

## MINUTES OF THE REGULAR MEETING OF THE AMES CITY COUNCIL

AMES, IOWA

JUNE 25, 2013

Mayor Pro-Tem Jami Larson called the Regular Meeting of the Ames City Council to order at 6:00 p.m. with Council Members Jeremy Davis, Matthew Goodman, Victoria Szopinski, and Tom Wacha present. *Ex officio* Council Member Alexandria Harvey was also present. Mayor Ann Campbell and Council Member Peter Orazem were absent.

### **PRESENTATION OF CONCEPT PLAN FOR PHASE III OF THE RESEARCH PARK:**

Dr. Steven Leath, President of Iowa State University (ISU), commented on the successful partnership that exists between the City and the University, and specifically noted the importance of that partnership as it related to the Research Park. According to President Leath, the Park has grown to contain over 230 acres and currently employs over 1,200 people. He said that it is now at the point where discussions need to occur concerning its future growth. President Leath stated that expansion of the Park will require a sizable investment in effort, time, land, resources, and money; however, will yield significant results in the form of good-paying jobs, great opportunities for students to have internships and eventually jobs, allow additional innovative companies to grow here, and provide additional tax revenue for the City of Ames. He also advised that the Iowa Legislature had recently provided, and the Governor approved, the first significant investment in the Research Park for quite some time, i.e., fully funding the construction of an economic core facility in the center of the Park.

Steve Carter, President of the Iowa State University Research Park Corporation, presented a detailed history of the Park since it began in 1986. He stated that the Park had been a model of economic success in its 25-plus years track record. Currently, the Park consists of over 450,000 square feet of multi-tenant space. There are 60 tenants. Another approximately 40 companies have moved out of the Park, mostly eventually locating in Central Iowa. Mr. Carter listed several of the Park's current tenants and highlighted their major achievements.

The process of developing a plan for Phase III of the Research Park was summarized by Mr. Carter. An overview of the Master Plan for Phase III of the Research Park was given. It will add another 1,000,000 square feet of space and could accommodate an additional 3,000 employees. Mr. Carter described the next steps necessary to be taken to move Phase III of the Park forward.

At the inquiry of Council Member Goodman pertaining to whether the Research Park was property-tax-exempt, City Manager Schainker advised that one of the stipulations of the Development Agreement was that all entities would be assessed property taxes. Mr. Carter advised that \$17,000,000 had been paid to-date out of the Park's operating revenues.

At the request of Council Member Wacha, Steve Carter explained the need for state-of-the-art facilities that have the type of environments that will attract the kinds of employees that they need. Those types of companies are competing on a national and/or international basis to bring employees to Ames.

Mayor Pro-Tem Larson recognized Story County Board of Supervisors Wayne Clinton, Rick Sanders, and Paul Toot who were also present. President Leath defined the "Hub" at the request of Supervisor Sanders. Mr. Sanders also inquired if Phase III of the Research Park would impact the Ames Airport. Responding, President Leath acknowledged the value of the Research Park being located next to an airport and a conference center. It was also asked by Supervisor Sanders

if there would be a commercial center, e.g., restaurants, allowed in or near Phase III of the Park. According to President Leath, discussions are ongoing regarding that question. Story County Supervisor Clinton expressed his appreciation that Story County was included in the beginning of the process for Phase III. Story County Supervisor Toot agreed and noted that economic development anywhere in Story County was beneficial.

**CONSENT AGENDA:** Mayor Pro–Tem Larson noted that staff had pulled Item No. 18, which was approval of the contract and bond for Power Plant Maintenance Services by staff.

Mr. Larson asked to pull Item 16, which pertained to HIRTA for Dial-A-Ride services, and Item No. 23, a Change Order for the Energy Resource Options Center.

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 June 11, 2013
3. Motion approving Report of Contract Change Orders for June 1 - 15, 2013
4. RESOLUTION NO. 13-278 approving appointment of Council Member Tom Wacha to the Ames Economic Development Commission Board of Directors
5. RESOLUTION NO. 13-279 approving 2013/14 Pay Plan
6. RESOLUTION NO. 13-280 approving Intermodal Facility Commercial Tenant Lease with Executive Express
7. RESOLUTION NO. 13-281 setting date of public hearing for vacation of a public utility easement at 2825 East 13<sup>th</sup> Street
8. RESOLUTION NO. 13-282 approving Professional Services Agreement with Veenstra and Kimm of West Des Moines, Iowa, in an amount not to exceed \$144,400 for design of biosolids storage tank for Water Pollution Control
9. 2013 Department Bureau Justice Edward Byrne Memorial Justice Assistance Grant (JAG) Program:
  - a. Motion approving submission of Grant application
  - b. RESOLUTION NO. 13-283 approving Memorandum of Understanding with Story County for disbursement of funds
10. RESOLUTION NO. 13-284 approving Memorandum of Understanding with McFarland Clinic for Pedestrian Crossing Flashers
11. RESOLUTION NO. 13-285 approving Addendum to Municipal Airport Fixed Base Operator Contract
12. RESOLUTION NO. 13-286 awarding contract to Stuart C. Irby Company of Fort Dodge, Iowa, in the amount of \$160,000 plus applicable sales taxes for Padmounted Switchgear for Electric Services
13. RESOLUTION NO. 13-287 approving contract to Electronic Engineering Co., of Ames, Iowa, to provide 800 MHZ Trunked Radio Equipment, Pagers, & Related Equipment and Services for City departments from July 1, 2013, through June 30, 2015
14. RESOLUTION NO. 13-288 awarding contract to O'Halloran International of Altoona, Iowa, in the amount of \$78,515 for one single-axle truck chassis
15. RESOLUTION NO. 13-290 approving contract and bond for Resource Recovery Plant New Fire Valve Control Room Addition
16. RESOLUTION NO. 13-292 approving contract and bond for 2012/13 CyRide Route Paving Improvements No. 2 (Todd Drive)
17. RESOLUTION NO. 13-293 approving contract and bond for Lime Sludge Disposal Operation

