

# MEMO

## Legal Department

**To:** Mayor Haila, Ames City Council

**From:** Mark O. Lambert, City Attorney

**Date:** October 21, 2022

**Subject:** MGMC request to amend the Ames Municipal Code.

On September 15, 2022, Brian Deter, CEO of Mary Greeley Medical Center (MGMC), sent the Council a letter requesting changes to Chapter 12, the “City Hospital” chapter of the Municipal Code. The Council referred Mr. Dieter’s letter to the City Attorney for a response.

First, Mr. Dieter is requesting a change to section 12.2 of the Municipal Code, which states “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. He notes Iowa Code section 392.6 states that a city hospital board of trustees may have three, five or seven members, and that the board of trustees themselves make the decision on the size of the Board.

Until 2009, the Iowa Code explicitly gave city councils the authority to establish the number of trustees of a city hospital. But, in 2009, the Legislature changed that language, vesting the power to decide the size of the board (3, 5, or 7) with the hospital trustees themselves. So, our Municipal Code has been in conflict with the Iowa Code since July 1, 2009 and should be changed to reflect the language in the Iowa Code.

Second, Mr. Dieter raises another issue of potential conflict between the Iowa Code and the Ames Municipal Code. Section 12.3 of the Ames Municipal Code states that “Any adult may be a candidate for the Ames City Hospital Board of Trustees. A candidate for Hospital Trustee must be nominated by a petition of residents of the City in accordance with the election laws of Iowa.” This is contrasted with Iowa Code section 392.6(1), which states: “A candidate for hospital or health care facility trustee must be a resident of the hospital or health care facility service areas within the boundaries of the state at the time of the election at which the person’s name appears on the ballot.” This language

in the Iowa Code was added in 2003. The current Municipal Code language has some issues – for example, it says “any adult” can be a candidate for hospital trustee; it’s not limited to Ames residents or MGMC service territory residents (theoretically, anyone in the state could be a candidate). And pretty much all election laws in Iowa refer to an “eligible elector” (someone who is eligible to vote) rather than “any adult.” (Our current language would theoretically allow someone who is disqualified from voting to be a candidate). So, it seems to make sense to clean up this section of the Municipal Code and to bring it into conformance with the Iowa Code.

Because our Municipal Code is in conflict with the Code of Iowa in the two ways detailed above, I recommend that the Council direct my office to draft an ordinance making such changes.

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