

MINUTES OF THE REGULAR MEETING OF THE AMES CITY COUNCIL

AMES, IOWA

SEPTEMBER 25, 2012

The regular meeting of the Ames City Council was called to order by Mayor Ann Campbell at 7:00 p.m. on September 25, 2012, in the City Council Chambers in City Hall, 515 Clark Avenue. Present from the Ames City Council were Jeremy Davis, Matthew Goodman, Jami Larson, Peter Orazem, Victoria Szopinski, and Tom Wacha. *Ex officio* Member Sawyer Baker was also present.

PRESENTATION OF 2012 HEALTHY IOWA COMMUNITY AWARD: Elaine Hieber advised that she and John Shierholz co-chair the Healthiest Ames Initiative, which is comprised of a group of more than a dozen Ames organizations, businesses, and individuals that originally formed as the Ames Blue Zones Project Team. Ms. Hieber explained that after Ames was not selected as a Blue Zones Demonstration Site, that Team felt that, based on what Ames has to offer - resources, facilities, and programs - it could better serve Ames residents if it took a self-directed path. The chosen path will include principles of the Blue Zones initiative, but also allow inclusion of other programs, such as the Healthiest State Initiative. In late March, the Team nominated Ames for the Healthiest Community in Iowa Award. Ames was named the winner at the Healthy Iowa Awards annual dinner on September 20, 2012 in Des Moines.

Ms. Hieber advised that the Healthy Iowa Awards began in 2009 as a celebration of the healthiest schools, organizations, and individuals in the state. The Awards are presented by the Academy for a Healthy Iowa, a collaboration among the Iowa Department of Public Health, Governor's Council on Physical Fitness and Nutrition, and Wellness Council of Iowa. Award winners are selected based on providing access to wellness, programming, financial commitment, measurability, and sustainability.

Mayor Campbell recognized City Health Promotion Coordinator Stephanie Downs for her tireless efforts in coordination with the Healthiest Ames Initiative.

The video done by staff of the Healthy Iowa Awards showcasing Ames as the 2012 Healthiest Community in Iowa was shown.

Ms. Downs welcomed and encouraged residents to participate in the Iowa Healthiest State Walk at several Ames locations at Noon on October 3. The Mayor will lead a Walk from City Hall on that date and time.

PRESENTATION OF "SMART CHOICE" COMMERCIALS: Public Relations Officer Susan Gwiasda stated that Ames native Harrison Barnes, who now plays professional basketball for the Golden State Warriors, had approached the City asking what he could do to "give back to the community" that had given him so many opportunities. It was decided that he would participate in a series of commercials highlighting Ames as the "Smart Choice" in which to live. The commercials prepared by Cable Coordinator Derek Crisler were shown.

CONSENT AGENDA: Council Member Goodman requested to pull Items No. 11, 12, and 13 (pertaining to Traffic Signal Programs) for separate discussion.

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

1. Motion approving payment of claims
2. Motion approving Minutes of Regular Meeting of September 11, 2012

3. Motion approving Report of Contract Change Orders for September 1 - 15, 2012
4. Motion approving renewal of the following beer permits, wine permits, and liquor licenses:
 - a. Class C Liquor & Outdoor Service – Hickory’s Hall, 300 South 17th Street
 - b. Class C Beer & B Wine – K Mart #3971, 1405 Buckeye Avenue
 - c. Class C Beer & B Wine – Hy-Vee Gas #5018, 636 Lincoln Way
 - d. Class C Beer – Doc’s Stop No. 5, 2720 East 13th Street
 - e. Class E Liquor, C Beer, & B Wine – Hy-Vee Food Store #1, 3800 West Lincoln Way
 - f. Class E Liquor, C Beer, & B Wine – Hy-Vee Food & Drugstore #2, 640 Lincoln Way
5. Motion setting the following City Council meeting dates:
 - a. January 15, 2013, at 5:15 p.m. for CIP Work Session
 - b. February 1, 2013, at 2:00 p.m. for Budget Overview
 - c. February 5, 6, 7, and 12, 2013, at 5:15 p.m. for Budget Hearings/Wrap-Up
 - d. March 5, 2013, at 7:00 p.m. for Regular Meeting and Final Budget Hearing
6. RESOLUTION NO. 12-499 approving and adopting Supplement No. 2012-4 to *Ames Municipal Code*
7. RESOLUTION NO. 12-500 approving appointment of Shelby Ebel to fill vacancy on Zoning Board of Adjustment
8. RESOLUTION NO. 12-501 approving 28E Agreement with the Alcoholic Beverages Division for enforcement of tobacco laws
9. RESOLUTION NO. 12-505 approving preliminary plans and specifications for 2010/11 Traffic Signal Program (Southeast 16th Street & South Dayton Avenue); setting October 18, 2012, as bid due date and October 23, 2012, as date of public hearing
10. RESOLUTION NO. 12-506 approving preliminary plans and specifications for Water Pollution Control Facility Pipe Painting Project; setting October 30, 2012, as bid due date and November 13, 2012, as date of public hearing
11. RESOLUTION NO. 12-507 approving preliminary plans and specifications for 2010/11 Storm Water Facility Rehabilitation Program - Spring Valley Subdivision (Utah Drive/Oklahoma Drive); setting October 17, 2012, as bid due date and October 23, 2012, as date of public hearing
12. RESOLUTION NO. 12-508 approving contract and bond for 2012/13 CDBG Public Facilities Neighborhood Infrastructure (Beedle Drive and Aplin Road)
13. RESOLUTION NO. 12-509 approving contract and bond for 2011/12 Asphalt Pavement Improvement Program (South Oak Avenue)
14. RESOLUTION NO. 12-510 approving contract and bond for 2011/12 Downtown Street Pavement Improvements (Douglas Avenue)
15. RESOLUTION NO. 12-511 approving contract and bond for Water Pollution Control Facility Equalization Basin and Biosolids Basin Repairs
16. RESOLUTION NO. 12-512 accepting completion of 2010/11 Arterial Street Pavement Improvements (Duff Avenue from Lincoln Way to 7th Street)
17. RESOLUTION NO. 12-513 revoking approval of Rasmussen Group Subdivision and approving Rasmussen Group Re-Plat of Outlot H Except Lot 1 of Gene Harris Second Subdivision, Boone County, Iowa
18. RESOLUTION NO. 12-514 accepting completion of public utilities required of Final Plat for North Grand Mall
 Roll Call Vote: 6-0. Resolutions declared adopted unanimously, signed by the Mayor, and hereby made a portion of these Minutes.

