

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

AMES, IOWA

JULY 18, 2017

The Ames City Council met in special session at 6:00 p.m. on the 18th day of July, 2017, in the City Council Chambers in City Hall, 515 Clark Avenue, pursuant to law with Mayor ProTem Orazem presiding and the following Council members present: Bronwyn Beatty-Hansen, Gloria Betcher, Amber Corrieri, Tim Gartin, and Chris Nelson. *Ex officio* Member Rob Bingham was also present. Mayor Campbell was absent.

Assistant City Manager introduced Tesheik Kerr, newly hired Management Analyst. Ms. Kerr provided her background that lead her to her new position.

REGULATING OCCUPANCY IN RENTAL UNITS: City Manager Steve Schainker noted that during the latest session, the State Legislature had passed a law that stated, after January 1, 2018, “a city shall not...adopt or enforce any regulation or restriction related to the occupancy of residential rental property that is based upon the existence of familial or nonfamilial relationships between the occupants of such rental properties.”

Council Member Peter Orazem noted the usage of “familial or nonfamilial relationships” and asked to have that defined. Interim City Attorney Mark Lambert explained that basically, cities cannot use familial status or the lack of familial status to deny renting to anyone.

At the inquiry of Council Member Gartin, City Manager Schainker noted that the City of Iowa City initiated a moratorium ordinance. Iowa City shall not issue a rental permit for any dwelling that is not subject to a current rental permit or a rental permit that expired within the past 18 months and shall not issue a building permit that would result in an enlargement of a rental dwelling located within the area described above.

Mr. Schainker shared that on May 23, 2017, the Planning and Housing Director, Assistant City Attorney, Fire Chief, Community Codes Liaison, and he traveled to the Des Moines City Hall to discuss strategies for protecting the City’s neighborhoods by limiting occupancy based on something other than familial status. Others attending that meeting included representatives from Cedar Falls, Iowa City, and Des Moines. The group discussed a number of possible strategies for regulating occupancy in residential rental units. Mr. Schainker reviewed the list of options that had been discussed. City representatives agreed that there is a concern that the General Assembly will take action next year to prohibit whatever actions the cities take to limit occupancy through a means other than family affiliation. There were also concerns that if the option chosen either limits the percentage of rentals in a neighborhood or creates a separation distance between rental properties, there will be concerns about grandfathering existing rental units while licenses are valid and whether they can receive a new license if they do not meet the restriction. Under that option, the question was to allocate licenses equitably. Also discussed was that basing limitations solely on age could be unworkable for many households within the City due to the recent trend of children returning to home as adults or grandparents being cared for at home by their adult children.

City Manager Schainker described a four-point approach on one possible strategy that staff feels could be legally defensible. He said that after the joint meeting of the cities, City staff had met to develop a more-focused list of options for the Council to consider. Those options were as follows:

1. Limit the concentration of rental units in a specified geographic area.
2. Limit the number of adults who can inhabit a rental unit.
3. Limit occupancy in rental units to a specified amount of square footage per person.
4. Limit occupancy based on the number of off-street parking spaces.
5. Limit occupancy in rental units based on a multi-tiered approach.

The City Manager shared that, on June 29, 2017, he and the Planning and Housing Director met with members of the SCAN Association. The options offered by the SCAN representatives were listed by Mr. Schainker, as follows:

1. Limit occupancy in rental units to no more than three adults aged 18 to 55.
2. Limit occupancy in rental units to no more than three undergraduates.
3. Don't allow any additional rental units in low density residential neighborhoods.
4. Limit building envelopes of existing structures so that single-family buildings that are being rented cannot be expanded to accommodate more renters.
5. Incentivize conversion from rental to owner-occupied houses.
6. More aggressively enforce the existing "nuisance" related violations (noise, parking, etc.).
7. Modify the Zoning Ordinance to prevent changes to architectural features (such as enclosing porches) to rental units in the low density residential areas.

Mr. Schainker told the City Council that, assuming that the Council would like to pursue new occupancy regulations, it would be helpful for them to provide staff direction regarding a general approach that either (1) limits the number of adults in a rental unit or (2) relies upon a quantitative limit on renters based on square footage of a home, number of bedrooms, number of off-street parking spaces, or some other indicator. He noted that if the approach selected relies on a per-renter quantitative limit, larger homes would likely have more occupants.

Council Member Betcher asked if it would be possible to create an overlay district to regulate occupancy. City Manager Schainker said it would be possible. He stated that the biggest concern of the staff would be verifying changes by January. It would be almost impossible for the City to inspect and guarantee the new standard by that time.

At the inquiry of Council Member Nelson, Zoning Enforcement Officer Sara VanMeeteren listed the Zoning Classifications, the number of buildings, and the number of units.

