



April 15, 2011

**The Honorable Ann Campbell, Mayor and  
Members of the City Council of the City of Ames, Iowa**  
515 Clark Avenue  
Ames, IA 50010

Re: Proposed Amendments to Municipal Code Chapter 12 – The City Hospital

Dear Mayor Campbell and City Council Members:

At their March 28, 2001 meeting, the Mary Greeley Medical Center Board of Trustees reviewed and discussed several recent changes to the Iowa Code related to the functions of municipal hospitals. Those State statutory changes have resulted in some inconsistencies between the provisions of the Iowa Code regarding municipal hospitals and the provisions of the Ames Municipal Code regarding Mary Greeley Medical Center.

City Attorney Doug Marek has prepared an analysis of the incompatible code sections, and he also has drafted an ordinance that would bring the Municipal Code into conformity with the corresponding State statutes. Enclosed are a copy of the draft ordinance and an annotated copy of Chapter 12 indicating how the ordinance would modify the current Municipal Code. The draft ordinance would affect five sub-sections of Chapter 12:

Municipal Code Section 12.4 currently provides that Trustees shall not receive compensation for services performed but *may* receive reimbursement for expenses incurred in carrying out their duties. The Iowa Code provides that Trustees shall not receive compensation for services performed but *shall* receive reimbursement for expenses incurred. The proposed change would not result in any change from current procedures for Mary Greeley Medical Center.

Municipal Code Section 12.6 concerns the initial organization of the Board of Trustees, and provides for election by the Board of a chairperson and a secretary. The new provisions of the Iowa Code specify election of a treasurer in addition to the chairperson and secretary. The new Iowa Code also distinguishes between the beginning dates of terms of office for trustees who are elected at general or regular city elections from those who are appointed or who are elected at special elections. The current Municipal Code section 12.6 does not make that same distinction and should therefore be amended to correspond with the Iowa Code.

Municipal Code Section 12.15(3) is based on former Iowa Code sections 347.28 and 347.29, both of which were repealed by the General Assembly. Under current Municipal Code procedures, the Board of Trustees is required to twice provide public notice and then, no sooner than two weeks after the second notice, hold a hearing prior to selling or leasing property that is no longer needed for hospital purposes. The proposed change would eliminate this requirement and would allow the Board of Trustees without delay to take action to dispose of property no longer needed for hospital purposes.

Municipal Code Section 12.15(4) is modeled after Iowa Code former section 374.30, which also has been repealed. For property that is still needed for hospital purposes, leases of more than three years now require specific approval by the City Council. The proposed changes would eliminate the requirement for City Council approval of leases of hospital property for more than three years.

Municipal Code Section 12.17 provides the manner for filling vacancies on the Hospital Board of Trustees in accordance with procedures applicable to elected city office. Persons appointed to fill vacancies are approved by the City Council. Under new Iowa Code procedures, however, vacancies on the Board of Trustees may, until the next general election, be filled by appointment by the remaining members of the Board. The proposed change would make the Municipal Code conform to the Iowa Code. The procedure for election of Trustees who are residents of the hospital service territory by the voters of the City of Ames would remain unchanged.

The Board of Trustees considered the proposed draft ordinance and determined that amending the Municipal Code to clarify it and to avoid any conflicts with the Iowa Code would benefit Mary Greeley Medical Center. The Trustees request that the City Council proceed with adoption of the proposed ordinance amending Chapter 12 of the Municipal Code.

If there are any questions related to this request or other matters, please contact me at 515/239-2102.

Sincerely yours,

  
Brian Dieter  
President & CEO



## City Attorney's Office

515 Clark Avenue, P. O. Box 811  
Ames, IA 50010

Phone: 515-239-5146 • Fax: 515-239-5142

April 8, 2011

Brian Dieter  
President/CEO  
Mary Greeley Medical Center  
1111 Duff Avenue  
Ames, Iowa 50010

Re: Proposed Amendments to Ames Municipal Code Chapter 12 – The City Hospital

Dear Brian:

Last month I drafted for consideration by the Board of Trustees proposed amendments to the Ames Municipal Code Chapter 12, which provides for the management, control, and government of Mary Greeley Medical Center. The proposed amendments were prompted by recent state legislation that modified Iowa statutory authority regarding municipal hospitals and made some provisions of the Municipal Code inconsistent with the corresponding provisions in the Iowa Code.