18. RESOLUTION NO. 13-294 approving contract and bond for 2013/14 Resource Recovery Primary Shredder Replacement
19. RESOLUTION NO. 13-295 approving Change Order No. 2 in the amount of \$123,280 with Hooper Corporation for MEC Interconnection 161-kV Line Construction
20. RESOLUTION NO. 13-297 accepting completion of Power Plant Mercury Continuous Emissions Monitor
21. RESOLUTION NO. 13-298 accepting completion of Unit 8 Superheater & Boiler Tube Replacement Project  
Roll Call Vote: 5-0. Resolutions/Motions declared adopted/carried unanimously, signed by the Mayor, and hereby made a portion of these Minutes.

**CONTRACT RENEWAL WITH HEART OF IOWA REGIONAL TRANSIT ASSOCIATION (HIRTA) FOR DIAL-A-RIDE SERVICES:** Mayor Pro-Tem Larson noted that there had been complaints from passengers about HIRTA's services and asked for more information. Assistant City Manager Melissa Mundt said that Transit Director Sheri Kyras had noted in the Council Action Form that CyRide staff had worked with HIRTA staff to address each comment received, and through that discussion, HIRTA had modified its telephone service to improve timeliness of telephone calls, worked with its dispatchers and schedulers to better understand the location of buildings on Iowa State University's campus, provided additional training to dispatchers/schedulers on the difference between DAR service and HIRTA's own programs, and adjusted staffing to address service concerns. Since January 2013, the number of customer complaints had been reduced dramatically from several complaints per week to an average of fewer than one per month.

Moved by Larson, seconded by Goodman, to adopt RESOLUTION NO. 13-289 approving the contract renewal with Heart of Iowa Regional Transit Association (HIRTA) for Dial-A-Ride services.  
Roll Call Vote: 5-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these Minutes.

**CHANGE ORDER NO. 3 FOR THE ENERGY RESOURCE OPTIONS STUDY:** Mayor Pro-Tem Larson asked Electric Services Director Kom to explain the need for the Change Order. Director Kom explained that to study the City's Steam Electric Plant's units to determine what specifically must be done to modify them so that their historical generating output is retained requires detailed analyses and engineering of the units' equipment and structures, well beyond the study's original scope of work. For this reason, the third change order is now needed to study two additional cases whereby Unit 7 & Unit 8 would continue to burn historical fuels (coal, RDF, and fuel oil), in compliance with existing and anticipated environmental regulations, and without degrading their output. Mr. Kom defined the two additional cases. The estimated cost for this engineering work requested in Change Order 3 is not to exceed \$89,700.

Moved by Larson, seconded by Goodman, to adopt RESOLUTION NO. 13-296 approving Change Order No. 3 in an amount not to exceed \$89,700 for the Energy Resource Options Study.  
Roll Call Vote: 5-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these Minutes.

**PUBLIC FORUM:** Richard Dao, 505 Eighth Street, #2, Ames, asked to make his comments during Council Comments, and if that is not allowed, that the Council members vote on his request. Mayor Pro-Tem Larson stated that Mayor Campbell had already addressed that request in the past,

stating that that section of the Agenda is reserved for the City Council Members to make their comments and the Public Forum section is for public input.

Pauline Williams, 1325 Coconino Road, #115, Ames, said that she was not aware that the flowers on graves at the cemetery would be picked up sooner than the date that had been publicized in the newspaper. Ms. Williams said that the public was told that the flowers were to be picked up from the cemetery by the Monday after Memorial Day. She advised that her husband had gone to the cemetery on the morning of the Monday after Memorial Day, and the flowers had already been picked up. Ms. Williams asked to know the opinion of the City Council members as to the City's premature removal of the flowers. She had been told that the flowers were removed because the person who mows the cemetery wanted to mow. Mayor Pro-Tem Larson thanked Ms. Williams for her input and stated that the City will work hard on coming up with a solution.

**FIREWORKS PERMIT FOR JULY 5, 2013:** Moved by Davis, seconded by Wacha, to approve a permit to shoot fireworks from ISU Lot G7 on July 5, 2013, at approximately 9:45 p.m., with a rain date of July 6, 2013, subject to approval from ISU Risk Management.  
Vote on Motion: 5-0. Motion declared carried unanimously.