2008/09, 2009/10, AND 2010/11 TRAFFIC SIGNAL PROGRAMS: Council Member Goodman said that he had asked to pull the Traffic Signal Programs after being contacted by a citizen, who wanted to be allowed to speak about the projects.

Jim Popken, 920 Clark Avenue, Ames, confessed that he had previously “run” the stop light at Sixth and Clark every morning while riding his bicycle to work because the light would never change to green. He no longer runs the stoplight because he has found the pick-up coil in the ground and thereafter knew where to position his bicycle so that the light would turn green. Mr. Popken asked that the City “tune” the stop lights to accept bicycles so that they can be picked up by the coils in the ground or mark the pavement so that bicyclists know where to position their bikes to change the light to green.

Municipal Engineer Tracy Warner reported that none of the Traffic Signal Programs on this Agenda will necessitate cut-loops in the pavement. The City has made the transition to radar detection, which detects bicycles; that will be used on the Traffic Signal Programs in question. Ms. Warner noted that radar detection had already been installed at 6th and Duff and 6th and Grand. Another benefit of the radar detection is that the pavement does not have to be cut; the cuts cause a weakening in the pavement.

Council Member Goodman asked Ms. Warner if there would be any benefit to marking the pavement where bicycles should be positioned even with radar being installed. Ms. Warner said she did not believe that was necessary, but would confirm that with the Traffic Engineer.

Moved by Goodman, seconded by Wacha, to adopt RESOLUTION NO. 12-502 approving the preliminary plans and specifications for the 2008/09 Traffic Signal Program (Lincoln Way & Sheldon Avenue); setting October 18, 2012, as bid due date and October 23, 2012, as the 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.

Moved by Goodman, seconded by Wacha, to adopt RESOLUTION NO. 12-503 approving the preliminary plans and specifications for 2009/10 Traffic Signal Program (Lincoln Way & Ash Avenue); setting October 18, 2012, as bid due date and October 23, 2012, as the 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.

Moved by Goodman, seconded by Wacha, to adopt RESOLUTION NO. 12-504 approving the preliminary plans and specifications for 2010/11 Traffic Signal Program (28th Street & Grand Avenue); setting October 18, 2012, as bid due date and October 23, 2012, as the 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.

PUBLIC FORUM: Dan Gries, 1315 Coconino Road, Apartment #104, Ames, stated that he had seen an ad in the *Ames Tribune* for workers at a payday loan company coming to Ames. He noted that it was not an established business at the time the ordinance setting regulations for new payday loan establishments in Ames had been adopted. It had been his understanding that the new ordinance would basically preclude all new payday loan establishments in Ames. Assistant City Manager Bob Kindred advised that Mr. Gries’ understanding was correct. He asked Mr. Gries to bring the ad into the City Manager’s Office, and it would be investigated by staff.

5-DAY LICENSES FOR OLDE MAIN AT THE ISU ALUMNI CENTER, 420 BEACH AVENUE: Moved by Davis, seconded by Larson, to approve the following 5-day licenses for Olde

Main at the ISU Alumni Center, 420 Beach Avenue:

1. Special Class C Liquor (October 13-17)

2. Special Class C Liquor (October 26-30)

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

5-DAY CLASS B BEER PERMIT & OUTDOOR SERVICE FOR WHISKEY RIVER AT WEBFILINGS: Moved by Davis, seconded by Szopinski, to approve a 5-Day Class B Beer Permit & Outdoor Service for Whiskey River at Webfilings.

Vote on Motion: 5-0-1. Voting aye: Davis, Goodman, Larson, Orazem, Szopinski. Voting nay: None. Abstaining due to conflict of interest: Wacha. Motion declared carried.

NEW CLASS C LIQUOR LICENSE FOR AJ'S ULTRA LOUNGE, 2518 LINCOLN WAY, PENDING CERTIFICATE OF OCCUPANCY AND DRAM SHOP INSURANCE: Moved by Davis, seconded by Goodman, to approve a Class C Liquor License for AJ's Ultra Lounge, 2518 Lincoln Way, pending Certificate of Occupancy and Dram Shop insurance. Motion declared carried.

INCLEMENT WEATHER REQUESTS FROM MAIN STREET CULTURAL DISTRICT (MSCD) FOR OKTOBERFEST ON OCTOBER 6, 2012: Management Analyst Brian Phillips explained that on July 24, 2012, the City Council had approved street closures and permits for the Main Street Cultural District's (MSCD) Oktoberfest on Main. The MSCD is requesting approval for a rain location in the Central Business District lot where tents and other shelter could be used, if needed.