During their discussion of the draft amendment, the Board of Trustees identified one additional section of Chapter 12 that is inconsistent with the current Iowa Code. Municipal Code Section 12.6 concerns the initial organization of the Board of Trustees, and provides for election by the Board of a chairperson and a secretary. In contrast, the new provisions of the Iowa Code provide for election of a chairperson, a secretary, and a treasurer. The new provisions of the Iowa Code also distinguish the beginning dates of terms of office for trustees who are elected at general or regular city elections from those who are appointed or who are elected at special elections. The current Municipal Code Section 12.6 does not make that same distinction and should therefore be amended to correspond with the Iowa Code. I suggest that in addition to the changes noted in my prior draft ordinance, Municipal Code Section 12.6 be clarified and amended as follows:

### Sec. 12.6 INITIAL ORGANIZATION

Terms of office of trustees elected pursuant to general or regular city elections shall begin at noon on the first day in January which is not a Sunday or legal holiday. Terms of office of trustees appointed to fill a vacancy or elected pursuant to special elections shall begin at noon on the tenth day after appointment or the special election which is not a Sunday or legal holiday. The Hospital Trustees shall begin their terms of office by, ~~within ten (10) days after their election,~~ qualify by taking the oath of office, and organize as a board by the election of one trustee of their number as chairperson, one trustee as treasurer, and one trustee as secretary, but no bond shall

be required of them. Terms of office of Hospital Trustees shall extend to noon on the first day in January which is not a Sunday or legal holiday or until their successors are elected and qualified.

*[State Law reference: 2011 Iowa Code §392.6(3)(a)].*

Based on the Board of Trustees' discussion at their last meeting, I understand that they will be requesting that the Ames City Council adopt changes to the Municipal Code to make Chapter 12 consistent with the analogous provisions in the Iowa Code. To facilitate that process, I am enclosing with this letter an annotated copy of Municipal Code Chapter 12, with all of the proposed changes indicated in bold. I am also enclosing a copy of a draft ordinance that incorporates all of the changes considered by the Board of Trustees last month, including the change to Section 12.6 described above.

Yours truly,

A handwritten signature in dark ink, appearing to read "D. R. Marek", written in a cursive style.

Douglas R. Marek  
City Attorney

Enclosures



## City Attorney's Office

515 Clark Avenue, P. O. Box 811  
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Phone: 515-239-5146 • Fax: 515-239-5142

March 11, 2011

Brian Dieter  
President/CEO  
Mary Greeley Medical Center  
1111 Duff Avenue  
Ames, Iowa 50010

Re: Proposed Amendments to Ames Municipal Code Chapter 12 – The City Hospital

Dear Brian:

Chapter 12 of the Ames Municipal Code provides for the management, control, and government of Mary Greeley Medical Center and such other hospitals and health care facilities established, operated, and maintained by the Hospital Board of Trustees. The Ames City Council most recently amended Chapter 12 in 1995 for the purpose of bringing the municipal ordinances into conformity with corresponding state statutes setting out the powers and duties of municipal hospital trustees.

State statutory authority regarding municipal hospitals changed in several ways during the recent 83<sup>rd</sup> session of the Iowa General Assembly. With the passage and approval of House File 260 -- an act relating to the operation of county, city, and memorial hospitals and the powers and duties of hospital trustees -- the legislature consolidated several sections of the Iowa Code related to public hospitals. Because of those legislative changes, it is appropriate for the Ames City Council to consider whether the Ames Municipal Code should once again be amended to conform to the recently-amended corresponding state statutes.

Four current municipal code sections differ from the new state code provisions. Briefly, the proposed changes are as follows:

Municipal Code Section 12.4 currently provides that Trustees shall not receive compensation for services performed but *may* receive reimbursement for expenses incurred in carrying out their duties. The state code provides that Trustees shall not receive compensation for services performed but *shall* receive reimbursement for expenses incurred. The proposed change would not result in any change from current procedures for Mary Greeley Medical Center.

Municipal Code Section 12.15(3) is based on Iowa Code sections 347.28 and 347.29, both of which were repealed by HF 260. Under current Municipal Code procedures the Board of Trustees is required to twice provide public notice and then, no sooner than two weeks after the second notice, hold a hearing prior to selling or leasing property that is no longer needed for hospital purposes. The proposed change would eliminate this requirement and would allow the Board of Trustees without delay to take action to dispose of property no longer needed for hospital purposes.

Municipal Code Section 12.15(4) is modeled after Iowa Code section 374.30, which also has been repealed. For property that is still needed for hospital purposes, leases of more than three years now require specific approval by the City Council. The proposed changes would eliminate the requirement for City Council approval of leases of hospital property for more than three years.