**CLASS C LIQUOR LICENSE FOR OCCASIONS MADE RIGHT:** Moved by Davis, seconded by Szopinski, to approve a 5-Day Special Class C Liquor License for Occasions Made Right at Reiman Gardens, 1407 University Boulevard.  
Vote on Motion: 5-0. Motion declared carried unanimously.

**ENCROACHMENT PERMIT FOR EMERHOFF'S:** Moved by Davis, seconded by Wacha, to approve an Encroachment Permit for an awning at Emerhoff's, 215 Main Street.  
Vote on Motion: 5-0. Motion declared carried unanimously.

**MIDNIGHT MADNESS ON JULY 13, 2013:** Roman Lynch, dressed as "Captain Midnight," thanked the people of Ames, City Council, and City departments for helping make Midnight Madness a success for the past 27 years.

Moved by Davis, seconded by Wacha, to approve the following:

- a. RESOLUTION NO. 13-299 approving closure of certain streets and parking lots on July 13 and 14, 2013
- b. RESOLUTION NO. 13-300 approving suspension of parking regulations and enforcement from 6:00 p.m. to 11:00 p.m.
- c. Motion approving 5-day Class B Beer Permit and Outdoor Service Area in City Hall Parking Lot N
- d. Motion approving tapping of up to seven kegs at once during post-race party with maximum of 20 kegs total during the evening

Roll Call Vote: 5-0. Resolutions/Motions declared adopted/approved unanimously, signed by the Mayor, and hereby made a portion of these Minutes.

**FOURTH OF JULY PARADE:** Moved by Davis, seconded by Szopinski, to adopt RESOLUTION NO. 13-301 authorizing staff to make additional street closures, if needed, to facilitate the Fourth of July Parade.

Roll Call Vote: 5-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these Minutes.

**HEARING ON 2012/13 ARTERIAL STREET PAVEMENT IMPROVEMENTS (STATE AVENUE):** Mayor Pro-Tem Larson opened the public hearing. There being no one wishing to speak, the hearing was closed.

Moved by Davis, seconded by Wacha, to adopt RESOLUTION NO. 13-302 approving final plans and specifications and awarding a contract to Manatt's, Inc., of Brooklyn, Iowa, in the amount of \$1,143,124.09.

Roll Call Vote: 5-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these Minutes.

**HEARING ON 2012/13 AMES MUNICIPAL CEMETERY IMPROVEMENTS (PAVING IMPROVEMENTS):** The public hearing was opened by the Mayor Pro-Tem. He closed same after no one came forward to speak.

Moved by Goodman, seconded by Davis, to adopt RESOLUTION NO. 13-303 approving final plans and specifications and awarding a contract to Manatt's, Inc., of Ames, Iowa, in the amount of \$65,945.10.

Roll Call Vote: 5-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these Minutes.

**HEARING ON ZONING TEXT AMENDMENT TO ALLOW CONVERSION OF A FORMER SCHOOL BUILDING TO AN APARTMENT BUILDING:** Mayor Pro-Tem opened the public hearing.

Sue Crull, 817 Ridgewood, Ames, representing the neighbors around Roosevelt School, said that they are in favor of starting the process of adaptive reuse of the former school building. According to Ms. Crull, the neighbors are in favor of keeping the building. They feel the plans are very appropriate, and working with the Historic Preservation Commission, the process will be very rewarding for everyone. Ms. Crull said the neighbors believe that bringing 20 owner-occupied dwellings into the neighborhood will be great. She encouraged the Council to approve the ordinance.

After no one else asked to speak, the hearing was closed.

Moved by Davis, seconded by Wacha, to pass on first reading an ordinance to allow conversion of a former school building to an apartment dwelling in the Urban Core Residential Medium Density Zone (UCRM) as a permitted use.

Council Member Goodman questioned the use of the word "apartment" versus "condominium" in the ordinance. He did not believe that there were going to be apartments in the former Roosevelt School building and "owner-occupied" had been specified to the neighbors.

Acting Planning and Housing Director Bob Kindred advised that, in the *Ames Municipal Code*, "apartment" is used in a generic sense to refer to units that could be sold and rented or sold and occupied. Mr. Schainker elaborated that condominium is a legal arrangement that could mean owner-occupied or rented. Mr. Goodman felt that the language was important to the neighbors and hoped that the terminology could be further refined. City Attorney Judy Parks further explained that the *Municipal Code* addresses the type of structure as opposed to the type of

ownership.

Roll Call Vote: 5-0. Motion declared carried unanimously.

**HEARING ON ZONING TEXT AMENDMENT TO ALLOW HIGHER DENSITY IF SPECIFIED IN AN ADAPTIVE REUSE PLAN:** Mr. Larson, Mayor Pro-Tem, opened the hearing.

Sue Crull again spoke on behalf of the neighborhood. She said the neighbors are not concerned that there could be more than 20 units in the building; the density had not been an issue. Their concern is that the units be affordable.

No one else wished to speak, and the hearing was closed.

Moved by Davis, seconded by Wacha, to pass on first reading an ordinance to allow higher residential density if specified in an Adaptive Reuse Plan approved by the City Council.

