

JOHNSTON CITY COUNCIL  
Worksession No. 16-04  
Johnston City Hall, 6221 Merle Hay Road  
**TUESDAY**, February 2, 2016  
6:00 p.m.

1. CALL TO ORDER
2. ROLL CALL
3. BUDGET DISCUSSION
  - a. Information
  - b. January 15, 2016 Memo

4. CLOSED SESSION

The Johnston City Council will enter into Closed Session pursuant to *Iowa Code* §20.17(3) – Public Employment Relations (Collective Bargaining) – to conduct a strategy session.



## MEMO

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TO: The Mayor and City Council

FROM: Jim Sanders, City Administrator  
Teresa Rotschafer, Finance Director

DATE: January 29, 2016

RE: Information for the February 2nd work session on the 16/17 budget

Attached with this brief update to the 16/17 budget, is the detailed memo of January 15th which contained information the City Council considered to provide direction to staff in finalizing the 2016-2017 budget. Staff used the following key points in finalizing the 16-17 budget:

- Establish a property tax levy of \$11.40.
- Fund staff suggested decision packages.
- Use the general fund operating reserve to fund decision packages and capital equipment to reach the \$11.40 property tax levy.
- Increase funding to Johnston Chamber by the requested \$2,000.
- Continue funding Johnston Partnership at the \$5,000 level.
- Not provide funding for the request from Junior Achievement of Iowa.
- Continue incorporating the Commercial and Industrial Backfill Replacement dollars in the operation of the budget and establishment of levy rates.
- Discussion regarding the Economic Development Manager and Communication Specialist (which is to be funded with TIF funds) will take place in the coming months and included in a 2016-2017 budget amendment depending upon Council communication and decision.

Exhibit 1 demonstrates the effect of the proposed property tax levy on a home with a \$200,000 assessed valuation. The homeowner will notice a \$13.60 decrease in their property taxes. Exhibit 2 demonstrates the effect on a commercial property with a \$200,000 assessed valuation. The business owner will notice a \$18.00 decrease in their property taxes.

As a reminder the funding of the Commercial and Industrial Rollback Replacement (C & I) will be frozen at the FY17 allocation amount. The estimated General Fund C & I replacement will be \$326,809 and Debt Fund replacement of \$161,966 for a total of \$488,775. The reduction of the tax

levy from \$11.50 to \$11.40 results in the loss of approximately \$4,222 in rollback replacement. Exhibits 3 and 4 show the assessments by property class, both the 100% assessed valuation and the taxable valuation, and the resulting Commercial and Industrial Replacement Claim Estimation.

Exhibit 5 is a summary of the General Fund Reserve. The proposed FY17 budget uses \$525,768 of the reserve to reach a tax levy of \$11.40 resulting in a reserve balance of 27%. Staff strongly recommends no additional use of reserve due to the uncertainty of the FY16 budget amendments and the State funding of the C & I replacement. An additional expenditure of approximately \$150,000 would get us to 25%. \$150,000 or 2% in a budget of \$12,768,437 is minor and could easily be needed in an emergency. There was a recent discussion among City Manager's regarding the general fund reserve. Responses from the following communities were shared:

- Bettendorf - 20-25%
- Boone - 30% of the general fund budgeted revenue
- Marion - 35% of the general fund budgeted expenditures
- Fort Dodge - 20%; however they are in the low 30% now, in preparation for losing the backfill this May

Exhibit 6 is a summary of the Decision Packages. The decision packages and capital equipment proposed to be funded are highlighted in yellow. \$387,866 is the cumulative cost of the decision packages which are proposed to be included in the operating budget and levy of \$11.40. \$525,768 is the total cost of the general fund equipment replacement transfer and the funding of the remaining decision packages. \$298,000 in Road Use Tax decision packages are included in the proposed operating budget. Decision Package #28 for the Encode Plus Planning Software can be included in the FY16 budget amendment since the need for the software is now.

City of Johnston  
Property Tax Levies  
Amounts & Effect on Typical Property Owner  
**Residence - \$200,000 Home**

Year	Rollback	Actual Valuation	Taxable Valuation	City Tax Rate	City Tax Amount	Net Change	Percent Change
2005-2006	47.9642%	\$200,000	\$95,928	10.74278	\$1,030.54	(\$17.07)	-1.63%
2006-2007	45.9960%	\$200,000	\$91,992	11.30567	\$1,040.03	\$9.49	0.92%
2007-2008	45.5960%	\$200,000	\$91,192	11.30298	\$1,030.74	(\$9.29)	-0.89%
2008-2009	44.0803%	\$200,000	\$88,161	11.30102	\$996.30	(\$34.44)	-3.34%
2009-2010	45.5893%	\$200,000	\$91,179	11.30102	\$1,030.41	\$34.11	3.42%
2010-2011	46.9094%	\$200,000	\$93,819	11.26700	\$1,057.06	\$26.65	2.59%
2011-2012	48.5290%	\$200,000	\$97,058	11.09579	\$1,076.94	\$19.88	1.88%
2012-2013	50.7518%	\$200,000	\$101,504	11.29000	\$1,145.98	\$69.04	6.41%
2013-2014	52.8166%	\$200,000	\$105,633	11.15007	\$1,177.82	\$31.84	2.78%
2014-2015	54.4002%	\$200,000	\$108,800	11.34392	\$1,234.22	\$56.41	4.79%
2015-2016	55.7335%	\$200,000	\$111,467	11.50000	\$1,281.87	\$47.65	3.86%
2016-2017	55.6259%	\$200,000	\$111,252	11.40000	\$1,268.27	(\$13.60)	-1.06%

**CME - \$200,000 Business**

Year	No Rollback	Actual Valuation	Taxable Valuation	City Tax Rate	City Tax Amount	Net Change	Percent Change
2005-2006	100.0%	\$200,000	\$200,000	10.74278	\$2,148.56	\$2.63	0.12%
2006-2007	99.1509%	\$200,000	\$198,302	11.30567	\$2,241.93	\$93.38	4.35%
2007-2008	100.0000%	\$200,000	\$200,000	11.30298	\$2,260.60	\$18.66	0.83%
2008-2009	99.7312%	\$200,000	\$199,462	11.30102	\$2,254.13	(\$6.47)	-0.29%
2009-2010	100.0000%	\$200,001	\$200,001	11.30102	\$2,260.22	\$6.09	0.27%
2010-2011	100.0000%	\$200,000	\$200,000	11.26700	\$2,253.40	(\$6.82)	-0.30%
2011-2012	100.0000%	\$200,000	\$200,000	11.09579	\$2,219.16	(\$34.24)	-1.52%
2012-2013	100.0000%	\$200,000	\$200,000	11.29000	\$2,258.00	\$38.84	1.75%
2013-2014	100.0000%	\$200,000	\$200,000	11.15007	\$2,230.01	(\$27.99)	-1.24%
2014-2015	95.0000%	\$200,000	\$190,000	11.34392	\$2,155.34	(\$74.67)	-3.35%
2015-2016	90.0000%	\$200,000	\$180,000	11.50000	\$2,070.00	(\$85.34)	-3.96%
2016-2017	90.0000%	\$200,000	\$180,000	11.40000	\$2,052.00	(\$18.00)	-0.87%

PRELIMINARY	01-Jan-15		Taxable Value	16/17	16-17	Inc (Dec)
	100%	Rollback		Tax Rate	Revenue	
Residential	1,688,775,681	55.6259%	933,195,728			
MultiResidential	2,424,886	86.2500%	2,076,413			
Commercial	268,650,684	90.0000%	226,631,469			
Industrial	1,647,260	90.0000%	1,442,189			
Utilities	66,146,938		42,985,318			
Military	(1,263,064)		(1,263,064)			
sub-total	2,026,382,385		1,205,068,053	<b>7.73983</b>	9,327,022	447,820
				<i>0.01000</i>	12,051	
T.I.F. #1	28,700,281		28,700,281			
T.I.F. #2	0		0			
T.I.F. #3	105,322,828		105,322,828			
T.I.F. #4	1,277,116		1,277,116			
T.I.F. #5	23,153,869		23,153,869			
T.I.F. #6	26,757,000		26,757,000			
sub-total T.I.F.	185,211,094		185,211,094			
Total Value for Debt	2,211,593,479		1,390,279,147	3.66017	5,088,658	190,070
				<i>0.01000</i>	13,903	
Tax levy, <b>excluding</b> ag land					14,415,680	637,890
Tax rate, <b>excluding</b> ag land				<b>11.40000</b>		
Total 100% valuation	2,211,593,479					
Debt limit @ 5%	110,579,674					
Agricultural	2,553,960	46.1068%	1,177,555			
Ag Buildings	5,092,760		2,348,109			
sub-total	7,646,720		3,525,664	3.00375	10,590	763
Tax dollars, <b>including</b> ag land					<b>14,426,270</b>	638,653

**CHECK CITY VALUATIONS**  
 Taxable Valuations By Class By Levy Authority  
 100% Valuations By Class By Levy Authority

**Commercial & Industrial Replacement Claim Estimation**

This sheet has been designed to allow each city to estimate the amount of property tax reimbursement that will be received from the State for each fund.

The City of Johnston

	(A) Commercial - Non-TIF	(B) Commerical - TIF	(C) Industrial - Non-TIF	(D) Industrial - TIF
1 Taxable	226,631,469	169,782,126	1,442,189	403,450
2 100% Assessed	268,650,684	171,808,866	1,647,260	403,450

REPLACEMENT \$		FILLS TO:
3 General Fund	\$326,809	REVENUES, LINE 18, COL (C)
4 Special Fund	\$0	REVENUES, LINE 18, COL (D)
5 Debt Fund	\$161,966	REVENUES, LINE 18, COL (F)
6 Capital Reserve Fund	\$0	REVENUES, LINE 18, COL (G)

\* Please input the amount of revenue being received from State of Iowa sources in the form of grants or reimbursements below. Separate the revenues by fund receiving the money. The information below will flow to REVENUES line 18.

	(A) General	(B) Special Revenue	(C) TIF Sp. Revenue	(D) Debt Service	(E) Capital Projects	(F) Proprietary
Other State Grants & Reimbursements	18	\$29,275				

	2014-2015 ENDING BALANCE	ACTUAL BEGINNING CASH JULY 1, 2014	BUDGETED RESOURCES	BUDGETED REQUIREMENTS	ENDING CASH JUNE 30, 2015	
010	General Fund	5,267,545.17	11,739,982.05	(12,293,535.60)	4,713,991.62	38%
011	Hotel-Motel Tax	75,307.51	291,328.79	(273,515.46)	93,120.84	
012	Council Reserve	275.55	-	-	275.55	
014	Employee Work Clothing	3,592.23	2,000.30	(1,580.80)	4,011.73	
020	Assessment Reserve	117,812.57	196.94	-	118,009.51	
030	Project Development	66,508.64	38.01	-	66,546.65	
040	Equip Replacement Reserve	565,860.75	650,269.24	(596,744.56)	619,385.43	
	TOTAL GENERAL FUND	6,096,902.42	12,683,815.33	(13,165,376.42)	5,615,341.33	43%
	2015-2016 AMENDED BUDGET	BEGINNING CASH JULY 1, 2015	BUDGETED RESOURCES	BUDGETED REQUIREMENTS	ENDING CASH JUNE 30, 2016	
010	General Fund	4,713,991.62	11,312,365.00	(12,069,661.00)	3,956,695.62	33%
011	Hotel-Motel Tax	93,120.84	245,000.00	(265,100.00)	73,020.84	
012	Council Reserve	275.55	-	-	275.55	
014	Employee Work Clothing	4,011.73	2,000.00	(2,000.00)	4,011.73	
020	Assessment Reserve	118,009.51	-	-	118,009.51	
030	Project Development	66,546.65	-	-	66,546.65	
040	Equip Replacement Reserve	619,385.43	550,844.00	(581,950.00)	588,279.43	
	TOTAL GENERAL FUND	5,615,341.33	12,110,209.00	(12,918,711.00)	4,806,839.33	37%
	2016-2017 BUDGET	BEGINNING CASH JULY 1, 2016	BUDGETED RESOURCES	BUDGETED REQUIREMENTS	ENDING CASH JUNE 30, 2017	
010	General Fund	3,956,695.62	12,242,669.00	(12,768,437.00)	3,430,927.62	27%
011	Hotel-Motel Tax	73,020.84	275,000.00	(282,200.00)	65,820.84	
012	Council Reserve	275.55	-	-	275.55	
014	Employee Work Clothing	4,011.73	2,000.00	(2,000.00)	4,011.73	
020	Assessment Reserve	118,009.51	-	-	118,009.51	
030	Project Development	66,546.65	-	-	66,546.65	
040	Equip Replacement Reserve	588,279.43	590,950.00	(566,000.00)	613,229.43	
	TOTAL GENERAL FUND	4,806,839.33	13,110,619.00	(13,618,637.00)	4,298,821.33	32%
				(525,768.00)		
	General Fund Equip Replacement		413,703.00			
DPs	Update Classification & Comp Study		27,500.00			
	Website Responsive Design		1,500.00			
	Street Banners w/new city logo		6,750.00			
	Stainless Steel Hopper Spreader		5,471.00			
	Asphalt Patcher		9,660.00			
	Inspection Vehicle		20,300.00			
	Desk Top Computers		9,100.00			
	Radar Units		3,800.00			
	Body Warn Cameras		4,500.00			
	Partial Ash Tree Removal Request (\$75,000 budget; used \$23,484 of reserve-\$51,516 in operating budget)		23,484.00			
		525,768	525,768			

General Fund Balances  
Working Budget  
2016-2017

	Department	Request	Cost	R.U.T.	Water	Waste Water	Storm Water	TIF Funds	C.E.P. G. F.	Operating G. F.	Tax Levy	Cumulative Levy
									<b>Cummulative Cost =</b>	\$ 387,866	<b>Cummulative Levy</b>	\$ 0.321862
<b>Personnel - General Fund</b>				15/16 Preliminary Levy -							11.40000	
<b>Community</b>												
X 1	Development	City Planner	58,125							43,125	0.03578636	0.0357864
X 2	Parks	Recreation Coordinator	80,800							80,800	0.06705016	0.1028365
X 3	Administration	Performance Pay	25,000							25,000	0.02074572	0.1235822
X 4	Fire	Full Time Lieutenant, EMS	94,388							94,388	0.07832587	0.2019081
X 5	Police	Police Officer (9/1/16 start)	88,237							88,237	0.07322159	0.2751297
			346,550	Total Personnel Services -General Fund					\$ -	\$ 331,550		0.2751297
Total Personal Services w/General Fund												
<b>Equipment and Services - General Fund</b>												
X 6	Administration	Tuition Reimbursement	9,600	2,400	1,200	1,200				4,800	0.00398318	0.0039832
7	Administration	Update of Classification & Co	27,500							27,500	Reserve	0.0000000
8	Communications	Website Responsive Design	1,500							1,500	Reserve	0.0000000
9	Parks	Ash Tree removal	75,000							51,516	0.04274945	0.0467326
10	Police	Body-Worn Cameras Stainless Steel Hopper	4,500							4,500	Reserve	0.0000000
11	Parks	Spreader	5,471							5,471	Reserve	0.0000000
12	Parks	Asphalt Patcher	9,660							9,660	Reserve	0.0000000
13	Police	Inspections Vehicle	20,300							20,300	Reserve	0.0000000
14	Police	Desk top computers	9,100							9,100	Reserve	0.0000000
15	Police	Radar Units Street banners w/ new city	3,800							3,800	Reserve	0.0000000
16	Communications	logo	6,750							6,750	Reserve	0.0000000
17	Parks	Zero Turn - 60" deck	25,000							25,000	0	0.0000000
18	Police	Patrol Vehicle	47,000							47,000	0	0.0000000
19	Police and Fire	Search and Rescue Drone	9,000	Total Equipment & Services General Fund					\$ 9,000	0	0.0000000	
			254,181	2,400	1,200	1,200	-	-	-	225,897		\$ 0.046733
<b>Personnel - Other Funding Sources</b>												
<b>Public Works -</b>												
X 20	streets	Mechanic II Grade 5	81,000	81,000								
<b>Public Works -</b>												
X 21	streets	Maintenance Worker I	67,000	67,000								
X 22	Community Dev.	Manager						198,168				
X 23	Community Dev.	ED Communications Specialist										
X 24	Water/Wastewater	Maintenance Worker I	66,444		33,222	33,222						
X 25	streets	Maintenance Worker I	67,000	67,000								
X 26	Water/Wastewater	Maintenance Worker I	66,444		33,222	33,222						
Total Personal Services Other Funding Sources			347,888	215,000	66,444	66,444	-	198,168	-	-		





## MEMO

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TO: The Mayor and City Council  
 FROM: Jim Sanders, City Administrator  
 Teresa Rotschafer, Finance Director  
 DATE: January 22, 2016  
 RE: Information for the January 19th work session on the 16/17 budget

The work session on the 2016/17 budget will be held on Tuesday, January 19 at 5:30 p.m. at city hall. The operating budgets presented by department heads at the work session in December have not changed significantly. In preparation for the work session staff has prioritized the decision packages and provided a summary which is attached to this memo.

If you have any questions regarding the operating budget or this memo feel free to call or e-mail us in advance of the meeting. The more staff can be prepared to answer your questions, the more productive the meeting will be.

Community Survey and City Council Goal Setting

In February 2015 the Mayor and City Council completed their annual goal setting session which involved reviewing potential projects, programs, policies and initiatives for consideration. In late 2015 the city updated the community survey. Below are the key results of both initiatives. Addressing the council and citizen priorities should be considered as the budget and Capital Improvements Program are developed.

The priorities selected for the current and next year through the goal setting process (listed in order of priority) are:

- 1 (Tie) Establish economic development plan/policies and discuss future goals and initiatives, duties, responsibilities and marketing
- 1 (Tie) Develop recreational opportunities in response to City Survey; recreation programming for Terra Park; hire Recreation Coordinator; evaluate partnerships with School District
- 3. Extension of Foxboro Rd to south
- 4 (Tie) Establish a sidewalk maintenance and construction program
- 4 (Tie) Expanding the staffing of Fire Station #2

The community survey identified three areas of improvement the city should focus on:

- Traffic flow
- Quality of city streets
- Enforcement of property code violations

Department Budget Proposals

Department heads prepared their budget maintaining the bottom line of the current (FY16) budget. The bottom line is calculated by removing the cost of decision packages which were approved as one-time expenditures in the current budget (this represents the sixth year in a row the budget was built from the base of the previous year's budget). Department heads were allowed growth within their budget for expenditures which are programmed to increase (i.e., bargaining unit wage adjustments, insurance premium increases, utility costs, etc.). Decision packages were prepared by department heads for additional budget initiatives including new programs, equipment and positions.

Property valuations and property tax rate

A key component to calculating the property tax rate is the property valuation established by the Polk County Assessor's office. The property tax rate is calculated by adding the operating funds required by each department/service funded by property taxes and the debt service obligation and dividing the sum by the assessed valuation.

City services funded primarily from property taxes:

- |                              |   |
|------------------------------|---|
| Police                       | Parks                                     |
| Fire                         | Recreation                                |
| Emergency Management         | Trees                                     |
| Roads, Bridges and Sidewalks | City Council/Administration/Communication |
| Street Lighting              | Finance /City Clerk                       |
| Welfare Assistance           | Debt Service                              |
| Mosquito Control             | Planning & Zoning                         |
| Library                      | Senior Citizens                           |
| Code Enforcement             |   |

City services provided by other funding sources:

- Solid Waste and recycling collection and Disposal
- Traffic Control and Safety
- Roads, Bridges and Sidewalks
- Regional Cultural
- Economic Development
- Building and Housing
- Storm Water Utility
- Water Operations
- Wastewater Operation

## Property Tax Roll Back

The Iowa Department of Revenue issued the assessment limitation order for FY17. The rollback on residential properties will increase from the current 55.7335% to 55.6259%, the rollback on commercial properties will be 90% and the roll back on multi-family residential properties increases from 90% to 86.25%.

To illustrate the effect of the increase in the residential roll back, the current (FY16) assessed valuation for residential properties in Johnston is \$1,558,185,155. When you apply the current roll back of 55.7335%, the taxable valuation is \$868,431,123. If you apply the new rollback (55.6255%) to the same valuation (\$1,558,185,155) the taxable valuation is \$866,748,283. The increase in the roll back decreases the residential taxable valuation by \$1,682,840. Based on the current property tax rate of \$11.50054/\$1,000, the decrease in tax revenue from residential properties is \$19,353.

The assessed valuation on commercial/industrial property in the current budget (FY16) is \$288,185,875. When you apply the current property tax rate of \$11.50054/\$1,000, \$3,314,294 in property tax revenue is generated. When you apply the FY17 commercial rollback (90%) to the current assessed valuation (288,185,875) the taxable value is \$259,367,288. Based on the current property tax rate of \$11.50054/\$1,000, \$2,982,864 of property tax revenue is generated. The loss in commercial/industrial property tax revenue due to the roll back is \$331,430.

The Iowa Legislature has committed to reimburse the lost revenue to cities due to the commercial property tax roll back. The city received reimbursement for the first two years the roll back was applied (\$182,146 on FY 15 and \$473,580 in FY16). The legislation provides that the amount of the roll back will be frozen based on the FY17 amounts. The preliminary budget indicates the commercial and industrial replacement claim estimation (which is calculated based on levy rates, it will change with any adjustment to the levy) is General Fund replacement of \$323,584 and Debt Service Fund \$158,212 for a total of \$481,796.

Beginning with the January 1, 2015 valuations, multi-residential properties will begin a phased-in rollback. Previously multi-residential properties were considered commercial for property taxation purposes (which means they were taxed at 90% of their value in FY16). The multi-residential rollback schedule is as follows:

Fiscal Year	Rollback Percentage
FY17	86.25%
FY18	82.5%
FY19	78.75%
FY20	75%
FY21	71.25%
FY22	67.5%
FY23	63.75%
After FY24	Same as residential

There is no backfill for the lost revenue.

Current Status

The City has received final valuation information from Polk County which is used to establish the FY17 property tax rate. The residential assessed valuation increased \$130,590,526 from the current \$1,558,185,155 to \$1,688,775,681. When you apply the property tax rollback of 55.6259% the residential taxable value is \$933,396,672.

The preliminary assessed value on commercial and industrial property decreased by \$17,887,931 from the current \$288,185,875 to 270,297,944. A portion of the decrease (\$2,424,886) is due multi-residential properties no longer being classified as commercial. When the commercial property tax rollback of 90% is applied the commercial and industrial taxable value is \$243,268,150.

The FY17 budget is the first year multi-residential properties will be reported as their own tax classification. The rollback of multi-residential properties will increase from 90% to 86.25% (commercial class to multi-residential). When you apply the multi-residential property tax rollback of 86.25%, the multi-residential taxable value is \$2,091,413. The reduction in the taxable value with the increase in roll back is \$90,933.

Including the receipt of the commercial and industrial replacement funding (\$481,796) and applying the new taxable valuation to the budget proposals presented by staff in December, the preliminary FY17 property tax rate is \$11.32362. The rate includes \$7.66345 for operational costs and \$3.66017 for the debt service levy. This tax rate includes funding for the capital equipment replacement program but does not include funding for decision packages proposed by staff.

The current property tax rate for operations is \$7.70054, or \$0.04 more than in the FY17 preliminary budget and the debt service levy is \$0.14 less than forecasted.

The funding for the debt service portion of the budget increased from \$4,898,588 to \$5,088,658 or \$190,070. Due to the valuation increase, this actual dollar increase results in a decrease of \$0.14/\$1,000 in the debt service levy.

For ease in calculating the effect of decisions on the property tax levy, with the current taxable valuation, \$0.01 of property tax levy equates to approximately \$12,000.

Property Tax Rate

The table below shows the breakdown of the general fund tax levy over the past ten budget years and includes the calculation for the FY17 budget based on the preliminary budget proposals and debt service obligations:

Budget Year	General Fund Tax Levy	Debt Service Tax Levy	Actual Tax Levy
2006/07	\$7.67	\$3.63	\$11.30
2007/08	\$7.73	\$3.57	\$11.30
2008/09	\$7.58	\$3.72	\$11.30
2009/10	\$7.38	\$3.92	\$11.30

2010/11	\$7.60	\$3.67	\$11.27
2011/12	\$7.63	\$3.46	\$11.09
2012/13	\$7.70	\$3.59	\$11.29*
2013/14	\$7.57	\$3.58	\$11.15**
2014/15	\$7.57	\$3.77	\$11.34
2015/16	\$7.70	\$3.80	\$11.50
2016/17 preliminary	\$7.66	\$3.66	\$11.32

\* Includes \$.29 in debt service to pay for the initial debt on the public safety building and fire station #2 (which was approved by 82.28% of the citizens that voted).

\*\*Includes the \$.41 of the debt service levy needed to pay the debt on the public safety building project.

### General Comments

There are many factors and expenses that affect the preparation of the budget. Although we may not know the true effect of each issue at this time, following are a number of issues that need to be considered:

1. The community continues to experience residential and commercial growth:

#### Residential Building permits issued

	2007	2008	2009	2010	2011	2012	2013	2014	2015
Single family	130	78	98	130	139	113	101	69	124
Townhome/condos	68	22	123	24	27	14	23	20	45
Multi-family	0	0	0	36	16	275	109	98	395
<b>Total units</b>	<b>198</b>	<b>100</b>	<b>221</b>	<b>190</b>	<b>182</b>	<b>402</b>	<b>233</b>	<b>187</b>	<b>564</b>

The official population in 2010 was 17,278. Since that time 1,758 additional dwelling units have been constructed or are under construction. Using a conservative estimate of two people per unit there may be as many as 3,516 additional residents (20.4% growth) that require city services.

2. Commercial growth continued to be strong in 2015 with eight permits issued and more than \$36,000,000 in growth.

#### Commercial building activity

	2008	2009	2010	2011	2012	2013	2014	2015
Commercial permits	11	3	4	5	3	7	7	8
Commercial valuation	\$54,639,998	\$4,475,000	\$1,399,520	\$56,494,905	\$20,915,547	\$47,299,334	\$14,638,500	\$36,582,984
Industrial permits	0	0	0	1	0	0	0	0
Industrial valuation	0	0	0	\$250,000	0	0	0	0
<b>Total valuation</b>	<b>\$54,639,998</b>	<b>\$4,475,000</b>	<b>\$1,399,520</b>	<b>\$56,744,905</b>	<b>\$20,915,547</b>	<b>\$47,299,334</b>	<b>\$14,638,500</b>	<b>\$36,582,984</b>

3. Significant public improvements continue in 2016 with planned projects including:
  - The construction of phase 2 and 3 of Terra Lake
  - Phase 4 of the NW Beaver Drive Trail
  - Phase 1 of NW 70th Avenue
  - NW 63rd Place from Merle Hay Road to NW 59th Court
  - The intersection of NW 54th Avenue and NW 100th Street
  - The completion of NW 100th Street from NW 62nd Avenue to NW 70th Avenue,
  - The water main from the Saylorville Water Plant to NW 62nd Avenue
  - Continuation of the improvements east of Merle Hay Road (NW 60th Avenue public improvements).
  
4. The preliminary budget includes the fifth year of funding the Capital Equipment Program (CEP). The program is designed to plan and budget for capital equipment that are purchased/replaced based on their life cycle. The intent is to make sure adequate funding is set aside each year to enable the purchase/replacement of equipment that is critical to the city's ability to serve the community. The list of the equipment that is proposed is in the decision package memo.
  
5. Employee compensation - All three bargaining units (AFSCME, IAFF and Teamsters) are currently being negotiated. 2% wage increases have been included in the preliminary budget as a place holder. Also included in the preliminary budget is a 2% wage increase for non-bargaining unit staff. Staff has prepared a decision package that would provide for an additional 1% percent to create a pool of funds equivalent to 3% that will be available to non-bargaining unit employees based on their performance management plan.
  
6. Most of our employees are covered under the Iowa Public Employers Retirement Program (IPERS). Covered employees contribute 5.95% of their wages into the program. This amount is not increasing in FY17. The amount the City must pay into the program (8.93% of wages for covered employees) is also not increasing.
 

The FY17 IPERS rates for protected class employees (police and fire) is also staying the same. The rate is 6.56% for the employee contribution and the 9.84% for the employer contribution.
  
7. The city became a self-funded insurance group in July 2013. Our first year was a successful year and rates remained unchanged. Our second year was not as successful, and premiums were set for the third year using \$100,000 of the fund reserve to buy down the premium costs. Our employee benefits broker, Frank Berlin and Associates, has indicated that at this point in time our claims experience this year is running better than last year; however with all three union contracts open, negotiations for a High Deductible Health Plan have been occurring along with an increase in the traditional plan design. At this point, no contracts have been reached; therefore, the preliminary budget provides for a 7% increase in current premiums.

The Affordable Care Act (ACA) rollout continues; however, the cadillac tax has been pushed out from 2018 to 2020. Staff continues to work closely with our health insurance broker in monitoring this legislative action.

#### General Fund Reserve

Our general fund reserve remains healthy. Our goal is to maintain a minimum reserve of 25% of the annual general fund operating budget. The actual reserve on June 30, 2015 was \$4,713,991.62 which was 38% of the general fund operating budget. There were some expenditures planned that did not occur

before June 30, 2015. Therefore, for the FY16 budget we anticipate a general fund reserve of \$3,956,695.62 at year end which is 33%. Based on the preliminary FY17 budget, 25% of the general fund operating budget is \$3,042,049.50. The preliminary FY17 budget anticipates a general fund reserve at yearend of \$3,938,945.62 which is 32%.

Exhibit “B” shows the reserve fund for FY 15 and the anticipated reserves for FY16 and the preliminary FY17 budget.

Decision Packages

Attached is a memo regarding staff’s prioritization and recommendations for decision packages.

Capital Improvements Program (CIP)

The Public Hearing for the FY16 – FY21 CIP was conducted on December 21, 2015. The projects approved in the CIP will be included in the final FY17 budget document.

The projected debt service levy over the next several years is \$3.66 in FY17; \$3.66 in FY18; \$3.66 in FY19; \$3.66 in FY20; \$3.66 in FY21; \$3.66 in FY22.

Road Use Tax (RUT)

RUT funds are distributed to cities on a per capita basis. The Iowa Department of Transportation forecasts the per capita rate will increase from \$120.00 in FY16 to \$121.50 in FY 17. This equates to an estimated increase in revenue of \$25,917.

With the census we anticipate an additional 3,000 to 3,500 citizens which would add \$364,500 to \$425,250 in annual road use tax revenue beginning calendar year 2017.

Additional budget information:

Des Moines Water Works Rate

Des Moines Water Works has announced that they are increasing the rate charged to Johnston to purchase water by 10%. The new rate goes into effect March 1, 2016

Year	DMWW Rate/1000 gallons	% increase	Johnston Rate to customers/ 1000 gallons
2002	\$1.34	--	\$3.25
2003	\$1.38	4%	\$3.25
2005	\$1.63	19%	\$3.25
2006	\$1.88	16%	\$3.25
2007	\$2.00	7%	\$3.25
2008	\$2.12	6%	\$3.25
2009	\$2.54	20%	\$4.10
2010	\$2.74	8%	\$4.51
2011	\$3.05	11%	\$6.00 water availability fee

			\$4.69/ 1,000 gallons \$5.86/1,000 irrigation fee
2012	\$3.05	0%	\$6.50 water availability fee \$4.88/1,000 gallons \$6.09/1,000 irrigation fee
2013*	\$3.05	0%	\$6.73 water availability fee \$5.05/1,000 gallons \$4.00 irrigation availability fee* \$6.31/1,000 irrigation fee
2014	\$3.17	5%	\$6.96 water availability fee \$5.15/1,000 gallons \$4.12 irrigation availability fee \$6.44/1,000 irrigation fee
2015	\$3.33	5%	\$7.21 water availability fee \$5.36/1,000 gallons \$4.24 irrigation availability fee \$6.70/1,000 irrigation fee
2016	\$3.66	10%	<del>\$7.46 water availability fee**</del> <del>\$5.49/1,000 gallons**</del> <del>\$4.37 irrigation availability fee**</del> <del>\$6.86/1,000 irrigation fee**</del> \$8.29 water availability fee*** \$6.16/1,000 gallons*** \$4.88 irrigation availability fee*** \$6.86/1,000 irrigation fee***

\* In 2013 the city initiated an irrigation water service availability fee. The purpose of the fee is for residents that use irrigation to pay a greater share of the cost of providing water for irrigation purposes (larger pipes, larger pumps, etc.).

\*\* Proposed FY17 rates in the current ordinance.

\*\*\*Based on a rate analysis by PFM, the city is taking action (ordinance No. 939) to increase water rates 15% primarily to cover the cost of the 10% increase to purchase water from Des Moines Water Works and to account for operating losses due to wet years which reduced irrigation revenue.

#### Curb-It Recycling Program

Staff included a 3% increase in the proposed budget. This is pass-through expense which means rate increases are paid directly by the customer. We will receive information by mid-May regarding the FY17 rate.

#### Garbage rates

The contract with Waste Management expires on June 30, 2016. The city has the option to rebid the contract or to exercise the first of two, two-year extensions. Staff included a 3% increase in the preliminary budget. This is a pass-through expense which means any increase in rate is paid directly by the customer. If the contract is extended the annual rate adjustment is established by the contract and limited to the consumer price index and fuel cost adjustment. The proposed rate adjustment is provided to the city in May.

Rates can also be increased if there is a change in the tipping fee at the landfill. The Metro Waste Authority Board of Directors does not plan to increase the tipping fee at the landfill in 2016.

Requests from Outside Organizations

At the January 4<sup>th</sup> work session the City Council received requests for funding from outside organizations. Below is a summary of the requests and what is included in the preliminary budget:

Choose Des Moines Communities – the same as the current year, \$5,000 has been included in the preliminary budget

Community Education – \$82,056 (2.29% increase above the current amount of \$80,222); since there is a formal agreement between the city and school district this amount has been included in the preliminary budget.

Johnston Chamber of Commerce –they are requesting a \$2,000 increase in funding to \$8,000; funding at the current level (\$6,000) is included in the preliminary budget

Johnston Economic Development Corporation (JEDCO) – the same as the current year \$30,000 has been included in the preliminary budget. For the past three budget years the City Council approved matching dollar for dollar any revenue JEDCO receives in membership dues up to \$30,000; in FY14 the city match was \$29,800, in FY15 the match was \$30,000 (JEDCO raised \$32,950).

A decision package proposed for the FY17 budget is funding to establish economic development staff. If the city decides to move forward with the proposal the funding for JEDCO will still be necessary for 2016 to assist in the transition to the full time staff.

Johnston Partnership for a Healthy Community – Requested \$15,000 - \$20,000; the preliminary budget includes the same level of funding as the current year - \$5,000

Junior Achievement of Central Iowa - This was new request this year. The city typically does not fund these types of requests so no funding was included in the preliminary budget.

The city received a request from the City of Des Moines to extend the Metropolitan Advisory Council (MAC) Homeland Security Services Agreement (see attached). Johnston participated in the initiative with 17 other communities and three counties under the initial agreement that was approved in 2010 and expired 6/30/15. Prior to the expiration of the agreement several communities dropped out. Staff is talking to our peers to see what communities may be participating in the program extension. The cost to participate is \$23,937 per year.

DART

DART has not finalized their FY17 levy so the tax rate has not been established. Below is a history of their levy for the past five years.

Budget Year	Tax Rate (per \$1,000)
FY10	.21834
FY11	.2338
FY12	.25
FY13	.40
FY14	.48
FY15	.55
FY16	.61
FY17	?

### The Consumer Price Index - Urban (CPI-U)

The CPI-U for all consumers is unchanged from September 2014 to September 2015. The Midwest Region CPI-U decreased .8% primarily due to the decline in fuel prices.

### Mileage Reimbursement

The IRS allowable mileage reimbursement rate increased by 3.5 cents to 54 cents per mile for 2016.

### Tax Exempt property

According to information on the Polk County Assessor website in 2015 there was \$74,554,300 of tax exempt property in Johnston. This does not include the value of the Camp Dodge property.

### City Council Reserve Fund

Historically the city council has maintained a reserve fund of \$15,000 to be used in the event there is a funding request that is outside of the budget. The balance of the fund is currently \$270. Last year the city council directed staff not to budget additional money to the fund.

### Budget preparation timeline

- January 19, 2016 - City Council budget work session to discuss and make decisions on the budget and decision packages. The meeting begins at 5:30 p.m. (other work sessions may be scheduled if necessary)
- February 2, 2016 - City Council sets the date for a public hearing on the budget
- March 7, 2016 - Public hearing on the budget
- March 15, 2016 – Deadline to certify the budget to the county auditor

### The January 19th Budget Work Session

At the work session staff will review the status of the proposed budget and seek input and direction from the City Council. There are a number of strategies that can be used to establish the budget and tax rate depending on what the council wants to accomplish. Below is a synopsis of the current status of the budget, tax rate and general fund reserve followed by staff recommendations.

#### Current status of the FY17 budget

- The tax rate that is calculated for the preliminary budget is \$11.32/ \$1,000 which is \$.18 below the current tax rate of \$11.50. The anticipated general fund reserve is 32% or \$3,938,945. This anticipates receiving the entire backfill for the commercial property tax rollback.
- A preliminary property tax levy of \$11.32 includes a \$.14 decrease in what was anticipated for the debt service levy (from \$3.80 to \$3.66) and a \$.04 reduction in the general fund portion of the levy (from \$7.70 to \$7.66).
- 25% of the general fund operating budget is \$3,042,049.50. The preliminary FY17 budget anticipates a general fund reserve at yearend of \$3,938,945.62 which is 32% or \$896,896.12 greater than our goal.

#### Staff recommendations:

- Considering the goals established by the city council and the results of the citizen survey, staff recommends that we fund \$.136 of the proposed decision packages (items 1 through 3) that have an on-going impact on the budget which will establish a property tax rate of \$11.4596.
- The decision packages regarding the fire department EMS Lieutenant (decision package #5) and the police officer (decision package #6) are very important toward improving public safety. The lieutenant addresses the additional EMS responsibilities after terminating the Fraser Ambulance

contract. Hiring an additional police officer helps us reduce the number of shifts in which we operate at less than two officers. These two positions can be included in the budget and have a tax levy increase of \$.11 or a total levy of \$11.6112. Staff recommends these two positions be included in the budget.

- Use up to \$168,381 of the general fund reserve to fund one-time expenditures (decision packages 6 - 16) and maintain a general fund reserve balance of 30.6%.
- Fund the decision packages for items that can be funded from other sources as recommended in the decision package memo.

	2014-2015 ENDING BALANCE	ACTUAL BEGINNING CASH JULY 1, 2014	BUDGETED RESOURCES	BUDGETED REQUIREMENTS	ENDING CASH JUNE 30, 2015	
010	General Fund	5,267,545.17	11,739,982.05	(12,293,535.60)	4,713,991.62	38%
011	Hotel-Motel Tax	75,307.51	291,328.79	(273,515.46)	93,120.84	
012	Council Reserve	275.55	-	-	275.55	
014	Employee Work Clothing	3,592.23	2,000.30	(1,580.80)	4,011.73	
020	Assessment Reserve	117,812.57	196.94	-	118,009.51	
030	Project Development	66,508.64	38.01	-	66,546.65	
040	Equip Replacement Reserve	565,860.75	650,269.24	(596,744.56)	619,385.43	
	TOTAL GENERAL FUND	6,096,902.42	12,683,815.33	(13,165,376.42)	5,615,341.33	43%
	2015-2016 AMENDED BUDGET	BEGINNING CASH JULY 1, 2015	BUDGETED RESOURCES	BUDGETED REQUIREMENTS	ENDING CASH JUNE 30, 2016	
010	General Fund	4,713,991.62	11,312,365.00	(12,069,661.00)	3,956,695.62	33%
011	Hotel-Motel Tax	93,120.84	245,000.00	(265,100.00)	73,020.84	
012	Council Reserve	275.55	-	-	275.55	
014	Employee Work Clothing	4,011.73	2,000.00	(2,000.00)	4,011.73	
020	Assessment Reserve	118,009.51	-	-	118,009.51	
030	Project Development	66,546.65	-	-	66,546.65	
040	Equip Replacement Reserve	619,385.43	550,844.00	(581,950.00)	588,279.43	
	TOTAL GENERAL FUND	5,615,341.33	12,110,209.00	(12,918,711.00)	4,806,839.33	37%
	2016-2017 BUDGET	BEGINNING CASH JULY 1, 2016	BUDGETED RESOURCES	BUDGETED REQUIREMENTS	ENDING CASH JUNE 30, 2017	
010	General Fund	3,956,695.62	12,150,448.00	(12,168,198.00)	3,938,945.62	32%
011	Hotel-Motel Tax	73,020.84	275,000.00	(282,200.00)	65,820.84	
012	Council Reserve	275.55	-	-	275.55	
014	Employee Work Clothing	4,011.73	2,000.00	(2,000.00)	4,011.73	
020	Assessment Reserve	118,009.51	-	-	118,009.51	
030	Project Development	66,546.65	-	-	66,546.65	
040	Equip Replacement Reserve	588,279.43	590,950.00	(566,000.00)	613,229.43	
	TOTAL GENERAL FUND	4,806,839.33	13,018,398.00	(13,018,398.00)	4,806,839.33	37%



Chief Vaughn,

The City of Des Moines is extending the Metropolitan Advisory Council (MAC) Homeland Security Services Agreement with member communities. The current agreement expired June 30, 2015. The new agreement will begin retroactively to July, 1 2015, but there has been no discontinuation of service. The new agreement will continue through June 30, 2018.