Moved by Davis, seconded by Wacha, to approve an extension of the Blanket Temporary Obstruction Permit and Blanket Vending License.

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

Moved by Davis, seconded by Wacha, to adopt RESOLUTION NO. 12-515 approving partial closure of CBD Lot Y.

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

DEERY SUBDIVISION: City Planner Ray Anderson told the Council that the purpose of the Deery Subdivision was to reconfigure four lots in order to accommodate the development of an automobile dealership on proposed Lot 1 and establish Lots 2 and 3 for future commercial development.

Mr. Anderson advised that sidewalks are required along each side of any street within commercially zoned areas. An eight-foot-wide multi-use path already exists on the north side of Southeast 16th Street and extends the entire distance between Dayton Avenue and Duff Avenue. The developer had proposed to construct a five-foot-wide sidewalk along the street frontage of Lots 1, 2, and 3 and has submitted a letter requesting a waiver of the sidewalk requirement along Outlot A (approximately 1,217 feet).

According to Mr. Anderson, the *Municipal Code* allows for a waiver from subdivision requirements to be granted if compliance with the requirements would result in extraordinary hardship for the applicant and/or it would prove inconsistent with the purpose of the regulations because of unusual topography or other conditions. Reasons given by the applicant for granting

a sidewalk waiver along Outlot A were (1) A portion of Outlot A's frontage on Southeast 16th Street is in the river and river bank; (2) The remainder of Outlot A does not have access to the bridge crossing for pedestrians over the Skunk River; (3) If a sidewalk were installed along Outlot A, pedestrians would have to cross Southeast 16th Street at the bridge in order to use the pedestrian bridge crossing on the other side of the street; and, (4) Since the site distance is better at that location, the applicant would prefer to have pedestrians cross Southeast 16th Street at a safer location, which is at the east end of Outlot A. The Council was reminded that the Subdivision Code requires installation of sidewalks prior to Final Plat approval unless Council approves deferral. Mr. Anderson told the Council that it will have to determine, as part of the Preliminary Plat decision, if sidewalk installation will be required prior to Final Plat approval or if it should be deferred under either a financial guarantee or occupancy provision in the Developer's Agreement.

Council Member Goodman noted that the City had, in the past, approved sidewalk waivers, but required that the property owner commit to pay at a later date for connections that may develop along the link. In this case, it would relate to parcels that developed to the west of the site in question and west of the bridge. He felt that perhaps the opportunity to create pedestrian access on the south side might occur in the future. City Planner Charlie Kuester recalled that the City Council had, in the past, approved a sidewalk deferral if installation of sidewalk was premature at that time due to the topography of the land. However, in this case, a waiver was requested because it was felt that a sidewalk would never be useful since there was no sidewalk on the south side of the bridge and pedestrians would have to cross over to the north side anyway.

Council Member Wacha asked if painting of the crosswalk was planned at the point where the sidewalk ends. Planner Anderson said that would be done.

Mr. Goodman asked if the waiver could come back to Council separately after staff had a chance to research and report back to Council on how similar waivers or deferrals had been handled in the past. Assistant City Manager Kindred advised that staff would review past sidewalk waiver requests to ascertain past practice. He also noted that the abatement agreement would be coming back to Council; however, it has a finite life span. City Attorney Doug Marek emphasized that the property tax abatement agreement would not run with the land beyond the time when all the abatement conditions had been fulfilled. If the City Council planned to require sidewalk installation upon future development, it would need to approve and record a separate covenant or agreement pertaining to the applicable lot. He told the Council members that if that was their desire, they should so direct staff to prepare a separate agreement to deal with that issue.

Council Member Szopinski expressed her concerns about approving a waiver not knowing how much development might occur in this area in the future. If the road's usage increases significantly, it becomes a bigger safety issue for pedestrians to cross it.

Council Member Larson said it was his understanding that the real issue was that there is no lane across the bridge on the south side. Tracy Warner explained a similar situation that had occurred when there was no sidewalk on the east side of South Dakota Avenue. The bike path was on the west side, and pedestrians needed to cross mid-block. She stated that if the area in question develops to such an extent that traffic increases significantly, the City could potentially look at adding a cantilevered pedestrian bridge off the existing bridge; however, it would be costly. She cautioned that the topography is not conducive to a sidewalk being installed in the area in question.

Council Member Goodman offered his opinion that the road will continue to develop. He felt the City would be asking very little of the developer to include the requirement to install sidewalks on the south side when warranted.

Moved by Davis, seconded by Larson, to adopt RESOLUTION NO. 12-516 approving the Preliminary Plat for Deery Subdivision conditioned on:

- a) The preparation of easement documents for all public utilities in the proposed subdivision for submittal with the Final Plat.
- b) The acceptance of the “Floating Future Stormwater Drainage Easement”, in conjunction with approval of the Preliminary Plat for Deery Subdivision.
- c) Approval of a request for a waiver from the requirement for construction of a sidewalk on the south side of the right-of-way for S.E. 16th Street next to proposed “Outlot A”, as specified in Section 23.403(14)(a) of the *Municipal Code*, in conjunction with approval of the Preliminary Plat.
- d) The required sidewalk along the frontages of Lots 1, 2, and 3 shall be installed per the standard sidewalk agreement submitted with the Final Plat Application. This agreement will require sidewalk construction prior to occupancy of structures on each lot as they develop.
- e) The construction of handicapped ramps facilitating pedestrian crossing from the sidewalk on the south side of S.E. 16th Street to the multi-use path on the north side of the street at the end boundary of Outlot A, at the time of construction of the sidewalk along the street frontage of Lot 1. This includes construction of handicapped ramps by the developer on both sides of S.E. 16th Street.