Roll Call Vote: 5-0. Motion declared carried unanimously.

**HEARING ON REZONING PROPERTY LOCATED AT 4130 LINCOLN SWING:** The public hearing was opened by Mayor Pro-Tem Larson.

Sheryl Parks, 4130 Lincoln Swing, Mobile Home #27, Ames, said that she was present for all the residents of the mobile home park. According to Ms. Parks, the residents had been told that a small portion of the land would remain as low-density residential; however, they have since learned that there was a possibility that the owner was looking at building apartments on the property at some point in time. Ms. Parks said that residents of the mobile home park are very concerned as many own their homes and there is no mobile home park in Ames that will accept them because of the age of their mobile homes. Examples of the living conditions for some of her neighbors were given. She asked what will happen to her and other tenants of the mobile home park and what they can do to save their homes. Ms. Parks said that her aunt and uncle originally owned the park. Her uncle had developed it specifically as a place for low-income families to live. She noted that there are many residents of the mobile home park who are purchasing their homes on contract, believing that they will be able to stay in the mobile home park. According to Ms. Parks, since the rezoning notification sign was posted, outdoor maintenance has started to be done by the property owner. She is very concerned that the mobile home park residents will be told to leave and have nowhere to go. Ms. Parks also said that repairs need to be made to the mobile homes that are being rented; some have no running water to the kitchen and laundry facilities and have large holes in the floor.

Alex Galyon, 121 North Russell, Ames, identified himself as one of the owners and Manager of the GW College Park. Mr. Galyon clarified that he, as one of the applicants, was asking for a 3.86-acre plot on Lincoln Swing to be rezoned to High-Density Residential. According to Mr. Galyon, the land in question is surrounded on the north, west, and east by apartment buildings; on the southwest, by duplexes; and on the southeast, by three or four single-family houses. Approximately 85% of the lot is zoned High-Density Residential and 15% is zoned Low-Density Residential. Mr. Galyon advised that the owners are investigating changing the use of the property from a mobile home park to potentially another type of development. After discussing that with the Planning and Housing Department, he was told that because part of the park was

low-density, the most-restrictive zoning use controls the entire property; therefore, the entire property would have to be used as low-density and could not be redeveloped as high-density.

Mr. Galyon told the Council that the mobile home park had been located at this site since 1972. It is a non-conforming use with both low- and high-density. A new mobile home park could not be established on the site; as mobile home parks are only permitted in the Mobile Home Park regions, which are very limited within the City of Ames.

In an attempt to address Ms. Parks' concerns, Mr. Galyon stated that, at some point, the owners will look to redevelop the mobile home park into High-Density Residential. According to Mr. Galyon, this would best meet the needs for housing in the community. He noted that the University has had to move students out of existing leases into apartments clear out on Mortensen Road. As far as disruptions to the mobile home park tenants, Mr. Galyon said that the current leases are valid until July of next year; they would not do anything, even if the zoning is changed, until next year. He advised that if the zoning is changed, they probably would redevelop the property as High-Density Residential. In the opinion of Mr. Galyon, redevelopment of the mobile home park would be in the best interest of the City. Regarding the alleged conditions of the mobile homes and/or the mobile home park, Mr. Galyon said the mowing began when it was spring. Road patching started in March or April. He said they are trying to maintain the mobile home park and make at least some kind of a reasonable return from their investment.

Council Member Szopinski asked for an explanation of the ownership of the mobile home park and the homes inside the park. Mr. Galyon advised that he is one of the owners of the land on which the mobile homes are placed. He said the park consists of 46 lots and one duplex. One lot is currently vacant. Of the 45 lots, Mr. Galyon and his partner own 23 mobile homes that they rent; there are 13 mobile homes owned outright, and there are nine (9) that are in the process of being purchased from him and his partner. According to Mr. Galyon, if the rezoning request is denied, it will keep the land used as a mobile home park in perpetuity.

Ms. Szopinski said this request was causing her great concern because many lives would be impacted. She pointed out that the current residents are concerned where they could even go if displaced from this mobile home park.

Mr. Galyon committed that, when the time comes, he will work with the park's residents to relocate them. He explained that at this point he is only desiring unified zoning of the land in question. According to Mr. Galyon, he bought the mobile home park seven years ago; at that time, it was in tremendously worse condition than it is now. He could have requested rezoning seven years ago when he first bought the property and told the residents that they had to be moved off the property in two months, which is what the law allows. Mr. Galyon said if and when the owners come to the decision to redevelop the land, he would try to work with the residents of the mobile home park to minimize the impacts on them. He alleged that there are some mobile home parks that would still take some of the mobile homes because they have had some move out to the west side of Ames. It was reported by Mr. Galyon that he would give the residents as much notice as possible; however, he does not even have a development plan at his point.