Leslie Kawaler, 2121 Hughes, Ames, gave a presentation prepared by the South Campus Area Neighborhood.

Two primary goals of the SCAN were noted as being:

1. Stabilizing and revitalizing vulnerable neighborhoods.
2. Maintaining the quality of life

Ms. Kawaler listed several reasons why the Neighborhood Association believes too many rentals are a problem. She presented pictures of some local rentals showing furniture in the front yard and unkempt and poorly maintained yards. Ms. Kawaler identified other neighborhoods that they believe are vulnerable, specifically, SCAN, CC/OAMS, west of Campus, Oakland, and Sunrise. It was emphasized by Ms. Kawaler that not all Ames neighborhoods need stabilization. It is only when the number of rental units reaches a point of imbalance. If the Council agrees, they might want to create

some sort of Campus-impacted zoning overlay. To address the problem, SCAN is suggesting the following:

1. Neighborhood Stabilization. Institute a rental density cap on each block or street of no more than 25%.

According to Ms. Kawaler, this is not a new idea. Other cities have done this either on a percentage basis or with a limitation on the proximity of rentals to one another. She said that West St. Paul, Minnesota; North Mankato, Minnesota; Northfield, Minnesota; Winona, Minnesota; St. Paul, Minnesota; and Kutztown, Pennsylvania, all have density caps in place. The rental density cap had been upheld by the Minnesota Court of Appeals. The current license holders are generally grandfathered in. There are limited exemptions for homeowners. In areas where the rental cap has been exceeded and a homeowner is having trouble selling, a city can offer incentives to first-time homebuyers or low-income homebuyers to help bring back balance to the neighborhood.

2. Quality of Life. Limit occupancy of rental property in all RL (or only vulnerable RL) neighborhoods to no more than three persons between the ages of 18 and 55.

Ms. Kawaler stated that the Iowa Supreme Court has ruled that cities have a legitimate interest in promoting peaceful and quiet neighborhoods with low population, limited congestion of motor vehicles, controlled transiency, and maintenance of property values. She pointed out that for those very reasons, the City had adopted its original ordinance limiting rentals in the RL to a family or three unrelated individuals. However, since occupancy may no longer be limited in that way, the City needs to find a permissible way to limit the number of tenants who may live together in RL neighborhoods or risk degradation of its most vulnerable and affordable neighborhoods.

According to Ms. Kawaler, Iowa law does not seem to prohibit limiting housing options based on age. Council Member Gartin asked how the City would enforce that. Ms. Kawaler said the neighborhood residents would see how many people are coming and going. She commented that she was alright with the Council limiting occupancy to three adults, but they were trying to be more flexible for families. According to Ms. Kawaler, the SCAN sincerely hopes that the City does not base occupancy on the number of bedrooms. Mr. Gartin asked if it would be possible to base it on the number of bedrooms, but prohibit the atrocities that are currently occurring.

3. Closing the “Parental Loophole.” Ms. Kawaler noted the importance of the City closing the “parental loophole.” The current definition includes “owner’s relative within the first degree of consanguinity.” This appears to be ignored. Ms. Kawaler pointed out that, with several roommates, the property really is rental and should be registered and regulated. She said that more and more parents are purchasing houses for their children/students and their friends. Only one roomer is permitted, but that is either not real known or being ignored. It was important to note that those properties will not be subject to any new rental regulations that are imposed, they won’t count in a rental cap, and they won’t likely be covered by an occupancy limit because the owners believe it is exempt.

When asked how the City approaches a situation where parents purchase a home for their student, Ms. VanMeeteren replied that the City relies on the other neighborhood residents to

report it. Then the City sends a notice stating that they have to register their property and have the property inspected. It was shared by Ms. Betcher that many of the Codes that she has reviewed states that the owner or the owner's agent has to live there.

Other changes suggested by the SCAN were presented by Ms. Kawaler, as follows:

1. Creative solutions including tax incentives to encourage home buyers to convert rental housing back of owner-occupied.
2. Alter the definition of "occupancy" in rental housing to include long-term guests.
3. Require landlords to have a local agenda available 24/7.
4. Raise landlord permit fees to help pay for additional enforcement.
5. Annual rental inspections.
6. Consider moratorium on building permits and new rental licenses in RL (or "vulnerable" RL) until occupancy issue is resolved because it is not felt that this issue is going to be resolved by January 1, 2018.

Ms. Kawaler asked what the Council's role will be in shaping the vision for Ames: laissez faire/market-driven or proactive.

Barbara Pleasant, 516 Lynn Avenue, Ames, gave the number of rental units by street; she estimated that the Neighborhood is approaching 50% rental.

