

MINUTES OF THE SPECIAL MEETING OF THE AMES CITY COUNCIL

AMES, IOWA

APRIL 16, 2019

The Special Meeting of the Ames City Council was called to order by Mayor John Haila at 6:00 p.m. on the 16th day of April, 2019, in the City Council Chambers in City Hall, 515 Clark Avenue. Council Members Bronwyn Beatty-Hansen, Gloria Betcher, Tim Gartin, David Martin, and Chris Nelson were present. *Ex officio* Member Allie Hoskins was also present. Member Amber Corrieri was absent.

1114 SOUTH DAKOTA AVENUE: Moved by Beatty-Hansen, seconded by Betcher, to adopt RESOLUTION NO. 19-149 approving the Zoning Change Agreement for 1114 South Dakota Avenue.

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

Moved by Nelson, seconded by Betcher, to pass on third reading and adopt ORDINANCE NO. 4383 rezoning 1114 South Dakota Avenue from Community Commercial/ Residential (CCR) to Community Commercial/ Residential (CCR) with revised Master Plan.

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

POWER PLANT UNIT 8 BOILER MAINTENANCE SERVICES: Moved by Gartin, seconded by Betcher, to adopt RESOLUTION NO. 19-150 approving Emergency Contract Change Order No. 2 with Jamar Company of Duluth, Minnesota, in the not-to-exceed amount of \$15,000.

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

Moved by Betcher, seconded by Martin, to approve RESOLUTION NO. 19-151 approving Contract Change Order No. 3 with Jamar Company of Duluth, Minnesota, in a not-to-exceed amount of \$75,000.

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

MASSAGE ESTABLISHMENTS/HUMAN TRAFFICKING WORKSHOP: Mayor Haila said Police Chief Chuck Cychosz and Assistant City Manager Brian Phillips will present, followed by Council questions and public input. He said an ordinance will not be passed this evening, rather direction from Council will be given if there is interest in an ordinance.

Chief Cychosz said trafficking and exploitation are real issues in Iowa. He said regulation of massage services is up for discussion, but it's important to note trafficking occurs in many other settings including construction, agriculture, and retail. He said victims are moved around the state and country to interfere with the development of trusting relationships needed to prosecute traffickers. He said the premise behind most local regulation is to require evidence of state licensure and allow City officials to verify the requirement is being adhered to. Chief Cychosz said that simply

requiring the provider to display the license gives the local community a starting point to verify the identity of the provider and allows law enforcement to investigate a misdemeanor for failure to display the license. He said when a requirement is clear and communicated effectively, it is a deterrent to illegal trafficking.

Pending legislative action was discussed by Chief Cychosz that would affect local practices. He said Senate File 267 would make the practice of massage therapy or the improper use of credentials by an unlicensed individual a serious misdemeanor. Right now law enforcement is not involved with licensing issues. He told the Council that many license actions taken by the state are a byproduct of criminal investigations pursued in this community. Chief Cychosz said information can be found on situations where credentials have been affected by criminal investigations on the State of Iowa website. Establishing a criminal violation of licensing regulations would aid the ability of law enforcement to investigate these situations. He said an amendment to this bill would shield a violator from criminal consequences if the person was a victim of someone engaged in trafficking.

Mr. Phillips said this special meeting was called by the Council at the request of George Belitsos and Michelle DeMarie. He said without knowing what action Council will take, the staff report is preliminary. He said it seems there's a wide spectrum of local government involvement in massage therapy, and as it is now, it is a state-regulated occupation and administrative process for licensing. Mr. Phillips said the next step in local involvement would be to make practicing massage therapy without a license a serious misdemeanor as proposed in the legislature currently. He said the next step would be along the lines of the Des Moines ordinance, which would require a license to be produced on demand, and allow officials to close a location until it is provided. Beyond that, he said the Iowa City ordinance requires the operator to produce information on employees providing the massage, and Johnston and Cedar Rapids go even further to require local licensing and background checks on a regular basis. Mr. Phillips said if Council is interested in moving toward intense involvement, more research by staff would be needed regarding administration, costs, and providers. He stated that staff would like to know if Council desires local involvement, and to what extent.