Mary Kay Litzel, 4130 Lincoln Swing, #5, Ames, noted that she had also spoken at the Planning & Zoning Commission meeting. She said that there was an inaccuracy in the Planning & Zoning

Commission Minutes in that she did not ask for the zoning to be kept as it is, but to change it to what it should have been all along: RLP or mobile home park zoning. Ms. Litzel refuted the comments made by Mr. Galyon that he has greatly improved the mobile home park. She said that the former owner kept the park immaculate, had rules about the exterior and interior, and required strict adherence as to how yards would be mowed and maintained. Ms. Litzel noted that the amenities that are important to apartment dwellers. e.g., located close to Hy-Vee, on CyRide, etc., are why the current residents like to live there. There are those who do not have transportation or are elderly and need to be close to those services. Ms. Litzel pointed out that to have this kind of low-income housing in Ames is very crucial. She asked that the City Council consider this request very carefully because it would really impact the low-income people living in the park.

Martha Olson, owner of property on Beedle Drive east of the property in question, expressed her concerns over the changes that would occur in the neighborhood if a high-rise apartment building were built at 4130 Lincoln Swing, e.g., traffic, additional people. She believes that if the rezoning were to be approved, there would be no stopping the construction of another large apartment building in Ames. Ms. Olson asked that the Council consider how the rezoning of the land would affect the residents of the mobile home park and the residents of the surrounding neighborhood.

Mayor Pro-Tem Larson closed the hearing as no one else requested to speak.

Council Member Goodman asked Attorney Parks if the land in question could be zoned for a mobile home park. Ms. Parks advised that an application would have to be filed first before staff would even consider it. She would have to investigate the requirements; however, because it would likely still be a non-conforming use, staff would probably not be supportive of that kind of change.

It was also asked by Council Member Goodman if requirements could be placed on the rezoning (contract zoning). City Attorney Parks advised that reasonable conditions could be imposed, but would have to be agreed to by the applicant/owner and the City before the closing of the public hearing. Since that has not occurred during this hearing up to this point, the hearing would have to be continued. Also, there are parameters delineated by the *Iowa Code* as to what could be imposed.

Council Member Larson asked if it would be possible to subdivide the land so that an apartment building could be located only on the high-density residential portion of the lot. Planner Karen Marren advised that that would not be allowed under the City's Subdivision Code as there is no street frontage for the portion that is zoned for low-density residential.

Mr. Galyon said that the property owners would be willing to enter into some type of notice, e.g., minimum six months' notice to the tenants. He committed that they would try to give more than that, if possible.

Council Member Szopinski cited her specific concerns about rezoning the property: (1) displacement of the residents, and (2) the issue over what the land should be zoned, i.e., low-density or high-density. Ms. Szopinski believes that there is a need for single-family homes in the community. Mr. Galyon stated that he, as an owner of the land, will not make an application for Low-Density Residential. He alleged that the area is not conducive to the development of single-family homes.

Council Member Wacha said that it makes sense to him to use the land as prescribed in the Future Land Use Map. He believes that is what the Council should be basing its decision on.

Moved by Wacha, seconded by Davis, to pass on first reading an ordinance rezoning property located at 4130 Lincoln Swing from Residential Low-Density (“RL”) to Residential High Density (“RH”).

Council Member Szopinski believes that the Council needs to look at the community as a whole and perhaps consider that Ames has a lot of apartment buildings. This may be an opportunity to look at redevelopment of the land for single-family housing. She said she was pointing this out out of concern for individuals, concern for the future of the City, and the opportunity to bring more single-family, owner-occupied affordable housing into the community. Mr. Wacha noted that the owner of the land had stated that he would not make an application to rezone the area to Low-Density Residential.

Council Member Davis pointed out that the owner could effectively close the mobile home park and, within 60 days, require that the current mobile home owners vacate the land. City Attorney Parks concurred.

Council Member Goodman said he believes that there might be a zoning choice that is more appropriate for the land. He asked that the Council members consider denying the rezoning request and consider something more of a mixed-use type of development for the area.

Citing safety concerns expressed by current residents of the mobile home park, Mayor Pro-Tem Larson asked if the units in the mobile home park were subject to City rental housing inspections. Building Official Seana Perkins said that any mobile homes that are rented are governed by the Rental Code and the City’s inspections process. Mr. Galyon agreed that the units that are rented are subject to City inspections; that comprises approximately 50% of the mobile homes.

Noting that there is an ordinance prepared as part of the hearing, Mayor Pro-Tem Larson asked if that ordinance could be revised if a six-month notice to the tenants were to be required. City Attorney Parks said that it would be best to deny the rezoning request and then move to refer it back to staff to investigate if contract zoning could come back with agreed-upon terms.

Motion withdrawn by Wacha.

City Attorney Parks recommended that the hearing be reopened and then postponed until an agreement had been reached as to the conditions to be imposed on the rezoning.

Mayor Pro-Tem reopened the hearing.

Moved by Goodman, seconded by Wacha, to postpone the hearing until Council hears back from staff on the idea of a six-month notice requirement in the contract zoning on the property.

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

**HEARING ON VACATION OF UTILITY EASEMENTS IN THE FIRST ADDITION OF AMES INDUSTRIAL PARK SUBDIVISION:** Mayor Pro-Tem Larson opened the hearing and closed same after no one came forward to speak.

Moved by Davis, seconded by Wacha, to adopt RESOLUTION NO. 13-304 approving the vacation of utility easements in the First Addition of Ames Industrial Park Subdivision.

Roll Call Vote: 5-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these Minutes.