Council Member Goodman said that he would be willing to approve the waiver if it included the owner to install sidewalk in the same manner that is required for any other development in the City (sidewalk on the frontage), but where, at the present time, there is no connection.

City Attorney Marek said that could be accomplished either by an assessment being levied against the property owners for the sidewalk, by an agreement not to contest a future assessment, or by the owner filing a bond or cash escrow filed with the City as security to perform such work if it is deemed warranted in the future.

Moved by Goodman, seconded by Szopinski, to amend the motion to condition the waiver on a signed Agreement that would run with the land in perpetuity by the property owner not to contest any future assessment for construction of a sidewalk if a connection ever becomes available at the bridge for the piece of sidewalk being waived at this meeting.

Council Member Larson said that he was opposed to approving that condition into perpetuity. He felt that, over the period of time that it takes to develop in the area, it becomes less and less the responsibility of the Deerys when other property owners could also be developing in the area in question. Mr. Larson said he would not be opposed to the condition being in place during the period of abatement. It was emphasized by Mr. Larson that Outlot A was basically unusable land that was basically included to satisfy the City’s requirements for flood mitigation. Outlot A does not have a commercial use.

Council Member Davis said that he did not foresee the City installing a cantilevered bridge on the south side at any time in the future; therefore, he did not see the amendment as a viable motion.

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

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

LAND USE POLICY PLAN (LUPP) AMENDMENT FOR 2008-24TH STREET: City Planner Charlie Kuester reported that the First Evangelical Free Church, as the property owner, and Northcrest Community, as the applicant, submitted a letter to the City Council on June 7, 2012, requesting a LUPP Map change from “Low-Density Residential” to High-Density Residential for 4.80 acres of land located at 2008-24th Street. On July 10, 2012, the City Council directed staff to process the request as a Minor Amendment. If the LUPP Map change and rezoning are approved by the City Council, it is the intention of Northcrest to purchase the subject property and consolidate it with its existing property into a single parcel of land. The applicant anticipates no adverse impacts on the surrounding properties and envisions less traffic and noise than is presently the case with use of the property for church events. The applicant also asserts that redevelopment of the church site with single-family homes in a low-density residential zoning district would require the extension of public streets and utilities.

Mr. Kuester stated that staff had reviewed the LUPP Goals and Policies and could not find anything inconsistent with the request. He noted that the existing development around the site provides for effective transitioning between the proposed high-density land use and the abutting low-density zone. If the current development pattern of Northcrest were extended onto the subject site, it would significantly increase the on-site open space and landscaped areas, which would also provide areas for on-site storm water infiltration. Staff believes that the requested land use change would be a logical extension of the high-density residential land use designation and would transition well to surrounding high-density residential land use designation. If the land use designation is changed to High-Density Residential, but the subject property is not developed as senior housing, apartment buildings could be constructed at the site in question if the zoning were to be changed to Residential High Density. If that is a concern to the Council, it could approve the LUPP Map change with restrictions.

According to Mr. Kuester, the Planning and Zoning Commission, at its meeting of September 5, 2012, unanimously recommended approval of the LUPP Map change from Low-Density Residential to High-Density Residential. The Commission had also been presented with the option of approving a Conditional LUPP Amendment; however, chose not to recommend that option.

Planner Kuester told the Council members could, if they felt there was the potential of apartments being constructed on the site in question if the sale to the Northcrest Community did not occur, they could approve a Conditional LUPP Amendment with a limitation on the uses. As an alternative, the condition could be placed at the time when rezoning is requested.

Council Member Orazem asked for staff’s recommendation to allow the change to High-Density Residential with restrictions. Mr. Kuester told the Council what healthcare uses would be allowed in High-Density Residential (RH) and Medium-Density Residential (RM). He noted that

the RM would require a Special Use Permit from the Zoning Board of Adjustment (ZBA) any time a new building was constructed or another activity was planned for the property. It would constitute spot-zoning if the parcel were zoned RM. Staff believed that keeping the existing designation for Northcrest properties and extending it to the new property parcel would be the most appropriate approach.

Council Member Larson recalled that when the referral was initially made, it appeared that Northcrest did not really have a need to be zoned RH based on its current density. He inquired if it would be possible to rezone the RH portion to RM. Mr. Kuester said that it would be possible; however, any changes in use for any new buildings constructed in the new parcel would require approval of the Zoning Board of Adjustment. There would be a limit on building height in the RM. Mr. Larson pointed out that, from a land use standpoint, the current Northcrest development is not high-density now.

Planner Kuester advised that one of the options would be to place conditions on the development at the time of rezoning, e.g., height restriction.

Dave Miller, President of Northcrest, Inc., advised that Northcrest had entered into a Purchasing Agreement, placed a sizeable security deposit down, and has funds available to be able to execute the Agreement; that Agreement is contingent on the LUPP Map change and rezoning being approved. Mr. Miller said that he had not reviewed the regulations of Residential Medium-Density; however, Northcrest's intent is to co-join the properties, which would be under the ownership of Northcrest. If the LUPP Map change is approved, Northcrest planned to proceed with its rezoning request for the new parcel to RH. Mr. Miller told the Council that this was not a "maybe project." Once approved by the City, Northcrest would begin progress payments to the Church; that is part of the deal to give the Church capital to move on to its next phase of construction at its new location. Mr. Miller emphasized that the Church and Northcrest are both committed to the process.