Municipal Code Section 12.17 provides the manner for filling vacancies on the Hospital Board of Trustees in accordance with procedures applicable to elected city office. Persons appointed to fill vacancies are approved by the City Council. Under new Iowa Code procedures, however, vacancies on the Board of Trustees may, until the next general election, be filled by appointment by the remaining members of the Board. The proposed change would make the Municipal Code conform to the Iowa Code. The procedure for election of Trustees who are residents of the hospital service territory by the voters of the City of Ames would remain unchanged.

Attached to this letter is a copy of current Municipal Code Chapter 12, with suggested changes indicated in bold. Additions are indicated with underlining, and deletions are marked with strikethroughs. For each proposed Municipal Code amendment, I have included a citation to the corresponding amended section of the Iowa Code. I have also attached a copy of House File 260 for your reference.

Please present this information to the Hospital Trustees for their consideration. I am certain that the Ames City Council would appreciate having the Trustees' recommendation on these proposed changes.

Yours truly,



Douglas R. Marek  
City Attorney

Enclosures

c: Mayor Ann Campbell and Members of the City Council

**PROPOSED CHANGES TO MUNICIPAL CODE CHAPTER 12**  
**THE CITY HOSPITAL**  
**(All Sections with Changes Noted in Bold, with Editing Marks & State Code**  
**References)**

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**Sec. 12.1. ADMINISTRATIVE AGENCY CREATED; PURPOSE, TITLE.**

There is created an administrative agency, in the form of a board of trustees, for the purpose of providing for the management, control and government of the city hospital of the City of Ames known as the "Mary Greeley Medical Center" and such other hospitals and health care facilities as may be established, operated or maintained by the City of Ames, said board to be entitled the Ames City Hospital Board of Trustees. (Hospital Trustees)

**Sec. 12.2. ELECTION OF MEMBERS, TERM OF OFFICE.**

The Ames City Hospital Board of Trustees shall consist of five (5) persons elected in the regular city elections, whose terms of office shall be four (4) years.

**Sec. 12.3 QUALIFICATIONS.**

Any adult may be a candidate for the Ames City Hospital Board of Trustees. A candidate for Hospital Trustee must be nominated by petition of residents of the City in accordance with the election laws of Iowa.

**Sec. 12.4. COMPENSATION.**

**Hospital Trustees shall not receive any compensation for services performed, but may shall receive reimbursement for actual and necessary expenses incurred in performance of the trustees' duties as trustee.**

***[State Law reference: 2011Iowa Code §392.6(4)].***

**Sec. 12.5. GENERAL POWERS AND DUTIES.**

The Hospital Trustees elected pursuant to this chapter shall, subject to the provisions of this chapter, be vested with the authority and duty to provide for the management, control and government of the City Hospital or health care facilities.

**Sec. 12.6. INITIAL ORGANIZATION.**

**Terms of office of trustees elected pursuant to general or regular city elections shall begin at noon on the first day in January which is not a Sunday or legal holiday. Terms of office of trustees appointed to fill a vacancy or elected pursuant to special elections shall begin at noon on the tenth day after appointment or the special election which is not a Sunday or legal holiday. The Hospital Trustees shall begin their terms of office by, ~~within ten (10) days after their election,~~ qualify by taking the oath of office, and organize as a board by the election of one trustee of their number as chairperson, one trustee as treasurer, and one trustee as secretary, but no bond shall be required of them. Terms of office of Hospital Trustees shall extend to noon on the first day in January which is not a Sunday or legal holiday or until their successors are elected and qualified.**

***[State Law reference: 2011 Iowa Code §392.6(3)(a)].***

**Sec. 12.7. DISCONTINUANCE.**

In the event of the discontinuance of the City Hospital or health care facilities, the City Council may discontinue the Hospital Trustees by adopting a resolution proposing such action and publishing a notice as required by law, of the resolution and of a date, time and place of public hearing on the proposal, and may discontinue the Hospital Trustees by ordinance or amendment not sooner than thirty (30) days following the hearing.

**Sec. 12.8. RULE MAKING.**

Except as otherwise specifically provided in this chapter, the Hospital Trustees shall have rule-making authority, and shall provide all needed rules and regulations for the use, economic conduct, management, control and government of city hospitals and health care facilities not contrary to law or inconsistent with the provisions of this chapter.

**Sec. 12.9. ACCEPTANCE AND USE OF GIFTS.**

The Hospital Trustees may accept property by gift, devise, bequest or otherwise; and, if the Hospital Trustees deem it advisable, may, at public sale, sell or exchange any property so accepted upon a concurring vote of a majority of all Hospital Trustees, and apply the proceeds thereof, or property received in exchange therefor, to any legitimate hospital or health care facility purpose.