Moved by Davis, seconded by Wacha, to adopt RESOLUTION NO. 13-305 approving the Final Plat for Mary Greeley Subdivision.

Roll Call Vote: 5-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these Minutes.

The meeting recessed at 8:14 p.m. and reconvened at 8:20 p.m.

**WATER SERVICE TO NORTHERN GROWTH AREAS:** Assistant City Manager Bob Kindred presented the staff report regarding providing water service to the northern growth areas. He stated that one of the problems facing Ames, as a growing community, is that it is surrounded by rural water districts. Mr. Kindred pointed out that Ames wants and needs to grow. When land is annexed into the city limits, the City has a responsibility to provide water service to the annexed lands.

Mr. Kindred referenced a 1996 agreement with Xenia Rural Water District whereby Xenia gained the right to provide water service north of Ames' city limits. With the previous changes to the Land Use Policy Plan (LUPP), the City Council had indicated its willingness to annex land in the City's northern growth area for residential development. Presently, there are two annexation requests in the northern growth area for residential development. However, those are on hold pending determination of how water service will be provided, and annexation requests have not yet been received for two other properties.

According to Mr. Kindred, after reviewing the report, staff will need direction in order to negotiate a final water service agreement with Xenia. There are two scenarios for how the water service issue can be resolved. One is for the City to "buy out" the service territory from Xenia. The second is for Xenia to provide the service in accordance with requirements set by the City and to buy City water to serve the area. Each scenario involves unique costs and time frames that will have different long-term impacts on water service to the northern growth area. Mr. Kindred advised that it will take months for either scenario to get a finalized agreement due to the steps that Xenia would have to go through.

The current status of Xenia Rural Water District was shared with the City Council by Mr. Kindred. Xenia has had tremendous financial struggles in recent years. It has \$128 million in debt and is in danger of bankruptcy. Consequently, its staff and operations have been scaled back greatly, and it has imposed major rate increases on its existing customers in order to survive. A forbearance agreement was eventually reached with Xenia's creditors. Its creditors, particularly Assured Guaranty, now have approval and veto power over any service territory transfers or other major contracts that affect the debt that they hold. After reviewing financial statements for Xenia, the City's Finance Director indicated that a decision that would allow Xenia to provide water service to Ames residents would carry significant risk due to Xenia's financial health. There are also concerns with the ability of Xenia to continue to operate.

Mr. Kindred advised that Xenia had proposed three scenarios: (1) Ames would "buy out" and take

over the annexed areas and serve the areas with City water; (2) Xenia would serve the annexed areas with water from the Boone Water Treatment Plant, and (3) Xenia would serve the annexed areas with water purchased from Ames. In order for Xenia to purchase water from Boone, a 1,000,000-gallon water tower adjacent to Ames would have to be constructed, which would be costly for Xenia and exacerbate urban sprawl in Ames' urban fringe.

Detailed explanations of Scenarios 1 and 2 were given. Mr. Joiner showed the Council a table outlining the approximate costs to provide water to the northern growth area and who would bear those costs.

John Dunn, Director of Water and Pollution Control, said that, from Xenia's perspective, under Scenario 1, it wants to receive the greatest buy-out payment possible in order to satisfy its creditors. Under Scenario 2, Xenia wants to add as many new customers to its system as possible in order to spread its debt repayment and overhead costs. Xenia staff had indicated to Ames staff that they see growth in urbanized areas like Ames as the key to increasing its customer base. From the City's perspective, the key decision under Scenario 1 involves the amount that will be paid to Xenia. City staff would prefer to keep any surcharge required by Xenia to a minimum in order to minimize any differential between current customers and those who move into the northern growth area.

Director Dunn provided three options that had been developed by City and Xenia staff that could justify various buy-out amounts. He specifically noted that Xenia's initial proposal to Ames was for a one-time up-front payment of \$6,720,000. That amount was based on Xenia's calculation of having 1,000 new customers pay the \$240.01 annual share of Xenia's average net cash flow and fixed costs over the 28-year life of its indebtedness. The City's proposal was to pay \$265,000 for the buy-out based on staff's calculation of the value of adding 1,000 new customers to the City's water utility.

Representing Xenia, L. D. McMullen, PhD, said that he had only been on the job for about five months. He acknowledged that Xenia was going through some "tough times." However, within the past two months, it had been able to refinance its debt service with the USDA to the point that they switched from approximately 4 1/2 percent interest to 1 7/8 percent interest. Mr. McMullen provided information on Xenia's debt service. Mr. McMullen clarified that Ames customers would only pay for their share of the service to them and their share of the overhead costs for Xenia's operations. Ames' customers would not be paying for any of the debt to other parts of Xenia's system. According to Mr. McMullen, a significant part of the debt service payment is that Xenia anticipates growing the revenue of the utility for at least the next three years at six percent and growing the revenue of the utility at three percent from there on. If it cannot make that amount from increased sales, it will have to increase rates to its customers to be able to meet its debt obligations. As to whether the City could approve Xenia's rates, Mr. McMullen advised that that would not be acceptable to Xenia's creditors; setting rates is the responsibility that falls on the governing body of the particular utility. Mr. McMullen told the Council that if Xenia failed, he could almost guarantee that the receiver would not discontinue water and sewer services to customers. He would also be willing to talk to Xenia's creditors in an attempt to ensure that Ames would have the first rights to the territory.