At the inquiry of Council Member Szopinski, Planner Kuester explained that conditions could be placed on approval of a rezoning request or a Developer's Agreement; however, any Developer's Agreement would be acted upon at the same time as the rezoning request. Ms. Szopinski asked if the Developer's Agreement could specify that the property could only be used as a senior housing development. Mr. Kuester reported that the Developer's Agreement would be signed by the owner, and it could be very specific as to use so as to ensure there would be no incompatible uses. He reiterated that that would be done at the time of rezoning.

Council Member Goodman wanted to know if the Church and Northcrest could wait until staff could review the existing Northcrest development to see if it would fit more appropriately under RM zoning. Mr. Kuester noted that notice had been published and acted on by the Planning & Zoning Commission for only the Church site at 2008-24th Street. Mr. Miller stated his concern that if the Church property were to be Residential Medium Density, it would then make Northcrest a legally non-conforming property. He is unsure what that would mean for them in the future.

Mayor Campbell asked staff how long it would take for staff to analyze whether RM would be a better fit for the existing Northcrest property as well as the new parcel. Mr. Kuester said that staff would look at the existing site plans for Northcrest and determine if they would be compliant with RM; that would take a week to ten days. He noted that some of the existing

buildings might be close to the 50-foot height limit, which is the limit in the RM Zone. Planner Kuester reiterated that notice had been published for only the Evangelical Free Church site. If Council wanted to down-zone the existing Northcrest property, the process for a LUPP Map change would have to be followed. Council Member Larson said that he did not want to “muddy the waters,” but wanted to ensure that the subject property would be redeveloped only as part of the Northcrest senior housing development.

Council Member Larson asked for assurances that the Council would have the option to review and ensure that any agreement will state the specific uses that are compatible with the current uses of Northcrest, e.g., senior housing. City Attorney Marek said that if the Council approved the LUPP Map amendment for the subject parcel, it could still condition any rezoning on the Development Agreement to lock in the uses or building type.

City Attorney Marek advised the Council that it could approve the rezoning with the requirement that the subject property would be redeveloped only as part of the Northcrest senior housing development. He pointed out, however, that approval of the requested Land Use Policy Map change does not force the Council to approve the rezoning request.

Moved by Larson, seconded by Orazem, to adopt RESOLUTION NO. 12-519 approving an amendment to the LUPP Future Land Use Map to change the land use designation of the property at 2008-24th Street from Low-Density Residential to High-Density Residential.

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

Moved by Goodman, seconded by Larson, to direct staff to work with the applicant at the time of its rezoning application to include conditions that would mirror the existing uses by Northcrest.

Roll Call Vote: 5-0-1. Voting aye: Davis, Goodman, Larson, Orazem, Szopinski. Voting nay: None. Abstaining due to a conflict of interest: Wacha. Motion declared approved.

DEER POPULATION RESEARCH CAMERAS/SENSORS ON CITY-OWNED PROPERTY:

Moved by Orazem, seconded by Davis, to adopt RESOLUTION NO. 12-520 approving the placement of research cameras and sensors on City-owned property as part of an ISU animal ecology research project on deer population.

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

Council Member Szopinski requested that signage be placed at the entrance to the park to indicate the area is under surveillance. Assistant City Manager Kindred indicated that that would be done by staff.

TEMPORARY WAIVER OF PARKING REGULATIONS FOR DISPLAY OF CLASSIC CARS:

Moved by Davis, seconded by Wacha, to adopt RESOLUTION NO. 12-521 approving the temporary suspension of Municipal Code Section 18.15 to allow parking in front yards for a Classic Car Showcase at Iowa State University Greek fraternities and sororities only, on September 29, 2012, during the hours of 8 AM to 10 PM using the following criteria:

1. Application should display the waiver on site.
2. A car show should provide advance publicity or a publicity plan in its application.
3. Vehicles must clearly be positioned for display, not for parking. Cars must be available for public viewing during the proposed time.
4. Public visitors must be allowed.
5. Fire lanes and emergency access must be planned and maintained.
6. Approval lasts for one specific time period, typically on weekends and ending at 8 PM, or if later, at a specified time related to the conclusion of festivities.
7. Cars to be displayed must be more than the individual vehicles licensed to the property owner or tenant. Applicant must list the number of cars that are proposed for each participating property - the maximum number displayed shall be part of the approval and vehicles in excess of this number may be cited for front-yard parking.
8. The approval specifically excludes front-yard storage, front-yard convenience parking, and sale of front-yard parking spots.

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

ENGINEERING SERVICES AGREEMENT RELATED TO UV DISINFECTION SYSTEM CONSTRUCTION AT WATER POLLUTION CONTROL FACILITY: Moved by Goodman, seconded by Davis, to adopt RESOLUTION NO. 12-522 approving an Engineering Services Agreement with Stanley Consultants of Muscatine, Iowa, for construction phase services related to UV Disinfection System Construction Project at the Water Pollution Control facility.

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

STEAM TURBINE NO. 8 OVERHAUL: Moved by Davis, seconded by Wacha, to adopt RESOLUTION NO. 12-523 approving preliminary plans and specifications for Steam Turbine No. 8 Overhaul; setting October 31, 2012, as bid due date and November 13, 2012, 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.

RESIDENT SATISFACTION SURVEY: Public Relations Officer Susan Gwiasda presented highlights from the results of the City's 30th Annual Resident Satisfaction Survey. The Survey was sent to 1,350 Ames residents and 1,000 Iowa State University students. Ms. Gwiasda stated that a total of 470 surveys were returned, which was a 21% response rate. According to Ms. Gwiasda, 97% of the respondents gave the City "good" or "very good" rankings.