The agreement provides for the following homeland security services:

- Metro Star Tactical Unit services which provides a Type II Weapons of Mass Destruction (WMD) Team and Chemical, Biological, Radiological, Nuclear, and Explosive (CBRNE) Tactical Response Team
- Des Moines Bomb Squad Type I bomb mitigation response
- Des Moines Police Identification Section providing for the availability of personnel trained in the collection and preservation of evidence located in hazardous environments for contaminated crime scene processing
- Des Moines Dive Team availability and response

Despite rising costs of maintaining homeland security services and metro population growth, the fee structure has not changed. The annual fee for the homeland security services for the City of Johnston will be \$23,937 annually.

Please provide a written response no later than January 31, 2016 of whether or not you would like to continue participation in this program. Participants will be receiving an intergovernmental 28E Agreement and appropriate signatures requested at a later date.

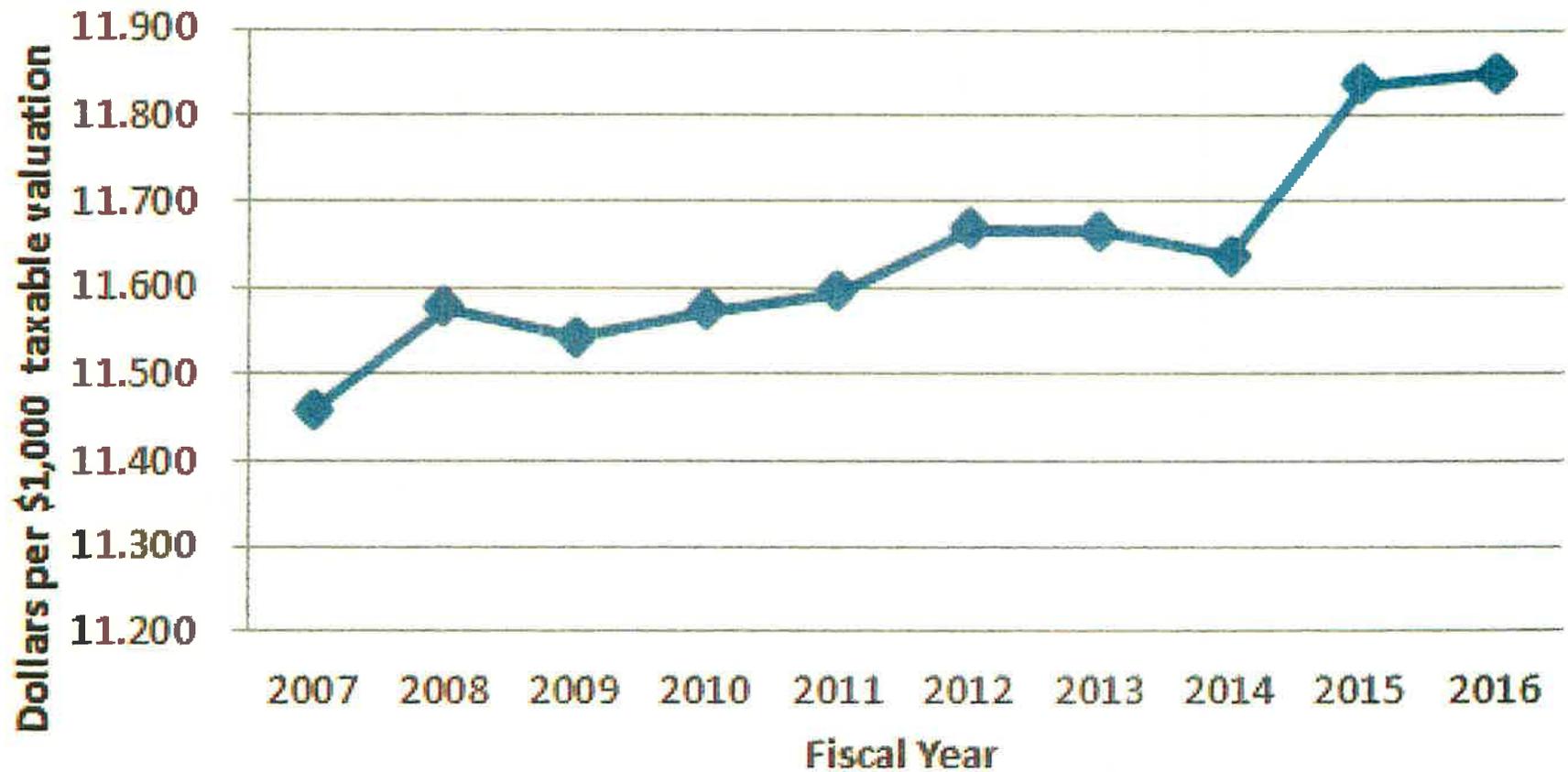
If you have questions or submit a response via email, please contact Captain Dave Ness of the Planning and Budget Office at 283-4885 or [dmpness@dm.gov](mailto:dmpness@dm.gov). You may also contact Lieutenant Russ Schafnitz of Metro STAR at 248-6064 or [rgschafnitz@dm.gov](mailto:rgschafnitz@dm.gov).

Respectfully,

Chief Dana Wingert

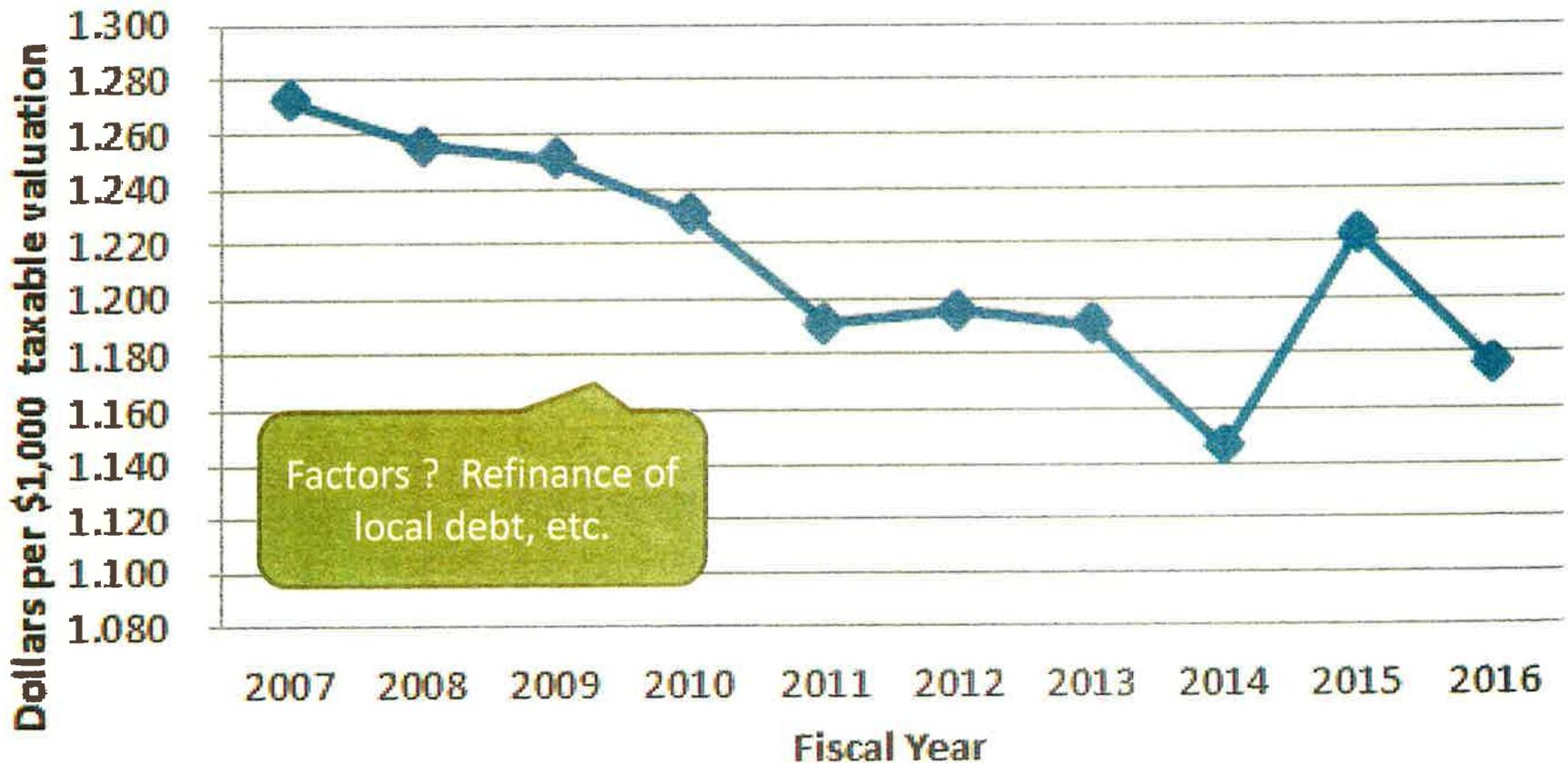
# City Levy Analysis

Total City Levy, FY 2007-2016  
All Iowa Cities Averaged



# City Levy Analysis

Debt Service Levy, FY 2007-2016  
All Iowa Cities Averaged



# MEMO

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TO: Mayor and City Council  
FROM: Jim Sanders, City Administrator  
DATE: January 22, 2016  
RE: Prioritization of decision packages for the 1/19/16 city council work session

At the budget work session in December department heads presented their proposed decision packages. Determining which decision packages to fund enables the City Council to establish priorities for spending and service levels to meet the needs of a growing community. Decision packages are typically funded from three sources; 1) property taxes, 2) revenue generated by a department that is not a property tax (e.g. Road Use Tax, water/sewer revenue, seized property for the Police Department, etc.), 3) general fund reserve. In general, funding a decision package through property taxes will affect the property tax rate. When using the general fund reserve to fund a decision package it is preferred to fund items which are not an on-going funding commitment but support initiatives that have a one-time impact on the budget.

The detailed information for the decision packages are located in the budget notebook that was provided for the December work session. The decision package justifications are located in the section of the notebook for the department that made the request.

Below are a list of changes/updates to the decision packages that have occurred since they were presented in December:

- The request from Communications for a 'Mobile Web App & Website Responsive Design' has been amended. Staff decided the mobile app portion of the request could be funded out of the current operating budget to take advantage of year end savings. The cost of the decision package has been reduced to \$1,500 to reflect the funding needed for the 'Website Responsive Design'.
- A decision package for Performance Management Pay (see attached) of \$25,000 has been included. This is similar to the amount of last year's decision package. The majority of these funds come from the General Fund, however, a small portion will come from the Water, Sewer and Road Use Tax Fund.
- Tuition Reimbursement Policy (see attached). This issue has been brought forward again by the unions and staff discussed with the HR/Finance Council Committee. It was recommended to prepare a decision package for the proposal and that such

policy be for all full-time City Employees and thus be presented as a policy to include in the employee handbook, rather than in union contracts. The proposal would be similar to West Des Moines. West Des Moines offers reimbursement for:

- ✓ High School diploma/GED test reimbursement of 100% or \$75.00 maximum per fiscal year for courses leading to high school equivalency certification;
- ✓ Associates Degree courses are eligible for 50% tuition reimbursement up \$750.00 per fiscal year, for no more than (6) six credit hours for any term;
- ✓ Bachelor/Graduate Degree courses are eligible for 75% tuition reimbursement up to \$1200.00 per fiscal year, for not more than (6) six credit hours for any term.

### Funding the Capital Equipment Program (CEP)

The FY17 preliminary budget includes funding \$590,950 for the Capital Equipment Program. This amount is based on the depreciation schedule for all city equipment (GF \$413,703; RUT \$177,247; Water \$11,882 and Sewer \$30,736). The program was developed as a way to make sure adequate funds are set aside to pay for the replacement of equipment when it is at the end of its' useful life. Funding the CEP provides a sustainable method to assure the city has the equipment necessary to provide quality and efficient service to the community. The items proposed to be funded in the FY17 CEP are listed on the last page of the decision package spreadsheet.

### Decision package summary spreadsheet

Exhibit 'A' is a staff prioritized list of decision packages separated into four categories. The 'X's' on the left side of the document indicate the item is an on-going expense that will affect future budgets. No 'X' indicates a one-time expenditure. The second to the last column, 'Tax Levy', is the tax levy (per \$1,000) needed to fund each decision package that is funded with property taxes. The last column, 'Cumulative Levy', is the cumulative tax levy (per \$1,000) that would be added to the tax levy as you work from top to bottom in each category. Within each category staff has prioritized the decision packages based on the following criteria:

- Does the decision package support City Council Strategic Priorities?
- Does the decision package improve service to citizens?
- Does the decision package improve public safety for residents or work place safety for staff?
- Does the decision package make staff more efficient in providing service?
- Does the decision package promote opportunities to share services/resources with other communities or entities?
- Is the decision package necessary to meet the needs of our growing community?
- Is the decision package required to meet a mandate placed on the city?

- Does the decision package create the ability to improve communication between the city, staff and citizens?
- Does the decision package provide for the replacement or upgrade of equipment before it becomes a maintenance and/or safety liability for staff and the community?
- Is the cost of a decision package significant enough that it is prioritized lower to allow for several smaller items to be funded?

The FY17 preliminary budget equates to a property tax levy of \$11.32 which is a decrease from the current tax levy of \$11.50. The preliminary budget does not include funding for any decision package.

The city anticipates having a general fund operating reserve balance at the end of FY17 of \$3,938,945.62 or 32% of the general fund expenditures (our goal is to maintain a minimum general fund reserve balance of 25% of our annual expenditures). The council could spend a portion of the reserve and maintain the 25% balance. Staff recommends that if reserves are used for decision packages that they be used for items that are one-time expenditures which do not have an on-going affect on the budget.

For ease of calculation, \$.01 of property tax equates to about \$12,000.

Below is the staff prioritization of the decision packages:

- The first category ‘Personnel Services – General Fund’ (items 1-5); decision packages that involve an increase in personnel and/or personnel expense that are funded through general fund property taxes. Funding of these positions/expenses would affect the property tax levy. Staff feels that items 1 through 5 are important to meet the growing needs of our community and to remain competitive in attracting quality staff.
  - ✓ Item 1 (City Planner) - the demands on the Community Development Department have expanded since the recession. This position is important to meet the increased activity of the department. The department is currently collecting revenue that is greater than budgeted. Excess revenue is deposited into the general fund reserve. Much of this position can be funded through the revenue generated by the department.
  - ✓ Item 2 (Recreation Coordinator) - this addresses a quality of life issue and is a goal of the city council. Expanding our park staff to provide recreation programming will augment what is provided by Community Education and provide needed recreation programming for the youth in our community as recommended by the recreation committee. This position will also support the expanding number of special events that are now a part of our community.
  - ✓ Item 3 (Performance Pay) - this provides funds to continue the implementation of the performance pay program. The funds would be

provided based on the performance goals that have been developed for our non-union staff.

- ✓ Item 4 (Full Time Lieutenant - Emergency Medical Services (EMS)) - with the city taking over the ambulance calls from Fraser Ambulance Service this position has become more critical due to the increase in calls for service. This position will also provide backfill to our full time employees when there is unexpected time off due to illness, etc. This position will create a potential promotional opportunity for the current fire department employees (Grimes and Johnston).
- ✓ Item 5 (Police Officer) - This position moves us closer toward our goal of limiting the number of shifts where we have two officer minimums. Currently we operate at two officer minimums 31% of the time. This also will allow us to increase our officer ration to 1.3 officers per 1,000 residents. The standard we are working toward is 1.5 officers per 1,000 residents.
- The second category 'Equipment and Services – General fund' (items 6 – 19); decisions packages that involve equipment and services that are typically funded through the general fund property tax levy or general fund reserve. These are one-time expenditures that do not require an on-going spending obligation. Staff recommends funding the following requests:
  - ✓ Items 6 - 16, these items improve our ability to attract and retain quality staff (tuition reimbursement, update of classification and compensation study); communicate to our residents (website responsive design, street banners); puts the city in a position to address the pending invasion of the emerald ash borer (ash tree removal); and provides the tools necessary for our staff needs to better serve the public (body-worn cameras, stainless steel hopper spreader, asphalt patcher, inspection vehicle, desk top computers and radar units)
- The third category – 'Personnel – other funding sources' (items 20-26); personnel that can be funded from sources other than property taxes. Staff recommends approving the following positions:
  - ✓ Item 20 - Mechanic II, Grade 5, this is crew leader position that expands our capability to maintain the growing inventory of vehicles and equipment. Funding this position will reduce the amount the city spends paying shop rates at dealerships to repair vehicles. The RUT revenue generated by the census should be adequate to fund this position.
  - ✓ Item 21 - Maintenance Worker I, the number of staff has not grown in the street division since 2008. This provides an increase in staffing to maintain the expanding street system. The RUT revenue generated by the census should be adequate to fund this position.
  - ✓ Items 22 and 23 - Economic Development Director and Communications Specialist - Economic development activities are shared by a number of staff. These positions would be responsible for implementing the economic development plan and expand on the efforts to market Johnston to potential businesses and developers. These positions can initially be funded using our tax increment financing authority. As our TIF districts sunset and we begin

to benefit from the increase in taxable value the revenue from the value can be used toward the on-going expense of the economic development staff.

- ✓ Item 24 - Water/wastewater Maintenance Worker I, with the growth in the water and wastewater systems this position is becoming more critical. Unfortunately the revenue in the utility funds currently cannot support adding a position. Staff recommends to monitor the water/sewer revenue. If irrigation and sewer usage during the summer of 2016 creates the revenue necessary to fund the position, staff recommends that the position be added. If the revenue is not satisfactory, then the position will not be added. Staff will seek city council approval before the position is added.
- The fourth category – ‘Equipment and Services – other funding sources’ (items 27 - 29); equipment and services that can be funded from sources other than property taxes. These are one-time expenditures that do not require an on-going funding obligation. Staff recommends funding the following:
  - ✓ Item 27 (roof replacement) - funding this maintenance item with the additional revenue from the RUT due to the census.
  - ✓ Item 28 (encode software) - funding this purchase with the excess revenue generated by the Community Development Department.
  - ✓ Item 29 (compact excavator) - this has been a need for several years. As a one-time expenditure this should be purchased if there is adequate irrigation revenue (above the amount budgeted) to support the purchase.

FY 2016-2017  
**DECISION PACKAGE**

package no.

Admin 2

**Package Name:** Performance Management Pay

**Department:** Administration

**Package Description:**  
Funds to support the performance management pay system for non-bargaining employees

**Package Justification:**  
City Council approved the performance management pay system. Further definition of system will be explained at the department work session

**Package Cost:**

	\$25,000
Total	\$25,000

**Revenue Source:**

Account No.:	
Majority would be in the General Fund, however, smaller smaller amounts may come from the Water/Sewer and Road Use Tax Fund	
Total	\$0

**Notes:**

**FY 2016-2017  
DECISION PACKAGE**

package no.

Admin 1

**Package Name:** Tuition Reimbursement Policy

**Department:** All Full Time City Employees

**Package Description:**  
Tuition Reimbursement policy supporting full time City employees who wish to continue their education to secure increased responsibility and growth with their professional careers.

**Package Justification:**  
Tuition reimbursement has become a union neogotiation strong request. The HR Council Committee met and it was suggested that this policy be City wide and not in each union contract, if the Council supports the idea of Tuition reimbursement. This proposal was also made last year and Administration staff would propose the reimbursement amounts are similar to the City of West Des Moines. For initial year funding, administration staff would propose a budget of \$9,600.00 (eight possible employees receiving reimbursement.)

**Package Cost:**

Total	\$9,600

**Revenue Source:**

Account No.:		
	General fund	\$4,800
	Water/Sewer Fund	\$2,400
	Road Use Tax	\$2,400
	Total	\$9,600

**Notes:**  
Please see attached proposal and power point presentation, as presented last year and prepared by city employees Matt Griener and Eric Rehm.

	Department	Request	Cost	R.U.T.	Water	Waste Water	Storm Water	Trust Funds	C.E.P. G. F.	Operating G. F.	Tax Levy	Cumulative Levy	
									<b>Cummulative Cost =</b>	<b>\$ 595,931</b>	<b>Cummulative Levy</b>	<b>\$ 0.494521</b>	
<b>Personnel - General Fund</b>					15/16 Preliminary Levy - 11,32362						11.81814		
X 1	Community Development	City Planner	58,125							58,125	0.0482338	0.0482338	
X 2	Parks	Recreation Coordinator	80,800							80,800	0.0670502	0.1152839	
X 3	Administration	Performance Pay	25,000							25,000	0.0207457	0.1360297	
X 4	Fire	Full Time Lieutenant, EMS	94,388							94,388	0.0783259	0.2143555	
X 5	Police	Police Officer (9/1/16 start)	88,237							88,237	0.0732216	0.2875771	
Total Personal Services w/General Fund			346,550	Total Personnel Services -General Fund					\$ -	\$ 346,550		0.2875771	
<b>Equipment and Services - General Fund</b>													
X 6	Administration	Tuition Reimbursement	9,600	2,400	1,200	12,000				4,800	0.0039832	0.0039832	
7	Administration	Update of Classification & Compens	27,500							27,500	0.0228203	0.0268035	
8	Communications	Website Responsive Design	1,500							1,500	0.0012447	0.0280482	
9	Parks	Ash Tree removal	75,000							75,000	0.0622371	0.0902854	
10	Police	Body-Worn Cameras	4,500							4,500	0.0037342	0.0940196	
11	Parks	Stainless Steel Hopper Spreader	5,471							5,471	0.0045400	0.0985596	
12	Parks	Asphalt Patcher	9,660							9,660	0.0080161	0.1065757	
13	Police	Inspections Vehicle	20,300							20,300	0.0168455	0.1234212	
14	Police	Desk top computers	9,100							9,100	0.0075514	0.1309727	
15	Police	Radar Units	3,800							3,800	0.0031533	0.1341260	
16	Communications	Street banners w/ new city logo	6,750							6,750	0.0056013	0.1397274	
17	Parks	Zero Turn - 60" deck	25,000							25,000	0.0207457	0.1604731	
18	Police	Patrol Vehicle	47,000							47,000	0.0390019	0.1994750	
19	Police and Fire	Search and Rescue Drone	9,000							9,000	0.0074685	0.2069435	
Total Equipment & Services General Fund										\$ 9,000		0.2069435	
			254,181	2,400	1,200	12,000	-	-	-	249,381		\$ 0.206943	

<b>Personal - Other Funding Sources</b>											
X 20	Public Works - streets	Mechanic II Grade 5	81,000	81,000							
X 21	Public Works - streets	Maintenance Worker I	67,000	67,000							
X 22	Community Dev.	Economic Development Manager						198,168			
X 23	Community Dev.	ED Communications Specialist									
X 24	Water/Wastewater	Maintenance Worker I	66,444		33,222	33,222					
X 25	streets	Maintenance Worker I	67,000	67,000							
X 26	Water/Wastewater	Maintenance Worker I	66,444		33,222	33,222					
	<b>Total Personal Services Other Funding Sources</b>		<b>347,888</b>	<b>215,000</b>	<b>66,444</b>	<b>66,444</b>	<b>-</b>	<b>198,168</b>	<b>-</b>	<b>-</b>	
<b>Equipment and Services - Other Funding Sources</b>											
27	Public Works	Roof Replacement Bldgs #2 & #6	150,000	150,000							
28	Community Development	Encode Plus Planning Software	29,000					29,000			
29	Water/Wastewater	Compact Excavator w/Trailer	75,867		37,934	37,933					
	<b>Sub-Total</b>		<b>\$ 254,867</b>	<b>\$ 150,000</b>	<b>\$ 37,934</b>	<b>\$ 37,933</b>	<b>\$ -</b>	<b>\$ 29,000</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
											<b>0.000000</b>
<b>Equipment - Capital Equipment Program</b>											
	Police	2005 Ford Explorer #403	52,050							52,050	
	Police	2010 Ford Explorer #416	52,050							52,050	
	Police	Arbitrator MK 1.5 in car camera	10,400							10,400	
	Rescue	Mobile Data Computers	5,500							5,500	
	Streets	2004 Ford F350 Pickup #106	40,000							40,000	
	Streets	2007 Ford F350 Pickup #103	35,000							35,000	
	Streets	2007 International 7400 6 x 4 Dump Truck	225,000							225,000	
	Streets	Rear Pivot Saw w/14" Slip On Guard	25,000							25,000	
	Parks	Kubota Mower/Blower & Cab	32,000							32,000	
	Parks	John Deere 4720 Tractor #235 2005	45,000							45,000	
	Building & Housing	2005 Chevy Colorado Pickup #505	23,000							23,000	
	Administration	Canon Imagerunner Copier	20,000							20,000	
	Administration	Dell Poweredge File Server	12,000							12,000	
	Administration	Audio/Video for Training Room	7,000							7,000	
	Council	Sound System for Council Chambers	5,000							5,000	
	<b>Sub-Total</b>		<b>589,000</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>589,000</b>	
	<b>2016-2017 CEP FUNDING</b>										
<b>X = On-going expense</b>											
	<b>GRAND TOTAL DECISION PACKAGE REQUESTS (not including CEP)</b>		<b>1,203,486</b>	<b>367,400</b>	<b>105,578</b>	<b>116,377</b>	<b>-</b>	<b>227,168</b>	<b>-</b>	<b>595,931</b>	

JOHNSTON CITY COUNCIL  
COUNCIL MEETING NO. 16-03  
Johnston City Hall, 6221 Merle Hay Road  
TUESDAY, February 2, 2015  
7:00 p.m.

1. CALL TO ORDER
2. ROLL CALL
3. WELCOME
4. PLEDGE OF ALLEGIANCE
5. AGENDA APPROVAL
6. PUBLIC COMMUNICATIONS  
Life-Saving Awards Presentation to Paramedic Andrew Winter, EMT Adam Hoffman, and EMT Andrew Hooper
7. PUBLIC HEARINGS
8. CONSENT AGENDA
  - a. Consider Minutes of January 19, 2016 Council Worksession.
  - b. Consider Minutes of January 19, 2016 Council Meeting.
  - c. Consider the approval of a special 5-day liquor license for Hy-Vee to cater an event at John Deere Financial on February 5, 2016.
  - d. Consider the renewal of a Class C Liquor License to include Sunday sales, outdoor service, and catering privileges for the Greenbriar Restaurant & Bar, 5810 Merle Hay Road.
  - e. Consider approval of Out-of-State Travel for Firefighter Tristan Johnson to attend the Fire Department Instructors Conference (FDIC) Annual Conference in Indianapolis, IN on April 20-23, 2016.
  - f. Consider setting March 7, 2016 at 7:00 p.m. as the date and time for a Public Hearing on the proposed budget for fiscal year July 1, 2016 through June 30, 2017.
  - g. Consider the following items related to the 2016A General Obligation Bonds:
    - Resolution No. 16-27 – Fixing a date for a meeting on the proposition of the issuance of not to exceed \$5,745,000 General Obligation Bonds of the City of Johnston, State of Iowa (for essential corporate purposes), and Providing for Publication of Notice Thereof
    - Resolution No. 16-28 - Fixing a date for a meeting on the proposition of the issuance of not to exceed \$2,580,000 General Obligation Bonds of the City of Johnston, State of Iowa (for essential corporate urban renewal purposes), and Providing for Publication of Notice Thereof
    - Resolution No. 16-29 - Fixing a date for a meeting on the proposition of the issuance of not to exceed \$175,000 General Obligation Bonds of the City of Johnston, State of Iowa (for general corporate purposes), and Providing for Publication of Notice Thereof
    - Resolution No. 16-30 – Fixing a date for a meeting on the proposition of the issuance of not to exceed \$700,000 General Obligation Bonds of the City of Johnston, State of Iowa (for general corporate purposes), and Providing for Publication of Notice Thereof
  - h. Consider Resolution No. 16-31 – A Resolution to not remand BOA Case 15-15 to the Board of Adjustment for reconsideration.
  - i. Consider Resolution No. 16-32 – A Resolution to not remand BOA Case 15-16 to the Board of Adjustment for reconsideration.

- j. Consider approval of Pay Application No. 3 from Corell Contractor, Inc. for the NW 63<sup>rd</sup> Place Extension from NW 59<sup>th</sup> Court to Merle Hay Road project.
- k. Consider approval of a Professional Service Agreement with Dixon Engineering to provide Construction Observation Services for maintenance on the NW 107<sup>th</sup> Street Water Tower.
- l. Consider approval of a Purchase Order to Quality Flow Iowa for the purchase of grinder tanks and repair parts.
- m. Consider approval of a Purchase Order to McKinney Excavating for emergency repairs on the low-pressure sewer at NW Coburn Drive and NW Beaver Drive.
- n. Consider Resolution No. 16-35 – Approving the acquisition of real estate interests and authorizing payments to acquire real property for the NW 57<sup>th</sup> Avenue Improvements project.
- o. Consider Resolution No. 16-33 – Ordering Construction and setting a date of March 7, 2016 for a Public Hearing on the Terra Lake Phase III project.
- p. Consider Resolution No. 16-34 – Accepting the agreement with Foth Infrastructure and Environment, LLC for wetland monitoring services associated with the Beaver Creek Natural Resource Area Phase III mitigation project.
- q. Receive and file the following reports:
  - 1. Annual Collision Summary – 2015
  - 2. Crime Statistics Trend – 2012-2015
  - 3. Board of Adjustment Meeting Minutes – January 21, 2016

9. NON-CONSENT AGENDA

- a. Consider Third and Final Reading of Ordinance No. 939 – Amending the City of Johnston Revised Ordinances by amending Chapter 92.02 – Water Rates, Rates for Service; and adopt and publish.
- b. Consider Second Reading of Ordinance No.940 – Amending Chapter 165.04 (148 and 149) of the Code of Ordinances to require a business license application process for massage businesses in Johnston.
- c. Consider the following items related to Coons Heights Plat 2, subdividing 1.49 acres into two single family residential lots (PZ Case 15-40):
  - Resolution No. 16-25 – Approving Coons Height Plat 2 Preliminary Plat and Final Plat; and
  - Resolution No. 16-26 – Accepting a Petition and Waiver for future NW Beaver Drive Improvements.
- d. Consider approval of Claims in the amount of \$195,442.25

10. CITY ADMINISTRATOR/STAFF COMMENTS

- a. Memorandum of Understanding by and between the MPO and the City of Johnston for the Complete Streets Tactical Starts Grant Program
- b. Recreational Amenities for Multi-Residential Developments Consulting proposal
- c. IAMU Safety Group Dividend

11. CITY COUNCIL COMMENTS

12. UPCOMING MEETINGS

Tuesday, February 16, 2016

City Hall  
 Joint Meeting with the Johnston School Board 6:00 p.m.  
 Meeting 7:00 p.m.

March 7, 2016

City Hall  
 Worksession 6:00 p.m.  
 Meeting 7:00 p.m.

13. ADJOURNMENT

Posted on January 29, 2016 at [www.cityofjohnston.com](http://www.cityofjohnston.com), Johnston City Hall, Johnston Public Works, and Johnston Public Library.

8a

JOHNSTON CITY COUNCIL  
Worksession No. 16-02  
Johnston City Hall, 6221 Merle Hay Road  
TUESDAY, January 19, 2016  
5:30 p.m.

1. CALL TO ORDER

Council Member Lindeman called the meeting to order at 5:50 p.m.  
Mayor Dierenfeld arrived at 5:58 p.m.

2. ROLL CALL

Present: Clabaugh, Lindeman, Brown, Cope, Temple  
Absent: None  
Council Member Clabaugh arrived at 6:09 p.m.

3. BUDGET DISCUSSION

a. Budget and Tax Rate

City Administrator Jim Sanders and Finance Director Teresa Rotschafer reviewed the budget memo presented to the Council. They discussed valuations as well as roll back impacts. They noted that the budget as presented, which includes funding the Capital Equipment Replacement program but does not include Decision Packages, gives a preliminary tax rate of \$11.32. They reminded the Council that the current rate is \$11.50.

b. Funding of Decision Packages

Sanders and Rotschafer discussed the prioritization of Decision Packages as well as their funding sources.

The Council noted their consensus with moving to an \$11.40 tax rate and working to fund those Decision Packages which had been identified as priorities.

There was also discussion regarding the funding of the outside organization requests. Sanders noted that a number of metro communities were opting out of the Homeland Security agreement as there were other resources available. Council members were comfortable in opting out as well. Discussion ensued regarding the use of the General Fund reserves, which are currently at 32%.

The Mayor noted that with the Council's direction, staff should be able to come back with a proposed budget at the \$11.40 rate.

4. GREEN MEADOWS FLUME DISCUSSION

Moved to the regular agenda due to time constraints.

5. DISCUSS SPEED LIMITS ALONG NW 78<sup>th</sup> AVENUE, NW 100<sup>th</sup> STREET AND NW 107<sup>th</sup> STREET

Moved to the regular agenda due to time constraints.

The meeting adjourned at 7:05 p.m.

\_\_\_\_\_  
Paula S. Dierenfeld, Mayor

ATTEST:

\_\_\_\_\_  
Cyndee D. Rhames, City Clerk

JOHNSTON CITY COUNCIL  
COUNCIL MEETING NO. 16-02  
Johnston City Hall, 6221 Merle Hay Road  
TUESDAY, January 19, 2015  
7:00 p.m.

1. CALL TO ORDER

Mayor Dierenfeld called the meeting to order at 7:09 p.m.

2. ROLL CALL

Present: Clabaugh, Lindeman, Brown, Cope, Temple  
Absent: None

3. WELCOME

Mayor Dierenfeld welcomed residents and guests to the meeting.

4. PLEDGE OF ALLEGIANCE

Cub Scout Pack 244, Dens 7 and 8 led the meeting in the Pledge.

5. AGENDA APPROVAL

City Administrator Jim Sanders noted that item 8Q should be for Pay Request No. 2, not 1 as noted on the agenda.

Motion by Clabaugh second by Lindeman to approve the Agenda as noted.

ROLL CALL: Aye: Lindeman, Brown, Cope, Temple, Clabaugh  
Nay: None

Motion Approved: 5-0

6. PUBLIC COMMUNICATIONS

None

7. PUBLIC HEARINGS

a. Conduct a Public Hearing and consider Resolution No. 16-16 – Approving proceeding with condemnation for a Fee Title Property Acquisition and Temporary Construction Easement for property located at 5720 NW 60<sup>th</sup> Avenue.

The Public Hearing opened at 7:15 p.m.

Sanders noted that staff had met with the property owner several times throughout 2015, even as late as November 27 regarding the acquisition and temporary construction easement, as well as taking the issue of the front porch to the Board of Adjustment and offering compensation for the driveway that may be damaged during the construction project. Sanders noted that because of time concerns regarding the construction of the road, it was necessary to begin the process but it was staff's hope to continue working with the property owner to come to some sort of resolution before condemnation was undertaken.

No public comments were received.

The Public Hearing closed at 7:17 p.m.

Motion by Temple second by Cope to approve Resolution No. 16-16.

ROLL CALL: Aye: Brown, Cope, Temple, Clabaugh, Lindeman  
Nay: None

Motion Approved: 5-0

b. Conduct a Public Hearing and consider Resolution No. 16-17 – Approving proceeding with condemnation for a Fee Title Property Acquisition and Temporary Construction Easement for property located at 5732 NW 60<sup>th</sup> Avenue.

The Public Hearing opened at 7:18 p.m.

Sanders noted that this was a similar situation to the previous hearing and that the property owner had stopped responding to requests for the acquisition and easement agreement. Sanders noted that he had had contact from an attorney representing the property owner.

Property owner Mandy McIntire addressed the Council, noting that she had an issue with some of the language contained in the agreement, but once that was resolved, she had every intention of signing the agreement. She advised that she would have her attorney make contact with Jim Sanders.

The Public Hearing closed at 7:22 p.m.

Motion by Brown second by Temple to approve Resolution No. 16-17, with the understanding that this process may not move forward pending resolution with the property owner.

ROLL CALL:                   Aye: Cope, Temple, Clabaugh, Lindeman, Brown  
                                      Nay: None

Motion Approved:               5-0

Council Member Cope thanked Ms. McIntire for coming in to speak with the Council.

c. Conduct a Public Hearing and consider the following items for the NW 60<sup>th</sup> Avenue Improvements project (Phase 4):

- Resolution No. 16-22 – A Resolution with respect to adopting Resolution of Necessity;
- Resolution No. 16-23 – A Resolution directing preparation of detailed plans, specifications, form of contract and notice to bidders;
- Resolution No. 16-24 – A Resolution ordering bids, approving plans, specifications and form of contract and related matters.

The Public Hearing opened at 7:23 p.m.

Public Works Director Dave Cubit noted that there had been a lot of discussion regarding this project, and it was now time to take bids. He advised that the action at tonight's hearing would start that process.

There were no public comments received prior to or during the meeting.

The Public Hearing closed at 7:25 p.m.

Motion by Lindeman second by Clabaugh to approve Resolution No. 16-22.

ROLL CALL:                   Aye: Temple, Clabaugh, Lindeman, Brown, Cope  
                                      Nay: None

Motion Approved:               5-0

Motion by Clabaugh second by Temple to approve Resolution No. 16-23.

ROLL CALL:                   Aye: Clabaugh, Lindeman, Brown, Cope, Temple  
                                      Nay: None

Motion Approved:               5-0

Motion by Lindeman second by Cope to approve Resolution NO. 16-24.

ROLL CALL:                   Aye: Lindeman, Brown, Cope, Temple, Clabaugh  
                                      Nay: None

Motion Approved:               5-0

8. CONSENT AGENDA

- a. Consider Minutes of January 4, 2016 Council Worksession.
- b. Consider Minutes of January 4, 2016 Council Meeting.