Chuck Winkleblack, 105 S. 16<sup>th</sup> Street, Ames, said the historic average in Ames is 175 single-family homes built annually. He noted that there are very few lots left in Ames. When those are built-out, there is no more land available. Mr. Winkleblack expressed an urgency in resolving the water issue. He noted that it made no difference to him which entity provides the service, but they need something to be done. Mr. Winkleblack said that it is very likely that developers will be out of buildable lots prior to the water issue being resolved.

Discussion ensued as to the current status of the pending annexation requests. Mayor Pro-Tem Larson noted that rural water is not the only issue.

Kurt Friedrich, Friedrich Land Development, 100 Sixth Street, Ames, stated that he is just looking for a solution, whether it be Xenia or the City providing the water. Mr. Friedrich said that there is nothing impeding them from moving forward relative to their Development Agreements for Rose Prairie except for the rural water issue.

Council Member Goodman advised that the only option that made sense to him was the monthly buy-out. One of his big concerns, however, is the \$1.8 million the City plans to spend on infrastructure. He asked if that cost could be added to the buy-out costs and make the rate a little higher. That way, no current customer would pay for the infrastructure investment. City Manager Schainker said that would be a change in philosophy as the City makes improvements that service one part of the City, but the costs are not allocated that way.

In Mr. Goodman's opinion, the City needs more land available on the perimeter that has at least another rural water provider so that the City will not only be negotiating with one "desperate company" to create lots. Council Member Wacha noted that, right now, Xenia is demanding \$6.7 million because of bad decisions made by them. He added that he feels that amount is "insane" and this is not a "grow at all costs" scenario for him. Council Member Goodman said he believes the City should be looking at different areas in which to grow.

At the inquiry of Mayor Pro-Tem Larson as to where else Xenia wraps around Ames, Director John Dunn advised that Xenia serves areas on the north, west, and south of Ames. He noted that there is not a defined service territory to the south or southwest that the City has released.

Council Member Wacha said that he believes that the buy-out option is the only thing that makes sense. The monthly fee makes the most sense, but he does not want the future homeowners to bear all the costs; the developers should have to pay some of the costs. Mayor Pro-Tem Larson noted that, without annexation, the area would not develop and Xenia would "not get a dime."

Council Member Goodman offered his opinion that the precedent to be set by Council on this issue on the basis of pressure to create more lots is something that could haunt the community for a long time. He recommended that the City get more aggressive at pursuing annexing areas where the rights to serve have not been relinquished. Mr. Goodman adamantly stated that the City should not wrap Xenia's financial failures into the negotiations.

Moved by Davis, seconded by Wacha, to direct staff to keep working on the monthly buy-out option with Xenia to get more reasonable numbers than what have been proposed and to arrive at an amount that is more equitable based on the acreage in comparison to what the Xenia District has as a whole and to include the historic equivalent buy-out options for a one-time developer fee.

Council Member Davis clarified that Xenia holds only 9,400 customers and they are looking at adding a projected 1,000 customers; therefore, it needs to be more equitable.

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

Moved by Goodman, seconded by Wacha, to request staff to provide a map to Council of the rural water contracts and non-contracted areas in the fringe.

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

**REMOTE PARKING EASEMENT FOR 605/615 EAST LINCOLN WAY:** Kurt Friedrich, 100 Sixth Street, Ames, said it had been very difficult to schedule outside work because of all the rain. At the inquiry of Mr. Larson, Mr. Friedrich noted that it is likely that the parking lot construction will not be completed by July 1, 2013. Mr. Larson then asked if Council could direct staff to grant an extension of time to complete the parking lot improvements, if needed. City Attorney Park advised that that could be added to any approval of the Easement.

Moved by Goodman, seconded by Davis, to adopt RESOLUTION NO. 13-306 approving the Remote Parking Easement whereby parking is provided at 615 East Lincoln Way to meet the parking requirement for use of the entire building at 605 East Lincoln Way; and to allow a 45-day extension from July 1, 2013, to complete the parking lot improvements.

Roll Call Vote: 5-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these Minutes.

**AGREEMENT WITH RITTS LAW GROUP FOR CONSULTING SERVICES RELATED TO CLEAN AIR ACT:** Moved by Goodman, seconded by Davis, to adopt RESOLUTION NO. 13-307 authorizing extension of the Engagement and Retainer Agreement with Ritts Law Group of Alexandria, Virginia, in an amount not to exceed \$50,000 for consulting services related to the Clean Air Act.

Roll Call Vote: 5-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these Minutes.

**LEED COMMISSIONING SERVICES FOR NEW WATER TREATMENT PLANT:** Moved by Goodman, seconded by Davis, to adopt RESOLUTION NO. 13-308 approving the Professional Services Agreement with Ritts Law Group of Alexandria, Virginia, in an amount not to exceed \$50,000 for consulting services related to the Clean Air Act.

Council Member Wacha noted that this was a requirement for the \$6 million grant.

