

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

AMES, IOWA

MAY 18, 2021

The Special Meeting of the Ames City Council was called to order by Mayor John Haila at 6:00 p.m. on the 18<sup>th</sup> day of May, 2021. The Mayor announced that it was impractical to hold an in-person Council meeting due to the COVID-19 pandemic. Therefore, this meeting was being held as an electronic meeting as allowed by Section 21.8 of the *Iowa Code*. Council Members Gloria Betcher, Bronwyn Beatty-Hansen, Amber Corrieri, Tim Gartin, Rachel Junck, and David Martin were present. *Ex officio* Member Trevor Poundstone was also present.

**IOWA ECONOMIC DEVELOPMENT AUTHORITY APPLICATION FOR FINANCIAL ASSISTANCE FOR PERFECT FLIGHT:** Finance Director Duane Pitcher explained that Perfect Flight, LLC, is an agricultural technology company currently based in Sao Paulo, Brazil, that has developed a software application to track and analyze the aerial application of agricultural chemicals and integrate the information with other agriculture technology platforms. The company is in the process of moving operations to North America and has selected Ames as the location for sales, marketing, and business development with the intent of making Ames the company headquarters.

According to Director Pitcher, Perfect Flight has applied for economic development assistance from the Iowa Economic Development Authority (IEDA) with the local match provided by the City of Ames and the Ames Economic Development Commission (AEDC). The project will include leasehold improvements to existing available office space in the ISU Research Park and the addition of 60 new full-time jobs in Ames. Total investment expected for the project is over \$1.667 million, including a \$250,000 forgivable loan from IEDA. The required local match is in the form of a \$50,000 forgivable loan funded half by the City of Ames and half by the AEDC. The AEDC Board has already authorized its commitment to the local match. The company has also agreed to provide an irrevocable Letter of Credit as security for the local match and will also be applying for various tax credits available from the state of Iowa. The local match from the City will be contingent upon approval of the final agreement by the City Council. For the IEDA to continue consideration of this project, the City Council must adopt a resolution supporting the submittal of the Perfect Flight application for IEDA assistance.

Council Member Gartin asked if this proposal was consistent with other types of loans that the City does. Mr. Pitcher noted that City staff utilized an evaluation matrix for software development companies to perform an analysis of Perfect Flight's proposal. That analysis indicated that the firm qualified for the City's "best terms." Perfect Flight's high score was influenced by high wages, a high number of jobs, and no requirement for investment in City infrastructure.

Moved by Beatty-Hansen, seconded by Junck, to adopt RESOLUTION NO. 21-256 supporting the Iowa Economic Development Authority Application for Financial Assistance for Perfect Flight with local match to be provided in the form of a forgivable loan in the amount of \$50,000 (\$25,000 from the City of Ames from the available balance in the Economic Development Fund and \$25,000 from the AEDC).

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

**DISCUSSION OF THE FUTURE OF THE CITY'S FACE-COVERING ORDINANCE:** Mayor

Haila announced that the Council would not be accepting public input on the Face-Covering Ordinance item at this meeting, but would accept it when the topic is brought back to the City Council for final action.

City Attorney Mark Lambert recalled that the City Council, at its May 11, 2021, meeting requested a memo on the interplay between the Story County face-covering mandate and the City of Ames if the City's Face-Covering Ordinance expires or is repealed and to provide options for the future of said Ordinance. Addressing the question on the authority of the County's regulation, Mr. Lambert cited Article III, Section 39A, of the Iowa Constitution ("Counties Home Rule"), which makes it clear that a City ordinance prevails over a County ordinance on the same topic. He pointed out that Story County has a face-covering policy that is generally similar to the City's Ordinance; however, the County's is actually a Story County Board of Health regulation. Because of the Iowa Constitution's provision, Story County's regulation currently is not in effect within the corporate municipal boundaries of Ames because the City has its own Face-Covering Ordinance (found in Section 17.37 of the *Ames Municipal Code*).