- c. Resolution 16-13 – Rescheduling the February 1, 2016 meeting of the City Council to February 2, 2016 due to a conflict with the Caucuses.
- d. Consider approval of a new Class C Liquor License to include Outdoor Service for Noodle Zoo and the Zoo Bar, 8705 Chambery Boulevard, Suite 600
- e. Consider Resolution No.16-09 – Appointing a primary and alternate representative to the Polk County Emergency Management Commission.
- f. Consider authorizing the Fire Chief to sign a Memorandum of Understanding between the Metro Area Fire Investigation Task Force (MAFIT) and the Johnston Fire Department.
- g. Consider Resolution No. 16-08 – Appointing a primary member and an alternate member to the Polk County E911 Service Board.
- h. Consider Resolution No. 16-14 – Appointing representatives and alternates to the Des Moines Area Metropolitan Planning Organization Transportation Policy Committee and the Transportation Technical Committee.
- i. Consider out-of-state travel for Building Inspector Eric Rehm to attend the International Code Council sponsored Colorado Chapter Educational Institute training seminar in Denver, CO February 29 – March 4, 2016.
- j. Consider out-of-state travel for Parks Crew Leader Kari Allen to attend the Midwestern Chapter ISA Conference in Kansas City, MO February 3-5, 2016.
- k. Consider approval of a Purchase Order to Keck Energy for the purchase of fuel.
- l. Consider approval of a Purchase Order to Star Equipment for repairs made to the crack seal machine.
- m. Consider Resolution No. 16-12 – Approving Change Order No. 1 on the NW 70<sup>th</sup> Avenue Improvements – Building Demolition and Utility Extension projects.
- n. Consider approval of Pay Request No. 1 from Elder Corp. in the amount of \$106,079.38 for work completed as of December 21, 2016 on the NW 70<sup>th</sup> Avenue Improvements – Building Demolition project.
- o. Consider out-of-state travel for Public Works Director Dave Cubit to attend the Water Infrastructure and Resiliency Finance Center Event in Washington, D.C.
- p. Consider Resolution No. 16-18 – Approving Change Order No. 1 on the Johnston Community Fiber Optic Phase III project.
- q. Consider Resolution No. 16-19 – Approving Change Order No. 2 on the Johnston Community Fiber Optic Phase III project.
- r. Consider the following Resolutions for the NW Beaver Drive Reconstruction project:
  - Resolution No. 16-10 – Accepting the project;
  - Resolution No. 16-11 – Releasing retainage.
- s. Consider the following Resolutions for the 2014 Stormwater Remediation Improvements project:
  - Resolution No. 16-20 – Accepting the project;
  - Resolution No. 16-21 – Releasing retainage
- t. Consider Amendment No. 1 to the Professional Services Agreement with HR Green for the NW 86<sup>th</sup> Street Booster Pumping Station project.
- u. Receive and file the following reports:
  1. Bank Reconciliation Report – December 30, 2015
  2. Treasurer’s Investment Report – December 30, 2015
  3. Year-to-Date Treasurer’s Report – December 30, 2015
  4. Monthly Report Summarization – December 30, 2015
  5. Senior Citizens Report – December 30, 2015
  6. Street Division Monthly Operations Report –December 2015
  7. Water/Wastewater Department Monthly Operations Report – December 2015
  8. 2015 Development Summary
  9. Year to Date Building Permit Report – December 2015
  10. Planning & Zoning Commission Meeting Minutes – January 11, 2016

Motion by Cope second by Brown to approve the Consent Agenda.

ROLL CALL: Aye: Brown, Cope, Temple, Clabaugh, Lindeman

Nay: None

Motion Approved: 5-0

9. NON-CONSENT AGENDA

- a. Consider Second Reading of Ordinance No. 939 – Amending the City of Johnston Revised Ordinances by amending Chapter 92.02 – Water Rates, Rates for Service. Finance Director Teresa Rotschafer noted that there had been no changes since First Consideration.

Motion by Cope second by Clabaugh to approve Second Consideration of Ordinance No. 939.

ROLL CALL: Aye: Cope, Temple, Clabaugh, Lindeman, Brown

Nay: None

Motion Approved: 5-0

Council Member Temple requested an update on the Stormwater Rates and whether there would be an Ordinance coming forward to make those changes. City Clerk Cyndee Rhames noted that as the Stormwater Ordinance allowed rate changes by Resolution, the Ordinance itself was being looked at.

- b. Consider Resolution No. 16-15 – Approval of PZ Case 15-41, a Final Plat for Crosshaven Outlots Plat 2 subdividing 58.36 acres into 3 outlots. The subject property is located east of NW 100<sup>th</sup> Street and north of Little Beaver Creek.

Senior Planner Aaron Wolfe reviewed the proposed action, noting that this was for property transfer only and that any development on the lots would require further action.

Motion by Temple second by Lindeman to approve Resolution No. 16-15.

ROLL CALL: Aye: Temple, Clabaugh, Lindeman, Brown, Cope

Nay: None

Motion Approved: 5-0

- c. Consider First Reading of Ordinance No.940 – Amending Chapter 165.04 (148 and 149) of the Code of Ordinances to require a business license application process for massage businesses in Johnston. Chief of Police Bill Vaughn noted that the proposed Ordinance had been discussed at the previous meeting and that he had implemented the changes proposed during that discussion. He advised that he had met with the Mayor and Council Member Brown where additional language related to whether or not the fee would be paid annually had been discussed. Chief Vaughn noted that he was comfortable with requiring the initial application fee and then again only with a material change of ownership or business type. Chief Vaughn also noted that he had met with massage business owners in the area as well as the owner of Body Wisdom School and the liability limits in the application were consistent with the industry standards. He reviewed the additional changes and modifications in the Ordinance.

Mayor Dierenfeld noted that this was an additional tool to help curb human trafficking, which is a prominent issue.

Mayor Dierenfeld requested additional changes relating to the purpose statement. She also noted that she would like to see the greatest penalty enforced, even going to a simple misdemeanor being charged for every day the business is out of compliance. City Attorney Pearson noted that he would need to consider that.

Council members noted they would also like to clarify what businesses would fall under this requirement. Would it be based on a percentage of the business or any business where massage is conducted?

Motion by Temple second by Lindeman to approve First Consideration of Ordinance No. 940 as discussed.

ROLL CALL:                   Aye: Clabaugh, Lindeman, Brown, Cope, Temple  
                                      Nay: None  
Motion Approved:               5-0

- d. Consider approval for the creation of the position of Full Time Lieutenant for the Fire Department. Fire Chief Jim Krohse reviewed the proposed positions, noting that this would create a Lieutenant position which would oversee each shift. Council Member Clabaugh requested clarification on why this was happening outside of the budget process. Chief Krohse advised that he was using the increased revenue from ambulance billing to pay for the positions, but that they had been budgeted in the proposed 16-17 budget. Council Member Temple inquired as to whether this would make the department top heavy. Chief Krohse responded that as compared to other metro departments it would not be top heavy. City Administrator Jim Sanders provided an update on the 28E agreement with the City of Grimes.

Motion by Lindeman second by Temple to approve the creation of the Lieutenant position in the Fire Department.

ROLL CALL:                   Aye: Lindeman, Brown, Cope, Temple, Clabaugh  
                                      Nay: None  
Motion Approved:               5-0

- e. Consider approval of Claims in the amount of \$669,542.61

Motion by Clabaugh second by Temple to approve Claims as presented.

ROLL CALL:                   Aye: Brown, Cope, Temple, Clabaugh, Lindeman  
                                      Nay: None  
Motion Approved:               5-0

#### 10. CITY ADMINISTRATOR/STAFF COMMENTS

City Administrator Sanders reminded the Council of the Goal Setting session on January 28 at 4:00 p.m.

#### 11. CITY COUNCIL COMMENTS

Council Member Cope addressed the ongoing issue on Forest Drive. He encouraged the Council to read the P&Z minutes. He also noted that he would like to table this issue when it's presented and that while the Council has no authority to require mediation, he would like to suggest mediation to the involved parties. City Attorney Pearson noted that he had spoken with the Neighborhood Mediation Program and that this issue could be undertaken through that program. Mayor Dierenfeld noted that she would be meeting with Dow-DuPont in Wilmington, Delaware on Wednesday to encourage them to maintain the Pioneer headquarters in Johnston.

#### WS4. GREEN MEADOWS FLUME DISCUSSION

Parks Director John Schmitz introduced Josh DeBower of Foth Infrastructure and Environment. DeBower reviewed the proposed solution to the scour and water quality issues within the flume system. He noted that the engineer's estimate for the project with 6 alternate bids was approximately \$275,000. Council Member Clabaugh requested a meeting with DeBower and Schmitz to further discuss the project and then set a meeting with the Homeowners Association. The Council also requested an update on the water quality studies being conducted periodically through the watershed.





ITEM NO. 8c

**OFFICE OF THE CITY ADMINISTRATOR**

Johnston, Iowa  
AGENDA COMMUNICATION  
February 2, 2016  
Meeting

<p><b>SUBJECT:</b> Consider the approval of a special 5-day permit for Hy-Vee to cater an event at John Deere Financial on February 5, 2016.</p>	<p><b>ACTION REQUIRED:</b></p> <ul style="list-style-type: none"><li><input type="checkbox"/> Ordinance</li><li><input type="checkbox"/> Resolution</li><li><input checked="" type="checkbox"/> Approval</li><li><input type="checkbox"/> Receive/File</li><li><input type="checkbox"/> Attorney Review</li></ul>
--	---

**SYNOPSIS:**

Hy-Vee Food Store, 5750 Merle Hay Road is requesting the approval of a special 5-day Class C Liquor License to allow them to cater an event at John Deere Financial, 6400 NW 86<sup>th</sup> Street.

The applicant has submitted the appropriate application and paid the fees required by the City and State.

The application was filed in a timely manner and has been reviewed and approved by the City's Building Official and Chief of Police.

**FISCAL IMPACT:**

A portion of the application fee will be returned to the City.

**RECOMMENDATION:**

Approve application as presented



# LIQUOR LICENSE APPLICATION INSPECTION

Establishment Name: Hy-Vee

New  Existing

Address: (Special event @ John Deere)

Applicant Name: Hy-Vee, Inc

Date Application Received: 1/21/15

Council Deadline Date: \_\_\_\_\_

## Liquor License Privileges

License Class: 5 Day Special Classe

Outdoor Service   
Sunday Sales

## Building Official Review

Date to Building Official: \_\_\_\_\_ Inspection Date: \_\_\_\_\_

Pass  Fail  Re-Inspect Date if Fail: \_\_\_\_\_ Pass  Fail

Reason for Fail: \_\_\_\_\_

Building Official Signature: \_\_\_\_\_

## Police Department Review

Date to Police Department: 1/21/15

Interview Required: Yes  No  DCI Background Received: Yes  No

Approve  Deny

Chief of Police Signature: 

## City Clerk Review

City Council: Approve  Deny

Endorse Date: \_\_\_\_\_

City Clerk Signature: \_\_\_\_\_

**Applicant License Application ( )**

<b>Name of Applicant:</b>	<u>Hy-Vee, Inc.</u>				
<b>Name of Business (DBA):</b>	<u>John Deere Financial</u>				
<b>Address of Premises:</b>	<u>6400 NW 86th St.</u>				
<b>City</b>	<u>Johnston</u>	<b>County:</b>	<u>Polk</u>	<b>Zip:</b>	<u>50131</u>
<b>Business</b>	<u>(515) 270-9045</u>				
<b>Mailing</b>	<u>5820 Westown Pkwy</u>				
<b>City</b>	<u>West Des Moines</u>	<b>State</b>	<u>IA</u>	<b>Zip:</b>	<u>50266</u>

**Contact Person**

<b>Name</b>	<u>Denae Elgin</u>		
<b>Phone:</b>	<u>(515) 267-2874</u>	<b>Email</b>	<u>delgin@hy-vee.com</u>

**Classification** Special Class C Liquor License (BW) (Beer/Wine)

**Term:** 5 days

**Effective Date:** 02/05/2016

**Expiration Date:** 01/01/1900

**Privileges:**

Special Class C Liquor License (BW) (Beer/Wine)

**Status of Business**

<b>BusinessType:</b>	<u>Privately Held Corporation</u>		
<b>Corporate ID Number:</b>	<u>19862</u>	<b>Federal Employer ID</b>	<u>42-0325638</u>

**Ownership**

**Randy Edeker**

**First Name:** Randy                      **Last Name:** Edeker  
**City:** urbandale                      **State:** Iowa                      **Zip:** 50322  
**Position:** CEO, President  
**% of Ownership:** 0.00%                      **U.S. Citizen:** Yes

**Michael Jurgens**

**First Name:** Michael                      **Last Name:** Jurgens  
**City:** Des Moines                      **State:** Iowa                      **Zip:** 50312  
**Position:** Vice President, Secretary  
**% of Ownership:** 0.00%                      **U.S. Citizen:** Yes

**Michael Skokan**

**First Name:** Michael                      **Last Name:** Skokan  
**City:** Waukee                      **State:** Iowa                      **Zip:** 50263  
**Position:** CFO, Treasurer  
**% of Ownership:** 0.00%                      **U.S. Citizen:** Yes

**Jeffrey Pierce**

**First Name:** Jeffrey

**Last Name:** Pierce

**City:** Waukee

**State:** Iowa

**Zip:** 50263

**Position:** Asst Treasurer, Financial

**% of Ownership:** 0.00%  
Reporting

**U.S. Citizen:** Yes

**Insurance Company Information**

<b>Insurance Company:</b> <u>DAKOTA FIRE INSURANCE COMPANY</u>	
<b>Policy Effective Date:</b> <u>02/05/2016</u>	<b>Policy Expiration</b> <u>02/10/2016</u>
<b>Bond Effective</b>	<b>Dram Cancel Date:</b>
<b>Outdoor Service Effective</b>	<b>Outdoor Service Expiration</b>
<b>Temp Transfer Effective</b>	<b>Temp Transfer Expiration Date:</b>



**OFFICE OF THE CITY ADMINISTRATOR**

Johnston, Iowa

AGENDA COMMUNICATION

February 2, 2016

<p><b>SUBJECT:</b> Consider the Renewal of a Class "C" Liquor License to Include Sunday Sales, Outdoor Service and Catering privileges for Greenbriar Restaurant &amp; Bar, 5810 Merle Hay Road.</p>	<p><b>ACTION REQUIRED:</b></p> <p><input type="checkbox"/> Ordinance</p> <p><input type="checkbox"/> Resolution</p> <p><input checked="" type="checkbox"/> Approval</p> <p><input type="checkbox"/> Receive/File</p> <p><input type="checkbox"/> Attorney Review</p>
--	--

**SYNOPSIS:**

Greenbriar Restaurant & Bar, 5810 Merle Hay Road has requested approval of the following renewal application:

- Class "C" Liquor License - Allows on premises consumption of liquor, wine, beer and carryout beer for commercial establishment
- Class "B" Winer Permit
- Sunday Sales
- Outdoor Service
- Catering

The applicant has submitted the appropriate application, and paid the fees required by the state.

The application was filed in a timely manner and has been reviewed and approved by the Building Official and the Chief of Police.

**FISCAL IMPACT:**

None

**RECOMMENDATION:**

Approve application as presented.



# LIQUOR LICENSE APPLICATION INSPECTION

Establishment Name: Green bar

New  Existing

Address: 5810 Merle Hoy Rd

Applicant Name: Cody Col, Inc.

Date Application Received: 1/13/15

Council Deadline Date: 1/27/15

## Liquor License Privileges

License Class: LC (Commercial)

Outdoor Service   
Sunday Sales   
Catering

## Building Official Review

Date to Building Official: \_\_\_\_\_ Inspection Date: \_\_\_\_\_

Pass  Fail  Re-Inspect Date if Fail: \_\_\_\_\_ Pass  Fail

Reason for Fail: \_\_\_\_\_

Building Official Signature: \_\_\_\_\_

## Police Department Review

Date to Police Department: 1/21/15

Interview Required: Yes  No  DCI Background Received: Yes  No

Approve  Deny

Chief of Police Signature: Bill Vayst

## City Clerk Review

City Council: Approve  Deny

Endorse Date: \_\_\_\_\_

City Clerk Signature: \_\_\_\_\_

**Applicant License Application ( LC0020914 )**

<b>Name of Applicant:</b> <u>Codycal, Inc.</u>		
<b>Name of Business (DBA):</b> <u>Greenbriar Restaurant &amp; Bar</u>		
<b>Address of Premises:</b> <u>5810 Merle Hay Road</u>		
<b>City</b> <u>Johnston</u>	<b>County:</b> <u>Polk</u>	<b>Zip:</b> <u>5013100</u>
<b>Business</b>	<u>(515) 253-0124</u>	
<b>Mailing</b>	<u>5810 Merle Hay Rd</u>	
<b>City</b> <u>Johnston</u>	<b>State</b> <u>IA</u>	<b>Zip:</b> <u>501310000</u>

**Contact Person**

<b>Name</b> <u>Suzanne Summy</u>
<b>Phone:</b> <u>(515) 253-0124</u> <b>Email</b> <u>deannep@greenbriartrostels.com</u>

**Classification** Class C Liquor License (LC) (Commercial)

**Term:** 12 months

**Effective Date:** 02/11/2016

**Expiration Date:** 02/10/2017

**Privileges:**

- Catering Privilege
- Class B Wine Permit
- Class C Liquor License (LC) (Commercial)
- Outdoor Service
- Sunday Sales

**Status of Business**

<b>BusinessType:</b> <u>Privately Held Corporation</u>
<b>Corporate ID Number:</b> <u>111077</u> <b>Federal Employer ID</b> <u>42-1283778</u>

**Ownership**

**Suzanne Summy**

**First Name:** Suzanne      **Last Name:** Summy  
**City:** West Des Moines      **State:** Iowa      **Zip:** 50266  
**Position:** President  
**% of Ownership:** 0.00%      **U.S. Citizen:** Yes

**Troy Trostel**

**First Name:** Troy      **Last Name:** Trostel  
**City:** Granger      **State:** Iowa      **Zip:** 50109  
**Position:** Vice President  
**% of Ownership:** 0.00%      **U.S. Citizen:** Yes

**Insurance Company Information**

<b>Insurance Company:</b>	<u>West Bend Mutual Insurance Company</u>		
<b>Policy Effective Date:</b>	<u>02/11/2016</u>	<b>Policy Expiration</b>	<u>02/11/2017</u>
<b>Bond Effective</b>		<b>Dram Cancel Date:</b>	
<b>Outdoor Service Effective</b>		<b>Outdoor Service Expiration</b>	
<b>Temp Transfer Effective</b>		<b>Temp Transfer Expiration Date:</b>	



**OFFICE OF THE CITY ADMINISTRATOR**  
 Johnston, Iowa  
 AGENDA COMMUNICATION  
 February 2, 2016

<p><b>SUBJECT:</b> Consider Approval of Out-of-State Travel for Firefighter Tristan Johnson to attend the Fire Department Instructors Conference (FDIC) Annual Conference in Indianapolis, IN on April 20 – 23, 2016.</p>	<p><b>ACTION REQUIRED:</b></p> <p><input type="checkbox"/> Ordinance</p> <p><input type="checkbox"/> Resolution</p> <p><input type="checkbox"/> Approval</p> <p><input type="checkbox"/> Receive/File</p> <p><input type="checkbox"/> Attorney Review</p>
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**SYNOPSIS**

The annual FDIC conference is being held April 20 - 23, 2016 in Indianapolis. City policy requires approval by the City Council for all out-of-state travel.

There will be a great opportunity to view the latest technologies in apparatus, radio equipment, tools, and computer based technology designed for the fire service.

Tristan Johnson is a full time firefighter / paramedic, and takes an active role in training. He has served on apparatus committees, and makes purchase recommendations for various items and needs. He would benefit from several of the programs offered at this conference and numerous Fire Service Vendors that will be present.

Estimated costs are as follows:

- Conference Fee - \$545.00
- Lodging - \$90.00 per night - \$360.00\*
- Meals - estimated \$20/day - \$60.00
- Transportation - \$80.00\*

Total Estimated Costs: \$1,045.00

\* Lodging & transportation will be shared with Grimes, who will be sending one attendee, as well.

**FISCAL IMPACT**

Funds are available in the travel and training budgets.

**RECOMMENDATION**

Staff recommends approval of this request.

**REGISTRATION INFORMATION SHEET**



**April 18-23, 2016**

**Indiana Convention Center & Lucas Oil Stadium  
Indianapolis, Indiana**

Registration Sponsor:



**REGISTRATION**

- Fully complete the registration form. Incomplete registration forms will be returned for complete information.
- Placement in Hands-On Training (H.O.T.) classes is not reserved until registration form is fully completed and payment is received.
- Each attendee must be individually registered. Single registrations may not be separated or shared among multiple attendees.
- There is no refund for partial-day attendance.

*IF PAYING WITH PURCHASE ORDER (PO) - Purchase order must have a credit card guarantee or the registration will be forfeited. A PO is not considered a payment. Payments must be received prior to the event or upon arrival to receive your badge.*

**HANDS-ON TRAINING INFORMATION**

- Register early. Hands-On Training class sizes are limited.
- Hands-On Training participants must register and report to Staging by 6:30 a.m.
- Signed liability waivers are required for all Hands-On Training. Visit [www.fdic.com](http://www.fdic.com) to print a liability waiver.
- Full turnout gear and/or technical rescue gear is required for certain Hands-On Training. (See "Important Notes for H.O.T. Attendees" at [www.fdic.com](http://www.fdic.com).)
- Lunch is provided for all Hands-On Training attendees.
- SCBA will be provided when necessary.
- If selecting 4-hour Hands-On Training in the morning, you can only select a Hands-On Training for the afternoon. You cannot combine a Hands-On Training and a Pre-Conference Workshop on the same day.
- H.O.T. Class Pricing: 4-hour are \$155 each and 8-hour are \$255 each in addition to the registration fee.

**STEP-BY-STEP HANDS-ON TRAINING INSTRUCTIONS**

1. Fully complete the registration form.
2. Select Hands-On Training Premium Package or Hands-On Training and Pre-Conference Workshops Only on page 5.
3. Choose your classes on pages 3 & 4.
4. Total the registration fees and the class fees on the bottom of page 5.
5. Payment is required to reserve H.O.T. classes.

**PRE-CONFERENCE WORKSHOPS INFORMATION**

- Morning Pre-Conference Workshops begin promptly at 8:00 a.m.
- Afternoon Pre-Conference Workshops begin promptly at 1:30 p.m.
- Lunch is **NOT** provided for Pre-Conference Workshop attendees.
- If selecting a 4-hour Pre-Conference Workshop in the morning, you can only select a Pre-Conference Workshop for the afternoon. You cannot combine a Hands-On Training and a Pre-Conference Workshop on the same day.
- Pre-Conference Workshops are \$130 each in addition to the registration fee.

# 2

# FDIC INTERNATIONAL

# 2016 EVENT REGISTRATION

## ATTENDEE INFORMATION (Enter this information as you would like it to appear on your badge)

First Name \_\_\_\_\_ Last Name \_\_\_\_\_ Title \_\_\_\_\_

Department/Company *(Maximum 30 Characters)* \_\_\_\_\_

Address *(To mail badge and conference information)* \_\_\_\_\_

Address 2 *(Suite #, etc.)* \_\_\_\_\_ Country \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

( ) \_\_\_\_\_ ( ) \_\_\_\_\_  
Phone \_\_\_\_\_ Fax \_\_\_\_\_ E-mail *(A unique Email is required for processing registration)*

( ) \_\_\_\_\_  
Cell *(Required for Emergency Response Communication)*

### Rank/Title

- (01) Chief of Depart.
- (02) Staff Chief
- (03) Other Officer
- (04) Firefighter
- (05) Training Officer
- (07) Firefighter/Paramedic
- (08) Firefighter/EMT
- (06) Other *(please specify)* \_\_\_\_\_

### Job Function *(Check all that apply)*

- (01) Management
- (02) Training
- (03) Prevention
- (04) Suppression
- (05) Investigation
- (06) Maintenance
- (07) Communication
- (08) Public Education
- (09) EMS
- (10) Haz Mat
- (11) Rescue
- (13) Wildland
- (12) Other *(please specify)* \_\_\_\_\_

### Purchasing Responsibility

- (01) Approve
- (02) Purchase
- (03) Recommend
- (04) Specify
- (05) Other

### Are you a member of a purchasing committee?

- (1) Yes
- (0) No

### Type of Department

- (01) Volunteer
- (02) Career
- (03) Combination Career/Vol
- (04) Industrial
- (05) Military
- (06) Other *(please specify)* \_\_\_\_\_

### Population Served by Department

- (01) Under 2,500
- (02) 2,501-10,000
- (03) 10,001-25,000
- (04) 25,001-50,000
- (05) 50,001-100,000
- (06) 100,001-500,000
- (07) Over 500,000

### Do you read *Fire Engineering*?

- (01) Yes
- (02) No

### Do you read *Fire Apparatus & Emergency Equipment magazine*?

- (01) Yes
- (02) No

### Do you read *FireRescue magazine*?

- (01) Yes
- (02) No

How many years have you attended FDIC? \_\_\_\_\_

I am visiting the FDIC International 2016 exhibits to obtain information on: *(Check all that apply)*

- (01) Ambulances
- (02) Apparatus & Apparatus Accessories
- (03) Badges, Emblems & Accessories
- (04) Breathing Apparatus/Air Systems/SCBA & Supplies
- (05) Communications/Radios/Dispatch Equipment
- (06) Computer Services/Software
- (07) Water, Diving & Ice Rescue Equip. & Accessories
- (08) Educational Materials/Colleges/Training Services & Equipment
- (09) EMS Equipment & Supplies
- (10) FOAM, Environmental Products, CAF Units
- (11) Fans/Portable Generators & Accessories
- (12) Hand Tools & Forcible Entry
- (13) HazMat Products
- (14) Incident Management/Accountability Systems
- (15) Insurance/Financial Institutions/Consulting Services
- (16) Miscellaneous/Other
- (17) Monitors & Detectors
- (18) Nozzles, Hoses, Reels & Couplings
- (19) Protective Clothing (PPE)/Apparel
- (20) Pumps/Gauges
- (21) Rescue Tools & Equipment
- (22) Ropes, Chains, Safety Belts & Accessories
- (23) Sirens, Alarms & Signaling Devices
- (24) Thermal Imaging Cameras
- (25) Wildland Rescue Equip. & Access.

**HANDS-ON TRAINING AND PRE-CONFERENCE WORKSHOPS**
**Monday, April 18, 2016**
**Hands-On Training**
**4-Hour Hands-On Training:**
**Monday, April 18, 8:00 a.m.-12:00 p.m. . . . . (\$155)**

1st 2nd 3rd 4th 5th

- 01MA Advanced Extrication: Real-World Challenges
- 02MA Conventional Forcible Entry
- 03MA Engine Company Essentials: Getting Water on the Fire
- 04MA Engine and Truck Placement: Gaining the Tactical Advantage
- 05MA Farm Machinery Extrication
- 06MA Firefighter Bailout Techniques
- 07MA Flashover and Modern Fire Behavior Training
- 08MA Hand-to-Hand Combat: Auto Extrication Hand Tools Only
- 09MA Heavy Vehicle Extrication
- 10MA Man vs. Machinery
- 11MA Real-World, Street-Smart Extrication
- 12MA Rescue and Squad Company Operations on the Fireground
- 13MA Vent-Enter-Isolate-Search (VEIS) and Victim Removal
- 14MA West Coast Firetown Vertical Ventilation Operations
- 15MA Working in the Fire Flow Path

**4-Hour Hands-On Training:**
**Monday, April 18, 1:00 p.m.-5:00 p.m. . . . . (\$155)**

1st 2nd 3rd 4th 5th

- 01MP Advanced Extrication: Real-World Challenges
- 02MP Conventional Forcible Entry
- 03MP Engine Company Essentials: Getting Water on the Fire
- 04MP Engine and Truck Placement: Gaining the Tactical Advantage
- 05MP Farm Machinery Extrication
- 06MP Firefighter Bailout Techniques
- 07MP Flashover and Modern Fire Behavior Training
- 08MP Hand-to-Hand Combat: Auto Extrication Hand Tools Only
- 09MP Heavy-Vehicle Extrication
- 10MP Man vs. Machinery
- 11MP Real-World, Street-Smart Extrication
- 12MP Rescue and Squad Company Operations on the Fireground
- 13MP Vent-Enter-Isolate-Search (VEIS) and Victim Removal
- 14MP West Coast Firetown Vertical Ventilation Operations
- 15MP Working in the Fire Flow Path

**8-Hour Hands-On Training:**
**Monday, April 18, 8:00 a.m.-5:00 p.m. . . . . (\$255)**

1st 2nd 3rd 4th 5th

- 16M Building Collapse and Void Search
- 17M Live Fire: First Due
- 18M NFPA 1403-Compliant Live Burn Training in Acquired Structures
- 19M Nozzle Forward
- 20M Rapid Intervention Team Combat Drills
- 21M Truck Company Essentials
- 22M Urban Essentials

**Three-Day Workshop: 3-Day HOT Evolution . . . . . (\$750)**

- Saturday/Sunday (14 Students), April 16-17, 8 a.m. to 5 p.m.
- Monday (7 Students), April 18, 8 a.m.-5 p.m.
- Tuesday (7 Students), April 19, 8 a.m.-5 p.m.

**Monday, April 18, 2016**
**Pre-Conference Workshops**
**4-Hour Pre-Conference Workshops:**
**Monday, April 18, 8:00 a.m.-12:00 p.m. . . . . (\$130)**

1st 2nd 3rd 4th 5th

- 16MA 10 Keys to Company Success on the Fireground
- 17MA A Tactical and Strategic Look at Private-Dwelling Fires
- 18MA Constructing a Successful Training Program
- 19MA Developing Tactical Decision Games
- 20MA Drill Development: The Next Level
- 21MA Effective Command and Operations
- 22MA Fire Dynamics for Fire Officers: A Review of the 2015 NIST/UL H.O.T. Class
- 23MA Firefighting in Underground Transportation Facilities
- 24MA Firefighting Is the Ultimate Team Sport: Build a Better Team
- 25MA Fire Officer as Coach: Improving Firefighter Performance
- 26MA Fundamentals of Firefighter Functional Fitness
- 27MA ISFSI: Principles of Modern Fire Attack - Train the Trainer
- 28MA Kill the Flashover: We Test. We Demonstrate. You Decide.
- 29MA People, Politics, and Problems: The Job Description for Chief Officers
- 30MA Rapid Course Design
- 31MA Responding to and Preparing for Acts of Violence
- 32MA The Fire Department Assessment Center: The Boot Camp
- 33MA We're Only Human: Understanding Fireground Behavior
- 34MA What About the Victim? Fire Research and Victim Survivability
- 35MA Why We Must Understand Vent-Enter-Isolate-Search (VEIS)
- 36MA Wood-Frame Building Construction: Past and Present

**4-Hour Pre-Conference Workshops:**
**Monday, April 18, 1:30 p.m.-5:30 p.m. . . . . (\$130)**

1st 2nd 3rd 4th 5th

- 37MP 25 to Survive: Reducing Residential Injury and LODDs
- 38MP Aggressive Command and Tactics
- 39MP Blink: Making Critical Fireground Decisions
- 40MP Building Better Teams Through Personal Leadership
- 41MP Compartment Fire Behavior Training: "Driving the Change"
- 42MP Fire Academy IOI: Building Better Firefighters Through Quality Training
- 43MP Fire Investigation Essentials: The Complete Fire Scene Examination
- 44MP Human Behavior and Positive Psychology: Tools for the Firehouse
- 45MP ISFSI Instructor Development Workshop
- 46MP Leadership in the Real World
- 47MP Peer Support Team: Understanding and Creating a Firefighter
- 48MP Public Information Officer IOI: Command Function to Community Relations
- 49MP Right-Seat Leadership 2016
- 50MP Safety and Tactics for Newly Promoted Company Officers
- 51MP Teaching Fire Science to Firefighters
- 52MP The Art of Go/No-Go
- 53MP The Art of Reading Smoke
- 54MP The Courage Within (Tactical Resiliency Training)
- 55MP The First Five Minutes
- 56MP Today's Fire Structures: Airtight and Plastics Galore!
- 57MP View from the Street: Chief and Company Officer Workshop

## HANDS-ON TRAINING AND PRE-CONFERENCE WORKSHOPS

### Tuesday, April 19, 2016 Hands-On Training

#### 4-Hour Hands-On Training:

Tuesday, April 19, 8:00 a.m.-12:00 p.m. . . . . (\$155)

1st 2nd 3rd 4th 5th

- O1TA Advanced Extrication: Real-World Challenges
- O2TA Conventional Forcible Entry
- O3TA Engine Company Essentials: Getting Water on the Fire
- O4TA Engine and Truck Placement: Gaining the Tactical Advantage
- O5TA Farm Machinery Extrication
- O6TA Firefighter Bailout Techniques
- O7TA Flashover and Modern Fire Behavior Training
- O8TA Hand-to-Hand Combat: Auto Extrication Hand Tools Only
- O9TA Heavy Vehicle Extrication
- IOTA Man vs. Machinery
- IITA Real-World, Street-Smart Extrication
- I2TA Rescue and Squad Company Operations on the Fireground
- I3TA Vent-Enter-Isolate-Search (VEIS) and Victim Removal
- I4TA West Coast Firetown Vertical Ventilation Operations
- I5TA Working in the Fire Flow Path

#### 4-Hour Hands-On Training:

Tuesday, April 19, 1:00 p.m.-5:00 p.m. . . . . (\$155)

1st 2nd 3rd 4th 5th

- O1TP Advanced Extrication: Real-World Challenges
- O2TP Conventional Forcible Entry
- O3TP Engine Company Essentials: Getting Water on the Fire
- O4TP Engine and Truck Placement: Gaining the Tactical Advantage
- O5TP Farm Machinery Extrication
- O6TP Firefighter Bailout Techniques
- O7TP Flashover and Modern Fire Behavior Training
- O8TP Hand-to-Hand Combat: Auto Extrication Hand Tools Only
- O9TP Heavy-Vehicle Extrication
- I0TP Man vs. Machinery
- I1TP Real-World, Street-Smart Extrication
- I2TP Rescue and Squad Company Operations on the Fireground
- I3TP Vent-Enter-Isolate-Search (VEIS) and Victim Removal
- I4TP West Coast Firetown Vertical Ventilation Operations
- I5TP Working in the Fire Flow Path

#### 8-Hour Hands-On Training:

Tuesday, April 19, 8:00 a.m.-5:00 p.m. . . . . (\$255)

1st 2nd 3rd 4th 5th

- I6T Building Collapse and Void Search
- I7T Live Fire: First Due
- I8T NFPA 1403- Compliant Live Burn Training in Acquired Structures
- I9T Nozzle Forward
- 20T Rapid Intervention Team Combat Drills
- 21T Truck Company Essentials
- 22T Urban Essentials

#### Three-Day Workshop: 3-Day HOT Evolution . . . . . (\$750)

- Saturday/Sunday (14 Students), April 16-17, 8 a.m. to 5 p.m.
- Monday (7 Students), April 18, 8 a.m.-5 p.m.
- Tuesday (7 Students), April 19, 8 a.m.-5 p.m.

### Tuesday, April 19, 2016 Pre-Conference Workshops

#### 4-Hour Pre-Conference Workshops:

Tuesday, April 19, 8:00 a.m.-12:00 p.m. . . . . (\$130)

1st 2nd 3rd 4th 5th

- 58TA Cardiovascular and Chemical Exposure Risks on the Modern Fireground
- 59TA Dealing with Difficult People and Their Organizational Impacts
- 60TA Developing and Implementing Fire Behavior Training Programs
- 61TA Dynamic Decision Making and Reading the Fire
- 62TA Essentials of Honorable Leadership
- 63TA Fire Officer Survival
- 64TA Firefighting in the Modern World: Sustainable Green Design and Construction
- 65TA Fireground Decision Making for Suburban Company Officers
- 66TA Flawed Situational Awareness: The Stealth Killer of First Responders
- 67TA Hazmat: Initial Approach and Actions
- 68TA Leading from the Top
- 69TA Main Street Tactics and Strategies: Are You Ready?
- 70TA Mastering the Instructor's Tools of the Trade
- 71TA More Drills You're Not Going to Find in the Books
- 72TA Rehab Revised: What's New in NFPA 1584?
- 73TA Safety Leadership
- 74TA The Intelligent Interior Attack
- 75TA The Professional Volunteer Fire Department
- 76TA Training Basics and Essentials for the Fire Service
- 77TA Training Officer and Instructor Graduate School
- 78TA Waving Red Flags on the Fireground 2.0: "Stop the Madness"

#### 4-Hour Pre-Conference Workshops:

Tuesday, April 19, 1:30 p.m.-5:30 p.m. . . . . (\$130)

1st 2nd 3rd 4th 5th

- 79TP Building Construction for the Street-Smart Fire Officer
- 80TP Building the Ladder: Officer Development Programs
- 81TP Buildings on Fire: Lessons from the Fireground 2016
- 82TP Creating Tactical Visionaries: Seeing the Fireground Clearly
- 83TP Fireground Strategies: from the Textbook to the Street
- 84TP Five-Alarm Leadership: Real Leadership with Real People
- 85TP High-Rise Operations: Strategic, Tactical, and Task Level
- 86TP How to Be a Dynamic Instructor
- 87TP Implementing Compartment Fire Training Programs in Your Department
- 88TP Medical Response to the Firefighter Mayday
- 89TP Must-Have Policies for Every Fire Department
- 90TP No-Brainer Management
- 91TP Railroad Incident Safety, Planning, and Operations in the Crude Oil Unit Train Era
- 92TP SLICE-RS: from the Beginning
- 93TP Specifying Fire Apparatus, Back to Basics
- 94TP The 7 C's of Fire Officer Trust
- 95TP The Art of Reading Buildings
- 96TP The Privilege of Leadership
- 97TP Using Human Error as a Tool to Build a Safety Culture
- 98TP Volunteer or Combination Fire Department Managers Academy
- 99TP Why Fire Prevention Education Doesn't Work in Today's Fire Service

# 5

# FDIC INTERNATIONAL

# 2016 EVENT REGISTRATION

## CONFERENCES & EXHIBITS REGISTRATION FORM

### EARLY BIRD\* REGISTRATION FEES

(Please select only one of the following)

\*Early Bird Ends 2/29/16

	Subscriber Fee	Non-Subscriber Fee
<input type="checkbox"/> <b>Hands-On Training Premium Package</b> <i>Includes all general sessions, classrooms &amp; exhibits. May register separately for up to 16 hours of Hands-On Training and/or Pre-Conference Workshops. Additional per-class costs listed on Registration pp 3 &amp; 4.</i>	\$545	\$675
<input type="checkbox"/> <b>Two-Day Hands-On Training &amp; Pre-Conference Workshops Only</b> <i>Includes all general sessions. (DOES NOT INCLUDE CLASSROOMS OR EXHIBITS.) May register separately for up to 16 hours of Hands-On Training and/or Pre-Conference Workshops. Additional per-class costs listed on Registration pp 3 &amp; 4.</i>	\$200	\$315
<b>Three-Day Workshop: 3-Day HOT Evolution . . . . . \$750</b> <b>"Preparing for the Acquired Structure Burn - Completing the Task List"</b>		
<input type="checkbox"/> <b>Saturday/Sunday (14 Students), April 17-18, 8 a.m. to 5 p.m.;</b> <b>Monday (7 Students), April 18, 8 a.m.- 5 p.m.;</b> <b>Tuesday (7 Students), April 19, 8 a.m.- 5 p.m.;</b>		
<input type="checkbox"/> <b>Individual Full Conference</b> <i>Includes all general sessions, classrooms &amp; exhibits</i>	\$545	\$675
<input type="checkbox"/> <b>One-Day Conference</b> <i>Includes general session and classrooms on selected day only &amp; all three days of exhibits</i>	\$320	\$390
<input type="checkbox"/> <b>Exhibit Package</b> <i>Includes exhibition only all exhibit days, Thurs. - Sat., April 21-23</i>	\$50	\$85
<input type="checkbox"/> <b>One-Day Exhibits Only</b> <i>Includes exhibits on selected day only.</i>	\$35	\$70
<input type="checkbox"/> <b>Spouse Exhibits Only</b> <i>Includes exhibition only all exhibit days, Thurs. - Sat., April 21 - 23</i>	\$25	\$25

Name for Badge: \_\_\_\_\_

**Fire Engineering Training Network Discount**  
Check if you do not wish to receive a 1-year membership to the **Fire Engineering Training Network** (includes annual print/digital magazine subscription (\$25 value), as well as access to exclusive membership-only content on FireEngineering.com.