Council Member Goodman noted that 63% of the respondents wanted to spend more on bike paths. He asked that a question be included in next year's Survey asking respondents how they get to work. Ms. Gwiasda said that she would make note of that for next year's Survey.

It was noted that fewer students participated in the 2012 Survey than in past years. The Surveys were emailed to ISU students after Spring Break; however, that time is also close to finals. Ms. Gwiasda also reported that many of the students did not finish the 12-page Survey. *Ex officio* Member Baker suggested that a short-form be developed along with the long-form.

Referring to the new question about economic development preferences, Council Member Larson noted that there is an approximate two-block stretch on West Lincoln Way where probably 75% of the commercial buildings are currently unoccupied. He suggested that that area be emphasized. Ms. Gwiasda said she would also make note of that as a possibility for next year's Survey.

HEARING ON ZONING ORDINANCE TEXT AMENDMENT TO ADD FIREARM SALES AS A PROHIBITED HOME OCCUPATION:

Planner Kuester stated that, on April 25, 2012, the Zoning Board of Adjustment approved an application for a Home Occupation for home-based firearm sales. The Zoning Board of Adjustment determined that, in this case, it did not distinguish among the type of retail sales by type of merchandise, so the application was treated as any other retail request and approved under the Ordinance. At that time, the Board heard multiple concerns from neighboring residents who felt that the proposed use was a safety issue. The Board approved the Home Occupation with conditions that included such items as: the business operating only by appointment during specific restricted hours, that the address of the business not be listed in advertising, that no ammunition sales be permitted as part of the business, that proof of federal firearms licensing be provided, and that the City be able to monitor appointment logs and gun transfers upon request. The approval by the Board was granted for one year only; should the owner wish to continue his home occupation after expiration, a new application would be required to be submitted for review under the then-existing Zoning Ordinance. Therefore, if the proposed text amendment is approved, the applicant would not be allowed to obtain a renewed home occupation permit for this use.

According to Mr. Kuester, the list of stipulations on the approval was an effort to mitigate and monitor the concerns of the residents. The Zoning Board of Adjustment recommended to the residents that they raise their concerns with the City Council should they wish to request an amendment to the ordinance to list firearm sales as a prohibited use as a Home Occupation. On April 30, 2012, after approval of the home occupation, the City received a formal request from John and Kitty Lamont requesting that the City Council add "residential gun sales" to the prohibited list of businesses for home occupation permits. The City Council, at its May 8, 2012, meeting, referred the request to staff to address firearm sales as a prohibited use as a Home Occupation.

Mr. Kuester advised that Section 29.1304 of the Zoning Ordinance has the stated intent to "protect residential areas from potential adverse impacts of activities defined as home occupations; to permit residents of the community a broad choice in the use of their homes as a place of livelihood in the production or supplementing of personal/family income; to restrict incompatible uses; to establish criteria and develop standards for the use of residential structures or dwelling units for home occupations." He noted that the Zoning Ordinance currently does not list firearm sales as either a permitted, special permitted, or prohibited home occupation. The uses specifically prohibited in Section 29.1304(1)c as home occupations are listed as follows:

- (I) Animal hospitals;
- (ii) Dancing studios or exercise studios;
- (iii) Private clubs;
- (iv) Restaurants;
- (v) Stables and kennels; and
- (vi) Repair or painting of motor vehicles, including motorcycles.

According to Mr. Kuester, consistent with the City Council referral, staff was proposing that the text amendment add a line item to Section 29.1304(1)c designating firearm sales as a prohibited home occupation.

It was relayed by Mr. Kuester, that at its meeting of September 5, 2012, the Planning and Zoning Commission heard public comment regarding the neighborhood concerns for having firearm sales as an allowed home occupation. Public comment was also voiced on behalf of the current resident who was approved by the ZBA for a Home Occupation permit for firearm sales. The Planning and Zoning Commission made three motions, two of which failed on 2 to 4 and 3 to 3 votes, and the third of which failed due to lack of second. While the Planning and Zoning Commission submits no formal recommendation to the City Council, they suggested that the City Council review the conditions of the previously approved Home Occupation Permit along with comments from the Planning and Zoning Commission meeting.

At the inquiry of Council Member Davis, Mr. Kuester advised that the reason this home business came to staff's attention in the first place was because Mr. Seaton needed a Federal Firearms License (FFL). That License requires that the licensee meets local zoning ordinance regulations. It was noted by Planner Kuester that firearms sales occur through other means, e.g., eBay, Craig's List; however, if those are not being done through a FFL, the City might not ever know about it.

Mayor Campbell opened the public hearing.

Greg Seaton, 4809 Utah Drive, Ames, told the Council that he was the one who has the approved firearms business in his home. Mr. Seaton stated that most everything he does is via the phone or the Internet; sales are handled dealer-to-dealer. He said that he has a minimum number of guns on location. There are not safety issues because no ammunition is shipped with the guns. If he does have any firearms on location, they are placed in a safe in his residence. It was pointed out by Mr. Seaton that he has applied for and been granted a Federal Firearms License by the proper authorities; he has followed all the rules and the conditions placed on him.