Mr. Lambert noted that the City's Ordinance is written to sunset on June 30, 2021; at which point, it would no longer be in effect. However, with the newly issued CDC guidance, the Ordinance could be repealed before June 30, 2021. If the Story County Board of Health regulation were to still be in effect after the City's Ordinance is no longer in effect, the County regulation would become effective in Ames unless the Council takes some action. In order for that not to occur, the City Council could pass a resolution stating that it is the policy of the Ames City Council that the Story County face-covering regulation will not be in effect within the Ames corporate boundaries. If it is the Council's desire to take such action, Mr. Lambert suggested that it be done at the last meeting held before the Ordinance expires on June 30, 2021, or at the same meeting that the Ordinance is repealed.

City Attorney Lambert provided the following options to the Council regarding the City's Face-Covering Ordinance: (1) The Council can take no action, and the Ordinance will expire on June 30, 2021, and become null and void. (2) The Council can direct the City Attorney's Office to draft an ordinance repealing the Face-Covering Ordinance, with the first reading occurring at the May 25, 2021, Council meeting. (3) The Council can direct the City Attorney's Office to draft an ordinance repealing the Face-Covering Ordinance with the first reading at the May 25, 2021, Council Meeting along with an Agenda sub-item to consider a Motion to Suspend the Rules, which would allow the repealing ordinance to be adopted on May 25, 2021. (4) The Council can direct the City Attorney's Office to draft an ordinance amending the Face-Covering Ordinance in ways the Council has determined, and extending the sunset date if so desired, to be considered for first reading at the May 25, 2021, Council meeting. (5) The Council can direct the City Attorney's Office to draft an ordinance amending the Face-Covering Ordinance by extending the sunset date to some date beyond June 30, 2021.

Mr. Lambert reiterated that, if the Council wishes to opt out of the Story County Board of Health regulation regarding face-coverings, it can be done by a Resolution. He provided two alternatives to the Council: (1) The Council can take no action and allow the Story County Board of Health regulation to become effective within the City of Ames upon the expiration or repeal of the Ames Face-Covering Ordinance. (2) The Council can direct staff to place a Resolution on the Agenda for the meeting at which the Ordinance is being repealed, or at the last meeting before the Ordinance expires, stating that

it is the policy of the City of Ames that the Story County Board of Health regulation is not effective within the corporate limits of the City of Ames.

Assistant City Manager Deb Schildroth recalled that at its May 11, 2021, meeting, the City Council directed staff to collect feedback from four local partners and medical advisors, i.e., Story County Board of Health, Iowa State University, McFarland Clinic, and Mary Greeley Medical Center, in preparation of revisiting the Face-Covering Ordinance. Within just a couple days of that meeting, the CDC announced new guidance pertaining to face coverings. That guidance stated that fully vaccinated people could resume activities without wearing a face covering or physically distancing, except where required by federal, state, or local rules, which included local business and workplace buildings (healthcare settings, public transportation, prisons, and homeless shelters). According to Ms. Schildroth, the question asked in the request for feedback from those four entities was what input or concerns each one had if the Face-Covering Ordinance was allowed to sunset and not be extended, and the general theme was to follow CDC guidelines.

It was clarified by Ms. Schildroth that if action should be taken to repeal the Ordinance, any face-covering requirements may continue in schools, businesses, stores, etc., at the discretion of those locations. She also pointed out that the City's transit service, CyRide, as well as its riders, will need to continue wearing face coverings due to the federal directive that they are currently required to follow.

It was noted by Assistant City Manager Schildroth that as of May 17, 2021, the positivity rate, according to data provided by the Story County Department of Public Health, was 3.6%. She also stated that the Test Iowa Clinic has adjusted its hours due to low testing numbers and testing is done by appointment only. Information about COVID-related inpatient hospitalizations at MGMC was also shared, which revealed that they averaged 2.3 patients in inpatient beds during the past 30 days, they are averaging fewer than one admission to an inpatient bed per day, and the patient's length of stay has been between one and six days.