**Sec. 12.10. FUND FOR DEPRECIATION.**

The Hospital Trustees may in their discretion establish a fund for depreciation as a separate fund. Said funds may be invested in United States Government bonds and when so invested, the accumulation of interest on the bonds so purchased shall be used for the purposes of the depreciation fund. An investment when so made shall remain in United States Government bonds until such time as in the judgment of the Hospital Trustees it is deemed advisable to use the funds for hospital or health care facility purposes.

**Sec. 12.11. JOINT VENTURES AND AFFILIATIONS.**

The Hospital Trustees are hereby authorized to enter into any and all manner of contracts, with any and all kinds of parties, public or private, for profit or non-profit, for the purpose of joint ventures, affiliations, shared services, and cooperative activities of any and all kinds pertaining to health care, including contracts that entail the formation and capitalization of new legal entities, whether non-profit or for profit; and, such transactions, to the extent that they are in accordance with law, are hereby fully approved by the City Council. No further specific approval by the City Council of each such contract is required.

**Sec. 12.12. RATES AND CHARGES.**

(1) The Hospital Trustees may establish, impose, adjust and provide for the collection of rates and charges to produce gross revenues at least sufficient to pay the expenses of operation and maintenance of the City Hospital.

(2) When revenue bonds are issued and outstanding, the Hospital Trustees shall establish, impose, adjust, and provide for the collection of rates to produce gross revenues at least sufficient at all times to pay the principal of and interest on the revenue bonds as they become due and to maintain a reasonable reserve for the payment of principal and interest, and a



sufficient portion of net revenues must be pledged for that purpose. Rates must be established by resolution of the Hospital Trustees, published in the same manner as a city ordinance.

(3) So long as there are revenue bonds or pledge orders outstanding, the rates established by the Hospital Trustees are subject to approval by the City Council.

#### Sec. 12.13. BORROWING, LIMITATIONS AND PROHIBITED ACTS.

(1) The Hospital Trustees shall not issue bonds or enter into a loan agreement or other transaction that creates or purports to create a general obligation of the City of Ames.

(2) The Hospital Trustees shall not pledge the credit or taxing power of the City.

(3) There is not delegated to the Hospital Trustees, the powers, authorities and duties provided in Division V of Chapter 384 Code of Iowa pertaining to issuance and sale of revenue bonds.

#### Sec. 12.14. POWER AND AUTHORITY TO MAKE VALID CONTRACTS.

Except as otherwise provided in this chapter, the Hospital Trustees shall have the power and authority to enter into contracts, and such contracts shall not be subject to review and approval by the City Council if made and entered into pursuant to the procedures and provisions of Iowa law and this chapter; and, when so made and entered into, such contracts, to the extent otherwise valid by law, shall be valid, enforceable and not voidable by subsequent actions of the City Council even if the Hospital Trustees should be dissolved.

#### Sec. 12.15. REAL ESTATE TRANSACTIONS.

(1) The Hospital Trustees may accept property by gift, devise, bequest or otherwise; and, if the Hospital Trustees deem it advisable, may, at public sale, sell or exchange any property so accepted upon a concurring vote of a majority of all Hospital Trustees, and apply the proceeds thereof, or property received in exchange therefor, to any legitimate hospital or health care facility purpose.

(2) Transactions for the acquisition of real estate, or of an interest in real estate, including leases in which the City Hospital shall be the tenant, may be done on authority of the Hospital Trustees without specific approval by the City Council.

~~———— (3) ——— The Hospital Trustees may, on their own authority without specific City Council approval, lease or sell any City Hospital real estate which is not needed for hospital purposes, upon publication of notice once each week for two consecutive weeks in the county where the property is located; and, after a public hearing that shall not take place prior to two weeks after the second publication:~~

*[State Law reference: House File 260, §17, 83<sup>rd</sup> General Assembly, 2009, repealing Iowa Code §347.28 and §347.29 ]*

~~———— (4) ——— Leases and licenses of City Hospital real estate that is still needed for hospital purposes can be done on authority of the Hospital Trustees, without specific City Council approval, if for not more than three years' duration. If for more than three years, such transactions must have specific approval by the City Council. [State Law reference: House File 260, §17, 83<sup>rd</sup> General Assembly, 2009, repealing Iowa Code §347.30]~~

**Sec. 12.16. AUDIT AND BUDGET LAWS, COOPERATION.**

(1) The Hospital Trustees shall take such measures as are necessary and appropriate, at hospital expense, to meet requirements of law for an annual audit.

