

ITEM #: 20
DATE: 11-28-23
DEPT: Admin

COUNCIL ACTION FORM

**SUBJECT: REQUEST FROM AMES MAIN STREET TO ACCEPT GIFT OF OUTDOOR
DECORATIVE SNOWFLAKE**

BACKGROUND:

At the November 14, 2023 City Council meeting, the Council referred a letter from Ames Main Street requesting that the City take ownership of a large, decorative snowflake. The lighted snowflake was originally purchased by Ames Main Street for display on City property in conjunction with Snow Magic during the winter season.

On October 10, 2023, the City Council received a report containing advice from the City Attorney that allowing outside organizations or persons to place an ongoing display on City property likely creates a public forum for such displays. The consequence of creating a public forum for such displays is that the denial of a request for a display to be erected by another entity would likely be viewed as "content discrimination" under First Amendment case law. Continuing to allow ongoing displays on City property by any entity creates the possibility that displays are erected that are viewed by the Council or others as offensive.

In response to this report, the Council adopted a policy that no ongoing displays, other than City-owned displays, will be allowed on City property, with the exception of temporary displays in conjunction with a rally or gathering of people.

The City owns several dozen lighted snowflakes that are affixed to downtown streetlights during winter months. These are stored in the basement of the Bandshell when not in use. The large, lighted snowflake that Ames Main Street proposes to gift to the City is of high-quality construction and is similar in theme to the existing streetlight-mounted snowflakes. City staff does not have any objections or concerns about owning or maintaining the proposed gift.

It should be emphasized that the City's acceptance of the gift of the lighted snowflake is unconditional. The City will decide whether, where, and how to display the snowflake, and the City may sell or dispose of the snowflake at any time if it is determined to be in the City's best interest.

If the City Council agrees to accept the snowflake, then staff proposes that it be displayed initially in Tom Evans Plaza during December 2023. Tom Evans Plaza contains sufficient space and available electrical receptacles to adequately display the snowflake. However, in future years the City Council may decide to display it at another park, plaza, or public property.

ALTERNATIVES:

1. Approve the following:
 - a. Accept the unconditional gift of the outdoor lighted snowflake from Ames Main Street
 - b. Direct staff to display the snowflake initially in Tom Evans Plaza during the month of December 2023
2. Accept the gift of the snowflake, but direct that it be displayed in another location or during another time.
3. Do not accept the proposed gift, and request that Ames Main Street find a location on private property to display the snowflake.

CITY MANAGER'S RECOMMENDED ACTION:

The City Council's recently adopted policy regarding displays on City property no longer permits the snowflake owned by Ames Main Street to be displayed. Ames Main Street has proposed giving the snowflake to the City. This would allow the City to determine when, where, and how to display the snowflake if the City Council chooses to. Ames Main Street would no longer decide how the snowflake is handled. The snowflake is in good condition and is compatible with the existing lighted snowflakes that the City owns for the streetlight poles downtown. Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative #1 a-b, as described above.

ATTACHMENT(S):

[C. Davis - Letter from AMS regarding Snowflake.pdf](#)