Council Member Martin asked if it would be possible for the Council to rescind the Face-Covering Ordinance tonight. City Attorney Lambert stated it would not because that was not listed on the Agenda. Also the Council has to request the City Attorney to draft the repealing Ordinance, and it would then need to be brought back to the Council for adoption.

Council Member Betcher shared that the City Council had received a lot of emails, some of which pertained to masking in schools and the Story County mask mandate. She wanted it clarified that whatever the City of Ames decides to do, it does not have control over the County or the School Districts. Ms. Betcher also pointed out that the new CDC guidelines specifically stated that businesses had the right to do whatever they wanted to do. Council Member Beatty-Hansen added that the City having the mask mandate had made it easier for businesses to mandate face coverings inside their establishments. Mayor Haila noted that Iowa State University would make its own decision as well.

Ms. Beatty-Hansen asked if it were legal for the Council to pass an ordinance on first reading and then take public input on the second reading. Mayor Haila stated that, typically, the first reading is considered a public hearing. It would be unusual; the Council would have to take public input on the

first reading, and then the Council members could vote as to whether it wanted to allow additional input on the second reading.

Council Member Gartin inquired as to whether the Mayor could call for another special meeting and suspend the rules to repeal the Ordinance. City Attorney Lambert stated that was possible; however, the Ordinance has to be published before it becomes law.

Moved by Gartin to direct the City Attorney's Office to draft an ordinance repealing the Face-Covering Ordinance, but that staff would set a special meeting as soon as possible, but still meeting the 24-hour posting of the Agenda.

Motion withdrawn.

Moved by Gartin to direct the City Attorney's Office to draft an ordinance repealing the Face-Covering Ordinance for first reading, along with an Agenda sub-item to consider a Motion to Suspend the Rules, but that staff set a special meeting as soon as possible.

Mr. Gartin added that the sentiment had been loud and clear from the emails received: the community wants this to be done, and the sooner, the better. He doesn't know what there is to gain by delaying repealing the Ordinance and requiring masks to be worn when the Ordinance is going to be repealed.

Motion died for lack of a second.

Moved by Martin, seconded by Corrieri, to add three Agenda items to the next Council meeting's Agenda: (1) First reading to repeal the Face-Covering Ordinance, (2) Request Council vote for suspending the rules for adopting an ordinance, and (3) Adopt a resolution that the County's face-covering regulation has no effect on Ames.

Mayor Haila pointed out that the Council's next meeting would be held on May 25, 2021.

Council Member Betcher noted that the City had issued a Press Release advertising that the Council will be taking public input on the Face-Covering Ordinance on May 25, 2021. Accelerating the pace of repealing the Ordinance to her seemed like a "bait and switch." She doesn't want to slow down the process, but the public had been informed of what the process was going to be.

Council Member Gartin replied that there are circumstances when you weigh the pros and cons and the benefits of accelerating the process means kids don't have to wear masks one day longer. Mayor Haila clarified that repealing the City's Face-Covering Ordinance would not pertain to the School District; the School District would have the right to do what it deems best, regardless of what the City of Ames does.

Mr. Martin explained that he tried to word his motion so as to leave it open to the possibility of the Mayor setting a Special Meeting.

Council Member Corrieri noted that some of the emails received included comments that the Face-

Covering Ordinance had been a divisive issue in the community. She stated her belief that what makes it appear as divisive is how people chose to react. Moving forward, she recommended that everyone just has to do better in the future. There will be people who choose to continue to wear masks even if they are vaccinated, and she hoped that there would be no shaming of others if they felt more comfortable continuing to wear a mask.

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

Council Member Martin said it was difficult to see other cities change its regulation so much more quickly that Ames will be doing. However, he felt that the Council needs to give respect to those people who planned to provide input at its first reading, which had been stated in a press release, through the media, and on the radio, would occur on May 25, 2021. Ms. Beatty-Hansen said that moving forward prior to May 25 might hamper the amount of public input received as the public had planned on it happening at the City Council meeting to be held on Tuesday, May 25, 2021. Mr. Martin agreed, stating that the Council wants to do this expeditiously, but there are some constraints, and the Council needs to do what was stated would be done.