### GROUP PLANS

	Registration Fee
<input type="checkbox"/> <b>Group Plan 10 (up to 10 members/employees)</b> <i>(10% off the price of 10 individual full conference attendees)</i>	\$5,200
<input type="checkbox"/> <b>Group Plan 20 (11 to 20 members/employees)</b> <i>(15% off the price of 20 individual full conference attendees)</i>	\$9,800

**Larger Group Plans are Available** (Contact Registration for Details)

**\* PRICE DOES NOT INCLUDE THE COST OF INDIVIDUAL HANDS-ON TRAINING CLASSES/PRE-CONFERENCE WORKSHOPS CLASSES.**

Registration Fee \$ \_\_\_\_\_

Hands-On Training Class Price from Registration Pages 3 & 4 \$ \_\_\_\_\_

Total Due \$ \_\_\_\_\_

### PAYMENT

All Registration Fees must be paid in full prior to event for admittance.

- Check payable to PennWell/FDIC16.
- Signed purchase order with credit card guarantee. Please include credit card details below.
- Charge my credit card:  MasterCard  Visa  American Express  Discover

Card number \_\_\_\_\_

Exp. date \_\_\_\_\_

Name on card \_\_\_\_\_

Signature \_\_\_\_\_

### 4 WAYS TO REGISTER

1. Online: [www.fdic.com](http://www.fdic.com)
2. Fax to: +1-888-299-8057 or +1-918-831-9161
3. Email: [registration@pennwell.com](mailto:registration@pennwell.com)
4. Mail to: PennWell/FDIC16  
Registration Department  
P.O. Box 973059,  
Dallas, TX 75397-3059

Questions? Please call: +1-888-299-8016 or +1-918-831-9160

### CANCELLATION POLICY

Cancellations must be received in writing on or before March 12, 2016, in order to receive a refund, minus a \$115 administrative charge. After March 12, 2016, refunds are not available. Substitutions may be made at any time by notifying the registration office in writing.

### STEP BY STEP HANDS-ON TRAINING INSTRUCTIONS

1. Fully complete the registration form.
2. Select **Hands-On Training Premium Package** or **Hands-On Training and Pre-Conference Workshops Only** on page 5.
3. Choose your classes on pages 3 & 4.
4. Total the registration fees and the class fees on the bottom of page 5.
5. Payment is required to reserve H.O.T. classes.



**OFFICE OF CITY ADMINISTRATION**

Johnston, Iowa

AGENDA COMMUNICATION

February 2, 2016 Meeting

<p><b>SUBJECT:</b></p> <p>Set Public Hearing for March 7, 2016 at 7:00 p.m. on the proposed budget for fiscal year July 1, 2016 through June 30, 2017.</p>	<p><b>ACTION REQUIRED:</b></p> <p><input type="checkbox"/> Ordinance</p> <p><input type="checkbox"/> Resolution</p> <p><input checked="" type="checkbox"/> Approval</p> <p><input type="checkbox"/> Receive/File</p> <p><input type="checkbox"/> Attorney Review</p>
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*Screen*

**SYNOPSIS:**

Notice of Public Hearing is required for the 2016/2017 Budget. The Council is planning to discuss further issues regarding the budget at the work session on February 2nd prior to this Council action.

The tax rate following the budget work session on January 19th for 2016/2017 appeared to be \$11.40. Following the Council work session on February 2nd, approving any deletions or additions to the budget, the final tax rate for the 2016/2017 will be set.

The revenue and expenditure amounts will reflect discussions held by Council and staff and if the Council decides to increase or decrease the numbers, the Notice of Public Hearing will be adjusted prior to publication to reflect any changes. Following the official publication; the Council would only be able to reduce the levy and expenditures per program area.

**FISCAL IMPACT:**

The tax levy will provide property tax revenue for Fiscal Year July 1, 2016 through June 30, 2017.

**RECOMMENDATION:**

Set a Public Hearing for March 7, 2016 at 7:00 p.m.

## NOTICE OF PUBLIC HEARING BUDGET ESTIMATE

FISCAL YEAR BEGINNING JULY 1, 2016 - ENDING JUNE 30, 2017

City of                     **Johnston**                    , Iowa

The City Council will conduct a public hearing on the proposed Budget at                     Johnston City Hall                    

on           03/07/2016           at           7 p.m.            
(Date) xx/xx/xx (hour)

The Budget Estimate Summary of proposed receipts and expenditures is shown below.

Copies of the the detailed proposed Budget may be obtained or viewed at the offices of the Mayor, City Clerk, and at the Library.

The estimated Total tax levy rate per \$1000 valuation on regular property ..... \$           11.40000          

The estimated tax levy rate per \$1000 valuation on Agricultural land is ..... \$           3.00375          

At the public hearing, any resident or taxpayer may present objections to, or arguments in favor of, any part of the proposed budget.

          515-278-2344            
phone number

                    Teresa Rotschafer/Finance Director                      
City Clerk/Finance Officer's NAME

		Budget FY 2017	Re-estimated FY 2016	Actual FY 2015
		(a)	(b)	(c)
<b>Revenues &amp; Other Financing Sources</b>				
Taxes Levied on Property	1	13,967,906	13,310,678	12,743,152
Less: Uncollected Property Taxes-Levy Year	2	0	0	0
<b>Net Current Property Taxes</b>	<b>3</b>	<b>13,967,906</b>	<b>13,310,678</b>	<b>12,743,152</b>
Delinquent Property Taxes	4	0	0	0
TIF Revenues	5	5,873,419	4,216,004	3,733,445
Other City Taxes	6	733,364	721,939	754,358
Licenses & Permits	7	496,250	625,700	738,567
Use of Money and Property	8	91,960	82,495	154,884
Intergovernmental	9	2,975,120	4,320,092	3,135,591
Charges for Fees & Service	10	9,248,982	8,160,707	8,372,672
Special Assessments	11	0	0	152,655
Miscellaneous	12	482,490	473,329	619,546
Other Financing Sources	13	11,145,660	6,396,247	30,412,640
Transfers In	14	4,656,665	4,999,059	4,932,512
<b>Total Revenues and Other Sources</b>	<b>15</b>	<b>49,671,816</b>	<b>43,306,250</b>	<b>65,750,022</b>
<b>Expenditures &amp; Other Financing Uses</b>				
Public Safety	16	5,951,888	5,422,912	4,872,742
Public Works	17	3,704,043	3,246,443	3,361,293
Health and Social Services	18	25,000	28,995	50,866
Culture and Recreation	19	3,015,271	3,033,229	2,737,053
Community and Economic Development	20	4,679,890	3,804,878	3,225,502
General Government	21	1,317,586	1,230,170	1,528,330
Debt Service	22	7,974,236	7,951,147	7,390,467
Capital Projects	23	8,546,760	10,282,419	17,238,826
<b>Total Government Activities Expenditures</b>	<b>24</b>	<b>35,214,674</b>	<b>35,000,193</b>	<b>40,405,079</b>
Business Type / Enterprises	25	9,959,247	7,761,565	7,128,439
<b>Total ALL Expenditures</b>	<b>26</b>	<b>45,173,921</b>	<b>42,761,758</b>	<b>47,533,518</b>
Transfers Out	27	4,656,665	4,999,059	4,932,512
<b>Total ALL Expenditures/Transfers Out</b>	<b>28</b>	<b>49,830,586</b>	<b>47,760,817</b>	<b>52,466,030</b>
<b>Excess Revenues &amp; Other Sources Over (Under) Expenditures/Transfers Out</b>	<b>29</b>	<b>-158,770</b>	<b>-4,454,567</b>	<b>13,283,992</b>
Beginning Fund Balance July 1	30	38,592,950	43,047,517	29,763,525
<b>Ending Fund Balance June 30</b>	<b>31</b>	<b>38,434,180</b>	<b>38,592,950</b>	<b>43,047,517</b>

## Adoption of Budget and Certification of City Taxes

FISCAL YEAR BEGINNING JULY 1, 2016 - ENDING JUNE 30, 2017

Resolution No.: \_\_\_\_\_

The City of: Johnston

County Name: POLK

Date Budget Adopted: \_\_\_\_\_

(Date) xxx/xx/xx

The below-signed certifies that the City Council, on the date stated above, lawfully approved the named resolution adopting a budget for next fiscal year, as summarized on this and the supporting pages. Attached is Long Term Debt Schedule Form 703 which lists any and all of the debt service obligations of the City

Telephone Number

Signature

County Auditor Date Stamp

### January 1, 2015 Property Valuations

	With Gas & Electric	Without Gas & Electric	Last Official Census
Regular	2a <b>1,205,068,053</b>	2b <b>1,164,860,675</b>	17,278
<b>DEBT SERVICE</b>	3a <b>1,390,279,147</b>	3b <b>1,350,071,769</b>	
Ag Land	4a <b>3,525,664</b>		

### TAXES LEVIED

Code Sec.	Dollar Limit	Purpose	(A) Request with Utility Replacement	(B) Property Taxes Levied	(C) Rate
384.1	8.10000	Regular General levy	5 <u>9,327,022</u>	9,015,824	43 <u>7.73983</u>
<b>Non-Voted Other Permissible Levies</b>					
12(8)	0.67500	Contract for use of Bridge	6 _____	0	44 _____ 0
12(10)	0.95000	Opr & Maint publicly owned Transit	7 _____	0	45 _____ 0
12(11)	Amt Nec	Rent, Ins. Maint of Civic Center	8 _____	0	46 _____ 0
12(12)	0.13500	Opr & Maint of City owned Civic Center	9 _____	0	47 _____ 0
12(13)	0.06750	Planning a Sanitary Disposal Project	10 _____	0	48 _____ 0
12(14)	0.27000	Aviation Authority (under sec.330A.15)	11 _____	0	49 _____ 0
12(15)	0.06750	Levee Impr. fund in special charter city	13 _____	0	51 _____ 0
12(17)	Amt Nec	Liability, property & self insurance costs	14 _____	0	52 _____ 0
12(21)	Amt Nec	Support of a Local Emerg.Mgmt.Comm.	462 _____	0	485 _____ 0
<b>Voted Other Permissible Levies</b>					
12(1)	0.13500	Instrumental/Vocal Music Groups	15 _____	0	53 _____ 0
12(2)	0.81000	Memorial Building	16 _____	0	54 _____ 0
12(3)	0.13500	Symphony Orchestra	17 _____	0	55 _____ 0
12(4)	0.27000	Cultural & Scientific Facilities	18 _____	0	56 _____ 0
12(5)	As Voted	County Bridge	19 _____	0	57 _____ 0
12(6)	1.35000	Missi or Missouri River Bridge Const.	20 _____	0	58 _____ 0
12(9)	0.03375	Aid to a Transit Company	21 _____	0	59 _____ 0
12(16)	0.20500	Maintain Institution received by gift/devise	22 _____	0	60 _____ 0
12(18)	1.00000	City Emergency Medical District	463 _____	0	466 _____ 0
12(20)	0.27000	Support Public Library	23 _____	0	61 _____ 0
28E.22	1.50000	Unified Law Enforcement	24 _____	0	62 _____ 0
<b>Total General Fund Regular Levies (5 thru 24)</b>			25 <u>9,327,022</u>	9,015,824	
384.1	3.00375	Ag Land	26 <u>10,590</u>	10,590	63 <u>3.00375</u>
<b>Total General Fund Tax Levies (25 + 26)</b>			27 <u>9,337,612</u>	9,026,414	Do Not Add
<b>Special Revenue Levies</b>					
384.8	0.27000	Emergency (if general fund at levy limit)	28 _____	0	64 _____ 0
384.6	Amt Nec	Police & Fire Retirement	29 _____	0	_____ 0
	Amt Nec	FICA & IPERS (if general fund at levy limit)	30 _____	0	_____ 0
Rules	Amt Nec	Other Employee Benefits	31 _____	0	_____ 0
<b>Total Employee Benefit Levies (29,30,31)</b>			32 <u>0</u>	0	65 _____ 0
<b>Sub Total Special Revenue Levies (28+32)</b>			33 <u>0</u>	0	
<b>Valuation</b>					
386	As Req	<u>With Gas &amp; Elec</u>	<u>Without Gas &amp; Elec</u>		
SSMID 1	(A)	(B)		34 _____	66 _____ 0
SSMID 2	(A)	(B)		35 _____	67 _____ 0
SSMID 3	(A)	(B)		36 _____	68 _____ 0
SSMID 4	(A)	(B)		37 _____	69 _____ 0
SSMID 5	(A)	(B)		555 _____	565 _____ 0
SSMID 6	(A)	(B)		556 _____	566 _____ 0
SSMID 7	(A)	(B)		1177 _____	_____ 0
<b>Total SSMID</b>			38 <u>0</u>	0	Do Not Add
<b>Total Special Revenue Levies</b>			39 <u>0</u>	0	
384.4	Amt Nec	<b>Debt Service Levy 76.10(6)</b>	40 <u>5,088,658</u>	4,941,492	70 <u>3.66017</u>
384.7	0.67500	<b>Capital Projects (Capital Improv. Reserve)</b>	41 _____	0	71 _____ 0
<b>Total Property Taxes (27+39+40+41)</b>			42 <u>14,426,270</u>	13,967,906	72 <u>11.40000</u>

**COUNTY AUDITOR - I certify the budget is in compliance with ALL the following:**  
 Budgets that **DO NOT** meet ALL the criteria below are not statutorily compliant & must be returned to the city for correction.

- \_\_\_\_\_ 1) The prescribed Notice of Public Hearing Budget Estimate (Form 631.1) was lawfully published, or posted if applicable, and notarized, filed proof was evidenced
- \_\_\_\_\_ 2) Budget hearing notices were published or posted not less than 10 days, nor more than 20 days, prior to the budget hearing.
- \_\_\_\_\_ 3) Adopted property taxes do not exceed published or posted amounts.
- \_\_\_\_\_ 4) Adopted expenditures do not exceed published or posted amounts in each of the nine program areas, or in total.
- \_\_\_\_\_ 5) Number of the resolution adopting the budget has been included at the top of this form.
- \_\_\_\_\_ 6) The budget file uploaded to the SUBMIT Area matched the paper copy certified by the city to this office.
- \_\_\_\_\_ 7) The long term debt schedule (Form 703) shows sufficient payment amounts to pay the G.O. debt certified by the city to this office.

(County Auditor)

OFFICES OF CITY ADMINISTRATION  
 Johnston, Iowa  
 AGENDA COMMUNICATION  
 February 2, 2016

<p><b>SUBJECT: 2016A General Obligations Bonds</b></p> <ul style="list-style-type: none"> <li>• Resolution 16-27 fixing date for a meeting on the proposition of the issuance of not to exceed \$5,745,000 General Obligation Bonds of the City of Johnston, State of Iowa (for essential corporate purposes), and Providing for Publication of Notice Thereof</li> <li>• Resolution 16-28 fixing date for a meeting on the proposition of the issuance of not to exceed \$2,580,000 General Obligation Bonds of the City of Johnston, State of Iowa (for essential corporate urban renewal purposes), and Providing for Publication of Notice Thereof</li> <li>• Resolution 16-29 fixing date for a meeting on the proposition of the issuance of not to exceed \$175,000 General Obligation Bonds of the City of Johnston, State of Iowa (for general corporate purposes), and Providing for Publication of Notice Thereof</li> <li>• Resolution 16-30 fixing date for a meeting on the proposition of the issuance of not to exceed \$700,000 General Obligation Bonds of the City of Johnston, State of Iowa (for general corporate purposes), and Providing for Publication of Notice Thereof</li> </ul>	<p><b>ACTION REQUIRED:</b></p> <p><input type="checkbox"/> Ordinance</p> <p><input checked="" type="checkbox"/> Resolution</p> <p><input type="checkbox"/> Approval</p> <p><input type="checkbox"/> Receive/File</p> <p><i>Jurasak</i></p>
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**SYNOPSIS:**

These public hearings will allow the City to issue General Obligation Bonds, 2016A, of which we will close shortly after July 1, 2016. Taking action now will allow the City to pre-levy for these upcoming issuances. Due to the nature of the projects, four (4) separate hearings will be required. The City's Financial Policy states "total general obligation indebtedness should not exceed 75% of the City's statutory debt limit" . The policy further states "self imposed debt limitations may not take into account debt issued as a consequence of voter approved bond referendums." With this issuance the City will be at approximately 76.32% of our debt limit, including the previously borrowed \$14,000,000 for the voter approved Public Safety Building. Excluding the \$14,000,000 we would be at approximately 63.70%.

The first hearing (Res. 16-27 ) will allow for a meeting on the issuance of not to exceed \$5,745,000 General Obligation Bonds for Essential Corporate Purposes:

	ESTIMATE
• NW 100th	\$ 500,000
• NW 70th	450,000
• Merle Hay East Ph. 1B & Ph. 3 design	1,233,960
• NW 66th Kempton Bridge	430,000
• Merle Hay East Ph 3 Const-NW 60th	1,510,000

The second hearing (Res. 16-28) will allow for a meeting on the issuance of not to exceed \$2,580,000 General Obligation Bond for Essential Corporate Urban Renewal Purposes for the urban renewal project:

	ESTIMATE
• Terra Lake Project	\$1,452,000
• NW 63 Place (between MHR & NW 59th Court)	1,000,000

The third hearing (Res. 16-29) will allow for a meeting on the issuance of not to exceed \$175,000 General Obligation Bonds for General Corporate Purposes:

	ESTIMATE
• Fiber Optic Phase 3 & 4 finish Joint Project with the Johnston Schools	\$175,000

The fourth hearing (Res. 16-30) will allow for meeting on the issuance of not to exceed \$700,000 General Obligation Bonds for General Corporate Purposes:

	ESTIMATE
• Beaver Drive Trail	\$700,000

FISCAL IMPACT:

Annual debt and interest payments will be budgeted beginning in FY 16-17. Debt payments will be from property taxes, storm water utility, sewer utility, water utility, tax increment finances and fund raising.

RECOMMENDATION

Approve Resolutions 16-27, 16-28, 16-29 and 16-30 Setting February 16, 2016 for the public hearings.

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Council Member \_\_\_\_\_ introduced the following Resolution entitled "RESOLUTION FIXING DATE FOR A MEETING ON THE PROPOSITION OF THE ISSUANCE OF NOT TO EXCEED \$5,745,000 GENERAL OBLIGATION BONDS OF THE CITY OF JOHNSTON, STATE OF IOWA (FOR ESSENTIAL CORPORATE PURPOSES), AND PROVIDING FOR PUBLICATION OF NOTICE THEREOF", and moved that the same be adopted. Council Member \_\_\_\_\_ seconded the motion to adopt. The roll was called and the vote was,

AYES: \_\_\_\_\_

\_\_\_\_\_

NAYS: \_\_\_\_\_

Whereupon, the Mayor declared the resolution duly adopted as follows:

RESOLUTION FIXING DATE FOR A MEETING ON THE PROPOSITION OF THE ISSUANCE OF NOT TO EXCEED \$5,745,000 GENERAL OBLIGATION BONDS OF THE CITY OF JOHNSTON, STATE OF IOWA (FOR ESSENTIAL CORPORATE PURPOSES), AND PROVIDING FOR PUBLICATION OF NOTICE THEREOF

16-27

WHEREAS, it is deemed necessary and advisable that the City of Johnston, State of Iowa, should issue General Obligation Bonds, to the amount of not to exceed \$5,745,000, as authorized by Section 384.25, of the Code of Iowa, for the purpose of providing funds to pay costs of carrying out essential corporate purpose projects as hereinafter described; and

WHEREAS, before the Bonds may be issued, it is necessary to comply with the provisions of the Code, and to publish a notice of the proposal to issue such bonds and of the time and place of the meeting at which the Council proposes to take action for the issuance of the Bonds and to receive oral and/or written objections from any resident or property owner of the City to such action.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF CITY OF JOHNSTON, STATE OF IOWA:

Section 1. That this Council meet in the Council Chambers, City Hall, 6221 Merle Hay Road, Johnston, Iowa, at 7 P.M., on the 16th day of February, 2016, for the purpose of taking action on the matter of the issuance of not to exceed \$5,745,000 General Obligation Bonds, for essential corporate purposes, the proceeds of which bonds will be used to provide funds to pay the costs of:

a) the opening, widening, extending, grading, and draining of the right-of-way of streets, highways, avenues, alleys and public grounds; the construction, reconstruction, and repairing of any street improvements; the acquisition, installation, and repair of sidewalks, storm sewers, sanitary sewers, water service lines, street lighting and traffic control devices; and the acquisition of any real estate needed for any of the foregoing purposes; and

b) the acquisition, construction, reconstruction, enlargement, improvement, and repair of a bridge and approaches thereto in cooperation with Polk County, Iowa.

Section 2. To the extent any of the projects or activities described in this resolution may be reasonably construed to be included in more than one classification under Division III of Chapter 384 of the Code of Iowa, the Council hereby elects the "essential corporate purpose" classification and procedure with respect to each such project or activity, pursuant to Section 384.28 of the Code of Iowa.

Section 3. That the Clerk is hereby directed to cause at least one publication to be made of a notice of the meeting, in a legal newspaper, printed wholly in the English language, published at least once weekly, and having general circulation in the City. The publication to be not less than four clear days nor more than twenty days before the date of the public meeting on the issuance of the Bonds.

Section 4. The notice of the proposed action to issue bonds shall be in substantially the following form:

(To be published on or before: February 5, 2016)

NOTICE OF MEETING OF THE CITY COUNCIL OF THE  
CITY OF JOHNSTON, STATE OF IOWA, ON THE MATTER  
OF THE PROPOSED ISSUANCE OF NOT TO EXCEED  
\$5,745,000 GENERAL OBLIGATION BONDS OF THE CITY  
(FOR ESSENTIAL CORPORATE PURPOSES), AND THE  
HEARING ON THE ISSUANCE THEREOF

PUBLIC NOTICE is hereby given that the City Council of the City of Johnston, State of Iowa, will hold a public hearing on the 16th day of February, 2016, at 7 P.M., in the Council Chambers, City Hall, 6221 Merle Hay Road, Johnston, Iowa, at which meeting the Council proposes to take additional action for the issuance of not to exceed \$5,745,000 General Obligation Bonds, for essential corporate purposes, to provide funds to pay the costs of:

- a) the opening, widening, extending, grading, and draining of the right-of-way of streets, highways, avenues, alleys and public grounds; the construction, reconstruction, and repairing of any street improvements; the acquisition, installation, and repair of sidewalks, storm sewers, sanitary sewers, water service lines, street lighting and traffic control devices; and the acquisition of any real estate needed for any of the foregoing purposes; and
- b) the acquisition, construction, reconstruction, enlargement, improvement, and repair of a bridge and approaches thereto in cooperation with Polk County, Iowa.

At the above meeting the Council shall receive oral or written objections from any resident or property owner of the City to the above action. After all objections have been received and considered, the Council will at the meeting or at any adjournment thereof, take additional action for the issuance of the Bonds or will abandon the proposal to issue said Bonds.

This notice is given by order of the City Council of the City of Johnston, State of Iowa, as provided by Section 384.25 of the Code of Iowa.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
City Clerk, City of Johnston, State of Iowa

(End of Notice)

PASSED AND APPROVED this 2nd day of February, 2016.

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Mayor

ATTEST:

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City Clerk

Council Member \_\_\_\_\_ introduced the following Resolution entitled "RESOLUTION FIXING DATE FOR A MEETING ON THE PROPOSITION OF THE ISSUANCE OF NOT TO EXCEED \$2,580,000 GENERAL OBLIGATION BONDS OF THE CITY OF JOHNSTON, STATE OF IOWA (FOR ESSENTIAL CORPORATE URBAN RENEWAL PURPOSES), AND PROVIDING FOR PUBLICATION OF NOTICE THEREOF", and moved that the same be adopted. Council Member \_\_\_\_\_ seconded the motion to adopt. The roll was called and the vote was,

AYES: \_\_\_\_\_

\_\_\_\_\_

NAYS: \_\_\_\_\_

Whereupon, the Mayor declared the resolution duly adopted as follows:

RESOLUTION FIXING DATE FOR A MEETING ON THE PROPOSITION OF THE ISSUANCE OF NOT TO EXCEED \$2,580,000 GENERAL OBLIGATION BONDS OF THE CITY OF JOHNSTON, STATE OF IOWA (FOR ESSENTIAL CORPORATE URBAN RENEWAL PURPOSES), AND PROVIDING FOR PUBLICATION OF NOTICE THEREOF

16-28

WHEREAS, this Council found and determined that certain areas located within the City are eligible and should be designated as an urban renewal area under Iowa law, and approved and adopted the NW 62<sup>nd</sup> Urban Renewal Plan (the "Plan") for the NW 62<sup>nd</sup> Urban Renewal Plan Area (the "Area" or "Urban Renewal Area"), which Plan is on file in the office of the Recorder of Polk County, Iowa; and

WHEREAS, this Council found and determined that certain areas located within the City are eligible and should be designated as an urban renewal area under Iowa law, and approved and adopted the East Central TIF Urban Renewal Plan, as amended, (the "Plan") for the East Central TIF Urban Renewal Project Area (the "Area" or "Urban Renewal Area"), which Plan is on file in the office of the Recorder of Polk County, Iowa; and

WHEREAS, it is deemed necessary and advisable that the City of Johnston, State of Iowa, should issue General Obligation Bonds, to the amount of not to exceed \$2,580,000, as authorized by Sections 384.25 and 403.12, of the Code of Iowa, for the purpose of providing funds to pay costs of carrying out essential corporate urban renewal purpose projects as hereinafter described; and

WHEREAS, before bonds may be issued, it is necessary to comply with the procedural requirements of Chapters 384 and 403 of the Code of Iowa, and to publish a notice of the proposal to issue such bonds and the right to petition for an election.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF CITY OF JOHNSTON, STATE OF IOWA:

Section 1. That this Council meet in the Council Chambers, City Hall, 6221 Merle Hay Road, Johnston, Iowa, at 7 P.M., on the 16th day of February, 2016, for the purpose of taking action on the matter of the issuance of not to exceed \$2,580,000 General Obligation Bonds, for essential corporate urban renewal purposes, the proceeds of which bonds will be used to provide funds to pay the costs of the aiding in the planning, undertaking, and carrying out of urban renewal projects under the authority of chapter 403, including the Terra Lake project and the 63rd Place from Merle Hay to 59th Court Project.

Section 2. To the extent any of the projects or activities described in this resolution may be reasonably construed to be included in more than one classification under Division III of Chapter 384 of the Code of Iowa, the Council hereby elects the "essential corporate purpose" classification and procedure with respect to each such project or activity, pursuant to Section 384.28 of the Code of Iowa.

Section 3. That the Clerk is hereby directed to cause at least one publication to be made of a notice of the meeting, in a legal newspaper, printed wholly in the English language, published at least once weekly, and having general circulation in the City. The publication to be not less than ten clear days nor more than twenty days before the date of the public meeting on the issuance of the Bonds.

Section 4. The notice of the proposed action to issue bonds shall be in substantially the following form:

(To be published on or before: February 5, 2016)

NOTICE OF MEETING OF THE CITY COUNCIL OF THE  
CITY OF JOHNSTON, STATE OF IOWA, ON THE MATTER  
OF THE PROPOSED ISSUANCE OF NOT TO EXCEED  
\$2,580,000 GENERAL OBLIGATION BONDS OF THE CITY  
(FOR ESSENTIAL CORPORATE URBAN RENEWAL  
PURPOSES), AND THE HEARING ON THE ISSUANCE  
THEREOF

PUBLIC NOTICE is hereby given that the City Council of the City of Johnston, State of Iowa, will hold a public hearing on the 16th day of February, 2016, at 7 P.M., in the Council Chambers, City Hall, 6221 Merle Hay Road, Johnston, Iowa, at which meeting the Council proposes to take additional action for the issuance of not to exceed \$2,580,000 General Obligation Bonds, for essential corporate urban renewal purposes, to provide funds to pay the costs of the aiding in the planning, undertaking, and carrying out of urban renewal projects under the authority of chapter 403, including the Terra Lake project and the 63rd Place from Merle Hay to 59th Court Project.

At any time before the date of the meeting, a petition, asking that the question of issuing such Bonds be submitted to the legal voters of the City, may be filed with the Clerk of the City in the manner provided by Section 362.4 of the Code of Iowa, pursuant to the provisions of Sections 384.24(3)(q), 384.25 and 403.12 of the Code of Iowa.

At the above meeting the Council shall receive oral or written objections from any resident or property owner of the City to the above action. After all objections have been received and considered, the Council will at the meeting or at any adjournment thereof, take additional action for the issuance of the Bonds or will abandon the proposal to issue said Bonds.

This notice is given by order of the City Council of the City of Johnston, State of Iowa, as provided by Chapters 384 and 403 of the Code of Iowa.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

---

City Clerk, City of Johnston, State of Iowa

(End of Notice)

PASSED AND APPROVED this 2nd day of February, 2016.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Council Member \_\_\_\_\_ introduced the following Resolution entitled "RESOLUTION FIXING DATE FOR A MEETING ON THE PROPOSITION OF THE ISSUANCE OF NOT TO EXCEED \$175,000 GENERAL OBLIGATION BONDS OF THE CITY OF JOHNSTON, STATE OF IOWA (FOR A GENERAL CORPORATE PURPOSE), AND PROVIDING FOR PUBLICATION OF NOTICE THEREOF", and moved that the same be adopted. Council Member \_\_\_\_\_ seconded the motion to adopt. The roll was called and the vote was,

AYES: \_\_\_\_\_

\_\_\_\_\_

NAYS: \_\_\_\_\_

Whereupon, the Mayor declared the resolution duly adopted as follows:

RESOLUTION FIXING DATE FOR A MEETING ON THE PROPOSITION OF THE ISSUANCE OF NOT TO EXCEED \$175,000 GENERAL OBLIGATION BONDS OF THE CITY OF JOHNSTON, STATE OF IOWA (FOR A GENERAL CORPORATE PURPOSE), AND PROVIDING FOR PUBLICATION OF NOTICE THEREOF

16-29

WHEREAS, it is deemed necessary and advisable that the City of Johnston, State of Iowa, should issue General Obligation Bonds, to the amount of not to exceed \$175,000, as authorized by Section 384.26, of the Code of Iowa, for the purpose of providing funds to pay costs of carrying out a general corporate purpose project as hereinafter described; and

WHEREAS, the Issuer has a population of more than 5,000 but not more than 75,000, and the Bonds for these purposes do not exceed \$700,000; and

WHEREAS, before the Bonds may be issued, it is necessary to comply with the provisions of Chapter 384 of the Code of Iowa, and to publish a notice of the proposal to issue such Bonds and the right to petition for an election.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF CITY OF JOHNSTON, STATE OF IOWA:

Section 1. That this Council meet in the Council Chambers, City Hall, 6221 Merle Hay Road, Johnston, Iowa, at 7 P.M., on the 16th day of February, 2016, for the purpose of taking action on the matter of the issuance of not to exceed \$175,000 General Obligation Bonds, for a general corporate purpose, the proceeds of which bonds will be used to provide funds to pay the costs of the undertaking of a fiber optic project jointly and in cooperation with the Johnston Independent Community School District and shall bear interest at a rate not exceeding the maximum specified in the attached notice.

Section 2. That the Clerk is hereby directed to cause at least one publication to be made of a notice of the meeting, in a legal newspaper, printed wholly in the English language, published at least once weekly, and having general circulation in the City. The publication to be not less than ten clear days nor more than twenty days before the date of the public meeting on the issuance of the Bonds.

Section 3. The notice of the proposed action to issue bonds shall be in substantially the following form:

(To be published on or before: February 5, 2016)

NOTICE OF MEETING OF THE CITY COUNCIL OF THE  
CITY OF JOHNSTON, STATE OF IOWA, ON THE MATTER  
OF THE PROPOSED ISSUANCE OF NOT TO EXCEED  
\$175,000 GENERAL OBLIGATION BONDS OF THE CITY  
(FOR A GENERAL CORPORATE PURPOSE), AND THE  
HEARING ON THE ISSUANCE THEREOF

PUBLIC NOTICE is hereby given that the City Council of the City of Johnston, State of Iowa, will hold a public hearing on the 16th day of February, 2016, at 7 P.M., in the Council Chambers, City Hall, 6221 Merle Hay Road, Johnston, Iowa, at which meeting the Council proposes to take additional action for the issuance of not to exceed \$175,000 General Obligation Bonds, for a general corporate purpose, bearing interest at a rate of not to exceed nine (9%) per centum per annum, the Bonds to be issued to provide funds to pay the costs of the undertaking of a fiber optic project jointly and in cooperation with the Johnston Independent Community School District.

At any time before the date of the meeting, a petition, asking that the question of issuing such Bonds be submitted to the legal voters of the City, may be filed with the Clerk of the City in the manner provided by Section 362.4 of the Code of Iowa, pursuant to the provisions of Section 384.26 of the Code of Iowa.

At the above meeting the Council shall receive oral or written objections from any resident or property owner of the City to the above action. After all objections have been received and considered, the Council will at the meeting or at any adjournment thereof, take additional action for the issuance of the Bonds or will abandon the proposal to issue said Bonds.

This notice is given by order of the City Council of the City of Johnston, State of Iowa, as provided by Section 384.26 of the Code of Iowa.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
City Clerk, City of Johnston, State of Iowa

(End of Notice)

PASSED AND APPROVED this 2nd day of February, 2016.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Council Member \_\_\_\_\_ introduced the following Resolution entitled "RESOLUTION FIXING DATE FOR A MEETING ON THE PROPOSITION OF THE ISSUANCE OF NOT TO EXCEED \$700,000 GENERAL OBLIGATION BONDS OF THE CITY OF JOHNSTON, STATE OF IOWA (FOR GENERAL CORPORATE PURPOSES), AND PROVIDING FOR PUBLICATION OF NOTICE THEREOF", and moved that the same be adopted. Council Member \_\_\_\_\_ seconded the motion to adopt. The roll was called and the vote was,

AYES: \_\_\_\_\_

\_\_\_\_\_

NAYS: \_\_\_\_\_

Whereupon, the Mayor declared the resolution duly adopted as follows:

RESOLUTION FIXING DATE FOR A MEETING ON THE PROPOSITION OF THE ISSUANCE OF NOT TO EXCEED \$700,000 GENERAL OBLIGATION BONDS OF THE CITY OF JOHNSTON, STATE OF IOWA (FOR GENERAL CORPORATE PURPOSES), AND PROVIDING FOR PUBLICATION OF NOTICE THEREOF

16-30

WHEREAS, it is deemed necessary and advisable that the City of Johnston, State of Iowa, should issue General Obligation Bonds, to the amount of not to exceed \$700,000, as authorized by Section 384.26, of the Code of Iowa, for the purpose of providing funds to pay costs of carrying out general corporate purpose projects as hereinafter described; and

WHEREAS, the Issuer has a population of more than 5,000 but not more than 75,000, and the Bonds for these purposes do not exceed \$700,000; and

WHEREAS, before the Bonds may be issued, it is necessary to comply with the provisions of Chapter 384 of the Code of Iowa, and to publish a notice of the proposal to issue such Bonds and the right to petition for an election.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF CITY OF JOHNSTON, STATE OF IOWA:

Section 1. That this Council meet in the Council Chambers, City Hall, 6221 Merle Hay Road, Johnston, Iowa, at 7 P.M., on the 16th day of February, 2016, for the purpose of taking action on the matter of the issuance of not to exceed \$700,000 General Obligation Bonds, for general corporate purposes, the proceeds of which bonds will be used to provide funds to pay the costs of the acquisition, construction, reconstruction, enlargement, improvement, and equipping of recreation grounds and the acquisition of real estate therefor and shall bear interest at a rate not exceeding the maximum specified in the attached notice.

Section 2. That the Clerk is hereby directed to cause at least one publication to be made of a notice of the meeting, in a legal newspaper, printed wholly in the English language, published at least once weekly, and having general circulation in the City. The publication to be not less than ten clear days nor more than twenty days before the date of the public meeting on the issuance of the Bonds.

Section 3. The notice of the proposed action to issue bonds shall be in substantially the following form:

(To be published on or before: February 5, 2016)

NOTICE OF MEETING OF THE CITY COUNCIL OF THE  
CITY OF JOHNSTON, STATE OF IOWA, ON THE MATTER  
OF THE PROPOSED ISSUANCE OF NOT TO EXCEED  
\$700,000 GENERAL OBLIGATION BONDS OF THE CITY  
(FOR GENERAL CORPORATE PURPOSES), AND THE  
HEARING ON THE ISSUANCE THEREOF

PUBLIC NOTICE is hereby given that the City Council of the City of Johnston, State of Iowa, will hold a public hearing on the 16th day of February, 2016, at 7 P.M., in the Council Chambers, City Hall, 6221 Merle Hay Road, Johnston, Iowa, at which meeting the Council proposes to take additional action for the issuance of not to exceed \$700,000 General Obligation Bonds, for general corporate purposes, bearing interest at a rate of not to exceed nine (9%) per centum per annum, the Bonds to be issued to provide funds to pay the costs of the acquisition, construction, reconstruction, enlargement, improvement, and equipping of recreation grounds and the acquisition of real estate therefor.

At any time before the date of the meeting, a petition, asking that the question of issuing such Bonds be submitted to the legal voters of the City, may be filed with the Clerk of the City in the manner provided by Section 362.4 of the Code of Iowa, pursuant to the provisions of Section 384.26 of the Code of Iowa.

At the above meeting the Council shall receive oral or written objections from any resident or property owner of the City to the above action. After all objections have been received and considered, the Council will at the meeting or at any adjournment thereof, take additional action for the issuance of the Bonds or will abandon the proposal to issue said Bonds.

This notice is given by order of the City Council of the City of Johnston, State of Iowa, as provided by Section 384.26 of the Code of Iowa.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
City Clerk, City of Johnston, State of Iowa

(End of Notice)

PASSED AND APPROVED this 2nd day of February, 2016.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk


**OFFICE OF THE CITY ADMINISTRATOR**

 Johnston, Iowa  
 AGENDA COMMUNICATION  
 February 2, 2016

**SUBJECT:** Consider Resolution 16-31, a resolution to not remand BOA Case No. 15-15 to the Board of Adjustment for reconsideration.

**ACTION REQUIRED:**

Ordinance  
 Resolution  
 Approval  
 Receive/File  
 Attorney Review

**SYNOPSIS:**

Brian Murphy submitted an application to the Board of Adjustments for a variance to the side yard setback for his property located at 5131 NW 66<sup>th</sup> Ave. The need for the variance was a result of a large gas main easement creating unique site conditions.

On January 21<sup>st</sup>, 2016, the Board of Adjustment approved the variance, with a vote of 5 to 1, for a reduced side yard setback of 4 feet subject the findings and conditions provided in the BOA Resolution and Findings.

In their findings, the board determined the applicant did provide sufficient evidence to warrant a variance. Attached are the BOA findings and the staff report. The city council may choose to remand the case back to the BOA for further review.

**RECOMMENDATION:**

Motion to not remand.

**Attachments:**

BOA Staff Report (minus attachments – see staff if more info is needed)  
 BOA Resolution and Findings;

**RESOLUTION NO. 16-31**

**A RESOLUTION TO NOT REMAND BOA CASE NO. 15-15 TO THE BOARD OF ADJUSTMENT FOR RECONSIDERATION**

**WHEREAS**, the City Council did review the action of the Board of Adjustment (Case No. 15-15) regarding a variance to Chapter 167.04 of the City of Johnston Code of Ordinances as it pertains to 5131 NW 66<sup>th</sup> Avenue, Johnston, IA.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF JOHNSTON, IOWA, that:**

The City Council does hereby not remand Case No. 15-15 to the Board of Adjustment for reconsideration.

**PASSED AND APPROVED** this 2<sup>nd</sup> Day of February, 2016.

\_\_\_\_\_  
PAULA DIERENFELD, MAYOR

**ATTEST:**

\_\_\_\_\_  
CYNDEE RHAMES, CITY CLERK

<u>ROLL CALL VOTE:</u>	<u>Aye</u>	<u>Nay</u>	<u>Absent</u>	<u>Abstain</u>
Brown	—	—	—	—
Clabaugh	—	—	—	—
Cope	—	—	—	—
Lindeman	—	—	—	—
Temple	—	—	—	—



COMMUNITY DEVELOPMENT DEPARTMENT

January 21, 2016 Meeting

BOA Case No. 15-15 Side Yard Setback Variance Request for 5131 NW 66<sup>th</sup> Avenue.