Council Member Betcher questioned whether the City ever inspects when the renters are there. Fire Chief Shawn Bayouth answered that landlords have asked City not to inspect when it's just the tenants who are present. Ms. VanMeeteren noted that it is difficult for staff to tell how many people actually live there. The City investigates on a complaint-basis. When a rental is registered, there is an initial inspection, and then it is set up for another inspection between one and four years.

Council Member Orazem asked for the definition of "unit." Ms. VanMeeteren answered that a single-family home is one unit; a duplex would be two units.

Ann Grevstad-Nordbrock, 521 Hayward Avenue, Ames, stated that she upheld what SCAN had to say. She opposes the change in regulation that makes it easier for more than three unrelated people to live there. Ms. Grevstad noted that she and her family are part of the 17% that is a permanent year-round resident. She shared her experience of living in East Lansing, Michigan. The value of their home in East Lansing increased, and their former neighborhood thrived because it had an overlay district. There was a great diversity in the neighborhood. According to Ms. Grevstad-Nordbrock, East Lansing offered incentives to retain single-family homeownership. She believes that Campustown in Ames has that same potential; enforcement is an important issue.

Brian Torresi, attorney with DavisBrown Law Firm, advised that he was present as the representative for the Ames Rental Association. Mr. Torresi noted that what is lacking in this discussion and former discussions was the information from many other neighborhood associations as well as the landlords. He pointed out that staff had met with SCAN, but the City needs to meet with the Ames Rental Association and landlords. He also pointed out that Minnesota case law does not apply in Iowa.

Joanne Pfeiffer, 3318 Morningside Street, Ames, thanked SCAN for giving the City options. She reminded the Council that she had been talking about "quality of life" for some time now and its importance to neighborhoods.

Grant Berthold, 2312 Storm Street, Ames, asked if it were possible to limit occupancy based on tax status. He felt that it would achieve the same goal as when familial status was used.

Mary Warren, 3121 Maplewood Drive, Ames, pointed out that the Iowa Senate passed the new law with very bipartisan support. She feels that whatever the City comes up with will be objectional by the Legislature and believes that the City's focus should be on the enforcement side.

Fern Kupfer, 2100 Ashmore Drive, Ames, said she was the Former President of SCAN. Ms. Kupfer pointed out that local ordinances are so very important. Situations are different in college communities. This is about degradation of neighborhoods in favor of rentals.

Kelly Excell, 5603 Hickory Hills, Ames, advised that she was a property manager. She said that her agency welcomes occupancy limits. The Federal Fair Housing Act prohibits the use of familial status to regulate occupancy. She believes that a lot of the problems are the result of a lack of enforcement. The problems result from the behavior of the renters. Having bad renters is extremely detrimental to not only the City, but to the landlords as well.

Barbara Pleasants advised that she had gone through the City Assessor's Web page and looked at the what was shown for the residences of the owners of several homes. Many of them don't live in Ames. Some live out-of-state and can't be reached. She knows of no single-family renter in her neighborhood.

Ms. Warren, 3121 Maplewood Drive, Ames, again spoke. She pointed out that the rental climate has changed. The number of bathrooms, bedrooms, and amenities, such as walk-in closets and granite countertops, are important. She commented that the rules for East Lansing and other cities don't pertain to Ames, and it is now known what the issue in that city might have been.

Ms. Grevstad-Nordbrock agreed that enforcement is important. However, she feels what is important is to ask what does the City do with the change in the law and what is wanted for Ames as a whole. She reiterated that is important to curb the number of rentals to protect Campustown; it is a vulnerable area and needs to be protected.

Council Member Betcher said her research had revealed that East Lansing has overlay districts that had been voted in by the neighborhoods. The overlay districts allow different things. To her, it is a question of whether it is a stable neighborhood or is vulnerable. It is important to have a balance. She agrees that the City needs to talk to others besides neighborhoods. She thought perhaps this could be handled by the Campus and Community Commission.

Council Member Gartin pointed out that there appeared to be some consensus on the enforcement side; that would not interfere with the new statute. City Manager Schainker advised that staff would need to determine what would be involved in increasing the level of enforcement. However, the City would continue with its annual inspections and nuisance complaint inspections. Council Member Corrieri noted that staff could provide a report similar to what was provided for the parking enforcement item.

Moved by Gartin, seconded by Corrieri, to direct staff to come back to Council with proposals on increasing enforcement and inspection efforts in the following neighborhoods: SCAN, Oak to Riverside, CCOAMS, and west of Campus.

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

Moved by Corrieri, seconded by Beatty-Hansen, to direct staff to solicit additional feedback from the four specifically named neighborhoods as well as from the landlord association regarding the items discussed tonight.