Council Member Gartin asked City Attorney Mark Lambert about cities getting into local regulation when the state has already claimed regulation for an activity. Mr. Lambert said local governments may regulate in the same areas unless the local regulations are in conflict with state law or if state law has an implied basis that they are regulating in all senses of the activity. He said he does not believe there is anything expressed within the state law to prohibit local regulation, and believes local government has the authority to do as Des Moines has. Mr. Gartin said he is asking more about a municipal license being required, and said he's concerned about the municipality moving into the state's authority. Mr. Lambert said he would be hesitant to go in the direction of requiring a local license since the state has licensing authority. Ms. Betcher asked what local licenses need to be provided currently. Mr. Phillips said alcohol and tobacco sales, door to door sales, and garbage hauling are activities require licenses currently, which are occupations done in public spaces.

Council Member Martin said the last time legislative activity was considered in regard to massage therapy, the deletion of the entire enforcement chapter in the *Iowa Code* was considered. He asked

if the state was suggesting the localities administer enforcement. Mr. Lambert said that because some requirements have been pulled out, some could argue the state doesn't intend to enforce as strongly, but he's not sure.

Michelle DeMarie, 4933 Utah Drive, Ames, said she is a licensed massage therapist working out of her residence. Ms. DeMarie said she is representing her profession and is surprised that there are illicit practices going on under the guise of massage therapy. She asked the Council to help her and other therapists by pursuing local control. She said the State of Iowa does a wonderful job of licensing, and adding local control could be redundant and taxing on authorities. She said the issue she's seen here and in several surrounding communities is that it's difficult for authorities to get in the door. Ms. DeMarie said there was a situation of a complaint taken where it took 18 months for authorities to get in the door. She said her understanding is that nothing would be required unless there was a concern. She said requiring licenses be displayed and valid would be a deterrent to criminal activity. Ms. DeMarie told the Council that massage therapy licenses can be looked up on the State website, and there are 49 licensed therapists in Ames. She said additional oversight may be needed, and raising awareness is needed. She said each therapist is required to have their own license and may not operate under an owner or manager's license. Ms. DeMarie said she would be thrilled if victims were more protected by additional requirements.

Mayor Haila asked if Ms. DeMarie has heard of any problems with forgery of licenses. She said that's a possibility, as it can be a lucrative profession. She said the more research she has done, the more she is in favor of a local ordinance as it would be simple, but very effective. Mayor Haila asked if she would be in favor of displaying licenses in a reception area. Ms. DeMarie said that is a step in the right direction. Ms. DeMarie said there is a main certificate and wallet cards issued with renewal dates. She said she carries a card and displays a card with her certificate, and therapists can request duplicate cards. Mr. Gartin asked her about the ordinance options. Ms. DeMarie said she and some colleagues were thrilled with the Des Moines ordinance as it helps, but doesn't further drain authorities. She said if a report was requested for each therapist, she does not feel that would be invasive.

Council Member Martin asked if it would be desirable for the manager to be required under a City ordinance to display licenses of all employees working at a location. Ms. DeMarie said yes, and that the Des Moines ordinance only "goes after" the person operating without a license; she believes the owner or manager should also be held accountable.

Council Member Betcher said Ames has 49 licensed massage therapists and a portion of them are working out of their home with a Home Occupation Permit. She asked about that process. Ms. DeMarie said she's not a fan of exemptions, as she feels they are a roadmap to get around the rules, but a Home Occupation Permit does require more information and an added layer of oversight.

Dr. George Belitsos, 5508 West Lincoln Way, Ames, told the Council that he was speaking on behalf of the Iowa Network Against Human Trafficking and Slavery, the only statewide group addressing human trafficking and bringing parties together for the common goal to rid Iowa of human

trafficking. He asked the Council to assist them in fighting this crime and to adopt an ordinance to regulate and set standards creating a clear separation between therapeutic massage and illegitimate businesses that use massage as an avenue for trafficking. He said he wants to make Ames the least hospitable place for traffickers to do business. For nearly two years, the Network has been asking cities to adopt ordinances, and now 16 have adopted ordinances. He said he is increasingly concerned about Ames, because illicit massage businesses have moved out of towns where there is more risk and move to friendlier places with less risk of being discovered. He said the internet is driving the sex trafficking industry.

