



MEMO

Legal Department

To: Mayor Haila, Ames City Council

From: Mark O. Lambert, City Attorney

Date: October 8, 2021

Subject: Adopting new wards & precincts after state redistricting.

BACKGROUND:

Sometime soon, the Council will have to fulfill its responsibilities of drawing new wards and precincts within the City of Ames.

The U.S. Constitution requires that a census be taken by the federal government every ten years. The 2020 census experienced delays due to COVID, and the State of Iowa didn't receive the census numbers until September of this year. Usually, the Census numbers are released in the Spring.

After the State of Iowa, and the cities and counties in Iowa, receive their census numbers, the Code of Iowa requires that the new census data be used by the Legislature to redistrict the state. This state redistricting is done to draw new lines defining U.S. Congressional districts, and Iowa House and Iowa Senate legislative districts. After the Legislature has finalized its work, counties and cities in Iowa must draw new lines for wards and precincts, using the U.S. Census data.

The U.S. Supreme Court has ruled that Congressional and Legislative Districts should be drawn to assure as much as possible that the districts for each type of office are equal in population under the principle of "one person, one vote." The same principle holds true for the wards that Council members represent.

After the Legislature approves the new district maps, the Governor has to sign it into law for it to become effective, just like other legislation.

Under Iowa law, after the Legislature and Governor have approved the state redistricting, cities then have 60 days to create new wards and precincts (called “reprecincting” in the Iowa Code). Counties have a total of 90 days to create new wards and precincts. For both the City of Ames and Story County, this will take the form of an ordinance defining the new districts.

The State of Iowa has a system that has been in place since 1980 of drawing new districts for Iowa’s members of Congress and the state legislature. The nonpartisan Legislative Services Agency (LSA) produces the first set of maps. It’s a two-option decision -- the Legislature can only vote “yes” or “no” on these maps, simply approving them or rejecting them. There is no amending the map at this point in the process. If the first set of maps is rejected, a second set is created. Once again, the Legislature can only approve or reject the second set of maps. After that, a third set of maps is produced by the LSA. The third set of maps can be amended by the Legislature, i.e., they can redraw the lines produced by LSA, but any districts they draw have to fit within the parameters spelled out in the Iowa Code (e.g., the districts must contain roughly the same number of residents). According to media reports, in the forty years this system has been in place, either the first or second set of maps have been adopted most of the time. On one occasion, the third set of maps were considered, and were adopted without amendment.

The Iowa Code states that the new wards and precincts become effective for the City on January 15 two years after the decennial census, which would be January 15, 2022.

On October 5, 2021, the Legislature considered and rejected the first set of maps produced by the LSA. Media have reported that LSA expects to have the second set of maps ready by October 21, 2021. If the Legislature rejects the second set of maps, it is likely that by mid-November at the earliest the Legislature will approve the third/final set of maps. According to the Iowa Constitution, the Iowa Supreme Court has jurisdiction over redistricting after September 15. The Court

has issued an order allowing the Legislature to do the redistricting but set a December 1, 2021 deadline for the Legislature to complete its work.

REQUIREMENTS FOR CITIES:

The Iowa Code sets out specific requirements for cities creating new wards and precincts:

- The population in a precinct cannot exceed 3,500 people.
- Precincts must be contiguous.
- A precinct must lie within one state legislative district.
- Precincts must follow “census blocks boundaries.” (For more information about Census blocks, see: https://transition.fcc.gov/form477/Geo/more_about_census_blocks.pdf)
- Precinct boundaries must be drawn to best serve the convenience of voters while promoting electoral efficiency. “Convenience of voters” means the precinct boundaries are easy to describe and identify and provide voters with relatively direct routes of travel to polling places. “Electoral efficiency” means reducing election costs by only creating as many precincts as necessary.
- Annexed territory must be included.
- Precinct boundaries must be defined by ordinance.
- Wards shall follow precinct boundaries.
- In determining wards, consideration shall not be given to the addresses of incumbent officeholders, political affiliations of registered voters,

previous election results, or demographic information other than population head counts, except as required by the Constitution and the laws of the United States.