Council Member Orazem commented that occupancy limits should have some relationship to limiting the adverse impacts on the neighborhood from problems with parking and safety. The Council needs to pass a regulation that is consistent with state law, but limits the negative impacts of having rental properties.

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

Moved by Gartin, seconded by Beatty-Hansen, requested that staff come back to Council with a memo on a tool that allows for the creation of an overlay district for the purpose of limiting rental units and assess what would be a healthy percentage.

Ex officio Member Rob Bingham shared that he agrees that stability is important to neighborhoods; however, students need to live close to Campus. He believes that enforcement of some of the nuisance issues should be increased.

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

Moved by Corrieri, seconded by Betcher, requested staff to provide information on options of incentivizing converting rental housing back to single-family.

Ms. Corrieri noted that she would like to see what has been done in other communities. She said this is to be done in the longer term.

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

Moved by Betcher, seconded by Beatty-Hansen, to direct staff to provide a memo to the City Council regarding instituting a moratorium on expansion of rental properties in the RL Zone.

Council Member Nelson pointed out that the situation in Iowa City versus what is happening in Ames might be different.

Vote on Motion: 3-3. Voting aye: Betcher, Beatty-Hansen, Corrieri. Voting nay: Gartin, Nelson, Orazem. Motion failed.

UPDATE ON THE FATS, OILS, AND GREASE ORDINANCE IMPLEMENTATION: Water and Pollution Control Director John Dunn introduced Dustin Albrecht, Environmental Specialist. Mr. Albrecht gave an update to the Council on implementation of the FOG Ordinance since it was approved by the City Council on November 24, 2014. He reviewed the time line for compliance and showed the compliance history to date. Mr. Albrecht also noted the cost of non-compliance.

Council Member Nelson pointed out that approximately 55% of the FSEs (food service establishments) are compliant and the other two categories (non-responsive and non-compliant) equate to about the same.

Water and Pollution Control Director John Dunn clarified that generating money for the Utility was not the intent; it was to reduce the damage to the City's sewer system from fats, oils, and grease. It appears the revenues at this point appear to be approximately \$140,000 to \$150,000 from the charges for non-compliance; however, the City's goal is to have 100% compliance. Mr. Albrecht provided examples of the charges to an illustrative type of restaurants.

Council Member Gartin asked if it would be less expensive for restaurants to just pay the fine. Mr. Albrecht said that, based on his research, basically it would be. Mr. Gartin questioned whether the fine for non-compliance should be increased. He said if staff members believe that the current fee structure is incorrect, they should come back to Council.

Director Dunn pointed out that if there is a blockage, staff would be able to see which FSEs are on that sewer. Staff would then look at which of the establishments are in compliance.

Mr. Dunn noted that it is still early enough in the new process. He would like to see a little more time pass before Council makes any changes.

Council Member Betcher asked if some FSEs were non-compliant because they could not afford to put in the correct system. Mr. Albrecht replied if they don't have a grease inceptor, they need to train their staff on best management practices, and report back to the City.

There have been three blockages since Mr. Albrecht last addressed the Council. They were all either right on Lincoln Way or on a side street just off of Lincoln Way. No municipal infractions were issued at that time.

According to Director Dunn, if it is determined which FTE is responsible, the business would be responsible for paying the municipal infraction, plus the cost of cleanup, plus the cost of damages.

Mr. Albrecht presented changes that the City Council might want to consider, specifically, dealing with municipal infractions (establish schedule for offenses and failure to submit information) and the use of grease interceptors in parallel/series. Some FTEs would prefer to put in more than one than one very large one. Council Member Gartin suggested that Council just change that to allow parallel interceptors now, instead of waiting six months. Director Dunn noted that the plan that staff is planning to come back to Council with has a number of changes to Chapter 28; it is anticipated that they will bring those changes to Council in October.

Mr. Albrecht recommended that training for the haulers, similar to that performed by the Des Moines WRA, be offered. He advised that 17 of the 18 haulers (approximately 98%) who have expressed a desire to work in Ames have gone through the Des Moines WRA training.

According to Mr. Albrecht, as a result of the Ordinance, the City has reduced fees its fees by approximately 87%. Ames adjusted its prices to match those of other communities. It is anticipated that the volume will increase.

COUNCIL COMMENTS: Moved by Corrieri, seconded by Gartin, to direct staff to place on an upcoming Agenda..refer to staff the request of Carol Stasak made on behalf of her mother for an adjustment to her utility account due to a water heater leak.

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

ADJOURNMENT: Moved by Corrieri to adjourn the meeting at 9:20 p.m.

Diane R. Voss, City Clerk

Ann H. Campbell, Mayor