APPLICANT/OWNER:

Brian Murphy  
5131 NW 66<sup>th</sup> Avenue  
Johnston, IA, 50131

BOARD OF  
ADJUSTMENT  
AUTHORITY:

Section 166.16 B. (Powers and Duties) states: "The Board of Adjustment has the power to grant a variance upon making the following findings:

- B. Property owner demonstrates that their property has exceptional narrowness, shallowness, shape, or exceptional topographical conditions or other extraordinary or exceptional site conditions, and where the above conditions are not the result of actions of the property owner, the strict application of the terms of this ordinance actually prohibit the use of their property in a manner reasonably similar to that of other property in the same district, and where the Board is satisfied that a literal enforcement of the provisions of this ordinance would result in unnecessary hardship, provided that all variations granted under this clause shall be in harmony with the general purpose and intent of this ordinance."

APPLICANTS  
REQUEST:

The applicant is requesting a variance to allow a side yard setback of 4' instead of 8' as required by code for the R-1(75) district.

APPLICABLE  
ORDINANCE  
PROVISION:

Chapter 167.04 sets the front yard setback in a R-1(75) district at 8 feet.

APPLICANTS  
RATIONALE:

West-adjacent property is 95' in width and unbuildable due to gas line easement; therefore, the actual separation is far greater than the 8' required by code.

ORDINANCE  
QUESTIONS:

The Board is required to make the following findings (in bold), discussion has been provided by staff following each finding:

**Does the site have exceptional narrowness, shallowness, shape, exceptional topographical conditions or other extraordinary or exceptional site conditions?**

The applicant asserts the west-adjacent lot presents the exceptional condition. Because said property is unbuildable, there is no need for the requisite 8' setback on the subject property.

**Are the conditions requiring the variance, the result of actions of the property owner?**

The owner has not created conditions requiring the variance.

**Does the strict application of the terms of this ordinance actually prohibit the use of the property in a manner reasonably similar to that of other property in the same district?**

In staff's opinion, ordinance 167.04 does not prohibit use of the property in a manner similar to other properties in the district.

ADJACENT OWNER  
COMMENTS:

Notice was sent to all properties within 320 feet of this site. Staff has received no comments from neighbors as of the writing of this staff report.

RECOMMENDATION:

Staff recommends approval and provides suggested findings below.

FINDINGS FOR  
APPROVAL:

**The Board of Adjustment hereby approves a variance to the side yard setback requirements as it applies to chapter 167.04 of the City of Johnston Code of Ordinances to allow for a side yard setback of 4 feet subject to the findings:**

1. Brian Murphy is the legal owner of property located at 5131 NW 66<sup>th</sup> Avenue, Johnston, IA.
2. The applicant submitted an application for a variance to chapter 167.04 of the City of Johnston Code of Ordinances to allow a 4' setback in lieu of the requisite 8' required in the R-1(75) district.
3. The property at 5708 NW 60<sup>th</sup> Avenue exhibits exceptional conditions.
4. The conditions requiring a variance are not self-inflicted.

Attachments:

Application for Variance  
Vicinity Map  
Chapter 167.04 of the Zoning Ordinance  
Notice of Variance and Mailing List

**CITY OF JOHNSTON, IOWA;  
BOARD OF ADJUSTMENT RESOLUTION**

**IN THE MATTER OF** ( **City of Johnston**  
)  
**BOA Case # 15-15; 5131 NW 66<sup>th</sup>** ( **6221 Merle Hay Road**  
**Avenue, Johnston, IA**

DATE OF ACTION: January 21<sup>st</sup>, 2016

BOARD MEMBERS PRESENT: Wanderscheid, Weggen, Peterson, Cleveland, Hupfer,  
Ostrander

APPELLANTS REPRESENTATIVE: Brian Murphy

CITY REPRESENTED BY: Aaron Wolfe, Clayton Ender

Now on the date cited, the Board of Adjustment convened in open public session at 6:30 P.M. The appellant, board and city were represented as noted. Under the provisions of Chapter 166.32 of the Johnston Municipal Code and of Chapter 414 of the Code of Iowa, the Board reaches the following conclusions:

MOTION BY: Wanderscheid      SECONDED: Cleveland

**MOTION: The Board of Adjustment hereby approves a variance to the side yard setback requirements as it applies to chapter 167.04 of the City of Johnston Code of Ordinances to allow for a side yard setback of 4 feet subject to the following findings:**

BOARD MEMBERS IN FAVOR: Wanderscheid, Peterson, Cleveland, Hupfer, Ostrander

BOARD MEMBERS OPPOSED: Weggen

**FINDINGS:**

1. Brian Murphy is the legal owner of property located at 5131 NW 66<sup>th</sup> Avenue, Johnston, IA.
5. The applicant submitted an application for a variance to chapter 167.04 of the City of Johnston Code of Ordinances to allow a 4' setback in lieu of the requisite 8' required in the R-1(75) district.

2. The property at 5131 NW 66<sup>th</sup> Avenue exhibits exceptional conditions.
3. The conditions requiring a variance are not self-inflicted.

DATE OF FILING (ON OR AFTER): February 21, 2016

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BOARD OF ADJUSTMENT:

ATTEST:

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Justin Hupfer  
Chair

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David Wilwerding  
Zoning Administrator



**OFFICE OF THE CITY ADMINISTRATOR**

Johnston, Iowa

AGENDA COMMUNICATION

February 2, 2016

<p><b>SUBJECT:</b> Consider Resolution 16-32, a resolution to not remand BOA Case No. 15-16 to the Board of Adjustment for reconsideration.</p>	<p><b>ACTION REQUIRED:</b></p> <p><input type="checkbox"/> Ordinance</p> <p><input checked="" type="checkbox"/> Resolution</p> <p><input type="checkbox"/> Approval</p> <p><input type="checkbox"/> Receive/File</p> <p><input checked="" type="checkbox"/> Attorney Review</p>
<p><b>SYNOPSIS:</b></p>	<p>Lee Luloff submitted an application to the Board of Adjustments for a variance to the side yard setback for his property located at 7900 NW 100<sup>th</sup> Street. The need for the variance was a result of the location of septic lateral lines on the property.</p> <p>On January 21<sup>st</sup>, 2016, the Board of Adjustment approved the variance, with a vote of 4 to 2, for a reduced side yard setback of 0 feet subject the findings and conditions provided in the BOA Resolution and Findings.</p> <p>In their findings, the board determined the applicant did provide sufficient evidence to warrant a variance. Attached are the BOA findings and the staff report. The city council may choose to remand the case back to the BOA for further review.</p>
<p><b>RECOMMENDATION:</b></p>	<p>Motion to not remand.</p>

**Attachments:**

- BOA Staff Report (minus attachments – see staff if more info is needed)
- BOA Resolution and Findings;

**RESOLUTION NO. 16-32**

**A RESOLUTION TO NOT REMAND BOA CASE NO. 15-16 TO THE BOARD OF ADJUSTMENT FOR RECONSIDERATION**

**WHEREAS**, the City Council did review the action of the Board of Adjustment (Case No. 15-16) regarding a variance to Chapter 166.23.4 of the City of Johnston Code of Ordinances as it pertains to 7900 NW 100<sup>th</sup> Street, Grimes, IA.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF JOHNSTON, IOWA, that:**

The City Council does hereby not remand Case No. 15-16 to the Board of Adjustment for reconsideration.

**PASSED AND APPROVED** this 2<sup>nd</sup> Day of February, 2016.

\_\_\_\_\_  
PAULA DIERENFELD, MAYOR

**ATTEST:**

\_\_\_\_\_  
CYNDEE RHAMES, CITY CLERK

<u>ROLL CALL VOTE:</u>	<u>Aye</u>	<u>Nay</u>	<u>Absent</u>	<u>Abstain</u>
Brown	—	—	—	—
Clabaugh	—	—	—	—
Cope	—	—	—	—
Lindeman	—	—	—	—
Temple	—	—	—	—



Board of Adjustment

COMMUNITY DEVELOPMENT DEPARTMENT

January 21, 2016 Meeting

**BOA Case No. 15-16 Side Yard Setback Variance Request for 7900 NW 100<sup>th</sup> Street.**

APPLICANT/OWNER:	Lee Luloff 7900 NW 100 <sup>th</sup> Street Grimes, IA, 50111
BOARD OF ADJUSTMENT AUTHORITY:	<p>Section 166.16.5 (Powers and Duties) states: “The Board of Adjustment has the power to grant a variance upon making the following findings:</p> <p>B. Property owner demonstrates that their property has exceptional narrowness, shallowness, shape, or exceptional topographical conditions or other extraordinary or exceptional site conditions, and where the above conditions are not the result of actions of the property owner, the strict application of the terms of this ordinance actually prohibit the use of their property in a manner reasonably similar to that of other property in the same district, and where the Board is satisfied that a literal enforcement of the provisions of this ordinance would result in unnecessary hardship, provided that all variations granted under this clause shall be in harmony with the general purpose and intent of this ordinance.”</p>
APPLICANTS REQUEST:	The applicant is requesting a variance to allow a side yard setback of zero feet instead of the typical 10 foot side yard setback for an accessory structure in an R-1(100) district.
APPLICABLE ORDINANCE PROVISION:	Chapter 166.23.4 sets the side yard setback for an accessory structure in an R-1(100) district at 10 feet.
APPLICANTS RATIONALE:	The property located to the south of this lot and directly abutting the intended location of the garage is an unbuildable lot used as a driveway access to the properties to the west of this property. The applicant’s property also has two septic tank systems including laterals that prevent construction of the garage in another location on the property.
ORDINANCE QUESTIONS:	The Board is required to make the following findings (in bold), discussion has been provided by staff following each finding:

**Does the site have exceptional narrowness, shallowness, shape, exceptional topographical conditions or other extraordinary or exceptional site conditions?**

Yes, There are two septic systems with their corresponding laterals that prevent construction of the garage in another location on the property

**Are the conditions requiring the variance, the result of actions of the property owner?**

No, the septic was sighted and constructed prior to owner purchase of house.

**Does the strict application of the terms of this ordinance actually prohibit the use of the property in a manner reasonably similar to that of other property in the same district?**

Applicant argues the structure cannot be sighted elsewhere on the lot on account of septic tank and laterals; therefore, the ordinance prohibits a use otherwise allowed in the district.

ADJACENT OWNER  
COMMENTS:

Notice was sent to all properties within 320 feet of this site. Comment received from neighbors is included as an attachment.

RECOMMENDATION:

Staff recommends approval of a variance to allow for a zero foot side yard setback for an accessory structure. Staff provides suggested findings in the subsequent section.

FINDINGS FOR  
APPROVAL:

**The Board of Adjustment hereby approves a variance to the accessory structure side yard setback requirements as it applies to chapter 166.23.4 of the City of Johnston Code of Ordinances to allow for a side yard setback of zero feet subject to the findings:**

1. Lee Luloff is the legal owner of property located at 7900 NW 100<sup>th</sup> Street, Grimes, IA.
2. The applicant submitted an application for a variance to chapter 166.23.4 of the City of Johnston Code of Ordinances which mandates an accessory structure side yard setback of 10 feet in a R-1(100) district.
3. The property at 7900 NW 100<sup>th</sup> Street exhibits exceptional conditions on account of septic systems located on the property.
4. The conditions requiring a variance are not self-inflicted.
5. A strict application of the terms of the Zoning Ordinance would prohibit the use of the property in a manner reasonably similar to that of other properties in the same district.

Attachments:

Application for Variance  
Vicinity Map  
Chapter 166.23.4 of the City of Johnston Zoning Ordinance  
Notice of Variance Request and Mailing List

Prepared by and return to: Clayton Ender, City of Johnston, P.O. Box 410, Johnston, IA 50131  
727-7763

**CITY OF JOHNSTON, IOWA;  
BOARD OF ADJUSTMENT RESOLUTION**

**IN THE MATTER OF** ( **City of Johnston**  
)  
**BOA Case # 15-16; 7900 NW 100<sup>th</sup>** ( **6221 Merle Hay Road**  
**Street, Grimes, IA**

DATE OF ACTION: January 21, 2016

BOARD MEMBERS PRESENT: Wanderscheid, Weggen, Peterson, Cleveland, Hupfer,  
Ostrander

APPELLANTS REPRESENTATIVE: Lee Luloff

CITY REPRESENTED BY: Aaron Wolfe, Clayton Ender

Now on the date cited, the Board of Adjustment convened in open public session at 6:30 P.M. The appellant, board and city were represented as noted. Under the provisions of Chapter 166.32 of the Johnston Municipal Code and of Chapter 414 of the Code of Iowa, the Board reaches the following conclusions:

MOTION BY: Cleveland

SECONDED: Peterson

**MOTION: The Board of Adjustment hereby approves a variance to the side yard setback requirements as it applies to chapter 166.23.4 of the City of Johnston Code of Ordinances subject to the findings:**

BOARD MEMBERS IN FAVOR: Wanderscheid, Peterson, Cleveland, Ostrander

BOARD MEMBERS OPPOSED: Weggen, Hupfer

**FINDINGS:**

1. Lee Luloff is the legal owner of property located at 7900 NW 100<sup>th</sup> Street, Grimes, IA.

2. The applicant submitted an application for a variance to chapter 166.23.4 of the City of Johnston Code of Ordinances which mandates an accessory structure side yard setback of 10 feet in a R-1(100) district.
3. The property at 7900 NW 100<sup>th</sup> Street exhibits exceptional conditions on account of septic systems located on the property.
4. The conditions requiring a variance are not self-inflicted.
5. A strict application of the terms of the Zoning Ordinance would prohibit the use of their property in a manner reasonably similar to that of other properties in the same district.

DATE OF FILING (ON OR AFTER): February 21, 2016

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BOARD OF ADJUSTMENT:

ATTEST:

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Justin Hupfer  
Chair

---

David Wilwerding  
Zoning Administrator





Department of Public Works  
 6221 Merle Hay Road  
 Johnston, IA 50131  
 Phone (515) 278-2344  
 Fax (515) 278-2033

# PAY REQUEST 3

Contractor:

Corell Contractor Inc.  
 1300 Lincoln Street  
 West Des Moines, IA 50265

Project Title		NW 63rd Place Extension NW 59th Court to Merle Hay Road	
Johnston Project File No.	63P	Project Number	14J012.01
Purchase Order Number			
Orig. Contract Amount & Date	\$839,803.20	6/1/2015	
Notice to Proceed Date	6/12/2015		
Estimated Completion Date	6/30/2016		
Pay Period	11/25/2015 to 1/8/2016		
Pay Request Number	3		
Date	1/11/2016		
Contract ID			

BID ITEMS										
Item No.	Fund.Dept.Object No.	Item Code	Description	Unit	Est. Qty.	Unit Price	Extended Price	Quantity Completed	Value Completed	
<b>DIVISION 1 - GENERAL</b>										
1.1	5.760.67610	1090-A-2000	Mobilization	LS	1	\$54,050.95	\$54,050.95	0.50	\$27,025.48	
<b>DIVISION 2 - EXCAVATION AND GRADING</b>										
2.1	5.760.67610	2010-C-1000	Clearing & Grubbing	LS	1	\$9,790.00	\$9,790.00	1.00	\$9,790.00	
2.2	5.760.67610	2010-D-1000	Topsoil, On Site	CY	525	\$26.50	\$13,912.50	0.00	\$0.00	
2.3	5.760.67610	2010-E-1010	Excavation, Class 10	CY	1,293	\$17.40	\$22,498.20	1293.00	\$22,498.20	
2.4	5.760.67610	2010-G-1006	Subgrade Preparation, 12 in.	SY	3,425	\$4.00	\$13,700.00	0.00	\$0.00	
2.5	5.760.67610	2010-I-3006	Modified Subbase, 6 in.	SY	3,425	\$10.00	\$34,250.00	0.00	\$0.00	
2.6	5.760.67610	2010-J-1000	Removals, As Per Plan	LS	1	\$7,735.00	\$7,735.00	1.00	\$7,735.00	
<b>DIVISION 3 - TRENCH AND TRENCHLESS CONSTRUCTION</b>										
3.1	5.760.67650	3010-E-1000	Porous Backfill, 1" Clean	TON	205	\$139.50	\$28,597.50	0.00	\$0.00	
3.2	5.760.67650	3010-E-3000	Porous Backfill, 3" Clean	TON	5	\$774.25	\$3,871.25	7.57	\$5,861.07	
3.3	5.760.67650	3010-E-3750	Separation Layer, Porous, 3/8" Clean	TON	3	\$1,267.00	\$3,801.00	0.00	\$0.00	
<b>DIVISION 4 - SEWERS AND DRAINS</b>										
4.1	5.768.67670	4010-A-1008	San. Sewer, Gravity, Trenched, PVC Truss, 8 in.	LF	31	\$293.00	\$9,083.00	31.00	\$9,083.00	
4.2	5.768.67670	4010-I-1000	Sanitary Sewer Cleanout	EA	1	\$2,824.25	\$2,824.25	1.00	\$2,824.25	
4.3	5.760.67650	4020-A-1015	Storm Sewer, Trenched, RCP, CI V, 15 in. (Gasketed)	LF	554	\$85.00	\$47,090.00	554.00	\$47,090.00	
4.4	5.760.67650	4020-A-2000	Special Pipe Connection, Storm Sewer, SW-211	EA	1	\$2,080.00	\$2,080.00	0.00	\$0.00	
4.5	5.760.67650	4030-B-1015	Pipe Apron, Concrete, 15 in.	EA	1	\$2,012.00	\$2,012.00	1.00	\$2,012.00	
4.6	5.760.67650		Field Tile and Fittings, PVC, Unspecified Dia	LF	250	\$36.00	\$9,000.00	0.00	\$0.00	
4.7	5.760.67650	4060-B-2000	Video Inspection of Sanitary Sewer and Storm Sewer	LS	1	\$2,060.00	\$2,060.00	0.00	\$0.00	
<b>DIVISION 5 - WATER MAIN AND APPURTENANCES</b>										
5.1	5.766.67800	5010-A-1008	Water Main, Trenched, PVC C900, DR18, 8 in.	LF	707	\$58.50	\$41,359.50	707.00	\$41,359.50	
5.2	5.766.67800	5010-A-2008	Water Main, Trenched, PVC C900, DR18, 8in., Restrained Joint	LF	45	\$94.75	\$4,263.75	45.00	\$4,263.75	
5.3	5.766.67800	5010-B-1000	Water Main, w/ Casing Pipe, Trenched	LF	55	\$188.00	\$10,340.00	55.00	\$10,340.00	
5.4	5.766.67800	5010-C-1000	Water Main Fittings	LB	480	\$12.25	\$5,880.00	760.00	\$9,310.00	
5.5	5.766.67800		Live Tap w/ 16"x8" Tapping Sleeve	EA	1	\$9,820.00	\$9,820.00	1.00	\$9,820.00	
5.6	5.766.67800	5020-A-1008	Valve, Gate, 8 in.	EA	2	\$1,560.00	\$3,120.00	2.00	\$3,120.00	
5.7	5.766.67800	5020-C-1000	Fire Hydrant Assembly	EA	3	\$4,345.00	\$13,035.00	3.00	\$13,035.00	
5.8	5.766.67800		Relocation of Water Main	EA	1	\$11,500.00	\$11,500.00	0.00	\$0.00	
<b>DIVISION 6 - STRUCTURES FOR SANITARY AND STORM SEWER</b>										
6.1	5.760.67650	6010-A-1060	Manhole, Storm Sewer, SW-401, 60"	EA	1	\$7,500.00	\$7,500.00	1.00	\$7,500.00	
6.2	5.760.67650	6010-B-1505	Intake, Double Grate, SW-505	EA	1	\$3,700.00	\$3,700.00	1.00	\$3,700.00	
6.3	5.768.67670	6010-E-1000	Manhole Adjustment, Minor	EA	0	\$600.00	\$0.00	0.00	\$0.00	
6.4	5.768.67670	6010-G-1000	Connection to Existing Sanitary Manhole	EA	1	\$7,500.00	\$7,500.00	1.00	\$7,500.00	
6.5 (CO-1)	5.768.67670	6010-F-1000	Manhole Adjustment, Major	EA	1	\$4,800.00	\$4,800.00	1.00	\$4,800.00	

DIVISION 7 - STREETS & RELATED WORK									
7.1	5.760.67610	7010-A-1007	Pavement, PCC, Class C, 7 in.	SY	3,057	\$56.75	\$173,484.75	278.60	\$15,810.76
7.2	5.760.67610	7030-A-1000	Removal of Sidewalk and Driveway	SY	89	\$23.25	\$2,069.25	23.50	\$546.36
7.3	5.760.67612	7030-E-1004	Sidewalk, PCC, 4 in	SY	459	\$44.10	\$20,241.90	0.00	\$0.00
7.4	5.760.67612	7030-E-1006	Sidewalk, PCC, 6 in	SY	25	\$84.00	\$2,100.00	0.00	\$0.00
7.5	5.760.67612	7030-G-1000	Detectable Warnings	SF	50	\$42.00	\$2,100.00	0.00	\$0.00
7.6	5.760.67610	7030-H-1007	Driveway, Paved, PCC, 7 in	SY	115	\$49.00	\$5,635.00	0.00	\$0.00
7.7	5.760.67610	7040-A-1000	Patches, Full Depth, PCC	SY	47	\$89.25	\$4,194.75	32.00	\$2,856.00
7.8	5.760.67610	7040-H-1000	Pavement Removal	SY	321	\$13.00	\$4,173.00	310.60	\$4,037.85
7.9	5.760.67610	7040-I-1000	Curb and Gutter Removal	LF	88	\$27.00	\$2,376.00	0.00	\$0.00
7.10	5.760.67610		Temporary Granular Surfacing	TON	200	\$53.00	\$10,600.00	169.98	\$9,008.94
DIVISION 8 - TRAFFIC SIGNALS AND TRAFFIC CONTROL									
8.1	5.760.67615		Traffic Control	LS	1	\$3,520.00	\$3,520.00	0.50	\$1,760.00
8.2	5.760.67610		Painted Pavement Markings, Durable	STA	15	\$252.26	\$3,722.40	0.00	\$0.00
8.3	5.760.67610		Painted Symbols and Legends, Durable	EA	4	\$275.00	\$1,100.00	0.00	\$0.00
8.4	5.760.67615		Temporary Construction Barriers	LF	130	\$27.50	\$3,575.00	0.00	\$0.00
DIVISION 9 - SITEWORK AND LANDSCAPING									
9.1	5.760.67610	9010-B-1001	Hydraulic Seeding, Fertilizing & Mulching, Type 1 (Permanent Lawn M	ACRE	0.8	\$4,345.00	\$3,476.00	0.00	\$0.00
9.2	5.760.67610	9010-B-1004	Hydraulic Seeding, Fertilizing & Mulching, Type 4 (Temp. Erosion Mix)	ACRE	4.6	\$3,025.00	\$4,840.00	0.00	\$0.00
9.2A	5.760.67610	9010-B-2000	Hydraulic Mulching	ACRE	1.6	\$1,925.00	\$3,080.00	1.24	\$2,387.00
9.3	5.760.67610	9010-D-1000	Watering	MGAL	70	\$66.00	\$4,620.00	0.00	\$0.00
9.4	5.760.67610	9010-E-1000	Warranty	LS	1	\$2,200.00	\$2,200.00	0.00	\$0.00
9.5	5.760.67610	9040-A-2000	Stormwater Pollution Prevention Plan (SWPPP) Management	LS	1	\$4,400.00	\$4,400.00	0.50	\$2,200.00
9.6	5.760.67610	9040-N-1000	Silt Fence, Installation	LF	1,500	\$1.87	\$2,805.00	445.00	\$632.15
9.7	5.760.67610	9040-N-3000	Silt Fence, Removal	LF	1,500	\$0.33	\$495.00	0.00	\$0.00
9.8	5.760.67610	9040-T-1000	Inlet Protection Device, Install and Remove	EA	4	\$126.50	\$506.00	4.00	\$506.00
9.9	5.760.67610	9040-T-2000	Intake Protection Device, Maintenance	EA	4	\$22.00	\$88.00	0.00	\$0.00
9.10	5.760.67610	9060-D-1000	Remove and Reinstall Existing Fence	LF	50	\$58.00	\$2,900.00	0.00	\$0.00
9.11	5.760.67610	9060-E-1000	Removal of Fence	LF	135	\$19.75	\$2,666.25	125.00	\$2,466.75
9.12	5.760.67610	9060-F-1000	Temporary Construction Fence	LF	1,500	\$2.50	\$3,750.00	0.00	\$0.00
DIVISION 12 - STRUCTURES									
12.1	5.760.67650		Special Intake Structure, Double Grate Intake w/ Manholes	EA	3	\$15,225.00	\$45,675.00	1.50	\$22,837.50
12.2	5.760.67650		Intake Drain and Fittings, Dual Wall PVC, Perforated, 6 in.	EA	3	\$3,270.00	\$9,810.00	0.00	\$0.00
12.3	5.760.67650		Temporary Intake Grouting, Install and Remove	EA	3	\$953.00	\$2,859.00	0.00	\$0.00
12.4	5.760.67650		Stormwater Chamber and Fittings	EA	3	\$10,550.00	\$31,650.00	0.00	\$0.00
12.5	5.760.67650		Modular Block Retaining Wall - Bioretention Basin	EA	3	\$10,000.00	\$30,000.00	0.00	\$0.00
12.6	5.760.67650		Concrete Wall Cap and Landscaping Apron	EA	3	\$7,990.00	\$23,970.00	0.00	\$0.00
12.7	5.760.67650		Ornamental Metal Railing	EA	3	\$3,867.00	\$11,601.00	0.00	\$0.00
12.8	5.760.67650		Bioretention Basin Planting Medium	CY	630	\$44.00	\$27,720.00	0.00	\$0.00
<b>TOTAL</b>							<b>\$847,183.20</b>		<b>\$313,918.59</b>

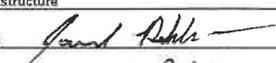
MATERIALS STORED SUMMARY			
Description	# of Units	Unit Price	Extended Cost
<b>TOTAL</b>			<b>\$0.00</b>

**PAY REQUEST SUMMARY**

		Total Approved	Total Completed
Contract Price		\$839,803.20	\$313,918.59
Approved Change Order 1		\$4,300.00	\$4,300.00
Approved Change Order 2		-\$1,760.00	\$0.00
Approved Change Order 3		\$0.00	\$0.00
Revised Contract Price		\$842,343.20	\$313,918.59
Materials Stored			\$0.00
Retainage 5%			\$15,695.93
Total Earned Less Retainage			\$298,222.66
Total Previously Approved (list each)	Pay Request 1	\$238,964.77	
	Pay Request 2	\$58,990.24	
	Pay Request 3		
	Pay Request 4		
	Pay Request 5		
	Pay Request 6		
	Pay Request 7		
	Pay Request 8		
	Pay Request 9		
	Pay Request 10		
Total Previously Approved			\$295,955.01
<b>Amount Due This Request</b>			<b>\$2,267.65</b>
Percent Complete			37.3%
Percent of Contract Period Utilized (In Calendar Days, Based on Notice to Proceed Date & Contract Completion Date)			55.5%

The amount **\$2,267.65** is recommended for approval for payment in accordance with the terms of the Contract.

Fund.Dept.Object	Item Description	TOTAL AMOUNT TO DATE
5.760.67400	ROW	\$0.00
5.760.67610	STREETS AND BRIDGES	\$107,702.52
5.760.67612	SIDEWALK	\$0.00
5.760.67615	TRAFFIC CONTROL	\$1,760.00
	TRAFFIC SIGNAL	\$0.00
5.760.67170	STREETSCAPE	\$0.00
5.760.67650	STORM DRAINAGE	\$89,000.57
5.766.67800	WATER MAIN, HYDRANT	\$91,248.25
5.768.67670	SANITARY SEWER	\$24,207.25
5.760.67616	UTILITY RELOCATION	\$0.00

<b>Contractor:</b> Corell Contractor Inc.	<b>Recommended By:</b> Foth Infrastructure	<b>Checked By:</b> City of Johnston
Signature: 	Signature: 	Signature:
Name: Eric Thompson	Name: Jared Rolke	Name:
Title: PM	Title: Project Engineer	Title:
Date: 1/12/2016	Date: 1/13/2016	Date:



**OFFICE OF THE CITY ADMINISTRATOR**

Johnston, Iowa  
 AGENDA COMMUNICATION  
 February 2, 2016

<p><b>SUBJECT:</b> Professional Service Agreement with Dixon Engineering to provide construction observation services</p>	<p><b>ACTION REQUIRED:</b></p> <p><input type="checkbox"/> Ordinance</p> <p><input type="checkbox"/> Resolution</p> <p><input checked="" type="checkbox"/> Approval <i>WQ</i></p> <p><input type="checkbox"/> Receive/File</p> <p><input type="checkbox"/> Attorney Review</p>
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**SYNOPSIS**

The water tower located on NW 107<sup>th</sup> Street was completed in May of 2012. A four year maintenance bond was included as part of the project. In May 2015 Dixon Engineering, Inc. performed an inspection of the NW 107<sup>th</sup> Street Water Tower. During the inspection it was discovered that the interior wet paint system had failures present.

The contractor that constructed the water tower is scheduled to perform a pre-repair inspection and perform the necessary repairs the spring of 2016.

Dixon Engineering, Inc. has provided a proposal to provide construction observation services during the contractor's inspection and during the necessary repairs.

Dixon Engineering's proposal to provide construction observation services was reviewed by city legal representation.

**FISCAL IMPACT**

601-5.810.64170 Not to exceed: \$8,250.10

**RECOMMENDATION**

Approval



**DIXON**  
**ENGINEERING & INSPECTION SERVICES**  
**FOR THE COATING INDUSTRY**

5307 South 92nd Street  
 Suite 125  
 Hales Corners, WI 53130  
 Telephone: (414) 529-1859  
 Fax: (414) 529-3120

**Revised Proposal/Contract Agreement**  
**for Water Storage Tank**  
*1,000,000 Gallon Hydro-Pillar, #15-77-04-02*

The Agreement is between Dixon Engineering, Inc. (DIXON) and the City of Johnston, Iowa (Owner) to contract with DIXON for technical services for the 1,000,000 Gallon Hydro-Pillar (Project). This Agreement inclusive together with any expressly incorporated appendix or Schedule constitutes the entire Agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

1.01 BASIC AGREEMENT

DIXON shall provide, or cause to be provided, services detailed in Scope of Services and Owner agrees to pay DIXON as compensation for their services, the fees shall be a cost not to exceed of Eight Thousand, Two Hundred, Fifty Dollars, and Ten Cents (\$8,250.10). Terms of charges and payments per details in Schedule B. (Prices quoted are subject to change ninety (90) days after proposal date, if not contracted.)

2.01 SCOPE OF SERVICES

Inspection Services per Schedule A

3.01 SIGNATURES

James Orr, Project Manager

December 1, 2015

PROPOSED by DIXON (Not a contract until approved by an officer)

PROPOSAL DATE

CONTRACT APPROVED by OWNER

POSITION

DATE

CO SIGNATURE (if required)

POSITION

DATE

*James Orr*

*Project Manager*

*1-14-2016*

CONTRACT APPROVED by DIXON OFFICER

POSITION

EFFECTIVE CONTRACT DATE

Members: Society of Protective Coatings • American Water Works Association  
 Consulting Engineers Council

**SCHEDULE A**  
**1,000,000 Gallon Hydro-Pillar, #15-77-04-02**  
**Johnston, Iowa**

**I. Observation of Contractor's Inspections:**

- A. Dixon inspector to observe, monitor and record the contractor's inspection process and findings.

**II. Critical Phase Inspections:**

A. Wet Interior – Painting Repair:

1. Set standard for interior abrasive cleaning and examine surface profile created.
2. Inspect interior abrasive blast cleaning for thoroughness, surface profile, and compliance with specifications, prior to application of the succeeding paint coat.
3. Inspect the interior primer coat for uniformity, coverage, and dry film thickness, prior to application of the succeeding paint coat.
4. Inspect the interior topcoat for uniformity, coverage, performance, and dry film thickness for compliance with specifications. Examine the overall project for possible damage caused by equipment removal. Inspect the application of top coats/installation of screens, light bulbs, etc.

B. Project Finalization

1. Finalize the project to assure all items in the contract specifications have been completed, and the quality of workmanship meets contract requirements.

**III. Inspection Services:**

1. Review Contractor's crew size and equipment for ability to meet specification requirements and time constraints.
2. Review abrasive and coating materials for approved manufacturers.
3. Inspect compressed air at blast nozzle for cleanliness (i.e. oil, moisture).
4. Measure surface profile created by abrasive blast cleaning by compressive tape or surface comparator.
5. Inspect abrasive blast cleanliness for specification requirements using SSPC Visual Standards, latest edition thereof.
6. Review coating mixing, thinning, and manufacturer's application requirements.
7. Monitor environmental conditions prior to and during coating application (i.e. ambient temperature, surface temperature, relative humidity, and dew point).
8. Inspect applied coating for dry film thickness, coverage, uniformity, and cure.
9. Collect appropriate samples for pre-disposal laboratory testing.
10. Prepare daily inspection report detailing above mentioned items and daily progress.

**SCHEDULE B**  
**1,000,000 Gallon Hydro-Pillar, #15-77-04-02**  
**Johnston, Iowa**

1. Compensation for Dixon inspector to observe, monitor and record contractor's inspection as outlined in Schedule A – Inspection Services is **\$2,140.50**. All fees are time and material per Schedule C. DIXON will notify the Owner every two (2) weeks regarding the estimated budget available, and will advise if a change in fees or change in Scope of Services is necessary. This fee and Scope of Services are negotiable between DIXON and the Owner.
2. Compensation for repair surface preparation, coating repair inspection services, secretarial services, and project management as outlined in Schedule A – Inspection Services is **\$6,109.60**. This fee and Scope of Services are negotiable between DIXON and the Owner.

<b>Inspection:</b>		<b>Mobilization:</b>			
Inspection time 8 hrs. @ \$75 /hr.	=	\$600.00	Travel time 5.45 hrs. @ \$75.00/hr.	=	\$408.75
Secretarial 0.5 hr. @ \$48.00/hr.	=	24.00	Mileage 377 miles @ \$0.70/mile	=	<u>263.90</u>
Per Diem @ \$145.00	=	145.00	Total (1 way)	=	\$672.65
Contract Administration 0.25 hr. @ \$100.00/hr.	=	<u>25.00</u>			
Total Estimated Daily Fee	=	\$794.00	Total Round trip	=	\$1345.60
Total Estimate Daily Fee		\$794.00			
		x <u>6</u> days			
Total Fee		\$4764.00	plus mobilization @ \$1,345.60 = \$ 6,109.60		

3. DIXON reserves the right to adjust individual inspection line items as necessary based on the Contractor's performance and pace of work. The total fees for Schedule B will not be exceeded without prior approval from the Owner.
4. Invoices will be compiled after the 20<sup>th</sup> of the month and shall include from the 20<sup>th</sup> of the preceding month to the 20<sup>th</sup> of the invoiced month. Bimonthly invoicing will be completed on larger projects, or at the Owner's request.
5. All DIXON service invoices which are paid within ten (10) days of date of issue shall be discounted (Owner's favor) one percent (1%).
6. Failure by the Contractor to notify DIXON of the necessity to change inspection dates more than twenty-four (24) hours in advance and which results in unnecessary travel and/or expense to DIXON shall cause this travel and expense to be considered an additional service, and DIXON shall be compensated for travel and/or expense under the provisions of Schedule C of the Agreement.
7. Requests for attending council meetings shall be forthcoming from the Owner in writing unless other arrangements are made between the Owner and DIXON. Attendance of council meetings shall be considered an additional service and DIXON shall be compensated under the provisions of Schedule C of the Agreement.

## SCHEDULE C

### Engineering Services Fees

<u>Labor Class</u>	<u>Per Hour</u>	<u>*Overtime Rate</u>
Principal.....	\$175.00	
Expert Witness (Office, Travel & Court).....	\$185.00	
Project Manager.....	\$100.00	
Registered Professional Engineer.....	\$100.00	
Certified NACE Inspector.....	\$90.00	
Assistant Project Manager.....	\$80.00	
Staff Engineer – Level III.....	\$72.00 to \$85.00	
Staff Engineer – Level II.....	\$67.00 to \$80.00	
Staff Engineer – Level I.....	\$62.00 to \$75.00	
CAD Supervisor.....	\$65.00 to \$75.00	
CAWI or CWI Welding Inspector.....	\$67.00 to \$85.00	
Inspector – Level III.....	\$63.00 to \$80.00	
Inspector – Level II.....	\$60.00 to \$75.00	
Inspector – Level I.....	\$55.00 to \$70.00	
CAD Technician.....	\$60.00 to \$70.00	
Secretarial Services.....	\$48.00 & expenses	
Bookkeeping Services.....	\$44.00	
Project Status Meetings w/Project Engineers and Council or Board Meetings.....	Time and Expenses, Including Preparation Time	

\*All Saturday, Sunday, and holiday inspections are overtime rate. Overtime rate is 1 ½ time the hourly rate. Overtime rate does not apply to Principal.

Expenses:

	<u>Metropolitan</u>	<u>Non-Metropolitan</u>
Mileage.....	\$0.70/mile (including tolls)	\$0.60/mile
Meals & Lodging, .....	\$145 per diem <i>(may be increased based on location)</i>	\$135 per diem
Without Lodging.....	\$35/day	\$30/day
Air Travel.....	Business fare from Grand Rapids, Chicago O'Hare, or Milwaukee, plus full size car rental	
Material (gaskets, cathodic protection caps, etc.).....	Negotiated	

FEES EFFECTIVE THROUGH DECEMBER 31, 2016

#### 4.01 ADDITIONAL SERVICES

- A. If additional services are **Requested and Authorized** by the Owner which are not within the proposed Scope of Services (Schedule A) or because of changes in the Project, these additional services will be on a time and material basis per fee schedule of attached Schedule C.
- B. **Delay by the Owner** in completing the work, which is their responsibility per Schedule A (Owner) and which extends the amount of time required for DIXON to complete their work, will be charged as an Additional Service.
- C. **Failure by the Owner to notify** DIXON of the necessity to change inspection dates more than twenty-four (24) hours in advance and which results in unnecessary travel and/or expense to DIXON shall cause this travel and expense to be charged as Additional Service.

#### 5.01 Termination

- A. The obligation to provide further services under this Agreement may be terminated:
  - 1. For cause,
    - a. By either party upon thirty (30) days written notice in the event of substantial failure by the other party to perform in accordance with the Agreement's terms through no fault of the terminating party. Agreement will not terminate as a result of substantial failure under paragraph 5.01.A.1.a if the party receiving such notice begins, within seven (7) days of receipt of such notice, to correct its failure and proceeds diligently to cure such failure within no more than thirty (30) days of receipt of notice; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such thirty (30) day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, sixty (60) days after the date of receipt of the notice.
    - b. By DIXON upon seven (7) days written notice:
      - 1) If Owner fails to pay invoices within sixty (60) days.
      - 2) Upon seven (7) days written notice if the DIXON's services for the Project are delayed or suspended for more than ninety (90) days for reasons beyond DIXON's control.
      - 3) If DIXON believes that Engineer is being requested by Owner to furnish or perform services contrary to Engineer's responsibilities as a licensed professional.
      - 4) DIXON shall have no liability to Owner on account of such termination.
  - 2. For Convenience,
    - a. By Owner effective upon the receipt of notice by DIXON.
- B. The terminating party may set the effective date of termination at a time up to thirty (30) days later to allow Engineer to demobilize personnel and equipment from the Project site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

#### 6.01 Controlling Law

- A. This Agreement is to be governed by the law of the state in which the Project is located.

7.01 Successors, Assigns, and Beneficiaries

- A. OWNER and DIXON and their successors are hereby bound to successors and legal representatives of the other to the extent permitted by law in respect of all covenants, agreements, and obligations of this Agreement.
- B. Neither OWNER nor DIXON may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement.