Roll Call Vote: 5-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these Minutes.

**EXCESS WORKERS COMPENSATION FOR 2013/14:** Moved by Davis, seconded by Goodman, to adopt RESOLUTION NO. 13-309 approving a contract with Safety National for Excess Workers Compensation for 2013/14.

Roll Call Vote: 5-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these Minutes.

**LIABILITY INSURANCE FOR 2013/14:** Moved by Goodman, seconded by Szopinski, to adopt RESOLUTION NO. 13-310 approving a contract with Iowa Communities Assurance Pool (ICAP) for liability insurance for 2013/14.  
Roll Call Vote: 5-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these Minutes.

**PROPERTY INSURANCE FOR 2013/14:** Moved by Davis, seconded by Goodman, to adopt RESOLUTION NO. 13-291 approving a contract with Willis (Chubb for municipal buildings and Aegis for power generation) for FY 2013/14 property insurance.  
Roll Call Vote: 5-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these Minutes.

**ORDINANCE TO CLARIFY TIME PERIOD FOR NON-COMPLIANT RENTAL HOUSING CONDITIONS:** Moved by Davis, seconded by Goodman, to pass on second reading an ordinance revising *Ames Municipal Code* Section 13.402(3)(f) to clarify the time period for non-compliant rental housing conditions.  
Roll Call Vote: 5-0. Motion declared carried unanimously.

Moved by Goodman, seconded by Davis, to suspend the rules necessary for the adoption of an ordinance.  
Roll Call Vote: 5-0. Motion declared carried unanimously.

Moved by Davis, seconded by Wacha, to pass on third reading ORDINANCE NO. 4150 revising *Ames Municipal Code* Section 13.402(3)(f) to clarify the time period for non-compliant rental housing conditions.  
Roll Call Vote: 5-0. Ordinance declared adopted unanimously, signed by the Mayor, and hereby made a portion of these Minutes.

**ORDINANCE PERTAINING TO SHARED COMMON LOT LINE GARAGES:** Moved by Goodman, seconded by Davis, to pass on second reading an ordinance pertaining to shared common lot line garages.  
Roll Call Vote: 5-0. Motion declared carried unanimously.

**ORDINANCE SETTING SPEED LIMIT ON STATE AVENUE:** Moved by Goodman, seconded by Davis, to pass on second passage an ordinance setting the speed limit on State Avenue from a point 250 feet north Meadow Glen Road to a point 250 feet south of Oakwood Road.  
Roll Call Vote: 5-0. Motion declared carried unanimously.

**ORDINANCE REZONING PROPERTY AT 920 CARROLL AVENUE:** Moved by Davis, seconded by Goodman, to pass on third reading and adopt ORDINANCE NO. 4146 rezoning property at 920 Carroll Avenue (former Willson-Beardshear School) from "S-GA" (Government/Airport) to "UCRM" (Urban Core Residential Medium Density).  
Roll Call Vote: 4-0-1. Voting aye: Davis, Goodman, Larson, Szopinski. Voting nay: None. Abstaining due to a conflict of interest: Wacha. Ordinance declared adopted, signed by the Mayor, and hereby made a portion of these Minutes.

**WATER RATIONING ORDINANCE:** Moved by Davis, seconded by Wacha, to pass on third reading and adopt WATER RATIONING ORDINANCE NO. 4147.

Roll Call Vote: 5-0. Ordinance declared adopted unanimously, signed by the Mayor, and hereby made a portion of these Minutes.

Moved by Davis, seconded by Goodman, to pass on third reading and adopt ORDINANCE NO. 4148 revising Appendix N.

Roll Call Vote: 5-0. Ordinance declared adopted unanimously, signed by the Mayor, and hereby made a portion of these Minutes.

**STREET AND SECURITY LIGHTING RATE ORDINANCE:** Moved by Davis, seconded by Wacha, to adopt the Street and Security Lighting Rate ORDINANCE NO. 4149.

Roll Call Vote: 5-0. Ordinance declared adopted unanimously, signed by the Mayor, and hereby made a portion of these Minutes.

**COUNCIL COMMENTS:** Moved by Goodman, seconded by Wacha, to direct staff to communicate with Pauline Williams concerning her issues pertaining to flowers placed at the cemetery.

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

Moved by Goodman, seconded by Wacha, to request that staff continue to work with the Metropolitan Coalition, Iowa League of Cities, and Municipal Utilities Board, and to reach out to see if there is any possible partnership in terms of lobbying that could occur with the private sector business community at a local, state, and/or federal level to see if there is interest in helping resolve the rural water issues.

City Manager Schainker explained that there is a process working now with the Iowa League of Cities, which has taken the lead on this issue. Council Member Goodman clarified that he was asking staff to see if the City could get more partners to deal with the rural water issue in a legislative way, beyond just the League and the Metropolitan Coalition. Assistant City Manager Bob Kindred reported that the City had also been working over the last year with the Iowa Association of Municipal Utilities.

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

**ADJOURNMENT:** Moved by Davis to adjourn the meeting at 10:40 p.m.

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Diane R. Voss, City Clerk

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Jami Larson, Mayor Pro-Tem