Mr. Seaton alleged that his business "leaves no footprint whatsoever;" it is not intrusive to the neighborhood. He advised the Council that he pays Sales Tax, which ultimately comes back to the City of Ames. Mr. Seaton urged the City Council not to add firearms sales to the list of prohibited home occupations. He contended that he had followed all the rules and regulations, and it was his belief that he would be penalized personally if firearms sales were added to the list of prohibited home occupations. Mr. Seaton expressed his opinion that approval or denial of such home occupations should be handled on a case-by-case basis.

Council Member Wacha asked to know the approximate volume of sales. Mr. Seaton answered that two to three people come to his property per month; the rest of the time it is handled by phone, Internet, or email. He speculated that he would have two to three new sales per month. He has a safe where the guns would be put between the time they are delivered by FedEx or UPS and picked up by or sent to the buyer.

Council Member Szopinski asked if Mr. Seaton anticipated his business growing. He replied that he hoped that it would, but he doesn't know for sure. Council Member Larson noted that there was, however, nothing that would prohibit a much larger operation. Mr. Seaton said that if his business grows, he would move to a commercial location.

Mr. Seaton said he believes that this situation turned into a “neighborhood dispute” and he had “been singled-out personally.” He did not want his livelihood to be affected by something that was of a personal nature and should not have made it to the City Council in the first place. Council Member Larson asked Mr. Seaton if firearms sales was his main livelihood, to which he replied it was not. Mr. Seaton said it was his hobby at this time. Council Member Szopinski offered her opinion that she did not see this as being personal against Mr. Seaton; to her, it was about the product. Mr. Seaton said that he had only had one neighbor ask him about the business. It was contended by Mr. Seaton that there is only one side of the story being told; that is from the people who are against his business. He told the Council that there had never been any issues or complaints with a firearms home business; to add it to a list of prohibited home occupations is penalizing him and others for something that had not happened and may not ever happen.

John Lamont, 1005 Idaho Avenue, Ames, repudiated some of the comments made by Mr. Seaton. Mr. Lamont reported that he had been informed that Ames is the only city in the region that allows home firearms sales as a business. He stated that licensing is done by the Bureau of Alcohol, Tobacco, and Firearms (ATF); that agency does the permit tracking. The Bureau of Alcohol, Tobacco, and Firearms has 600 inspectors, but there are 115,000 Federal Firearms Licenses (FFL) by private individuals. The average inspection time is once every ten years.

Mr. Lamont relayed comments he had heard from affected neighbors. Contact was made with 73.5% of the 102 homes in Spring Valley. Ninety-seven (97%) of those homeowners (127 signatures) was opposed to allowing this type of business in residential neighborhoods. Mr. Lamont stated that the persons who signed the petition as being opposed feel that gun dealerships - not private collectors - belong in commercial locations, not residential areas. They requested that gun sales be prohibited.

John (Jack) Whitmer, 1030 Oklahoma Drive, Ames, noted that Ames has a good comprehensive plan dictating what uses are allowed in different zones. There is a process in place to deal with requests for uses not specifically allowed. Mr. Whitmer contended that there are many locations in Ames where businesses may be located. He noted the stipulations that had been placed on Mr. Seaton’s home firearm sales. Mr. Whitmer urged the Council to add firearm sales as a prohibited home occupation. Council Member Goodman asked Mr. Whitmer if he had noted any impacts on the neighborhood from this home occupation. Mr. Whitmer said the issue for him was how much the City should open up single-family neighborhoods to any possible businesses.

Deborah Blaedel, 900 Idaho Avenue, Ames, said she does not see FedEx or UPS as secure ways to deliver firearms, as the shipment could be left outside the home. Ms. Blaedel emphasized that guns are not safe in the wrong hands. She believes that it is important to prohibit home gun sales to her neighborhood.

Steven Herrnstadt, 909 Idaho, Ames, pointed out that this is not a 2nd Amendment issue; it is a neighborhood issue. Mr. Herrnstadt said that it is not about Mr. Seaton personally. He is mainly concerned about the lack of regulations of this type of business. Mr. Herrnstadt alleged that the impact on this family-oriented neighborhood is not so much additional traffic as it is emotional and perception.

At the inquiry of Council Member Orazem, Planner Kuester advised that there are seven businesses listed as operating in Ames with FFLs per the ATF Website. Mr. Kuester said that it is not known if they are active or not. If they are, they are operating illegally without a Home

Occupation Permit. Council Member Larson is concerned that the City does not know about the other similar residential firearm businesses; therefore, they are not being regulated.

Council Member Wachal noted that the current Ordinance is based on tangible residential issues, e.g., traffic. He feels, however, that there is a very valid issue with perceptions; to him, perceptions play a very important role. Mr. Wachal contended that there are valid safety concerns in this case, be it perception or not.

Council Member Davis said he has known many people who have had very successful businesses out of their homes. He did not want all home occupations to be banned.

Council Member Szopinski pointed out that regulations are placed on home occupations for a reason, and staff should check on them.

Planner Kuester provided the chronological history of this case from the date of application for a home occupation by Mr. Seaton. The Home Occupation Permit has been granted for a period of one year. Mr. Kuester clarified that delivery carriers may not leave a gun that is being shipped from a wholesaler or retailer to a home or property; it must be signed for by a resident of the home, age 21 or older. He also explained the requirements that would have to be met if the business were located in a commercial zone.

No one else came forward to speak, and the Mayor closed the hearing.

Moved by Szopinski, seconded by Orazem, to pass on first reading an ordinance to add firearm sales in Section 29.1304(1)c Prohibited Home Occupations.

Council Member Goodman said that he is struggling with this decision because of perceived safety issues without data to support them.