8.01 General Considerations

- A. The **Standard of Care** for all professional engineering and related services performed or furnished by DIXON under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. DIXON makes no warranties, expressed or implied, under this Agreement or otherwise, in connection with Contractor's services. DIXON and its consultants may use or rely upon the design services of others, including, but not limited to, contractors, manufacturers, and suppliers.
- B. DIXON shall **Not** at any time **Supervise**, direct, or have control over any of the **Owner's** work, nor shall DIXON have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by Owner, for safety precautions and programs incident to Owner's performance of Schedule A (Owner's).
- C. All **Design Documents** prepared or furnished by DIXON are instruments of service, and DIXON retains an ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the Project is completed.
- D. DIXON agrees to defend, **Indemnify**, and hold harmless the Owner, its officers, agents, and employees, from and against legal liability for all claims, losses, damages, or expenses to the extent such claims, losses, damages, or expenses are caused by Engineer's negligent or intentional acts, errors, or omissions. Limits of liability for negligence are based on the comparative negligence principle.
- E. The parties acknowledge that DIXON's Scope of Services does not include any services related to a **Hazardous Environmental Condition** (the presence of asbestos, PCBs, petroleum, hazardous substances or waste, and radioactive materials). DIXON acknowledges that some hazardous metals may be encountered in coatings.

8.02 Severability

- A. If any clause or paragraph or sentence is found to be in opposition to any law in the state of the Project, that clause or paragraph or sentence may be severed from the Agreement with no effect on remaining clauses.

8.03 Headings

- A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions. Words in the first sentence are in bold to act as secondary headings and should not be interpreted any different than a numbered heading.



**OFFICE OF THE CITY ADMINISTRATOR**

Johnston, Iowa

AGENDA COMMUNICATION

February 2, 2016

<p><b>SUBJECT:</b> Purchase of more grinder tanks and grinder tank repair parts from Quality Flow Iowa.</p>	<p><b>ACTION REQUIRED:</b></p> <p><input type="checkbox"/> Ordinance</p> <p><input type="checkbox"/> Resolution</p> <p><input checked="" type="checkbox"/> Approval <i>WQ</i></p> <p><input type="checkbox"/> Receive/File</p> <p><input type="checkbox"/> Attorney Review</p>
---	--

**SYNOPSIS**

Staff has received a quote from Quality Flow Iowa, Inc. to purchase more grinder tanks and grinder tank repair parts to replace the inventory.

This a single source purchase for the NW Beaver Drive Low Pressure Sewer.

Line Item 631-5.815.65121 Sewer Line Maintenance Grinder Tanks

**FISCAL IMPACT**

Total Purchase Price: \$24,658.00

**RECOMMENDATION**

Approval



**OFFICE OF THE CITY ADMINISTRATOR**

Johnston, Iowa  
AGENDA COMMUNICATION  
February 2, 2016 Meeting

<b>SUBJECT:</b> Approve PO McKinney Excavating	<b>ACTION REQUIRED:</b>
	<input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Approval <input type="checkbox"/> Receive/File <input type="checkbox"/> Attorney Review

<b>SYNOPSIS:</b>	We have contacted McKinney Excavating for the emergency repair of the low pressure sewer at NW Coburn Drive and NW Beaver Drive.
	This repair was caused by a contractor boring under the street and hit the sewer line. We will be billing this amount to the contractor who caused the repair.
<b>FISCAL IMPACT</b>	Repair total <span style="float: right;">\$5,450.03</span>
	Funds are budgeted. Account numbers for this purchase are 631.5.815.63234
<b>RECOMMENDATION:</b>	Approval.

Motion by \_\_\_\_\_, seconded by \_\_\_\_\_, to approve PO to McKinney Excavating.

<b><u>ROLL CALL VOTE:</u></b>	<b>AYE</b>	<b>NAY</b>	<b>ABSENT</b>	<b>ABSTAIN</b>
Brown	_____	_____	_____	_____
Clabaugh	_____	_____	_____	_____
Cope	_____	_____	_____	_____
Lindeman	_____	_____	_____	_____
Temple	_____	_____	_____	_____



6285 NE Industry Dr  
Des Moines, IA 50313

Phone # 515-276-0999

Fax # 515-276-5719

office.mckinneyexcavating@gmail.com

Date	Invoice #
12/28/2015	10258

Bill To
City Of Johnston 6400 NW Beaver Drive Johnston, IA 50131

Job Details
Coburn & Beaver Bore Hit low pressure Sewer

Project Date	Rep	P.O. No.	Terms	Project
1/12/2016	RM		Net 15	15-041

Item	Quantity	Description	Price Each	Amount
LABOR	14	LABORER	75.00	1,050.00
LABOR	12	LABORER	75.00	900.00
LABOR	13.5	LABORER	75.00	1,012.50
LABOR	14	LABORER	75.00	1,050.00
MAT	1	Materials	1,437.53	1,437.53

Please note address change!!!!

**Total** **\$5,450.03**

**Payments/Credits** **\$0.00**

**Balance Due** **\$5,450.03**

If not paid with in 15 days, late charges start accumulating @ prime +5 with a minimum of \$50.00 per month. If legal action is needed to collect all legal fees and court costs will be charged



OFFICE OF THE CITY ADMINISTRATOR  
Johnston, Iowa  
AGENDA COMMUNICATION  
February 2, 2016 Meeting

<b>SUBJECT:</b> Consider Resolution No. 16-35 —A Resolution approving the acquisition of real estate interests and authorizing payments to acquire real property for the NW 57 <sup>th</sup> Avenue Improvements	<b>ACTION REQUIRED:</b> <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Approval <input type="checkbox"/> Receive/File <input type="checkbox"/> Attorney Review
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**SYNOPSIS:**

Staff is requesting approval of Resolution No. 16-35 to acquire real estate interests and authorizing payments for Right of Way and Easements for the NW 57<sup>th</sup> Ave Improvements project. These acquisitions had been completed as of January 28, 2016

**RECOMMENDATION:**

Approval of Resolution No. 16-35— A Resolution approving the acquisition of real estate interests and authorizing payments to acquire real property for the NW 57<sup>th</sup> Ave Improvements project.

Motion by \_\_\_\_\_, seconded by \_\_\_\_\_, A Resolution approving the acquisition of real estate interests and authorizing payments to acquire real property for the NW 57<sup>th</sup> Ave Improvements project.

<b><u>ROLL CALL VOTE:</u></b>	<b>AYE</b>	<b>NAY</b>	<b>ABSENT</b>	<b>ABSTAIN</b>
Brown	_____	_____	_____	_____
Clabaugh	_____	_____	_____	_____
Cope	_____	_____	_____	_____
Lindeman	_____	_____	_____	_____
Temple	_____	_____	_____	_____

RESOLUTION NO. 16-35

**ACCEPTING THE ACQUISITION OF REAL ESTATE INTERESTS AND  
AUTHORIZING PAYMENTS TO ACQUIRE SUCH REAL PROPERTY  
FOR THE NW 57<sup>TH</sup> AVENUE IMPROVEMENTS PROJECT**

**WHEREAS**, the plans and specifications for the said project have been prepared by the project's Engineer, Foth Infrastructure & Environment, LLC., of Johnston, Iowa, in accordance with the City's Design Standards and Specifications, and

**WHEREAS**, the plans and specifications call for certain acquisitions of real estate interests and the use of temporary construction easements to accommodate the additional right of way needed for the new road design, and

**WHEREAS**, appraisal valuations for the permanent and temporary real estate interests needed for the project were prepared and accepted by the City to determine the compensation to be paid to property owners, and

**WHEREAS**, the property owners listed on the attached acquisition summary have executed the appropriate documents to convey necessary property to the City for the Project, in accordance with the values previously approved by the City.

**BE IT RESOLVED BY THE CITY COUNCIL OF JOHNSTON, IOWA**, that the real estate interests needed for the project as listed in the attached schedule are accepted and the City authorizes payment to the property owners in accordance with the executed agreements.

PASSED AND APPROVED, this 2nd day of February, 2016.

\_\_\_\_\_  
Paula Dierenfeld, Mayor

ATTEST:

\_\_\_\_\_  
Cyndee Rhames, City Clerk

<b><u>ROLL CALL VOTE:</u></b>	<b>AYE</b>	<b>NAY</b>	<b>ABSENT</b>	<b>ABSTAIN</b>
Brown	_____	_____	_____	_____
Clabaugh	_____	_____	_____	_____
Cope	_____	_____	_____	_____
Lindeman	_____	_____	_____	_____
Temple	_____	_____	_____	_____





ITEM NO. 80

OFFICE OF THE CITY ADMINISTRATOR

Johnston, Iowa
AGENDA COMMUNICATION
February 2nd, 2016 Meeting

Table with 2 columns: SUBJECT (Consider Resolution 16-33, a Resolution ordering construction and setting a date of March 7, 2016 for a public hearing on the Terra Lake Phase 3 project) and ACTION REQUIRED (Ordinance, Resolution, Approval, Receive/File, Attorney Review). Resolution and Approval are checked.

SYNOPSIS:

We have received documents from Ahlers & Cooney for phase 3 of the Terra Lake Project.

Staff is recommending the following schedule for the bidding of the project:

February 2nd, 2016- City Council action to order construction and set the public hearing on the plans, specifications, form of contract and estimate of costs for the project.

February 23rd, 2016- Receive and open bids at 10 a.m. in Council Chambers.

March 7th, 2016- Public hearing and consideration of award of contract.

FISCAL IMPACT:

Estimated Cost: \$1,985,000

RECOMMENDATION:

Approval of Resolution 16-33.

Motion by \_\_\_\_\_, seconded by \_\_\_\_\_, to approve

ROLL CALL VOTE table with columns: AYE, NAY, ABSENT, ABSTAIN and rows: Brown, Clabaugh, Cope, Lindeman, Temple.

(This Notice to be posted)

NOTICE AND CALL OF PUBLIC MEETING

Governmental Body: The City Council of the City of Johnston, State of Iowa.  
Date of Meeting: February 2, 2016.  
Time of Meeting: 7:00 o'clock P.M.  
Place of Meeting: Council Chambers, City Hall, 6221 Merle Hay Road, Johnston, Iowa.

PUBLIC NOTICE IS HEREBY GIVEN that the above mentioned governmental body will meet at the date, time and place above set out. The tentative agenda for the meeting is as follows:

- Resolution ordering construction of the Terra Lake Park Improvements - Phase 3. 16-33

Such additional matters as are set forth on the additional \_\_\_\_\_ page(s) attached hereto.  
(number)

This notice is given at the direction of the Mayor pursuant to Chapter 21, Code of Iowa, and the local rules of the governmental body.

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City Clerk, City of Johnston, State of Iowa

February 2, 2016

The City Council of the City of Johnston, State of Iowa, met in \_\_\_\_\_ session, in the Council Chambers, City Hall, 6221 Merle Hay Road, Johnston, Iowa, at 7:00 o'clock P.M., on the above date. There were present Mayor \_\_\_\_\_, in the chair, and the following named Council Members:

\_\_\_\_\_

\_\_\_\_\_

Absent: \_\_\_\_\_

\* \* \* \* \*

Council Member \_\_\_\_\_ introduced the following Resolution entitled "RESOLUTION ORDERING CONSTRUCTION OF THE TERRA LAKE PARK IMPROVEMENTS - PHASE 3, AND FIXING A DATE FOR HEARING THEREON AND TAKING OF BIDS THEREFOR," and moved that the same be adopted. Council Member \_\_\_\_\_ seconded the motion to adopt. The roll was called and the vote was,

AYES: \_\_\_\_\_

\_\_\_\_\_

NAYS: \_\_\_\_\_

Whereupon, the Mayor declared the following Resolution duly adopted:

RESOLUTION ORDERING CONSTRUCTION OF THE TERRA LAKE PARK IMPROVEMENTS - PHASE 3, AND FIXING A DATE FOR HEARING THEREON AND TAKING OF BIDS THEREFOR 16-33

WHEREAS, it is deemed advisable and necessary to construct certain public improvements described in general as the Terra Lake Park Improvements - Phase 3; and

WHEREAS, the City has caused to be prepared plans, specifications and form of contract, together with estimate of cost, which are now on file in the office of the City Clerk for public inspection, for the construction of the public improvements; and

WHEREAS, the plans, specifications and form of contract are deemed suitable for the making of the public improvements; and

WHEREAS, before the plans, specifications, form of contract and estimate of cost may be adopted, and contract for the construction of the public improvements is entered into, it is necessary, pursuant to Chapter 26 of the Code of Iowa, to hold a public hearing and to advertise for bids:

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF JOHNSTON, IOWA:

Section 1. That it is hereby determined that it is necessary and advisable to construct certain public improvements described in general as the Terra Lake Park Improvements - Phase 3, in the manner set forth in the plans and specifications and form of contract, above referred to, the cost thereof to be paid in accordance with the provisions as set out in the published Notice to

Bidders and Notice of Public Hearing; the public improvements being more generally described as follows:

Construct the proposed improvements for the Terra Lake Park Improvements-Phase 3 including all materials, labor and equipment necessary for clearing, earthwork, erosion control, storm sewer, water service, sanitary sewer service, electrical service, PCC pavement, lighting, upper pool landscape features, wier wall, recirculating pump and miscellaneous related work.

Section 2. That the amount of the bid security to accompany each bid shall be in an amount which shall conform to the provisions of the notice to bidders approved as a part of the specifications.

BE IT FURTHER RESOLVED, that the City Clerk be and is hereby directed to publish notice to bidders once in the "Des Moines Register", a legal newspaper, printed wholly in the English language, published at least once weekly and having general circulation in this City. Publication shall be not less than four clear days nor more than forty-five days prior to February 23, 2016, which is hereby fixed as the date for receiving bids. The bids are to be filed prior to 10:00 o'clock A.M., on such date.

The City Council hereby delegates to the City Clerk or her designee the duty of receiving, opening and tabulating bids for construction of the Project. Bids shall be received and opened as provided in the public notice and the results of the bids shall be considered at the meeting of this Council on March 7, 2016, at 7:00 o'clock P.M.

BE IT FURTHER RESOLVED, that the City Clerk be and is hereby directed to publish notice of hearing once in such newspaper, the publication to be not less than four clear days nor more than twenty days prior to the date hereinafter fixed as the date for a public hearing on the plans, specifications, form of contract and estimate of costs for the project, the hearing to be at 7:00 o'clock P.M. on March 7, 2016.

PASSED AND APPROVED this 2nd day of February, 2016.

---

Mayor

ATTEST:

---

City Clerk

CERTIFICATE

STATE OF IOWA )  
 ) SS  
COUNTY OF POLK )

I, the undersigned City Clerk of the City of Johnston, State of Iowa, do hereby certify that attached is a true and complete copy of the portion of the corporate records of the City showing proceedings of the Council, and the same is a true and complete copy of the action taken by the Council with respect to the matter at the meeting held on the date indicated in the attachment, which proceedings remain in full force and effect, and have not been amended or rescinded in any way; that meeting and all action thereat was duly and publicly held in accordance with a notice of public hearing and tentative agenda, a copy of which was timely served on each member of the Council and posted on a bulletin board or other prominent place easily accessible to the public and clearly designated for that purpose at the principal office of the Council (a copy of the face sheet of the agenda being attached hereto) pursuant to the local rules of the Council and the provisions of Chapter 21, Code of Iowa, upon reasonable advance notice to the public and media at least twenty-four hours prior to the commencement of the meeting as required by law and with members of the public present in attendance; I further certify that the individuals named therein were on the date thereof duly and lawfully possessed of their respective City offices as indicated therein, that no vacancy existed except as may be stated in the proceedings, and that no controversy or litigation is pending, prayed or threatened involving the incorporation, organization, existence or boundaries of the City or the right of the individuals named therein as officers to their respective positions.

WITNESS my hand and the seal of the Council hereto affixed this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
City Clerk, City of Johnston, State of Iowa

(SEAL)

STATE OF IOWA

)

) SS

COUNTY OF POLK

)

I, the undersigned, do hereby certify that I am now and was at the times hereinafter mentioned, the duly qualified and acting Clerk of the City of Johnston, in the County of Polk, State of Iowa, and that as such Clerk and by full authority from the Council of the City, I have caused a

NOTICE TO BIDDERS AND NOTICE OF PUBLIC HEARING  
(Terra Lake Park Improvements - Phase 3)

of which the clipping annexed to the publisher's affidavit hereto attached is in words and figures a correct and complete copy, to be published as required by law in the "Des Moines Register", a legal newspaper published at least once weekly, printed wholly in the English language, published regularly and mailed through the post office of current entry for more than two years and which has had for more than two years a bona fide paid circulation recognized by the postal laws of the United States, and has a general circulation in the County, and that the Notice was published in all of the issues thereof published and circulated on the following date:

\_\_\_\_\_, 2016.

WITNESS my official signature at Johnston, Iowa, this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
City Clerk, City of Johnston, State of Iowa

(SEAL)



ITEM NO. **8P**

**OFFICE OF THE CITY ADMINISTRATOR**

Johnston, Iowa

AGENDA COMMUNICATION

February 2nd, 2016 Meeting

<b>SUBJECT:</b> Consider Resolution 16-34 accepting the agreement with Foth Infrastructure and Environmental LLC for wetland monitoring services associated with the Beaver Creek Natural Resource Area Phase III mitigation project.	<b>ACTION REQUIRED:</b> <input type="checkbox"/> Ordinance <input checked="" type="checkbox"/> Resolution <input checked="" type="checkbox"/> Approval <input type="checkbox"/> Receive/File <input type="checkbox"/> Attorney Review
---	--

<b>SYNOPSIS:</b>	Wetland mitigation has been occurring for the past several years associated with a variety of projects. Eva Moritz with Foth has been involved from the start and would be the lead on phase III monitoring of the mitigation project.
<b>FISCAL IMPACT:</b>	The agreement is not to exceed \$11,750.
<b>RECOMMENDATION:</b>	Approval

Motion by \_\_\_\_\_, seconded by \_\_\_\_\_, to approve

<b>ROLL CALL VOTE:</b>	<b>AYE</b>	<b>NAY</b>	<b>ABSENT</b>	<b>ABSTAIN</b>
Brown	_____	_____	_____	_____
Clabaugh	_____	_____	_____	_____
Cope	_____	_____	_____	_____
Lindeman	_____	_____	_____	_____
Temple	_____	_____	_____	_____

**RESOLUTION NO. 16-34**

A RESOLUTION ACCEPTING THE AGREEMENT WITH FOTH INFRASTRUCTURE AND ENVIRONMENTAL FOR WETLAND MONITORING SERVICES ASSOCIATED WITH THE BEAVER CREEK NATURAL RESOURCE AREA PHASE III PROJECT.

**WHEREAS**, The Beaver Creek Natural Resource Area phase III project must be monitored for ten years; and

**WHEREAS**, Continuity of monitoring is critical to the project; and

**WHEREAS**, Foth has the ability to provide this service and continuity with its current leadership; therefore

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF JOHNSTON, IOWA**, that:

The Agreement with Foth Infrastructure and Environmental be

**PASSED AND APPROVED** this 2nd day of February 2<sup>nd</sup>, 2016

\_\_\_\_\_  
Paula Dierenfeld, Mayor

**ATTEST:**

\_\_\_\_\_  
Cyndee Rhames, City Clerk

<b><u>ROLL CALL VOTE:</u></b>	<b>AYE</b>	<b>NAY</b>	<b>ABSENT</b>	<b>ABSTAIN</b>
Brown	_____	_____	_____	_____
Clabaugh	_____	_____	_____	_____
Cope	_____	_____	_____	_____
Lindeman	_____	_____	_____	_____
Temple	_____	_____	_____	_____

# AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES

## 2016 Annual Wetland Monitoring Services Beaver Creek Natural Resource Area (BCNRA) Phase III

Johnston City Project No. \_\_\_\_\_

This Agreement is made and entered into this \_\_\_\_\_ day of January, 2016, by and between the CITY OF JOHNSTON, a municipal corporation, hereinafter referred to as "City", and FOTH INFRASTRUCTURE AND ENVIRONMENT, LLC, (Fed. I.D. #20-5814224), a professional corporation incorporated and licensed under the laws of the State of Iowa, party of the second part, hereinafter referred to as "Consultant" as follows:

THE CITY HEREBY AGREES TO RETAIN THE CONSULTANT FOR THE PROJECT AS DESCRIBED IN THIS AGREEMENT AND CONSULTANT AGREES TO PERFORM THE PROFESSIONAL SERVICES AND FURNISH THE NECESSARY DOCUMENTATION FOR THE PROJECT AS GENERALLY DESCRIBED IN THIS AGREEMENT.

### 1. SCOPE OF SERVICES

Services provided under this Agreement shall be as further described in Attachment 1, Scope of Services.

### 2. SCHEDULE

The schedule of the professional services to be performed shall conform to the Schedule set forth in Attachment 2. Any deviations from the Schedule shall be approved by the authorized City representative. The City agrees that the Consultant is not responsible for delays arising from a change in the scope of services, a change in the scale of the Project or delays resulting from causes not directly or indirectly related to the actions of the Consultant.

### 3. COMPENSATION

A. In consideration of the professional services provided herein, the City agrees to pay the Consultant the following sum NOT-TO-EXCEED, including any authorized reimbursable expenses, pursuant to the Schedule of Fees set forth in Attachment 3.

I.	Basic Services of the Consultant	
	A. 2016 Annual Monitoring Services	<u>\$11,750.00</u>
	Total	<u>\$11,750.00</u>

B. The Consultant shall invoice the City monthly for services, any reimbursable expenses and any approved amendments to this Agreement, based upon services actually completed at the time of the invoice. Final payment shall be due and payable within 30 days of the City's acceptance of Consultant's submission of final deliverables in accordance with the Scope of Services.

C. In consideration of the compensation paid to the Consultant, the Consultant agrees to perform all professional services to the satisfaction of the City by performing the professional services in a manner consistent with that degree of care and skill ordinarily exercised by members of Consultant's profession currently practicing under similar circumstances. If the performance of this Agreement involves the services of others or the furnishing of equipment, supplies, or materials, the Consultant agrees to pay for the same in full.

4. INSURANCE

- A. Consultant understands and agrees that Consultant shall have no right of coverage under any and all existing or future City comprehensive, self or personal injury policies. Consultant shall provide insurance coverage for and on behalf of Consultant that will sufficiently protect Consultant or Consultant' representative(s) in connection with the professional services which are to be provided by Consultant pursuant to this Agreement, including protection from claims for bodily injury, death, property damage, and lost income. Consultant shall provide worker's compensation insurance coverage for Consultant and all Consultants' personnel. Consultant shall file applicable insurance certificates with the City, and shall also provide evidence of the following additional coverage.
- B. The Consultant shall provide evidence of comprehensive general liability coverage and contractual liability insurance by an insurance company licensed to do business in the State of Iowa in the limits of at least \$1,000,000 each personal injury accident and/or death; \$1,000,000 general aggregate personal injury and/or death; and \$1,000,000 for each property damage accident. The evidence shall designate the City as an additional insured, and that it cannot be canceled or materially altered without giving the City at least thirty (30) days written notice by registered mail, return receipt requested.
- C. The Consultant shall also provide evidence of automobile liability coverage in the limits of at least \$1,000,000 bodily injury and property damage combined. The evidence shall designate the City as an additional insured, and that it cannot be cancelled or materially altered without giving the City at least thirty (30) days written notice by registered mail, return receipt requested.
- D. The Consultant shall provide evidence of professional liability insurance, by an insurance company licensed to do business in the State of Iowa, in the limit of \$1,000,000 for claims arising out of the professional liability of the Consultant. Consultant shall provide City written notice within five (5) days by registered mail, return receipt requested of the cancellation or material alteration of the professional liability policy.
- E. Failure of Consultant to maintain any of the insurance coverages set forth above shall constitute a material breach of this Agreement.

5. NOTICE

Any notice to the parties required under this agreement shall be in writing, delivered to the person designated below, by United States mail or in hand delivery, at the indicated address unless otherwise designated in writing.

FOR THE CITY:

FOR THE CONSULTANT:

Name:	<u>City of JOHNSTON</u>	Name:	<u>Foth Infrastructure and Environment</u>
Attn:	<u>Dave Cubit, Public Works Director</u>	Attn:	<u>Patrick P. Kuefer, P.E.</u>
Address:	<u>6400 NW Beaver Dr., P.O. Box 410</u>	Address:	<u>8191 Birchwood Court, Suite L</u>
City, State:	<u>JOHNSTON, IA 50131-0410</u>	City, State:	<u>Johnston, IA 50131</u>

6. GENERAL COMPLIANCE

In the conduct of the professional services contemplated hereunder, the Consultant shall comply with applicable state, federal, and local law, rules, and regulations, technical standards, or specifications issued by the City. Consultant must qualify for and obtain any required licenses prior to commencement of work, including any professional licenses necessary to perform work within the State of Iowa.

7. STANDARD OF CARE

Services provided by the Consultant under this Agreement shall be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.

8. INDEPENDENT CONTRACTOR

Consultant understands and agrees that the Consultant and Consultant's employees and representatives are not City employees. Consultant shall be solely responsible for payment of salaries, wages, payroll taxes, unemployment benefits, or any other form of compensation or benefit to Consultant or Consultant's employees, representatives or other personnel performing the professional services specified herein, whether it be of a direct or indirect nature. Further, it is expressly understood and agreed that for such purposes neither Consultant nor Consultant's employees, representatives or other personnel shall be entitled to any City payroll, insurance, unemployment, worker's compensation, retirement, or any other benefits whatsoever.

9. NON-DISCRIMINATION

Consultant will not discriminate against any employee of applicant for employment because of race, color, sex, national origin, religion, age, handicap, or veteran status. Consultant will, where appropriate or required, take affirmative action to ensure that applicants are employed, and that employees are treated, during employment, without regard to their race, color, sex, or national origin, religion, age, handicap, or veteran status. Consultant will cooperate with the City in using Consultant's best efforts to ensure that Disadvantaged Business Enterprises are afforded the maximum opportunity to compete for subcontracts of work under this Agreement.

10. HOLD HARMLESS

Consultant agrees, to the fullest extent permitted by law, to indemnify and hold harmless the City, its officers, and employees (collectively, City) against all damages, liabilities, judgments or costs, including reasonable investigative fees, attorneys' fees, and court costs, to the extent caused by the Consultant's negligent acts, errors or omissions in the performance of professional services under this Agreement and those of its sub consultants or anyone for whom Consultant is legally liable. Consultant shall not be obligated to provide the City with legal counsel or advanced investigative fees, legal fees, or costs.

11. ASSIGNMENT

Consultant shall not assign or otherwise transfer this Agreement or any right or obligations therein without first receiving prior written consent of the City.

12. APPROPRIATION OF FUNDS

The funds appropriated for this Agreement are equal to or exceed the compensation to be paid to Consultant. The City's continuing obligations under this Agreement may be subject to appropriation of funding by the City Council. In the event that sufficient funding is not appropriated in whole or in part for continued performance of the City's obligations under this Agreement, or if appropriated funding is not expended due to City spending limitations, the City may terminate this Agreement without further compensation to the Consultant. To the greatest extent allowed by law, the City shall compensate Consultant as provided in Section 18(B) of this Agreement.

### 13. AUTHORIZED AMENDMENTS TO AGREEMENT

- A. The Consultant and the City acknowledge and agree that no amendment to this Agreement or other form, order or directive may be issued by the City which requires additional compensable work to be performed if such work causes the aggregate amount payable under the amendment, order or directive to exceed the amount appropriated for this Agreement as listed in Section 3, above, unless the Consultant has been given a written assurance by the City that lawful appropriation to cover the costs of the additional work has been made.
- B. The Consultant and the City further acknowledge and agree that no amendment to this Agreement or other form, order or directive which requires additional compensable work to be performed under this Agreement shall be issued by the City unless funds are available to pay such additional costs, and the Consultant shall not be entitled to any additional compensation for any additional compensable work performed under this Agreement. The Consultant expressly waives any right to additional compensation, whether in law or equity, unless prior to commencing the additional work the Consultant was given a written amendment, order or directive describing the additional compensable work to be performed and setting forth the amount of compensation to be paid, such amendment, order or directive to be signed by the authorized City representative. It is the Consultant's sole responsibility to know, determine, and ascertain the authority of the City representative signing any amendment, directive or order.

### 14. OWNERSHIP OF CONSULTING DOCUMENTS

All sketches, tracings, plans, specifications, reports, and other data prepared under this Agreement shall become the property of the City; a reproducible set shall be delivered to the City at no additional cost to the City upon completion of the plans or termination of the services of the Consultant. All drawings and data shall be transmitted in a durable material, with electronic files provided when feasible to do so. The Consultant's liability for use of the sketches, tracings, plans, specifications, reports, and other data prepared under this Agreement shall be limited to the Project.

### 15. INTERPRETATION

No amendment or modification of this Agreement shall be valid unless expressed in writing and executed by the parties hereto in the same manner as the execution of the Agreement. This is a completely integrated Agreement and contains the entire agreement of the parties; any prior written or oral agreements shall be of no force or effect and shall not be binding upon either party. The laws of the State of Iowa shall govern and any judicial action under the terms of this Agreement shall be exclusively within the jurisdiction of the district court for Polk County, Iowa.

### 16. COMPLIANCE WITH FEDERAL LAW

To the extent any federal appropriation has or will be provided for the Project, or any federal requirement is imposed on the Project, Consultant agrees that Consultant will comply with all relevant laws, rules and regulations imposed on City and/or Consultant necessary for receipt of the federal appropriation. Consultant shall provide appropriate certification regarding Consultant's compliance.

### 17. SOLICITATION AND PERFORMANCE

- A. The Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working for the Consultant, to solicit or secure this Agreement, and that the Consultant has not paid or agreed to pay any company or person other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift or contingent fee.
- B. The Consultant shall not engage the services of any person or persons in the employ of the City at the time of commencing such services without the written consent of the City.

## 18. SUSPENSION AND TERMINATION OF AGREEMENT

- A. The right is reserved by the City to suspend this Agreement at any time. Such suspension may be affected by the City giving written notice to the Consultant, and shall be effective as of the date established in the suspension notice. Payment for Consultant's services shall be made by the City for services performed to the date established in the suspension notice. Should the City reinstate the work after notice of suspension, such reinstatement may be accomplished by thirty (30) days written notice within a period of six (6) months after such suspension, unless this period is extended by written consent of the Consultant.
- B. Upon ten (10) days written notice to the Consultant, the City may terminate the Agreement at any time if it is found that reasons beyond the control of either the City or Consultant make it impossible or against the City's interest to complete the Agreement. In such case, the Consultant shall have no claims against the City except for the value of the work performed up to the date the Agreement is terminated.
- C. The City may also terminate this Agreement at any time if it is found that the Consultant has violated any material term or condition of this Agreement or that Consultant has failed to maintain workers' compensation insurance or other insurance provided for in this Agreement. In the event of such default by the Consultant, the City may give ten (10) days written notice to the Consultant of the City's intent to terminate the Agreement. Consultant shall have ten (10) days from notification to remedy the conditions constituting the default.
- D. In the event that this Agreement is terminated in accordance with paragraph C of this section, the City may take possession of any work and may complete any work by whatever means the City may select. The cost of completing said work shall be deducted from the balance which would have been due to the Consultant had the Agreement not been terminated and work completed in accordance with contract documents.
- E. The Consultant may terminate this Agreement if it is found that the City has violated any material term or condition of this Agreement. In the event of such default by the City, the Consultant shall give ten (10) days written notice to the City of the Consultant's intent to terminate the Agreement. City shall have ten (10) days from notification to remedy the conditions constituting the default.

## 19. TAXES

The Consultant shall pay all sales and use taxes required to be paid to the State of Iowa on the work covered by this Agreement. The Consultant shall execute and deliver and shall cause any sub-consultant or subcontractor to execute and deliver to the City certificates as required to permit the City to make application for refunds of said sales and use taxes as applicable. The City is a municipal corporation and not subject to state and local tax, use tax, or federal excise taxes.

## 20. SEVERABILITY

If any portion of this Agreement is held invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Agreement shall continue in full force and effect.

## 21. DISPUTE RESOLUTION

Should a dispute or conflict arise between the City and the Consultant during the design and construction of the Project, or following the completion of the Project, the City and the Consultant agree to submit the issues to formal non-binding mediation prior to exercising their right to commence litigation in a court of law. The parties shall each bear their own attorneys' fees, costs and expenses

during mediation. The cost of the mediator shall be shared equally by the parties. Should mediation fail and litigation ensue, the prevailing party shall be entitled to reasonable attorneys' fees and costs to the extent said fees and costs are attributable to the non-prevailing parties' fault.

22. MISCELLANEOUS HEADINGS

Title to articles, paragraphs, and subparagraphs are for information purposes only and shall not be considered a substantive part of this Agreement.

23. FURTHER ASSURANCES

Each party hereby agrees to execute and deliver such additional instruments and documents and to take all such other action as the other party may reasonably request from time to time in order to effect the provisions and purposes of this Agreement.

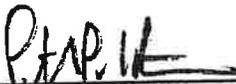
24. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall constitute an original document, no other counterpart needing to be produced, and all of which when taken together shall constitute the same instrument.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers or agents on the day and year first above written.

CONSULTANT

CITY OF JOHNSTON

BY:   
Name: Patrick P. Kueter, P.E.  
Title: Senior Project Manager

BY: \_\_\_\_\_  
Paula Dierenfeld, Mayor

WITNESS  
By:   
Name: Douglas Ernst, P.E.  
Title: Senior Project Manager

ATTEST  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## ATTACHMENT 1

### SCOPE OF SERVICES

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The work to be performed by the **Consultant** under this agreement shall encompass and include detailed work, services, materials, equipment and supplies necessary to comply with the annual monitoring requirement of the Section 404 Permit for the NW 62<sup>nd</sup> Avenue Widening and Beaver Creek Trail Expansion Projects. The permit required the construction of two wetland mitigation basins covering 5.7 acres within the Beaver Creek Natural Resource Area (BCNRA). Thirty-six trees and 22 shrubs were required to be planted at the mitigation site. An additional 50 trees and 15 shrubs were planted along Beaver Creek near the channel stabilization area.

The scope of services to be performed by the Consultant shall be completed in accordance with generally accepted standards of practice and shall include the services to complete the following tasks:

#### I. BASIC SERVICES OF THE CONSULTANT.

The Consultant shall consult on a regular basis with the City to clarify and define the City's requirements for the Project and review available data. The City agrees to furnish to the Consultant full information with respect to the City's requirements, including any special or extraordinary considerations for the Project or special services needed, and also to make available pertinent existing data. The Consultant shall provide the following basic services in regard to the Project:

#### A. ENVIRONMENTAL DOCUMENTATION

##### Task 1 – Fourth Annual Wetland Monitoring

The Section 404 Permit required that the wetlands be monitored annually for five years and that the tree and shrub mortality be evaluated for ten years. The monitoring reports will follow the Standard Mitigation Reporting Form and will include the following items:

- Mitigation site description and summary of mitigation design objectives
- Twice-annual site visits in the spring and summer to evaluate hydrology, vegetation and soils
- Delineation of wetland acreages, including emergent/wet meadow boundaries
- Photographs of hydrology and development of vegetation
- Summary of vegetation species observed
- Vegetative cover map indicating dominant species in each area and assessment of wetland hydrology
- Summary of tree/shrub mortality at the mitigation site and the Beaver Creek channel stabilization area
- Annual wetland delineation map showing the wetland boundaries in relation to the proposed wetland boundaries
- Monthly surface water depth measurements at the mitigation site
- Coordinate with the City on the replanting of trees within BCNRA and along Beaver Creek. Documentation of the tree replanting will be included in the annual monitoring report.
- Evaluation of permit requirements
- Recommendations for remedial actions

The fees assume that Foth personnel will perform two site visits for the annual monitoring activities and will utilize a Trimble GPS unit (sub-meter accuracy) to map the wetland boundaries. Unless otherwise directed by the U.S. Army Corps of Engineers (USACE), Foth will perform one visit each month during an extended growing season (March through November) to measure the depth of surface water at two locations within the BCNRA.

During the annual monitoring period, Foth will act as an advocate on behalf of the City. If the wetland mitigation areas appear to be fully established and meet the success criteria during the first three to four years of monitoring, Foth will submit the appropriate documentation to the USACE and, if appropriate, request that the final year(s) of annual monitoring and/or tree mortality counts be waived.

**CITY'S RESPONSIBILITIES:**

The City shall provide the following:

1. Provide existing topographic base mapping, aerial photo images and other available electronic files pertinent to the Project.

## ATTACHMENT 2

### SCHEDULE

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Annual monitoring reports will be submitted to the client prior to the USACE deadline of December 31, 2016. If the USACE deadline cannot be met, Foth will contact the USACE to request a deadline extension.

## ATTACHMENT 3 SCHEDULE OF FEES

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### FOTH INFRASTRUCTURE AND ENVIRONMENT, L.L.C 2016 STANDARD HOURLY RATE SCHEDULE

#### CLASSIFICATION HOURLY RATE

Project Director	\$184.00
Project Manager	\$153.00 - \$179.00
Project Scientist	\$163.00
Project Advisor	\$164.00
Technical Director	\$179.00
Lead Technical Engineer	\$167.00
Project Engineer	\$128.00 - \$153.00
Staff Engineer	\$106.00 - \$125.00
Lead Technician	\$127.00
Engineering Technician	\$ 98.00 - \$119.00
CAD Technician	\$ 85.00
Construction Manager	\$145.00
Lead Field Technician	\$119.00
Field Technician	\$ 69.00 - \$104.00
Land Surveyor	\$149.00
Administrative Assistant	\$ 60.00

#### REIMBURSABLE EXPENSES

1. All materials and supplies used in the performance of work on this project will be billed at cost plus 10%.
2. Auto mileage will be reimbursed per the standard mileage reimbursement established by the Internal Revenue Service. Service vehicle mileage will be reimbursed on the basis of \$0.88 per mile.
3. Charges for outside services such as soils and materials testing, fiscal, legal will be billed at their invoice cost plus 15%.
4. All other direct expenses will be invoiced at cost plus 10%.

#### ADJUSTMENTS TO FEE SCHEDULE

1. Fee schedule effective January 1, 2016. Rates subject to change annually on January 1.

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**ANNUAL COLLISION SUMMARY**  
Calendar Year 2015

January

There were 12 collisions involving 23 vehicles in January. Five of these crashes caused injuries to six people. There was an estimated total of \$85,600 in damages.

February

There were 7 collisions in the month of February involving 14 vehicles. None of the accidents resulted in any injuries. The total amount of estimated damages was \$36,750.

March

There were 10 collisions in March involving 17 vehicles. Two of the crashes resulted in minor injuries to three persons. The total amount of estimated damage was \$61,550.

April

There were 16 collisions in April involving 31 vehicles. One of the crashes was a personal injury accident causing injuries to one person. There was an estimated total of \$79,550 in damages.

May

There were 10 collisions involving 18 vehicles in May. Four of these crashes caused injuries to 4 persons. There was an estimated total of \$80,950 in damages.

June

There were 12 collisions involving 24 vehicles in June. Six of these crashes resulted in injuries to 10 persons. There was an estimated total of \$169,820 in damages.

July

There were 13 collisions that occurred in July involving 25 vehicles and causing \$63,650 in estimated damages. Of the 13 crashes, 1 was a personal injury crash with injuries to one person.

### August

There were 11 collisions in August involving 23 vehicles. Four accidents resulted in possible injuries to a total of 5 persons. The total amount of estimated damages was \$41,700.

### September

There were 14 crashes in September involving 27 vehicles resulting in \$85,950 in damages. None of the collisions resulted in injuries. The total amount of estimated damages was \$85,950.

### October

There were 21 collisions involving 39 vehicles in October. Three accidents resulted in possible injuries to three people. The estimated total amount of damage was \$96,650.

### November

There were 13 collisions involving 26 vehicles in November. Two of the accidents resulted in injuries to four people. The estimated total damage amount was \$65,850.

### December

There were 16 collisions involving 33 vehicles during the month of December. Two accidents resulted in possible injuries to two persons. The estimated total damage amount was \$113,680.

### Totals and Comparisons

The Johnston Police Department investigated 155 reportable collisions during 2015. That is a decrease in the number of reportable collisions (31 fewer accidents) compared to 2014 (186) for a total decrease of 17 percent.