- Wards shall be composed of contiguous territory as compact as practicable.
- Wards shall be as nearly equal as practicable to the ideal population determined by dividing the number of wards to be established into the population of the city. The maximum allowable variation in size between wards is ten percent.

It is noted that the new precincts will include all territories annexed within the last 10 years.

The Iowa Code provides that the County Auditor must have the opportunity to review the City Council's plan and provide written comments on the plan. Council must allow the Auditor 7-to-10 days for providing written feedback. If Council rejects the Auditor's suggestions, the Council must provide reasons why the Auditor's suggestions were rejected in the ordinance adopting the precinct boundaries.

Public hearing: Council must hold a public hearing before final action is taken to adopt a new ward/precinct boundaries. The public hearing has to be noticed per Iowa Code Chapter 21, the same as the notice requirement for a City Council meeting, 24 hours prior to the meeting.

GOING FORWARD:

Whenever the Legislature and Governor adopt the new maps, the City will have 60 days to adopt an ordinance. The County will adopt an ordinance,

incorporating the City's ordinance into its ward/precinct ordinance for the entire county.

Even if the second set of maps are adopted, it will be a very short time frame for the City to respond. It seems extremely unlikely we will have the full 60 days to adopt the City's ordinance, and we must move quickly enough to allow Story County time to adopt its ordinance.

The Story County Auditor's Office has said that, as soon as the state maps are adopted, they will proceed to reprecinct the entire county. This is done for ease and efficiency, as well as to be helpful to the City of Ames. They will provide the City with the wards and precincts they come up with. The City can adopt those, or the City can draw its own lines and can adopt a different set of wards and precincts.

The Story County Auditor told me that the City will still have four wards, but it seems likely we will have 24 precincts, instead of the current 20. That would be one additional precinct per ward.

The Iowa Secretary of State's office has purchased reprecincting software and is making it available free to all Iowa counties and cities.

AFTER REPRECINCTING:

Even if the redistricting and reprecincting had occurred in the spring and summer per the usual schedule, the new wards and precincts would not apply to this Fall's election. In the current situation, the adoption of the new wards/precincts won't take place until after this Fall's election. The new wards/precincts become effective July 15, 2022.

The Iowa Code states: "If more than once incumbent officeholder resides in a district redrawn during reprecincting, their terms of office shall expire after the next election in the political subdivision." [Iowa Code section 49.8(5)(a)]. This

means the terms of both Council members would expire December 31, 2023. For the Council members who represent a ward, there is a possibility that two incumbents can reside in the same new ward. If that happens, it would trigger an election for the Council seat in that ward in the next regular city election in November 2023.

DECISION POINT:

The only decision point right now is whether the Council wants to first see the county's map for the wards and precincts only, or whether the Council would prefer the City staff prepare a second map and bring both to Council for consideration. The Council could also wait and see the county map and then decide whether to ask the City staff to produce an alternative. One word of warning: the City has only so much territory and so many residents, so unlike the State of Iowa with an entire state to work with, it may be difficult to develop a second map. And, again, we are going to be on a very tight timeframe to accomplish this, and we may need a special Council meeting, and/or suspension of the rules to consider it in one night, to meet that short timeline.

ALTERNATIVES:

1. Wait until the Council sees the map produced by the Story County Auditor, and then decide whether to adopt that map or request City Staff to develop an alternative map.
2. Decide now to have City staff prepare a second map so that more than one map can be considered.
3. Decide now that the Council plans to proceed with adopting the Story County Auditor's map.

RECOMMENDED ACTION:

Because it seems that it would be best to see the County's map before investing the staff time in developing an alternative map, it seems prudent to wait until the County has produced a map before deciding whether the Council wants to see an alternative map. Therefore, the City Attorney recommends Option #1.