Council Member Betcher clarified that there had been no discussion at the City Council meetings regarding anything about a vaccine passport. City Attorney Lambert concurred, stating that the Legislature is working on legislation to prohibit “vaccine passports” by local entities, but there had been zero discussion at the local level.

**DISCUSSION OF IN-PERSON CITY MEETINGS:** Mayor Haila asked City Manager Steve Schainker to comment about reopening City Hall to the public. Mr. Schainker noted that City Hall had been open to the public for a long time; it was only closed from late March to June 30, 2020. He stated that CyRide is under the direction of the Transit Board, and the Library Board of Trustees has not made a final decision for its facility. City Attorney Lambert reiterated that separate Boards of Trustees control both CyRide and the Library, and they can make their own decisions.

City Manager Schainker clarified that there was nothing in the law that stated employees working in City Hall can’t wear masks if they are uncomfortable not wearing them. He pointed out that whatever decision the City Council makes regarding resuming in-person meetings would apply to City Council meetings and all other Boards & Commissions’ meetings, with the exception of CyRide and the Library.

Council Member Betcher asked about the “hybrid option” (continuing with electronic meetings while holding in-person meetings). She said someone had mentioned to her that they believed that the City would be doing this by holding the Mental Health Forum, which will be held in the Auditorium on Thursday evening, and broadcasting it via Zoom. Public Information Officer Susan Gwiasda stated that there will be no interplay between the person on stage and the person who is viewing, i.e., attendees at the Forum would only be able to interact by typing into the “Comment Section.” There is not the possibility of providing input while the speakers are presenting.

City Manager Schainker advised that staff is still working on the possibility of a “hybrid option.” Costs have to be calculated and staff has to determine how to do it. As soon as possible, staff will provide

that information to the Council; however, he recommended that the Council not withhold its decision. It was also clarified by Mr. Schainker that the Council's direction would apply to all Boards and Commissions as well as the City Council.

Council Member Betcher asked if there would be the possibility of allowing people to call in to provide input on items while the Council meeting was occurring. Mr. Schainker shared that the problem with that is that there is no on-line interaction; comments can come in to one phone line manned by one staff person. The staff person then takes down the message and passes it on to the Mayor. Ms. Gwiasda commented that the possibility of phoning-in has not been explored. City Manager Schainker noted that if someone can't attend the meeting in person, they can always send an email to the Mayor and City Council; those emails could then be read during the meeting.

Assistant City Manager Deb Schildroth pointed out that ASSET is comprised of four different funding agencies, and it would be necessary for all four to weigh in on returning to in-person meetings. That has not been discussed with those agencies.

Assistant City Manager Brian Phillips said the return to in-person meetings would not be an issue for any of the Boards or Commissions that he staffs.

Moved by Beatty-Hansen, seconded by Betcher, to direct that the City Council and City Boards and Commissions resume in-person meetings starting June 1, 2021, and have staff reach out to the ASSET funders to determine their preference.

Council Member Betcher said she wanted it to be made clear to the Boards/Commissions Members and to the employees staffing those Boards/Commissions that they are free to continue wearing masks if that is their preference.

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

Mayor Haila commented that he was looking forward to meeting again in person after 14 and one-half months.

Council Member Martin inquired if there was plexiglass separating the people around the dais. Mr. Schainker answered that there is and it will remain in place for a while.

**DISPOSITIONS OF COMMUNICATIONS TO COUNCIL:** None.

**COUNCIL COMMENTS:** Council Member Martin commented that he believed there was a lot that went unsaid at this meeting. He added that the whole COVID situation has been challenging for everyone, and he was grateful for those who upheld the decision of the Council in an attempt to keep the community safe.

Council Member Betcher stated her hope that people will be charitable to each other and allow all to make their own decisions as to whether they wish to continue to wear a mask.

**ADJOURNMENT:** Moved by Betcher to adjourn the meeting at 6:44 p.m.

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Diane R. Voss, City Clerk

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John A. Haila, Mayor