Dr. Belitsos told the Council that, in May 2017, the Network worked with the legislature about Senate File 445, which repealed *Iowa Code* Section 152 C that limited local authorities from enforcing additional regulations, such as criminal background checks. Dr. Belitsos said all 16 ordinances are different. He said that, in the staff report, it was mentioned that the state could increase regulation in the future. Dr. Belitsos said so many home rules have been taken away from cities, but this is an example of a home rule given to cities, and the state doesn't want to do any more than license massage therapists. He said that August 2017 was the last time Council considered an ordinance, and Johnston was the only city with an ordinance at that time. Dr. Belitsos told the Council there is a growing public awareness of this problem, and since January 1, 2019 nine traffickers have been sentenced to prison from Central Iowa, and now massage therapists are in support of a local ordinance. He said the City Council in Ames has been the first to take a stand for public health and safety issues many times and asked the Council to consider taking the lead on this.

Council Member Gartin asked about an ideal outcome. Mr. Belitsos said he supports business forms being filled out, holding owners/operators accountable, and the Des Moines ordinance with changes such as those Council Member Martin has proposed.

Council Member Betcher asked Mr. Belitsos about the rigorous Home Occupation Permit approval process, and asked if he is in favor of any exemptions. Dr. Belitsos said he believes all massage therapists should be subject to the same requirements.

Sia Turner, 1930 Long Road, Ames, spoke on behalf of ISU Network Against Human Trafficking. She said in 2016, two situations occurred in Ames at massage parlors resulting in arrests. She said there is no reason not to go forward with an ordinance requiring massage therapists to produce their licenses.

Diana Crosswait, 2005 Prairie View East, Ames, said she is in support of Council having more requirements. She believes law enforcement should be able to walk inside and be visible. She said licenses being displayed may not be for the correct people. She said resources for victims are very important.

Cindy Larson, 507-26th Street, Ames, said she is a licensed massage therapist working out of her home. She said she is hopeful that the Council will consider an ordinance. Ms. Larson said there is an option to be licensed nationally; a national license does require a background check.

Rebecca Christensen, 304 E. 16th Street, Ames, said she has had a Home Occupation Permit since 1995. She said she's in favor of the Des Moines ordinance and asked Council to consider enforcement.

Georgia Bluhm, 1801-20th Street, Ames, said she agrees with everyone, and said she does not want trafficking to occur in Ames. She said she has been working with the Network Against Human Trafficking and Slavery for over five years.

Delwyn Bluhm, 1801-20th Street, Ames, said this problem is becoming bigger all the time and asked Council to adopt a policy to help.

Brittany Lenihan, 1525 Airport Road, Ames, said massage therapy requires many hours of training, and the license represents the hard work involved. Ms. Lenihan said she is an Assault Care Center Extending Shelter and Support (ACCESS) employee providing support for the sexually abused, including sex trafficking survivors. She told the Council that communities combating this crime have either passed an ordinance or are in the process of doing so. She hopes to be able tell the victims what Ames is doing to protect them.

Rachel Brown, 3241 E. Main Street Road, Marshalltown, said she is representing American Massage Therapy Association (Iowa Chapter) and herself as a Licensed Massage Therapist (LMT). She said a local ordinance would allow law enforcement to get into an establishment to investigate. She said she is in favor of a more restrictive ordinance. Ms. Brown said the term "massage parlor" references an illegitimate massage business and stirs up unfavorable stereotypes, and asked the community to refrain from calling establishments by that name. She said she is working with lobbyists at the state level to encourage the state to put photographs on licenses and do background checks. Ms. Brown said she is hopeful there will be some unification of the many ordinances in the future.

Amy Dollison, 1018 NE Fountain View Dr., Ankeny, told the Council she agrees with what she has heard, and would be happy to provide information as requested. As owner of four Massage Heights locations, she said her employees cannot work if their licenses expire. Ms. Dollison said it's very frustrating to have people call and ask for inappropriate services. She said her other owned locations are in Des Moines, West Des Moines, and Johnston, where all three ordinances are different. She said it helps her to know that those cities have the authority to shut down illegitimate massage locations, and she wants the City of Ames to have that authority.