There was a total of 300 vehicles involved resulting in \$956,250 of estimated damages. That's higher compared to 2014 (\$907,575) by \$48,493 for a total increase of 5 percent. There were 36 persons injured in crashes during 2015 compared to 36 injured in 2014.

Additionally, the Department investigated 47 non-reportable motor vehicle accidents with combined damages less than \$1,500 per incident.

2015 was the eleventh consecutive year without a fatality crash in Johnston.

The top five causes for collisions in 2015 were as follows:

1. Failure to stop within assured clear distance (46)
2. Failure to maintain control (40)

3. Failure to yield (37)
4. Failure to obey traffic control device (7)
5. Car vs. deer (6)

In addition, the Department investigated 5 OWI-related and 24 Hit and Run cases in 2015.

#### HIGHEST CONCENTRATION OF COLLISIONS BY LOCATION

1. 5500 to 6200 block of Merle Hay Road (18 reportable and 13 non-reportable crashes)
2. 5000 to 5500 block of NW 86<sup>th</sup> Street (22 reportable and 6 non-reportable crashes)
3. 5000 to 5400 block of Merle Hay Road (16 reportable and 6 non-reportable crashes)

Officers logged 325 events in 2015 which were spent monitoring increased risk areas on Merle Hay Road, NW 86<sup>th</sup> Street and NW 62<sup>nd</sup> Avenue.

#### ACCIDENTS BY DAY AND FOUR HOUR BLOCKS

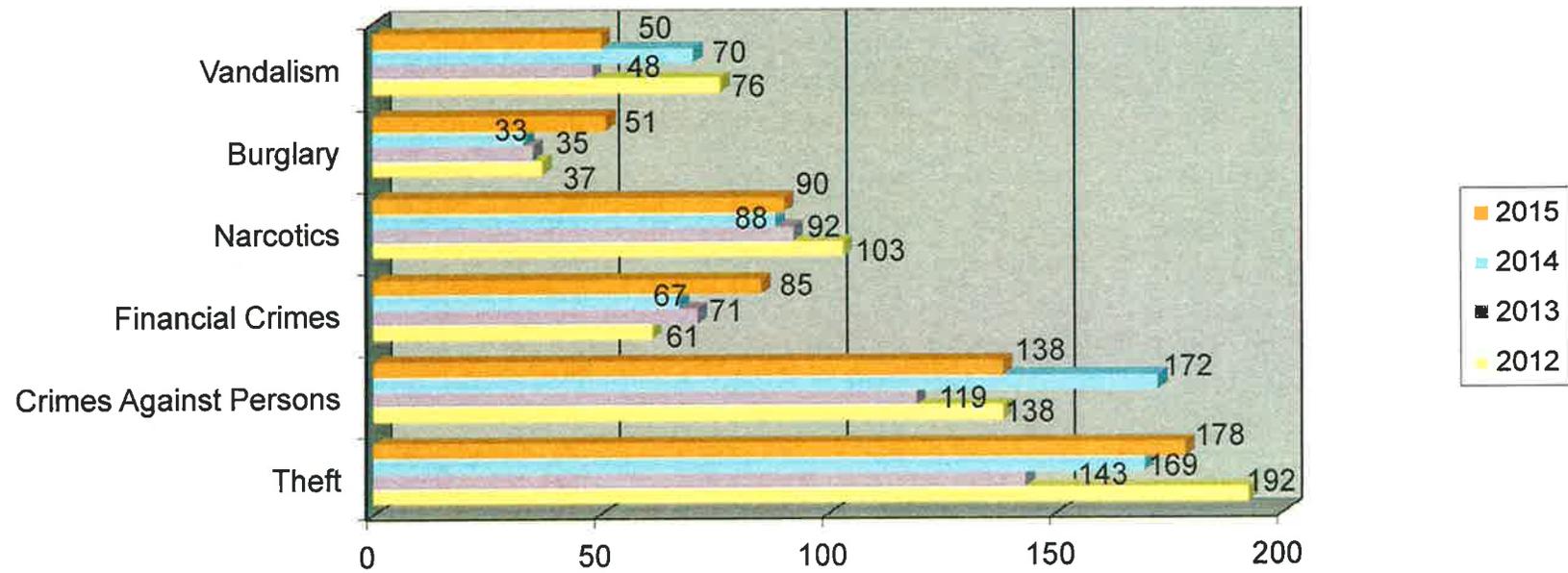
Days of the week	Hours	11 PM 3 AM	3 AM 7 AM	7 AM 11 AM	11 AM 3 PM	3 PM 7 PM	7 PM 11 PM	Total
<b>Sunday</b>		3	1	2	3	2	4	15
<b>Monday</b>				9	5			14
<b>Tuesday</b>				12	9	7	3	31
<b>Wednesday</b>		1		2	6	12	1	22
<b>Thursday</b>				8	10	5	3	26
<b>Friday</b>		1	2	4	8	12	4	31
<b>Saturday</b>		2		4	6	2	2	16
<b>Total</b>		7	3	41	47	40	17	<b>155*</b>

Report submitted to the Chief of Police by Sgt. Samir Dzaferagic on January 14<sup>th</sup>, 2016.

\*This figure represents reportable motor vehicle accidents only with damage over \$1,500 to include motor vehicle accidents which occurred on public roadways and private property.

### 2012-2015 Crime Stats Trend January - December

January - December



892

Eq3



**BOARD OF ADJUSTMENT**

City of Johnston  
6221 Merle Hay Road, Johnston, IA 50131

Minutes (DRAFT)  
January 21, 2016

**AGENDA:**

**1. Call to Order**

Chairman Hupfer called the meeting to order at 6:29 p.m.

**2. Roll Call**

	Wanderscheid	Filer	Weggen	Peterson	Cleveland	Hupfer	Ostrander
<b>Present</b>	X		X	X	X	X	X
<b>Absent</b>		X					

**City Staff Present:** Aaron Wolfe, Clayton Ender

**3. Approval of Agenda**

Motion by Weggen seconded by Wanderscheid to approve the agenda.

**Roll Call Vote:**

	Wanderscheid	Filer	Weggen	Peterson	Cleveland	Hupfer	Ostrander
<b>Aye</b>	X		X	X	X	X	X
<b>Nay</b>							
<b>Abstain</b>							

**4. Approval of Meeting Minutes for December 17, 2015 meeting.**

Motion by Cleveland second by Weggen to approve the minutes of the Regular Meeting of December 17, 2015.

**Roll Call Vote:**

	Wanderscheid	Filer	Weggen	Peterson	Cleveland	Hupfer	Ostrander
<b>Aye</b>	X		X	X	X	X	X
<b>Nay</b>							
<b>Abstain</b>							

**5. BOA Case No. 15-15; Variance to side yard setback at 5131 NW 66<sup>th</sup> Avenue, Johnston**

**IA.** The applicant is requesting a variance to allow a side yard setback of 4 feet instead of 8' as required by code for the R-1(75) district.

Wolfe delivered the staff report. The applicant was present and offered to answer questions. Weggen stated he did not think this request for variance meets all the required findings. Specifically, that a strict application of the ordinance prohibits reasonable use of the property. Wolfe stated that said factor was usually the hardest to prove for any variance request, and that "reasonable use" is not defined in the ordinance and is up for interpretation by the board. Hupfer expressed he was having similar reservations. Wanderscheid stated the utility easement traversing the subject and adjacent property did appear to have an impact on the way the property owner is able to use his property. Weggen stated prohibiting expansion of the garage did not constitute prohibiting reasonable use in his opinion. Letters in support of the request were noted by the board. Wanderscheid moved to approve the variance request with the suggested findings provided by staff. Second by Cleveland.

**Roll Call Vote:**

	Wanderscheid	Filer	Weggen	Peterson	Cleveland	Hupfer	Ostrander
<b>Aye</b>	X			X	X	X	X
<b>Nay</b>							
<b>Abstain</b>			X				

**6. BOA Case No. 15-16; Side Yard Setback Variance Request for 7900 NW 100<sup>th</sup> Street.**

Wolfe delivered the staff report. Hupfer explained he had the same reservations as the previous request and Weggen echoed the comments. The applicant explained the placement of septic laterals limits his ability to place the structure elsewhere on the lot. Ross Stafford of 7868 NW 100<sup>th</sup> Street was present and explained he did not oppose the request. Communications received in opposition were noted by the board. Wanderscheid noted the ordinance prohibited reasonable use by not allowing a use otherwise allowed in the district. Motion from Cleveland to approve. Second by Peterson.

**Roll Call Vote:**

	Wanderscheid	Filer	Weggen	Peterson	Cleveland	Hupfer	Ostrander
<b>Aye</b>	X			X	X		X
<b>Nay</b>							
<b>Abstain</b>			X			X	

**7. Other Business. None.**

**8. Adjournment.**

Meeting Adjourned at 7:05 p.m.

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Secretary



ITEM NO. 9a

OFFICES OF CITY ADMINISTRATION  
Johnston, Iowa  
AGENDA COMMUNICATION  
February 2, 2016

<b>SUBJECT:</b> THIRD AND FINAL READING ORDINANCE NO. 939 – AN ORDINANCE AMENDING THE CITY OF JOHNSTON REVISED ORDINANCES OF 2007, BY AMENDING CHAPTER 92, SECTION 92.02	<b>ACTION REQUIRED:</b> <input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Approval <input type="checkbox"/> Receive/File
--	---

*Jeresa*

**SYNOPSIS:**

Staff, along with Public Financial Management (PFM), the City's financial advisor, presented the water and sewer fund cash analysis on December 7, 2015. In addition, a rate discussion was held, along with a discussion regarding the property tax analysis completed by PFM. As you recall, the City was notified of a 10% increase in water rates from Des Moines Water Works (DMWW) effective April 1, 2016. Rate increases of 10% are likely "for the foreseeable future" per DMWW's General Manager.

Attached is the letter from PFM regarding the Water Enterprise Fund. Council directed staff to prepare the ordinance amending the City 's water rates effective July 1, 2016. There will be no adjustment to the sanitary sewer rates July 2016.

	Current Rate	Ord. 883	7/1/16 Rate
Water Service Availability Fee per month	\$7.21	\$7.46	\$8.29
Usage per 1,000 gallons/month	\$5.36	\$5.49	\$6.16
Irrigation Water Service Availability Fee per month	\$4.24	\$4.37	\$4.88

Irrigation Use per 1,000 gallons/month	\$6.70	\$6.86	\$7.71
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Although PFM estimates rate adjustments for the next five years (based on DMWW's and the City CIP) the Council directed Staff to prepare just one ordinance adjustment at this time. Rates will be reviewed again next year.

First reading passed January 4, 2016, Second reading passed January 19, 2016

FISCAL IMPACT

According to City usage reports, the average customer uses approximately 6,000 gallons per month. Based on this average level of usage, the rate increase is approximately a \$5.91 increase to the average customer's monthly bill.

RECOMMENDATION

Approve Third and Final Reading of Ordinance 939

ORDINANCE NO. 939

AN ORDINANCE AMENDING THE CITY OF JOHNSTON REVISED ORDINANCES OF 2007, BY AMENDING CHAPTER 92, Section 92.02

BE IT ENACTED by the City Council of the City of Johnston, Iowa:

SECTION 1. The "Code of Ordinances" of the City of Johnston, Iowa, is hereby amended by deleting in its entirety Section 92.02 and the following section is substituted in lieu thereof:

92.02 RATES FOR SERVICE. Water service shall be furnished at the following monthly rates within the City:

1. Water Service Availability fee per month:

i. July 1, 2016 \$8.29

2. Regular Water Usage.

Usage per 1,000 gallons per month at:

i. July 1, 2016 \$6.16

3. Irrigation Water Service Availability Fee per month:

i. July 1, 2016 \$4.88

4. Irrigation Water Usage. Water used for irrigation purposes shall be furnished at the following rate per 1,000 gallons per month:

i. July 1, 2016 \$7.71

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of this ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from an after its final passage, approval and publication as provided by law. The new billing rates will be implemented beginning with the July 2016 usage.

PASSED and APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
PAULA S. DIERENFELD, MAYOR

ATTEST:

\_\_\_\_\_  
CYNDEE RHAMES, CITY CLERK



801 Grand Ave  
Suite 3300  
Des Moines, IA 50309

515 243-2600  
515 243-6994 fax  
www.pfm.com

City of Johnston, Iowa  
Johnston City Council  
Mr. Jim Sanders, City Administrator  
Ms. Teresa Rotschafer, Finance Director  
6221 Merle Hay Road  
PO Box 410  
Johnston, IA 50131

December 7, 2015

Dear Johnston City Council,

Attached for your review is the Water Enterprise Fund Financial and Capital Planning Model which was shared with City staff on October 27, 2015 and Finance Committee on November 7, 2015. In this model, Public Financial Management ("PFM") has reviewed and incorporated information from the City's FY 2011-12, 2012-13 and 2013-14 Audited Financial Statements, FY 2014-15 unaudited internal documents, FY 2015-16 Budget and the current capital improvement plan for the Water Enterprise Fund. The important points of the analysis are summarized below:

- The City's Water usage increased in both FY 2012-13 and FY 2013-2014 by 0.94% and 2.37% respectively. In FY 2014-15 the City's water usage decreased from 706.3 million gallons to 559.1 million gallons, a decrease of 20.84%.
  - Irrigation water usage made up the largest portion of the overall usage decrease. FY 2014-15 decreased to 96.4 million gallons from 224.7 million gallons in FY 2013-14, a decrease of 57%. Additionally, the first three months of FY 2015-16 irrigation usage is down 14.9% compared to the same three months in FY 2014-15. PFM has assumed a 10% decrease in irrigation for FY 2015-16 based on discussions with City staff. City staff recognizes the difficulty in projecting irrigation usage due to annual variation of the weather and has projected future usage at the three year average for FY 2016-17 through FY 2022-23.
  - Regular water usage is projected to remain flat at 460 million gallons for future years.
- Operating Revenues for the Water Fund in FY 2013-14 increased to approximately \$4.9 million, up 13.6% from FY 2012-13. The increase was primarily driven by increases in usage revenues as well as the introduction of the irrigation availability fee. Unaudited operating revenues in FY 2014-15 decreased by 19.9% down to approximately \$3.9 million.
  - The decrease in irrigation usage revenues of \$796,203 accounts for 81% of the reduction in FY 2014-15 revenues.
- Operating Expenses for FY 2012-13 and FY 2013-14 increased at 18% and 20% respectively. The unaudited FY 2014-15 operating expenses were down 15.7% from the prior year. The fluctuations in operating expenses are primarily driven by contractual services such as engineering costs.
  - The adopted FY 2015-16 Budget estimates \$1,270,828 for operating expenses (net of Des Moines Water Works ("DMWW") purchases, depreciation and sales tax) which is a 28.3% increase over unaudited FY 2014-15. Part of the anticipated increase in FY 2015-16 Budget is intended to better align City administration costs to the respective utility funds.

- Projected Operating Expenses for FY 2016-17 have been adjusted for one-time expenses budgeted in FY 2015-16 and are currently projected to decrease by approximately 2.32%. Operating Expenses for FY 2017-18 through FY 2022-23 are expected to increase approximately 3.44% to 3.56% based on City staff projections.
- On October 27, 2015 the DMWW Board approved a 10 percent rate increase that will go into effect on April 1, 2016. This will increase the City's DMWW rate to \$3.66 per 1,000 gallons. Rate increases of 10 percent are likely "for the foreseeable future" per DMWW's General Manager. (Line 26 and 34 on page 2 of Exhibit 5)
- The City pays debt service from the Water Utility Fund for the following:
  - Annual debt payments to the State Revolving Fund ("SRF") of approximately \$160,000. (Line 44 on page 3 of Exhibit 5)
    - The City's recent comprehensive capital improvement plan has moved utility related capital projects from being funded with G.O. Bonds to being funded with SRF loans in light of G.O. capacity constraints. City staff and City engineers are still in the process of determining if all utility related capital improvements qualify for SRF funding. For our planning purposes we have assumed all Water related capital projects are eligible for SRF funding.
    - The current analysis shows SRF debt service payments growing to \$470,000 based on plans to fund additional capital projects with SRF loans. (Line 50 on page 3 of Exhibit 5)
  - G.O. debt payments of approximately \$593,000 decreasing down to \$127,000 in FY 2022-23 (Line 57 on page 3 of Exhibit 5)
    - In 2011, the City issued G.O. Bonds to current refund \$3,555,000 of the Water Revenue Bonds, Series 2001B. This bond series has annual debt service payments of approximately \$440,000 and accounts for approximately 74% of the Water Utility's current G.O. debt service payments. In FY 2013-14 this debt service payment increased by 137,150 or 28% of all debt paid from the Water Utility Fund. The Series 2011B G.O. Bond will be outstanding until FY 2019-20 or to the call date of June 1, 2019.
  - The City has historically maintained at least 1.79x coverage on all debt payments but is projected to be below 1.0x coverage in FY 2015-16 and FY 2016-17 due to the G.O. debt, however the coverage for revenue debt is projected to be above 2.0x coverage.
- The Capital Improvement Projects on Line 62 (detail on page 4) of Exhibit 5 are pursuant to City staff's most recent comprehensive capital improvement plan. Highlights include:
  - \$1.6M for the connection to Saylorville (paid with G.O. Bond Proceeds in FY 2016)
  - \$555,900 for the 86<sup>th</sup> Street Booster Station (paid with cash in FY 2016)
  - \$1,086,500 for the improvements to the Northwest Beaver Drive Booster Station (paid with proceeds from a proposed SRF loan in FY 2017)
  - \$1,497,000 for a portion of Merle Hay East phase 2, a portion of the SCADA conversion, 100<sup>th</sup> Street water tower repainting and Beaver sandpipe repainting (paid with proceeds from a proposed SRF loan in FY 2018)
    - We have assumed this loan would be issued on October 1, 2017 versus July 1, 2017 to allow for the FY 2016-17 revenues available for debt to be available for parity coverage calculations. See Exhibit 5.4 for additional details.
  - \$1,305,600 for a portion of Merle Hay East phase 4B and construction of a 16" transmission main (paid with proceeds from a proposed SRF loan in FY 2020)

- The industry norm for unrestricted ending cash balance as a percentage of operating and maintenance expenses (net of depreciation) is between 30-75%. Assuming the City Council adopts the rate increases shown below for future years, the ending cash balances as a percentage of operating and maintenance expenses (net of depreciation) will range from 16% to 44% as shown on Line 73 of Exhibit 5, which is slightly below or at the lower end of the industry standard for water enterprise funds.
- PFM recommends the following annual rate increases to cover operating expenses (including the 10% increase in DMWW costs), debt service payments and capital costs. Based on the updated financial and capital planning model, we have adjusted the rate increases to produce sufficient revenues to meet the financial obligations of the Water Enterprise Fund. In the table below, we have summarized the projected rate adjustments for the upcoming July 1, 2016 rate change as compared to the current rate adjustments suggested in the October 2013 Ordinance. Additionally we have summarized future recommended rate increases for the Water Enterprise Fund.

**July 1, 2016 Water Rates Increases**

	<b>October 2013 Ordinance 883</b>		<b>November 5, 2015 Analysis</b>	
	<u>Ordinance Rate</u>	<u>Percentage Change</u>	<u>Recommended Rate</u>	<u>Percentage Change</u>
Water Service Availability Fee per Month:	\$7.46	3.47%	\$8.29	15%
Regular Water Usage per 1,000 gallons per month:	\$5.49	2.43%	\$6.16	15%
Irrigation Water Service Availability Fee per Month:	\$4.37	3.07%	\$4.88	15%
Irrigation Water Usage per 1,000 gallons per month:	\$6.86	2.39%	\$7.71	15%

- According to City usage reports, the average customer uses approximately 6,000 gallons per month. Based on this average level of usage, the recommended 15% rate increase is approximately a \$5.91 increase to the average customer's monthly bill.

**Recommended Additional Water Rate Increases**

	<u>Percentage Change</u>	<u>Average Monthly Increase (6,000 gallons)</u>
July 1, 2017	12.50% (all rates)	\$5.66
July 1, 2018	10.00% (all rates)	5.09
July 1, 2019	10.00% (all rates)	5.06
July 1, 2020	5.00% (all rates)	3.08

- If regular usage decreases below 460 million gallons, irrigation usage decreases below 133 million gallons, or if expenses increase at a rate greater than 4%, larger rate adjustments may be needed in future years.

Based on the differences between the actual and projected financial performance of the Water Enterprise Fund, PFM recommends the City continue to update the model in order to react to changes in the financial performance and assumptions. Please call us if you have any further questions.

Sincerely,

PUBLIC FINANCIAL MANAGEMENT, INC.



Jenny Blankenship, CPA  
Director  
515-724-5735



Matthew Stoffel, MBA  
Senior Analyst  
515-724-5737



**OFFICE OF THE CITY ADMINISTRATOR**

Johnston, Iowa  
 AGENDA COMMUNICATION  
 February 2, 2016

<p><b>SUBJECT:</b> Second consideration of Ordinance 940 - Amending Chapter 165.04 (148 and 149) of the Code of Ordinances to require a business license application process for massage businesses in Johnston.</p>	<p><b>ACTION REQUIRED:</b></p> <p><input type="checkbox"/> Ordinance</p> <p><input type="checkbox"/> Resolution</p> <p><input checked="" type="checkbox"/> Approval</p> <p><input type="checkbox"/> Receive/File</p> <p><input type="checkbox"/> Attorney Review</p>
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**SYNOPSIS**

Staff has worked with the Public Safety Committee, the City Attorney, the Iowa Department of Inspections and Appeals, the Polk County Attorney's Office, several massage business owners and an owner of a massage therapy school to create the present ordinance draft. Staff also consulted with the Iowa Attorney General's Office on this matter. This ordinance is intended to regulate businesses that engage in the unauthorized practice of massage therapy and/or businesses which engage in acts of prostitution which take place in public and private, and which are otherwise difficult or impossible to identify. This ordinance **IS NOT** intended to discourage legitimately licensed massage therapy businesses.

**FISCAL IMPACT**

None

**RECOMMENDATION**

Staff recommends approval of the Second Consideration.

**ROLL CALL VOTE:**

**AYE                      NAY                      ABSENT                      ABSTAIN**

Brown	_____	_____	_____	_____
Clabaugh	_____	_____	_____	_____
Cope	_____	_____	_____	_____
Lindeman	_____	_____	_____	_____
Temple	_____	_____	_____	_____

ORDINANCE NO. 940

AN ORDINANCE AMENDING THE "CODE OF ORDINANCES" OF THE CITY OF JOHNSTON, IOWA, BY AMENDING CHAPTER 165.04:

Be it ordained by the City Council of the City of Johnston, Iowa:

SECTION 1. The "Code of Ordinances" of the City of Johnston, Iowa, is hereby amended by amending Chapter 165.04 (148 and 149) to read as follows:

SEE ATTACHED CHAPTER

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of this ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Passed and approved by the City Council of the City of Johnston, Iowa, this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

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MAYOR, PAULA DIERENFELD

ATTEST:

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Cyndee D. Rhames, City Clerk

**VOTE:**

	<b>AYES</b>	<b>NAYS</b>	<b>ABSENT</b>
<b>Gerd Clabaugh</b>	_____	_____	_____
<b>Matt Brown</b>	_____	_____	_____
<b>John Temple</b>	_____	_____	_____
<b>David Lindeman</b>	_____	_____	_____
<b>Thomas Cope</b>	_____	_____	_____

CHAPTER: 165.04

**MESSAGE LICENSING AND VIOLATIONS**

____.01	Purpose	____.07	Exemptions
____.02	Definitions	____.08	Adverse Action; Grounds for Denial and Revocation or Suspension
____.02A	License Required	____.09	Appeal Process
____.03	License Fee	____.10	Restriction and Regulations
____.04	Application	____.11	Penalty
____.05	Granting or Denial of License	____.12	Severability Clause
____.06	Conditions Governing Issuance		

\_\_\_\_.01 **PURPOSE.** This ordinance is intended to regulate businesses that engage in the unauthorized practice of massage therapy and/or businesses which engage in acts of prostitution which **take place in public or private**, and which are otherwise difficult or impossible to identify. This ordinance **IS NOT** intended to discourage legitimately **licensed massage therapy businesses**.

\_\_\_\_.02 **DEFINITIONS.** For the purposes of this chapter, the following words and phrases have the meanings herein set forth, unless it is apparent from the context that a different meaning is intended.

- A. "Massage Therapy Business" means any place of business wherein any of the treatments, techniques, or methods of treatment referred to in subsection D are administered, practiced, used, given or applied.
- B. "Massage Therapist" means a person licensed to practice the health care service of the healing art of massage therapy **under Iowa Code, Chapter 152C**.
- C. "Massage patron" means any person who receives, or pays to receive, a massage or massage services from a massage therapist for value.
- D. "Massage Therapy" means performance for compensation of massage, myotherapy, massotherapy, bodywork, bodywork therapy, or therapeutic massage including hydrotherapy, superficial hot and cold applications, vibration and topical applications, or other therapy which involves manipulation of the muscle and connective tissue of the body, excluding osseous tissue, to treat the muscle tonus system for the purpose of enhancing health, muscle relaxation, increasing range of motion, reducing stress, relieving pain, or improving circulation.
- E. "Reflexology" means manipulation of the soft tissues of the human body which is restricted to the hands, feet, or ears, performed by persons who do not hold

themselves out to be massage therapists or to be performing massage therapy.

\_\_\_\_\_.02A **LICENSE REQUIRED.** No person shall operate a massage therapy business, either exclusively or in connection with another business, without being licensed as provided in this chapter.

\_\_\_\_\_.03 **LICENSE FEE.** The fee for a massage therapy business license is \$150.00 which shall be paid when the application is filed. The license, if granted, and not revoked or suspended, shall be valid **so long as the business does not materially change ownership or the service provided or business name.** A renewal application shall be made in the same manner as provided for the original application. A separate license shall be obtained for each place of business. The licensee shall display the license in a prominent place in the licensed business at all times.

\_\_\_\_\_.04 **APPLICATION.** Application for a massage therapy business license shall be made on forms provided the Johnston Police Department. The application shall include:

- A. The address of the property to be used and documentation establishing the applicant's interest in the premise on which the business will be located, which shall be in the form of a lease, deed, or other document that establishes the applicant's interest;
- B. The names, ages, and addresses of the applicant, owner, manager and all employees who are or will be employed or present on the premises to perform massage therapy;
- C. Dates and locations of other places the applicant has owned or operated as a massage therapy business;
- D. Descriptions of all crimes or other offenses, including the time, place, date and disposition for which the applicant, owner, manager, and all persons employed by the applicant or present on the premise to perform massage therapy have been arrested, charged, or convicted;
- E. A statement as to whether the applicant, owner, manager, or any person employed by the applicant has had any license to perform massage therapy denied, revoked or suspended in any city, state, county, or any country and the reason for the denial, revocation or suspension;
- F. A government issued photo ID of the applicant, owner, manager and all employees or persons present on the premises who are or will be employed to perform massage therapy;

- G. Such other information as the Chief of Police may require for purposes of conducting a background check.
- H. Insurance. Any application for a license shall be accompanied by proof of insurance executed by an insurance company authorized to do business in the state of Iowa, in the amount of **two-million dollars per occurrence, six-million dollars per policy year**. The insurance shall be conditioned that the insurer shall defend, and indemnify and hold the City and its officers, employees, and agents harmless from and against all claims, damages or liability resulting from the grant or renewal of the license under this chapter or operations or business of such license. All insurance policies hereunder shall provide for at least thirty (30) days prior notice to the Police Department before a cancellation thereof is effective and shall continue to provide coverage as to all matters arising during the term of the insurance policy whether or not later cancelled.

\_\_\_\_\_.05 **GRANTING OR DENIAL OF LICENSE.** License applications shall be reviewed by the Chief of Police, who after considering all of the information provided and obtained in the background check obtained shall either grant or deny the license.

\_\_\_\_\_.06 **CONDITIONS GOVERNING ISSUANCE.**

- A. **No license shall be issued if the applicant or any of its owners, managers, employees, or agents has a criminal conviction for a sex crime as defined by Iowa Code Chapter 709, or for Prostitution as defined by Iowa Code Chapter 725, or for keeping a house of prostitution as defined by Iowa Code Chapter 657, or who is a registered sex offender, or who has been denied a license by any other community.**
- B. Licenses shall be issued only if the applicant and all of its owners, managers, employees and agents are free of convictions for offenses which **involve sex crimes** or which relate directly to such person's ability or fitness to legally and safely perform the duties and discharge the responsibilities of the licensed activity.
- C. Licenses shall only be issued to applicants who have provided all of the information requested in the application, have paid the license fee and have cooperated with the Chief of Police and other city officials in review of the application.
- D. **The business license, if issued, shall be displayed on the business premise in a conspicuous public area.**

.07     **EXEMPTIONS.** This chapter shall not apply to the following businesses:

- A.     Businesses who employ or provide the services of persons who are licensed to practice medicine or surgery, osteopathic medicine and surgery, chiropractic, cosmetology arts and sciences, or podiatry in this state: or athletic trainers, nurses, occupational therapists, physical therapists, or physician assistants licensed, certified, or registered in this state or acting under the prescription or supervision of a person licensed to practice medicine, surgery, osteopathic medicine, or chiropractic in this state.
  
- B.     Businesses who employ or provide the services of persons who are licensed, registered, or certified in another state, territory, the District of Columbia, or a foreign country when incidentally and temporarily present in this state to teach a course of instruction related to massage therapy and bodywork therapy.
  
- C.     Businesses which offer the services of students enrolled in a program recognized by the State Board of Massage Therapy while completing a clinical requirement for graduation performed under the supervision of a person licensed.
  
- D.     Persons giving massage therapy and bodywork to members of their immediate family.
  
- E.     Persons practicing reflexology.
  
- F.     Persons engaged within the scope of practice of a profession with established standards and ethics utilizing touch, words, and directed movement to deepen awareness of existing patterns of movement in the body as well as to suggest new possibilities of movement, provided that the practices performed or services rendered are not designated or implied to be massage therapy. Such practices include, but are not limited to, the Feldenkrais method, the Trager approach, and mind-body centering.
  
- G.     Persons engaged within the scope of practice of a profession with established standards and ethics in which touch is limited to that which is essential for palpitation and affectation of the human energy system, provided that the practices performed or services rendered are not designated or implied to be massage therapy.
  
- H.     Persons incidentally present in this state to provide services as part of an emergency response team working in conjunction with disaster relief officials.

      .08     **ADVERSE ACTION; GROUNDS FOR DENIAL AND REVOCATION OR SUSPENSION**

- A.     It shall be grounds for denial of the application or for revocation or suspension of

the license if the applicant or licensee is not complying with or has a history of violations of the laws and ordinances that might adversely impact public health or safety.

- B. It shall be grounds for the denial, revocation or suspension of the license if the licensee solicits or advertises to offer services that are a violation of this chapter.
- C. It shall be grounds for the denial, revocation or suspension of the license if the licensee is convicted of any violation, reasonably related to the licensed activity and/or occurring on the licensed premise, of any city ordinance or federal or state statute.
- D. It shall be grounds for the denial, revocation or suspension of the license if there is fraud or deception involved in the license application.
- E. It shall be grounds for the denial, revocation or suspension of the license if the licensee is found to be in control or possession of any narcotic drugs or controlled substances on the premises for which they are licensed to operate, possession of which is illegal as defined by Iowa Statutes or city ordinances.
- F. It shall be grounds for the denial, suspension or revocation of the license if the licensee has, in the past, engaged in willful disregard for health codes and regulations.
- G. It shall be grounds for the denial, suspension or revocation of the license if the applicant fails to provide all the information and certificates required by this chapter.
- H. It shall be grounds for the denial, revocation or suspension of a license if the licensee permits an unlicensed individual(s) to conduct massage therapy services at the licensee's premises.
- I. It shall be grounds for the denial, suspension or revocation of the license if the licensee refuses to permit any authorized police officers or authorized city, county, or state governmental official to inspect the premises or operations.
- J. It shall be grounds for the denial, suspension or revocation of the license if the licensee is found to be violating provisions of this chapter or the Iowa Code.

\_\_\_\_.09 **APPEAL PROCESS**

- A. If an applicant has been denied, revoked or suspended pursuant to this chapter, then said applicant may file a written request with the City Administrator for review of the decision of the Chief of Police within ten (10) days from the receipt

of said notice of denial, revocation or suspension. Failure to file a written request for review of the decision within this time frame shall constitute a waiver of any right to contest the decision to deny, revoke or suspend a license.

- B. Within ten (10) days of the receipt of a request to review a decision of denial, revocation or suspension of any applicant's license, the City Administrator shall notify the applicant of a date, time and place for a hearing to review the decision of the Chief of Police. Said hearing shall be informal and the applicant may present any oral or written testimony the City Administrator deems pertinent.
- C. Within ten (10) days from the hearing held pursuant to subparagraph B, the City Administrator will provide a written findings and decision to the applicant.
- D. If the applicant's denial, revocation or suspension is upheld by the City Administrator, the applicant may then appeal said decision to the District Court pursuant to the laws of the State of Iowa.

\_\_\_\_\_.10 **RESTRICTION AND REGULATIONS**

- A. Compliance with law. The licensee and persons in its employ shall comply with all applicable regulations and laws of the city and state.
- B. Person in charge. If the applicant is a partnership, corporation or other organizations, the applicant shall designate a person to be manager and in responsible charge of the business. The manager shall be a resident of Iowa. The manager shall provide written consent to serve as an agent for service of notices and other process relating to the business. The manager shall remain responsible for the conduct of the business until another suitable person has been designated in writing by the licensee. The licensee shall promptly notify the Chief of Police in writing of any change indicating the address of the new manager and the effective date of such change.
- C. Hours of business. The licensed premises shall not be open for business nor shall patrons be permitted on the premises between the hours of 10:00 p.m. and 6:00 a.m.

\_\_\_\_\_.11 **PENALTY.** A person who commits or attempts to commit, conspires to commit or aids or abets in the commission of an act constituting a violation of this chapter, whether individually or in connection with one or more other persons or as principal, agent, or accessory is guilty of a simple misdemeanor. A person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, permits or directs another to violate a provision of this chapter is guilty of a simple misdemeanor.

\_\_\_\_\_.12 **SEVERABILITY CLAUSE.** If any section, provision, or part of this ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of this ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.



**OFFICE OF THE CITY ADMINISTRATOR**

Johnston, Iowa  
 AGENDA COMMUNICATION  
 Tuesday, February 2<sup>nd</sup>, 2016

ITEM NO. 9c

<p><b>SUBJECT:</b> Consider the following items related to Coons Heights Plat 2, subdividing 1.49 acres into two single family residential lots (PZ Case 15-40):</p> <ul style="list-style-type: none"> <li>• Resolution 16-25 approving Coons Heights Plat 2 Preliminary Plat and Final Plat</li> <li>• Resolution 16-26 accepting a Petition and Waiver for future NW Beaver Drive Improvements</li> </ul>	<p><b>ACTION REQUIRED:</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Ordinance</li> <li><input checked="" type="checkbox"/> Resolution</li> <li><input type="checkbox"/> Approval</li> <li><input type="checkbox"/> Receive/File</li> <li><input type="checkbox"/> Attorney Rvw</li> </ul> <p><i>Aaron W.</i></p>
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<p><b>SYNOPSIS:</b></p> <p><b>RECOMMENDATION:</b></p> <p><i>5a has been addressed by the applicant.</i></p> <p><i>5b has been updated to reflect latest review by Foth</i></p>	<p>The applicant, Art Coons, has submitted a Preliminary Plat and Final Plat to subdivide 1.49 acres at the NE corner of NW Beaver Drive and Forest Drive into two single family lots. The subject property is zoned R-1(100).</p> <p><b>The Planning &amp; Zoning Commission considered this item on January 11, 2016. By a vote of 7 to 0, the commission recommends approval of the Preliminary and Final Plats for Coons Heights Plat 2 subject to the following conditions:</b></p> <ol style="list-style-type: none"> <li>1. The project shall be in conformance and in accordance with the requirements, standards and regulations of the City of Johnston, and any other requirement of state or federal law or administrative rule.</li> <li>2. Submission of all Final Plat documentation to City's Staff and Attorney, for review and approval, must occur six (6) working days prior to the City Council's regular meeting.</li> <li>3. Prior to Council approval of the Final Plat the applicant shall submit a petition and waiver for future NW Beaver Drive improvements.</li> <li>4. Lots 1 and 2 are required to connect to sanitary sewer, the timing and installation of which is detailed on the plat.</li> <li>5. <b>The Preliminary Plat shall be amended to address the following items:</b> <ol style="list-style-type: none"> <li>a. <del>Indicate the location and size of existing sanitary sewer on NW Beaver Drive and means/method of connecting to such.</del></li> <li>b. Address all outstanding comments provided by Foth Infrastructure &amp; Engineering, LLC. in their letter dated <del>January 8, 2016</del> January 27, 2016.</li> </ol> </li> </ol>
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Attachments:

- Resolutions 16-25 and 16-26
- Vicinity Map
- Preliminary Plat, Prepared by Associated Engineering Company, dated December 28, 2015
- Final Plat, prepared by Associated Engineering Company., dated December 28, 2015
- Proposed Covenants
- BOA Resolution 88-6
- Ordinance requirements for accessory building setbacks applicable in 1988
- City Staff Comments, dated December 22<sup>nd</sup>, 2015
- Comments by Foth Infrastructure & Environment, LLC dated January 27, 2016
- Petition and Waiver
- January 11, 2016 Planning and Zoning Commission Meeting Minutes
- Neighbor Mailing Notice and Mailing List
- Neighbor Comments
- Letter from Michelle Brott, Davis Brown Law Firm
- Letter from Benjamin Bruner, Dickinson Law Firm
- Gray v. Osborn, 739 N.W.2d 855, 860 (Iowa 2007) and Middle Road Developers v. Windmill Design & Develop., 746 N.W.2d 279, 2008 WL 141658, at \*3 (Iowa Ct. App. 2008)
- Email from Laden and Pearson Law Firm dated January 27, 2016

**RESOLUTION 16-25**

**A RESOLUTION APPROVING THE PRELIMINARY AND FINAL PLATS FOR  
COONS HEIGHTS PLAT 2**

WHEREAS, the Planning & Zoning Commission has reviewed this request during its regular meeting on January 11<sup>th</sup>, 2016, and recommended approval of PZ Case No. 15-40, and

WHEREAS, the Preliminary and Final Plats meet the conditions recommended by the Planning & Zoning Commission.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF JOHNSTON, IOWA, that the Preliminary Plat for Coons Heights Plat 2 is hereby approved subject to amendments necessary to address items 1-7 from the review letter provided by Forth Infrastructure and Environment, LLC dated January 27, 2016; and,

NOW THEREFORE, BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF THE CITY OF JOHNSTON, IOWA, that, the Final Plat for Coons Heights Plat 2 in the City of Johnston, is hereby approved subject to the following conditions and recordation of the following documents:

1. The project shall be in conformance and in accordance with the requirements, standards and regulations of the City of Johnston, and any other requirement of state or federal law or administrative rule.
2. Approval of the Final Plat does not construe approval of a building permit which is by a separate application and review by the building department.
3. The following documents are to be recorded with the Final Plat:
  - a. Attorney's Title Opinion
  - b. Polk County Treasurer's Tax Certificate
  - c. Owner(s) Consent to Plat
  - d. Easement for septic laterals
  - e. Private sanitary sewer easement
  - f. Petition and Waiver for Future Improvements to NW Beaver Drive

**PASSED AND APPROVED** this 2<sup>nd</sup> day of February, 2016.

\_\_\_\_\_  
PAULA S. DIERENFELD, MAYOR

ATTEST:

\_\_\_\_\_  
CYNDEE RHAMES, CITY CLERK

<u>ROLL CALL VOTE:</u>	<u>Aye</u>	<u>Nay</u>	<u>Absent</u>	<u>Abstain</u>
Brown	___	___	___	___
Clabaugh	___	___	___	___
Cope	___	___	___	___
Lindeman	___	___	___	___
Temple	___	___	___	___

**RESOLUTION 16-26**

**A RESOLUTION ACCEPTING A PETITION AND WAIVER FOR FUTURE IMPROVEMENTS TO NW BEAVER DRIVE**

**WHEREAS**, on January 11<sup>th</sup>, 2016 the Johnston Planning and Zoning Commission recommended approval of the final plat for Coons Heights Plat 2 subject to applicant submittal of a petition and waiver for future NW Beaver Drive improvements; and,

**WHEREAS**, Ordinance 180.42.5.B of the City of Johnston Code of Ordinances allows for the property owner to submit a petition and waiver in lieu of immediate road improvements; and,

**WHEREAS**, the applicant has submitted such a petition and waiver that has been reviewed by city staff and found to be satisfactory; and

**WHEREAS**, the Petition and Waiver has been duly executed by the owners of property agreeing thereby to be assessed for the full cost of street improvements, the same being attached hereto; and

**WHEREAS**, upon investigation it is found that the holders of all liens and encumbrances against said benefited property to be assessed pursuant to said Petition and Waiver have executed and agreed to and have subordinated their liens to the provisions of the same; and

**WHEREAS**, the following action is deemed appropriate.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF JOHNSTON, IOWA, that:**

The aforesaid Petition and Waiver attached hereto is hereby approved and accepted for and on behalf of this City.