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

The meeting recessed at 9:38 p.m. and reconvened at 9:43 p.m.

HEARING ON PROPOSAL TO LEASE SPACE FOR TEMPORARY RELOCATION OF AMES PUBLIC LIBRARY: The public hearing was opened by Mayor Campbell. She closed same after no one asked to speak.

Moved by Szopinski, seconded by Larson, to adopt RESOLUTION NO. 12-524 approving the Lease with Midwest Centers, L.P. at Lincoln Center for temporary relocation of Ames Public Library.

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

VACATING OF ALLEY WEST OF AMES PUBLIC LIBRARY: The Mayor opened the hearing. No one came forward to speak, and the hearing was closed.

Moved by Davis, seconded by Goodman, to pass on first reading an ordinance vacating the alley west of the Ames Public Library.

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

HEARING ON 2011-12 CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER): The public hearing was opened by Mayor Campbell. No one asked to speak, and the Mayor closed the hearing.

Moved by Goodman, seconded by Davis, to adopt RESOLUTION NO. 12-525 accepting the CAPER pursuant to the Housing and Community Development Act.

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

HEARING ON MAINTENANCE FACILITY ENERGY EFFICIENCY PROJECT - HVAC IMPROVEMENTS: Mayor Campbell opened the public hearing. After no one came forward to speak, the Mayor closed the hearing.

Moved by Davis, seconded by Goodman, to adopt RESOLUTION NO. 12-526 approving final plans and specifications and awarding a contract to Neighbors Heating, Cooling and Plumbing of Ames, Iowa, in the amount of \$97,440.

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

HEARING ON 2008/09 AND 2009/10 SKUNK RIVER TRAIL EXTENSION (HUNZIKER YOUTH SPORTS COMPLEX TO SOUTHEAST 16TH STREET): The public hearing was opened by Mayor Campbell. No one requested to speak, and the hearing was closed.

Moved by Wacha, seconded by Goodman, to adopt RESOLUTION NO. 12-527 approving final plans and specifications and awarding a contract to Con-Struct, Inc., of Ames, Iowa, in the amount of \$252,409.75.

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

HEARING ON SOUTH DUFF AVENUE/SOUTHEAST 16TH STREET FRONTAGE ROAD REHABILITATION: The hearing was opened and closed by Mayor Campbell when no one asked to speak.

Moved by Davis, seconded by Goodman, to adopt RESOLUTION NO. 12-528 approving final plans and specifications and awarding a contract to Manatt's, Inc., of Brooklyn, Iowa, in the amount of \$73,333.00.

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

ORDINANCE PROHIBITING PARKING ON WEST SIDE OF ASH AVENUE: Moved by Davis, seconded by Goodman, to pass on first reading an ordinance prohibiting parking on the west side of Ash Avenue from a point 460 feet south of the south line of Country Club Boulevard to Mortensen Parkway.

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

Municipal Engineer Warner stated that Ash was narrowed when the bike lanes were added, and there is no longer room for vehicles to park on both sides. Since parking is currently not prohibited, cars continue to park on both sides, which creates a safety issue. Ms. Warner advised that neighbors had not been individually contacted; however, many neighborhood meetings were

held, and there were no objections voiced to the traffic-calming measures and construction of bike lanes.

Moved by Davis, seconded by Larson, to suspend the rules necessary for the adoption of an ordinance.

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

Moved by Davis, seconded by Goodman, to pass on second and third readings and adopt ORDINANCE NO. 4124 prohibiting parking on the west side of Ash Avenue from a point 460 feet south of the south line of Country Club Boulevard to Mortensen Parkway.

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

ORDINANCE TO ALLOW LIMITED RESIDENTIAL USES ON FIRST FLOOR IN DOWNTOWN SERVICE CENTER (DSC) ZONE: Moved by Goodman, seconded by Davis, to pass on second reading an ordinance to allow limited residential uses on the first floor in Downtown Service Center (DSC) Zone.

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

COUNCIL COMMENTS: Moved by Wacha, seconded by Davis, to refer to staff the letter from Heartland Senior Services dated September 12, 2012, pertaining to an extension of lease for building at 205 South Walnut.

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

Moved by Davis, seconded by Orazem, to refer to staff for a report on the request contained in the letter from Steve Burgason (on behalf of Verle and JoAnn Burgason) dated September 19, 2012, and letter from Brad Stumbo dated September 5, 2012, requesting a waiver of LUPP density requirements for property located at 3618 Cedar Lane.

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

Council Member Orazem asked Water & Pollution Control Director John Dunn to comment on the request of the City of Kelley to purchase water from Ames. Mr. Dunn advised that it would not be of exceptional benefit to the City of Ames.

Moved by Orazem, seconded by Goodman, to direct staff to prepare a short report to the City Council with a proposed response to the City of Kelley on its request dated September 13, 2012, that Ames consider connecting to and supplying water from the City to the City of Kelley.

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

Council Member Orazem noted that he had recently attended the Riverside Neighborhood Association picnic and been asked if bicyclists had the right-of-way at intersections. An avid bicyclist had stated that the legal requirement is for the bicyclist to get off the bicycle, walk it across the intersection, and then get back on it and continue riding on the bike route. He wanted to know if that was true and why bicyclists would not have the same rights as pedestrians.

Moved by Orazem, seconded by Goodman, to request information from staff as to whether bicyclists are to stop at intersections and walk their bicycles across the street.

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

ADJOURNMENT: Moved by Davis to adjourn the meeting at 10:02 p.m.

Diane R. Voss, City Clerk

Ann H. Campbell, Mayor