(2) The Hospital Trustees shall take such measures as are necessary and appropriate to fully cooperate and assist in meeting the law and regulations of Iowa with respect to certification of a city budget to the extent such laws and regulations pertain to the activities of the City Hospital.

**Sec. 12.17. FILLING OF VACANCIES.**

**A vacancy in a Hospital Trustee position shall be filled in the manner prescribed by the laws of the State of Iowa pertaining to vacancies in ~~elected city offices~~ boards of hospital trustees.**

***[State Law reference: House File 260, §16, 83<sup>rd</sup> General Assembly, 2009, amending Iowa Code §347.10 and §392.6(3)(b)]***

**ORDINANCE NO.**

**AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF AMES, IOWA, BY REPEALING SUBSECTIONS 12.4, 12.6, 12.15 AND 12.17 AND ENACTING NEW SUBSECTIONS 12.4, 12.6, 12.15 AND 12.17 THEREOF, FOR THE PURPOSE OF CONFORMING THE DUTIES AND POWERS OF THE AMES CITY HOSPITAL BOARD OF TRUSTEES REGARDING THE OPERATION OF MARY GREELEY MEDICAL CENTER AND SUCH OTHER HOSPITALS AND HEALTH CARE FACILITIES AS MAY BE ESTABLISHED AND OPERATED BY THE CITY OF AMES WITH CORRESPONDING STATE STATUTES; REPEALING ANY AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT TO THE EXTENT OF SUCH CONFLICT; AND ESTABLISHING AN EFFECTIVE DATE.**

**BE IT ENACTED**, by the City Council for the City of Ames, Iowa, that:

Section One. The Municipal Code of the City of Ames, Iowa shall be and the same is hereby amended by repealing sections 12.4, 12.6, 12.15 and 12.17 and enacting new sections 12.4, 12.6, 12.15 and 12.17 as follows:

**“Sec. 12.4. COMPENSATION.**

Hospital Trustees shall not receive any compensation for services performed, but shall receive reimbursement for actual and necessary expenses incurred in performance of the trustees' duties.

*[State Law reference: House File 260, §16, 83<sup>rd</sup> General Assembly, 2009, to be codified at 2011 Iowa Code §392.6(4)].*

**Sec. 12.6. INITIAL ORGANIZATION.**

Terms of office of Hospital Trustees elected pursuant to general or regular city elections shall begin at noon on the first day in January which is not a Sunday or legal holiday. Terms of office of trustees appointed to fill a vacancy or elected pursuant to special election shall begin at noon on the tenth day after appointment or the special election which is not a Sunday or legal holiday. The Hospital Trustees shall begin their terms of office by taking the oath of office, and organize as a board by election of one trustee as chairperson, one trustee as treasurer, and one trustee as secretary. Terms of office of Hospital Trustees shall extend to noon on the first day in January which is not a Sunday or legal holiday or until their successors are elected and qualified.

*[State Law reference: House File 260, §16, 83<sup>rd</sup> General Assembly, 2009, to be codified at 2011 Iowa Code §392.6(3)(a)].*

**Sec. 12.15. REAL ESTATE TRANSACTIONS.**

(1) The Hospital Trustees may accept property by gift, devise, bequest or otherwise; and, if the Hospital Trustees deem it advisable, may, at public sale, sell or exchange any property so accepted upon a concurring vote of a majority of all Hospital Trustees, and apply the proceeds thereof, or property received in exchange therefor, to any legitimate hospital or health care facility purpose.

(2) Transactions for the acquisition of real estate, or of an interest in real estate, including leases in which the City Hospital shall be the tenant, may be done on authority of the Hospital Trustees without specific approval by the City Council.

*[State Law reference: House File 260, §17, 83<sup>rd</sup> General Assembly, 2009, repealing Iowa Code §347.28 and §347.29]*

**Sec. 12.17. FILLING OF VACANCIES.**

A vacancy in a Hospital Trustee position shall be filled in the manner prescribed by the laws of the State of Iowa pertaining to vacancies in boards of hospital trustees.

*[State Law reference: House File 260, §16, 83<sup>rd</sup> General Assembly, 2009, amending Iowa Code §347.10 and §392.6(3)(b)].*"

Section Two. All ordinances, or parts of ordinances, in conflict herewith are hereby repealed to the extent of such conflict, if any.

Section Three. This ordinance shall be in full force and effect from and after its passage and publication as required by law.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Diane R. Voss, City Clerk

\_\_\_\_\_  
Ann H. Campbell, Mayor