.

Roll Call Vote: 5-1. Voting aye: Betcher, Gartin, Goodman, Nelson, Orazem. Voting nay: Corrieri. Motion declared carried.

ORDINANCE REZONING PROPERTIES FOR ISU RESEARCH PARK PHASE III PROJECT: Moved by Nelson, seconded by Goodman, to pass on third reading and adopt ORDINANCE NO. 4202 rezoning properties for ISU Research Park Phase III Project from Agricultural (A) to Planned Industrial (PI).

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

ORDINANCE REVISING ON-SITE PARKING REQUIREMENT FOR FRATERNITIES AND SORORITIES: Moved by Nelson, seconded by Goodman, to pass on third reading and adopt ORDINANCE NO. 4203 reducing the on-site parking required for fraternities and sororities.

Roll Call Vote: 5-1. Voting aye: Corrieri, Gartin, Goodman, Nelson, Orazem. Voting nay: Betcher. Ordinance declared carried, signed by the Mayor, and hereby made a portion of these Minutes.

COUNCIL COMMENTS: Moved by Goodman, seconded by Gartin, to refer to staff the emailed letter dated December 12, 2014, from the Boys and Girls Club pertaining to the potential access road near South Duff.

Vote on Motion: 5-0-1. Voting aye: Betcher, Gartin, Goodman, Nelson, Orazem. Voting nay: None. Abstaining due to a conflict of interest: Corrieri. Motion declared carried.

Moved by Goodman, seconded by Orazem, to refer to the Director of the Parks and Recreation Department the emailed letter dated November 29, 2014, from David DenHaan expressing his support of the proposed improvements to River Valley Park, including the modification of the current dam to make it navigable and provide a unique whitewater feature on the Skunk River. Vote on Motion: 6-0. Motion declared carried unanimously.

Moved by Gartin, seconded by Goodman, to refer to staff Tim Gartin's memo pertaining to a one-year pilot project to add an *ex officio* member from Ames High School to the Parks and Recreation Commission and the Library Board.

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

CLOSED SESSION: Moved by Goodman, seconded by Orazem, to hold a Closed Session as provided by Section 21.5c, *Code of Iowa*, to discuss matters pending and in litigation.

Council Member Gartin asked City Attorney Parks if there was a legal reason to go into Closed Session. Ms. Parks replied in the affirmative.

CLOSED SESSION: Moved by Goodman, seconded by Orazem, to hold a Closed Session as provided by Section 21.5c, *Code of Iowa*, to discuss matters pending and in litigation.

Council Member Gartin asked City Attorney Parks if there was a legal reason to go into Closed Session. Ms. Parks replied in the affirmative.

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

The meeting reconvened in Regular Session at 10:24 p.m.

Moved by Goodman, seconded by , to adopt RESOLUTION NO. 14-670 directing staff to act consistently with the recommendation of the City Attorney.

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

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

The meeting reconvened in Regular Session at 10:24 p.m.

Moved by Goodman, seconded by Corrieri, to adopt RESOLUTION NO. 14-670 directing staff to act consistently with the recommendation of the City Attorney.

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

ADJOURNMENT: Moved by Goodman to adjourn the meeting at 10:25 p.m.

Diane R. Voss, City Clerk

Ann H. Campbell, Mayor