Council Member Gartin asked for feedback about owning businesses in different cities. Ms. Dollison said the Des Moines ordinance is the easiest to comply with, West Des Moines is a little more burdensome since it requires fingerprinting, and the Johnston ordinance is the most burdensome because of its requirements. She said she would not encourage the requirement of fingerprinting, rather providing a driver's license. Mr. Gartin asked about Ankeny. She said Ankeny does not have an ordinance at this time, but feels if Ames passes an ordinance, Ankeny will follow.

Mayor Haila asked Ms. Dollison if she believes the Des Moines ordinance is effective. She said she's

not sure, but she would like the ordinance to go one step further where therapists can turn in phone numbers that call to request inappropriate services.

LaHoma Simmonds, 433 Nature Road, Boone, said she owns her own business in Boone, and Boone passed a massage therapy ordinance last fall that follows the Johnston example. She said she felt the process was invasive and prefers the Des Moines ordinance with some edits. She said therapists work hard for their license. Ms. Simmonds said the Boone ordinance was effective in closing a questionable business, and requires a permit if practicing in a different location or after 8:00 p.m.

Drea Meadows, 2318 Clayton Drive, Ames, said an ordinance will protect the public from going to the wrong type of business and protect the therapists as well. She said she has had customers that assumed she wasn't a licensed and legitimate therapist.

Council Member Gartin asked Chief Cychosz for input on the situations discussed. Chief Cychosz said those investigations have been done in this community in recent years and are challenging with the parties involved. He said there are certainly those that believe Ames could turn a blind eye or ignore this, and that makes Ames vulnerable.

Council Member Beatty-Hansen asked if there are businesses the Police Department wishes they could go into. Chief Cychosz said public education and awareness are very important, and encouraged anyone who sees something that looks illegal to call the Police Department. He said those types of calls have assisted law enforcement. Chief Cychosz said requiring a license and being able to go in and check establishments would be helpful. He recognized the challenge of the burden also falling on the legitimate businesses.

Mr. Gartin asked if there are any comments on the Des Moines model. He said the Legal Department has looked at it, and there is some clarification needed including clearer accountability for those not in compliance.

Mayor Haila said staff can work on an option and bring it back for Council consideration. Ms. Beatty-Hansen said an edit that includes accountability of the business owner could be added. Mayor Haila said he appreciates the therapists inviting some regulation to protect the public and therapists.

Council Member Betcher asked if the process already in place for Home Occupation Permits should be considered. Mr. Phillips said he will look into the Home Occupation Permit requirements. Ms. Betcher said if a business registration addition is considered, she wants to know if it's a repetitive requirement.

Moved by Martin, seconded by Beatty-Hansen, to ask staff for possibilities for an ordinance or further decision points along the lines of the Des Moines ordinance, with added provisions for holding owners and managers responsible and assisting during an investigation when warranted.

Council Nelson said he's concerned about the option of requiring business registration forms, as that

would be hard to maintain and would create the opportunity for outdated information.

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

Mayor Haila said the process could take some time as staff drafts an ordinance and brings it back to Council for consideration.

Council Member Gartin said Council will be in contact with Dr. Belitsos and Ms. DeMarie with any updates.

DISPOSITION OF COMMUNICATIONS TO COUNCIL: At the Mayor's request, Council considered Communications to Council before Comments.

Moved by Betcher, seconded by Beatty-Hansen, to request a memo from staff regarding Mr. Torresi's letter dated April 10, 2019.

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

Mr. Martin recognized receipt of a letter from a concerned citizen.

The Council acknowledged the Mayor and Council's Bike Ride information that was provided.

COUNCIL COMMENTS: Member Gartin reminded motorcyclists to be safe.

Mayor Haila said there continues to be much action in the Iowa Legislature. He said there is a property tax bill that is very concerning. He said an amendment is being considered that would abolish rental caps retroactive as of January 1, 2019. He told the Council the Iowa League of Cities is trying to get a network of mayors set up that could be mobilized for legislative issues, mentoring, education, etc. Mayor Haila said there is a universal grave concern about the property tax bill. He commented that staff does an outstanding job on the budget process and working to keep the levy as low as possible while providing the best services.

ADJOURNMENT: The meeting adjourned at 7:41 p.m.

Diane R. Voss, City Clerk

John A. Haila, Mayor

Erin Thompson, Recording Secretary