**PASSED AND APPROVED** this 2<sup>nd</sup> day of February, 2016.

\_\_\_\_\_  
PAULA S. DIERENFELD, MAYOR

ATTEST:

\_\_\_\_\_  
CYNDEE RHAMES, CITY CLERK

<u>ROLL CALL VOTE:</u>	<u>Aye</u>	<u>Nay</u>	<u>Absent</u>	<u>Abstain</u>
Brown	---	---	---	---
Clabaugh	---	---	---	---
Cope	---	---	---	---
Lindeman	---	---	---	---
Temple	---	---	---	---

APPLICANT/OWNER:

Art Coons  
6921 NW Beaver Drive  
Johnston, IA, 50131

REPRESENTATIVES:

Associated Engineering Company  
2917 MLK JR Parkway  
Des Moines, IA, 50310

BACKGROUND &  
PRIOR APPROVALS:

The property was platted as Lot 1 in Coons Heights Plat 1 in 1987. There is currently a single family home and detached garage on what would become Lot 1 of the new plat. New Lot 2 is being platted for future construction of a new home.

Mr. Coons was granted a variance from the Board of Adjustment on July 6, 1988 approving the location of the garage in the side yard (Resolution regarding BOA Case No. 88-6 attached).

Subsequent to approval of Coons Heights Plat 1, the final plat for The Forest was approved by Resolution 88-90 on September 8, 1988. Said platting action turned Mr. Coons' property into a corner lot. As a corner lot, Mr. Coons' property was thereafter subject to the increased encumbrances associated with such (i.e. imposition of greater setback requirements and limitation on where structures and fencing can be placed on the lot).

On June 24, 2014 the City of Johnston issued a building permit to Art Coons for a 1,376 square foot (32' x 43') accessory structure proposed to be located in the rear of his property at 6921 NW Beaver Drive.

On July 3, 2014, a consortium of neighboring property owners filed an appeal with the city and also filed a Petition for Certiorari seeking Temporary and Permanent Injunctive Relief to prevent the construction of the proposed accessory building.

On July 16, 2014 the aggrieved parties withdrew their Petition for Certiorari pending outcome of an appeal to the Board of Adjustment of the Zoning Administrator's decision to issue a building permit. Also on July 16, 2014, the City issued a letter to Mr. Coons noting the building permit had been temporarily revoked pending the outcome of a hearing before the Board of Adjustment.

A public hearing was conducted on August 21, 2014. Following the hearing, the Board by a vote of 3-2, voted to repeal the decision of the Zoning Administrator. In their findings, the Board repealed the issuance of a building permit noting the architecture of the proposed accessory building was not common to the area. After the vote, staff noted Chapter 166.16(6) required the concurring vote of four members of the Board to reverse a decision of the Zoning Administrator; therefore, the motion

failed. Counsel for the aggrieved parties then requested the item be reconsidered before the full Board since two members were absent.

On September 3, 2014 The Board of Adjustment voted to repeal the decision of the Zoning Administrator by a vote of 6 to 1.

On September 15, 2014, the City Council reviewed the Board's action based upon Chapter 166.16(6) and approved a motion to partially remand the decision back to the Board for further study.

On October 16, 2014, the Board of Adjustment considered a remand of their September 3<sup>rd</sup>, 2014 decision with direction from the City Council to reconsider findings related to the rear yard setback for the accessory structure. The Board of Adjustment voted on a motion to modify Finding #5 of the September 3<sup>rd</sup> Resolution to read that the permitted accessory structure does not meet the required setbacks and that the platted setback supersedes the setbacks described in Chapter 166.23. The resulting vote on the motion was three in favor and three against, with one member absent. As a tie vote, the motion did not carry. Counsel for the aggrieved parties requested the case be heard by a full board.

On November 20, 2014 the Board of Adjustment re-considered the council remand of their September 3<sup>rd</sup>, 2014 decision. The board voted to modify their earlier decision by finding that the permitted accessory structure did not meet the required setbacks and that the platted setback supersedes the setbacks described in Chapter 166.23."

On March 23, 2015, the applicant submitted a building permit for a 1,376 square foot accessory structure. On April 1, 2015, this application was denied due to lack of sufficient information. In subsequent discussion with the applicant indicated that the proposed building materials would not be the same or comparable building materials as the primary residential dwelling. Staff advised the applicant that further review of the building permit could not be completed until either the building materials were modified or a special exception was granted by the Board of Adjustment. A special exception application was filed on April 10, 2015.

On June 2, 2015 The Board of Adjustment considered a Special Exception Request for Accessory Structure Building Materials, for a structure greater than 720 square feet in area with a material that is not consistent with the primary residential structure but is consistent with the color scheme. The special exception was approved by a vote of 6 to 0 with one member absent.

**ZONING & BULK  
REQUIREMENTS:**

This site is zoned R-1(100), Single Family Residential, with the following bulk requirements:

Minimum Lot Area = 15,000 square feet

Minimum Lot width = 100 feet

Front Yard Setback = 40 feet  
Rear Yard Setback = 40 feet  
Side Yard Setback = 10 feet/21 feet total

The current plat indicates a 35' rear yard setback along the north property line. This platting action would supersede said setback in favor of a 10' side yard setback on newly-created lot 2.

Attorney Michelle Brott of the Davis Brown Law Firm represents unspecified residents within the adjacent subdivision, The Forest. Ms. Brott submitted a letter to the City dated January 8, 2016 (via Laden and Pearson) wherein she asserts the Coons property cannot be subdivided as proposed because it lacks the aforementioned 35' setback adjacent to the north property. Ms. Brott argues said setback should carryover on the proposed plat and cites various legal cases in her assertion {Gray v. Osborn, 739 N.W.2d 855, 860 (Iowa 2007) and Middle Road Developers v. Windmill Design & Develop., 746 N.W.2d 279, 2008 WL 141658, at \*3 (Iowa Ct. App. 2008) [see attached]}.

Staff has consulted with the City Attorney on the applicability of the above-listed cases. Tim Pearson of the Laden and Pearson Law Firm offers his opinion on the matter in the attached letter, stating the cases apply to easements and NOT setbacks (see attached email dated January 27, 2016).

As the Council knows, setbacks and easements differ greatly and the words cannot be used interchangeably. Chapter 165 of the Code of Ordinances defines the terms thusly: "Easement" means a granted right by a land owner to a person, government agency, or public utility company to use land owned by another for a specific purpose. "Building Setback Line" means the extreme overall dimensions of a lot beyond which buildings and structures are not allowed....A lot may have multiple building setback lines for primary structures, accessory structures, decks, etc.

Typically structures cannot be built within either an easement or within a given 'setback'. However, while an easement must be 'vacated' or otherwise released to be terminated, a setback can and does change as the dimensions of a property change through subdivision, or when the applicable bulk regulations for a property change (e.g. the zoning changes, bringing new or different setbacks). Therefore, easements typically do carryover from one platting action to another (if not vacated), whereas setbacks are not constant and DO NOT carryover from one plat to another.

The existing home shown on new lot 1 is accompanied by a detached accessory structure constructed 2.04' from the property line with eaves extending over said property line. A letter provided by four residents of

The Forest subdivision submitted December 15, 2015 suggests the property cannot be subdivided citing Chapter 166.03 of the City Code of Ordinances:

**166.03 COMPLIANCE REQUIRED. Except as hereinafter specified, no building or structure shall be erected, converted, enlarged, reconstructed, or structurally altered, nor shall any building or land be used or site improved, or land subdivided, which does not comply with or maintained in accordance with all of the district regulations established by this ordinance for the district in which the building or land is located.**

Staff has examined the issue, and notes the following:

Mr. Coons was granted a variance from the Board of Adjustment on July 6, 1988 approving the location of the garage in the side yard (Resolution regarding BOA Case No. 88-6 attached). The variance supersedes the district setback requirements for the property. Neither the variance, nor the City Code at the time, addressed maximum roof overhang. Based upon this action the Board of Adjustment, and the lack of regulations at the time regarding roof overhang, would allow the garage to be considered a conforming structure.

Should the structure be deemed non-conforming for some reason, the applicable setback requirement for detached accessory structures at the time Mr. Coons's garage was 2' (see attached ord language). Ordinance requirements have changed since construction, making Mr. Coons' garage a lawful-nonconforming structure. The code language sited at chapter 166.03 is excepted by language "**hereinafter specified**" in Chapter 166.12 of the code of ordinances. Said code section allows continuance of a lawful non-conforming use provided it is not altered in a way which increases its nonconformity. Continued use of property implies all rights of an otherwise conforming property, including the ability to subdivide. The proposed subdivision of property does not increase a nonconformity as it will not place the garage any closer to the property line than its current position. Chapter 166.12 is included as an attachment.

BUFFERS:

All adjacent properties are zoned R-1(100); as such no buffers are required for this project.

FLOODPLAIN:

The site is not located within the 100-year floodplain.

PETITION AND  
WAIVER:

The city requires the property owner of a project to improve adjacent roadways to collector street standards. Ordinance 180.42.5.B of the City

of Johnston Code of Ordinances allows for the submittal of a petition and waiver in lieu of immediate road improvements. The adjacent street that would be impacted by this ordinance is NW Beaver Drive. Currently there are no plans to improve NW Beaver Drive, but NW Beaver Drive is considered a minor arterial road in the Johnston 2030 Comprehensive Plan and the plan indicates that traffic volumes are forecasted to increase. An increase in traffic may make it necessary in the future to improve NW Beaver Drive to keep up with demand.

COVENANTS:

A letter written on behalf of four property owners in adjacent subdivision, "The Forest" urges the city require the new lot be held to the same covenants as properties within said subdivision. The letter references chapter 180.39 of City Code as authority of the city to mandate adherence to covenants:

Chapter 180.39 of the Code of Ordinances does provide the council with ".....the right to agree with the subdivider regarding the type and character of development that will be permitted in the subdivision, and may require that certain minimum regulations regarding this matter be incorporated in deed restrictions. Such regulations shall be intended to protect the character and value of the surrounding development and shall also tend to secure the most appropriate development of the property being subdivided."

The city controls character of development through use of zoning regulations and allows private property owners to voluntarily exercise tighter land use controls through exercise of covenants. Ultimately, covenants are enforced by private property owners through the civil court system. It has not been practice to require execution of covenants affecting character of development for the above-listed reasons.

The property owner initially chose not to create covenants affecting the newly created lots; however, after the Planning Commission meeting the applicant has developed covenants addressing minimum dwelling size (1,500 s.f.) and type (see attached).

UTILITIES:

Water: The existing home on new lot 1 is served by connection to existing public water main. New lot 2 will be served by connection to the existing 8" public water main within the Forest Drive Right-of-Way.

Sanitary Sewer: The existing home on new lot 1 is served by septic and is not required to hook up to sanitary sewer until such time said septic system fails; however, the plat contains a note indicating the home will connect to the 12" sanitary sewer force main located within the NW

Beaver Drive Right-of-Way when sanitary is installed for new Lot 2. Both sanitary sewer service connections serving lots 1 and 2 will be installed through private easement across adjacent Outlot 'X'. A 40' lateral field easement is shown on Lot 2 to accommodate the existing septic laterals until such time they are abandoned. When one or both lots connect to the sanitary sewer, each respective owner will be responsible for paying a sanitary sewer connection fee. The property has previously been assessed for NW Beaver Drive sewer improvements; therefore, no additional assessments are required of the newly created lot.

PLAT SUMMARY:

Lots: 2 Lots  
Area: 1.09 Acres Lot 1, 0.40 Acres Lot 2  
Other Area Dedicated: N/A

DRAINAGE:

This plat is considered a Minor Subdivision and, consistent with other minor subdivisions approved by the council, is therefore exempt from the requirements to provide storm water quality and quantity treatment measures.

FINAL DOCUMENTATION:

The legal documents listed below must be received by City staff and the City attorney for review at least six (6) working days prior to the City Council meeting that the item will be taken up at:

1. Attorney's Title Opinion
2. Polk County Treasurer's Tax Certificate
3. Owner(s) Consent to Plat
4. Easement for septic laterals
5. Private sanitary sewer easement
6. Petition and Waiver for Future Improvements to NW Beaver Drive

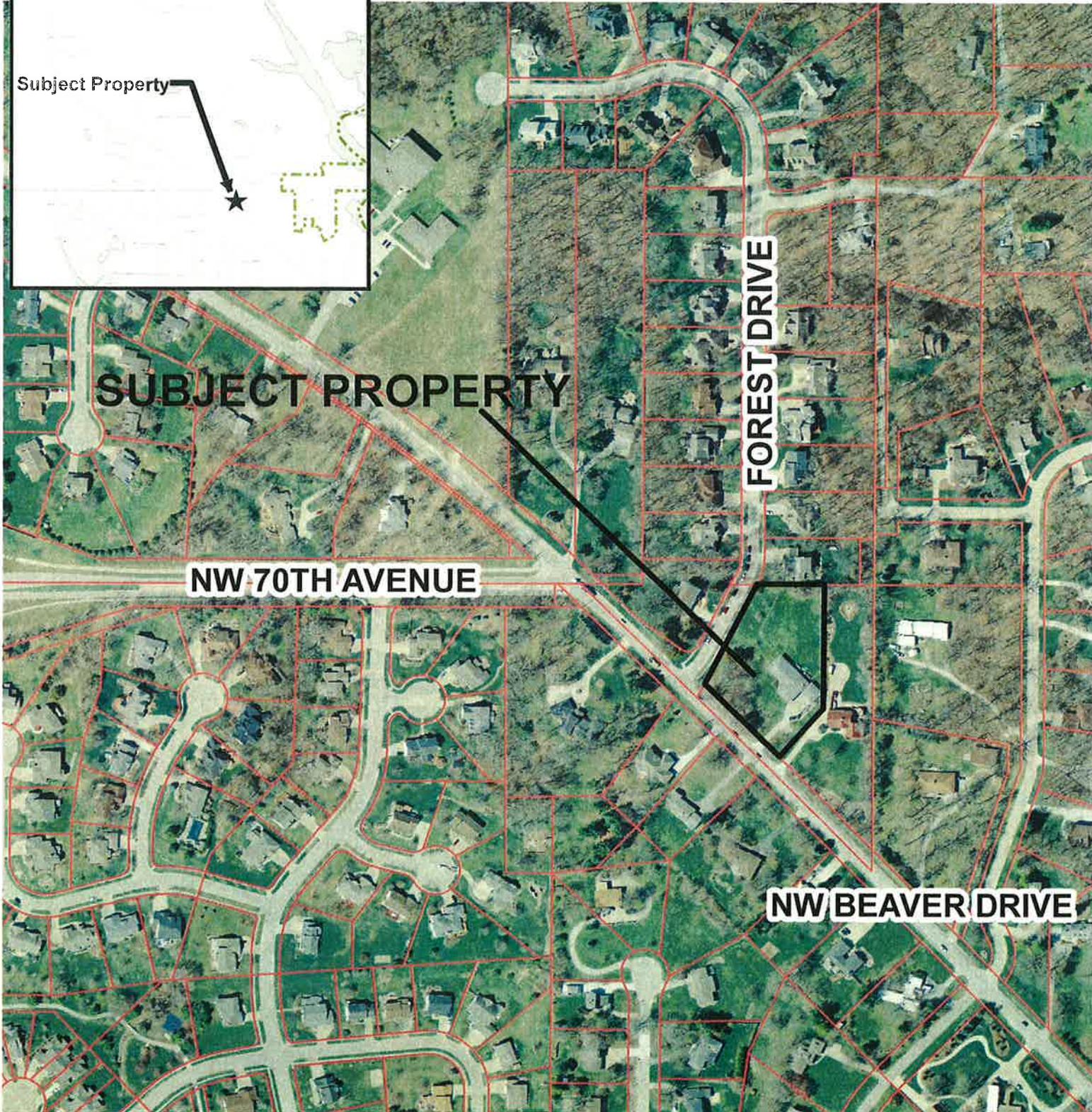
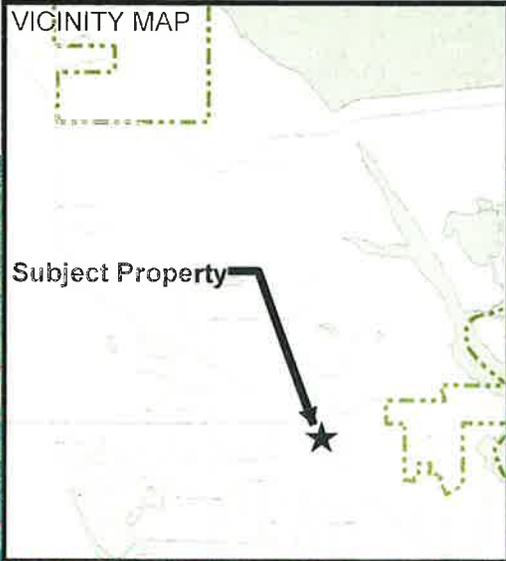
NEIGHBOR COMMENTS:

Prior to the Planning and Zoning Commission meeting a notice of the proposed action was mailed to all property owners within 320 feet of the subject property. A letter addressing concerns from four residents of The Forest subdivision is included in the packet for review. A second letter received from Attorney Michele Brott of the Davis Brown Law Firm (dated January 8, 2016) is also attached. Finally, a communication from Attorney Benjamin Bruner of the Dickinson Law firm representing Art Coons (dated January 11, 2016) is attached to serve as a rebuttal to the letter from

CONSULTANT COMMENTS:

Foth Infrastructure & Environment, LLC has reviewed the Preliminary Plat and Final Plat and have provided comments in their January 27, 2016 letter. Unresolved issues from said review have been incorporated into suggested conditions for approval.

**PZ CASE 15-40  
COONS HEIGHTS PLAT 2 PRELIMINARY & FINAL PLATS**



1 inch = 290 feet

Created by City of Johnston Department of Community Development  
6221 Merle Hay Road, P.O. Box 410, Johnston, IA, 50131-0410 (515)278-2344 Fax:(515)278-2033

Return to:  
Benjamin D. Bruner  
Dickinson, Mackaman, Tyler & Hagen, P.C.  
699 Walnut Street, Suite 1600  
Des Moines, IA 50309

---

(space above line for recording purposes)

**RESTRICTIVE COVENANT  
REGARDING BUILDING TYPE AND SIZE**

This Covenant Regarding Building Type and Size (the “Covenant”) is made, granted and otherwise entered into by ART COONS and SUSAN COONS, husband and wife, (hereinafter collectively referred to as “Coons”);

**WITNESSETH:**

**THAT WHEREAS**, the Coons are the owners of 100% of the fee interest in and to the following described real property located in Polk County, Iowa, to wit:

**Lot Two (2) COONS HEIGHTS PLAT 2, an Official Plat, now included in and forming a part of the City of Johnston, Polk County, Iowa**

(hereinafter referred to as the “Property”); and

**WHEREAS**, Coons has agreed upon certain limitations concerning the type and size of the building that may be constructed on the Property;

**NOW THEREFORE**, for and in consideration of the Covenant contained herein and for other good and valuable consideration Coons agrees:

1. **Covenant on Building Type and Size.** In order to preserve the setting and beauty of the property contained in the Coons Heights Plat 2 subdivision, to establish and preserve a harmonious and aesthetically pleasing design for the same, and to promote the value

of the same, the Property and any and all improvements located therein or thereon shall be subject to the restrictions set forth in this section. Every grantee of any interest in the Property, by acceptance of a deed or other conveyance of such interest, agrees to be bound by the provisions of this section.

- a. Minimum House Size. No building shall be constructed or permitted to remain upon the Property unless it meets the following floor area requirements. Buildings must have a total area of not less than 1,500 square feet which shall include some portion of living space on the ground floor.
- b. Development Approval. Prior to any construction activities owners or builders of the Property must provide the owner of “Lot One (1) COONS HEIGHTS PLAT 2, an Official Plat, now included in and forming a part of the City of Johnston, Polk County, Iowa” (hereinafter referred to as “Lot One Owner”) the building plans and a list of materials for all exterior construction, including decking materials. The commencement of any construction activities and ultimate construction of improvements on the Property is subject to the approval of said plans and materials (including color of materials) by Lot One Owner at his sole discretion.

2. Application. This Covenant is made for the benefit of Lot One Owner as the owner(s) of “Lot One (1) COONS HEIGHTS PLAT 2, an Official Plat, now included in and forming a part of the City of Johnston, Polk County, Iowa”, which is adjacent to the Property, and is enforceable by only Lot One Owner or their successors, or assigns as owners of said property adjacent to the Property.

3. Commencement Date. This Covenant shall be effective as of \_\_\_\_\_ and be governed by Iowa Code Section 614.24.

4. Covenant to Run With Land. This Covenant shall run with the land known as the Property and shall be binding upon the current owners, heirs, successors, assigns, subsequent purchasers or subsequent title holders of the Property. The Covenant shall apply only to and benefit the Lot One Owner, and their heirs, successors, assigns, subsequent purchasers or subsequent title holder. Any other title holder of real property, regardless of whether they own

property adjacent to or nearby the Property, shall have no rights to enforce this Covenant and are not intended beneficiaries hereof.

5. **Remedies for Violation of Covenant.** Lot One Owner shall have the right to sue for and obtain a preliminary and/or permanent injunction and/or restraining order to prevent the breach of or alleged breach of, or to enforce the observance of, the Covenant and/or other provisions of this agreement, and Lot One Owner shall have the right to obtain such relief without oral or written notice to the party in alleged violation of the restrictive covenants and/or other provisions of this agreement and without having to post a bond for such relief. In addition, Lot One Owner shall have the right to bring an ordinary legal action for damages or any additional action available either at law or in equity, and the owner of the Property agrees to waive any defense that this agreement is not valid or not validly entered. Lot One Owner shall be entitled to recover its damages incurred from any breach of the restrictive covenants and/or other provisions of this agreement, including his attorneys' fees, costs and expenses incurred in enforcing the covenants and/or other provisions of this agreement.

6. **Iowa Law Controls; Choice of Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Iowa and any action relating to the covenant and/or other provisions of this Agreement shall be brought in the Iowa District Court in and for Polk County.

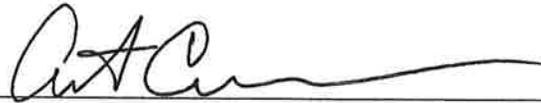
7. **Binding Effect.** If any property that is contemplated by this Covenant and agreement is acquired by deed in lieu of foreclosure or sold under the foreclosure of any mortgage or under the provisions of any deed of trust in the nature of a mortgage, or any judicial sale, any purchaser at such sale, his, her or its grantees, heirs, personal representatives,

successors or assigns shall hold any and all property so purchased or acquired subject to all of this covenant and other provisions set forth in this agreement.

8. **Invalidation**. Any invalidation of this covenant and/or other provisions in this agreement by judgment or court order shall in no way affect any of the other restrictive covenants and/or provisions, which shall remain in full force and effect.

9. **Captions**. The captions of this Covenant and agreement are for convenience only and are not a part of this Covenant and agreement and do not in any way limit or amplify the terms and provisions of this Covenant and agreement and shall have no effect on its interpretation.

**IN WITNESS WHEREOF**, the undersigned has executed this Covenant, as of the day and year first above written.



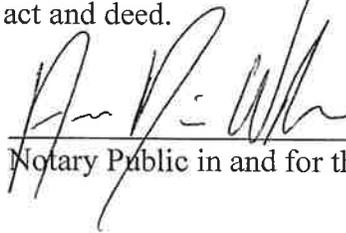
Art Coons



Susan Coons

STATE OF IOWA, COUNTY OF POLK, ss

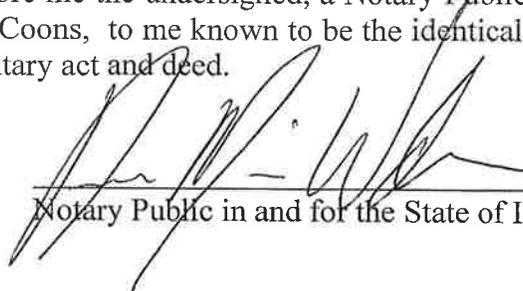
On this 22<sup>nd</sup> day of January, 2016, before me the undersigned, a Notary Public in and for the State of Iowa, personally appeared Art Coons, to me known to be the identical person named in and who executed the same as his voluntary act and deed.



Notary Public in and for the State of Iowa

STATE OF IOWA, COUNTY OF POLK, ss

On this 22<sup>nd</sup> day of January, 2016, before me the undersigned, a Notary Public in and for the State of Iowa, personally appeared Susan Coons, to me known to be the identical person named in and who executed the same as his voluntary act and deed.



Notary Public in and for the State of Iowa

# CITY OF JOHNSTON

Date: 5/31/88

APPEAL FROM DECISION OF ZONING ADMINISTRATOR  
OR  
REQUEST FOR VARIANCE IN ZONING REGULATIONS

CHECK ONE BELOW:

AN APPEAL FROM THE DECISION OF THE ZONING ADMINISTRATOR

A REQUEST FOR A VARIANCE IN ZONING REGULATIONS

IS HEREBY REQUESTED BY:

Art R. Coons  
(NAME/FIRM/CORPORATION)  
6921 NW Beaver Drive 276-6072  
(ADDRESS) (PHONE NO.)

FOR PROPERTY LOCATED AT: 6921 BEAVER

LEGALLY DESCRIBED AS: COONS HEIGHTS LOT 1

APPEAL/VARIANCE SOUGHT: FOR CONST. OF DETACHED GARAGE WITH IN SIDE YARD. GARAGE TO BE 24'X20'

REASON(S) FOR APPEAL/VARIANCE: 1. TO SHARE A COMMON APPROACH AND DRIVE WITH EXISTING GARAGE. 2. LACK OF ACCESS FROM DRIVEWAY DUE TO INCLINE TO REAR YARD. 3. TO RELOCATE GARAGE WOULD REQUIRE APPROX 200' OF NEW DRIVE.

Signature of Appellant: 

\* \* \* \* \*

Date Received: 5/31/88

Fee Paid: \$25.00 Receipt No.: 9277

Reviewed: Municipal Inspector \_\_\_\_\_ Date: \_\_\_\_\_

Zoning Administrator \_\_\_\_\_ Date: \_\_\_\_\_

ASSIGNED AS DOCKET NO. 88-6

FILED: 5/31/88

BOARD OF ADJUSTMENT  
Regular Meeting #88-5  
Wednesday, July 6, 1988

STAFF COMMENTS

BOA Docket #88-6: Art Coons  
6921 NW Beaver Drive  
Variance to construct a detached garage in the side yard.

The variance being sought is to build a detached garage in the side yard in lieu of in the rear yard (as shown on the attached drawing). Staff would recommend that a condition be placed upon the variance (if granted) that the principal building be completed and a final occupancy certificate issued before the permit can be issued for the accessory structure. City ordinance now maintains that a principal structure must exist before any accessory structure on any lot of record.

BOA Docket #88-7: Doug Sires  
6973 Coburn Lane  
Variance to construct an accessory building in other than the rear yard.

The variance being sought is to build an accessory building partially in the side yard as shown in the drawing. The principal building is not set on the lot parallel to the front lot lines. Therefore, the rear was thought, by the owner, to be behind a line that ran parallel to the rear line of the principal building in lieu of the ordinance requirement for establishing the rear yard of the lot which is: at the mid point of the front lot line and at the mid point of the rear lot line there needs to be a core line drawn between these two points from this core line at a ninety degree angle is a horizontal line that extends to the side lot lines at the furthest point of the principal building toward the rear lot line. Everything then between the principal building and the rear lot line is the rear yard. Because of the topo and large trees and the septic system as shown, staff would recommend approval.

JOHNSTON BOARD OF ADJUSTMENT

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IN RE: THE MATTER OF ( ART COONS  
)  
BOA CASE NO. 88-6 ( 6921 NW BEAVER DRIVE

---

Now on this 6th day of July, 1988, the Board of Adjustment convened in open public session at 7:30 p.m. The appellant was represented by Art Coons of 6921 NW Beaver Drive. The City was represented by Ray Briggs, Community Services Director. The Board was present by Wagner, Britson, Hansen, Soldat, Lehman, and Winter constituting a quorum. Johnson was absent.

FINDINGS OF FACT

1. That Art Coons is the owner and has requested a variance for construction of an accessory building within a side yard in lieu of the rear yard.
2. That the variance sought is in an R-1 Zoning District.
3. That the rear yard is encumbered by septic field, preventing a detached garage from being built there.
4. That the rear yard topography constitutes a hardship for construction of an accessory building.

CONCLUSIONS AND DECISION

Under the provisions of Chapter 17.16 of the Johnston Municipal Code and Chapter 414 of the Code of Iowa, the Board, by a vote of 5 to 0 with 1 Pass reaches the following "conclusions" and makes the following decision:

1. The Board has the power under Section 17.16.020 of the Johnston Municipal Code to consider this variance.
2. That Art Coons demonstrated hardship due to encumbrances by the septic field, the topography, and the irregular lot shape, in the rear yard.

Based upon the above "conclusions" the Board decides to grant the variance with the stipulation that Final Occupancy Certificate be issued before issuance of building permit for accessory structure. It is also the Board's duty to advise the appellant that Section 17.16.030 of the Johnston Zoning Regulations allows any person aggrieved by any decision of the Board to present within thirty (30) days a duly verified petition to a court of law specifying grounds as to why he or she thinks the Board's decision illegal from the date of filing in the office of the Board. The date of filing is 7/11/88 or before.

ATTEST:

  
\_\_\_\_\_  
COMMUNITY SERVICES DIRECTOR

  
\_\_\_\_\_  
CHAIRPERSON, BOARD OF ADJUSTMENT

BOARD OF ADJUSTMENT  
NOTICE OF HEARING



NOTICE IS HEREBY GIVEN THAT AN APPEAL/REQUEST HAS BEEN  
FILED WITH THE JOHNSTON BOARD OF ADJUSTMENT BY

Art R. Coons  
(NAME)

6921 NW Beaver Drive  
(PROPERTY LOCATION)

THIS APPEAL/REQUEST HAS BEEN ASSIGNED AS DOCKET NO. 88-6  
SUBJECT OF APPEAL/REQUEST: For construction of detached garage in side  
yard. Garage to be 24' x 26'. Will share common approach and drive with  
existing garage,

A PUBLIC HEARING ON THIS DOCKET WILL BE HELD AT 7:30 P.M. ON  
July 6, 19 88, AT JOHNSTON CITY HALL,  
6221 MERLE HAY ROAD, JOHNSTON, IOWA.

ANYONE WISHING TO COMMENT ON THIS APPEAL/REQUEST SHOULD ATTEND  
THIS HEARING OR SUBMIT WRITTEN COMMENT TO THE ZONING ADMINISTRATOR  
IN CARE OF JOHNSTON CITY HALL.

BY ORDER OF  
JOHNSTON BOARD OF ADJUSTMENT

NOTICE PREPARED: 6/13/88  
PROVIDED APPELLANT: 6/15/88  
MAILED TO SURROUNDING OWNERS: 6/15/88  
POSTED: 6/15/88  
PUBLISHED: 6/15/88  
FILED: 5/31/88

*WHERE THE GOOD LIFE IS CLOSE AT HAND*

P.O. BOX 410 • 6221 MERLE HAY ROAD • JOHNSTON, IOWA 50131 • (515) 278-2344

PROPERTY OWNER	LEGAL DESCRIPTION
Arther & Susan Coons 6921 Beaver Drive Johnston, IA 50131	Lot 1, Coons Heights
<b>SURROUNDING PROPERTY OWNERS</b>	
R & R Development Rural Route 1 Johnston, IA 50131	N 640F S 660F Lt 11 OP E 1/2 SW 1/4 and SW 1/4 SW 1/4 Sec 31-80-24
Eugene & Thelma Long 7005 NW Beaver Drive Johnston, IA 50131	Ex N 427F and Ex S 20F E 1/2 Lt 7 OP E 1/2 SW 1/4 and SW 1/4 SW 1/4 Sec 31-80-24
Marjean J. Wegner 7019 NW Beaver Drive Johnston, IA 50131	Ex N 427F & Ex S 20F W 1/2 Lt 7 OP E 1/2 SW 1/4 & SW 1/4 SW 1/4 Sec 31-80-24
Polk County Tax Sale 5895 NE 14th Street Des Moines, IA 50313	S 20F 1yg E of Hwy Lt 7 OP E 1/2 SW 1/4 & SW 1/4 SW 1/4 Sec 31-80-24
R & R Development	S 20F Lt 11 OP E 1/2 SW 1/4 & SW 1/4 SW 1/4 Sec 31-80-24
Robert & Elizabeth Wych 5220 NW 70th Place Johnston, IA 50131	Lt 20, Wildernest
Benson & Marilyn Ashmead 6885 NW Beaver Drive Johnston, IA 50131	Lt 3, Coburn Heights
Russel & Jeanne Gerke 6915 NW Beaver Drive Johnston, IA 50131	Lt 4, Coburn Heights
Brad Mock & Pat Martin 6980 NW Beaver Drive Johnston, IA 50131	Ex Tri Pc In NW Cor Lt 5, Coburn Heights
Charles & Betty Ann Iler 6960 NW Beaver Drive Johnston, IA 50131	Lot 6, Coburn Heights Lot 7, Coburn Heights
Robert Soldat 6940 NW Beaver Drive Johnston, IA 50131	Lot 8, Coburn Heights Lot 9, Coburn Heights
Billy & Jeanette Brown 6910 NW Beaver Drive Johnston, IA 50131	Lot 10, Coburn Heights
Jack & Mary Davis 5425 NW 60th Avenue Johnston, IA 50131	Lot 2, Coons Heights
R & R Development	Ex Beg NE Cor then S 605.88F NW 523.32F NW 275.25F to Pt on N Ln Thn E 250F to POI Lt 8 OP NE $\frac{1}{4}$ NW $\frac{1}{2}$ Less .259 A RD Sec 6-79-24

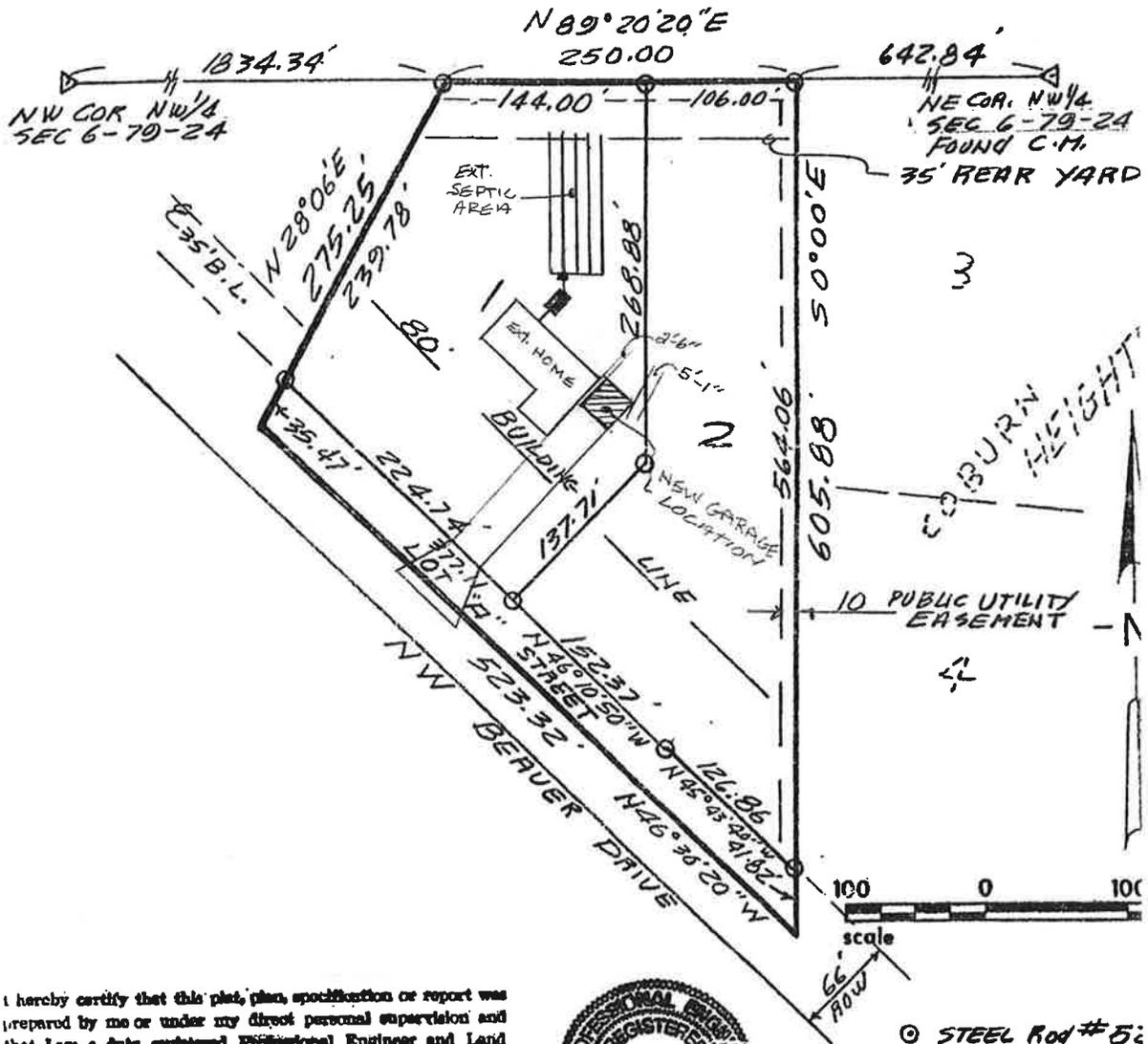
# COONS HEIGHTS

## FINAL PLAT

### LEGAL DESCRIPTION

All that part of Lot 8 in the Official Plat of the Northeast Quarter of the Northwest Quarter of Section 6, Township 79 North, Range 24 West of the 5th P.M., Polk County, Iowa described as follows:

Beginning at the Northeast corner of Lot 8 in the Official Plat of the Northeast Quarter of the Northwest Quarter of Section 6, Township 79 North, Range 24 West of the 5th P.M., Polk County, Iowa; thence S 0°00'E 605.88 feet to the Southeast corner of Lot 8; thence N 46°30'20"W 523.32 feet along the southerly line of Lot 8; thence N 28°06'E 275.25 feet to a point on the North line of Lot 8; thence N 89°20'20"E 250.00 feet to the point of beginning containing 3.33 acres.



I hereby certify that this plat, plan, specification or report was prepared by me or under my direct personal supervision and that I am a duly registered Professional Engineer and Land Surveyor, under the laws of the State of Iowa.

Signed D. M. Piagentini Date 5-12-87  
 D. M. PIAGENTINI, P. E. & L. S. Iowa Reg. No. 6228



© STEEL Rod # 52

Associated Engineering Company of Iowa

2917 HARDING ROAD - DES MOINES, IOWA 50310

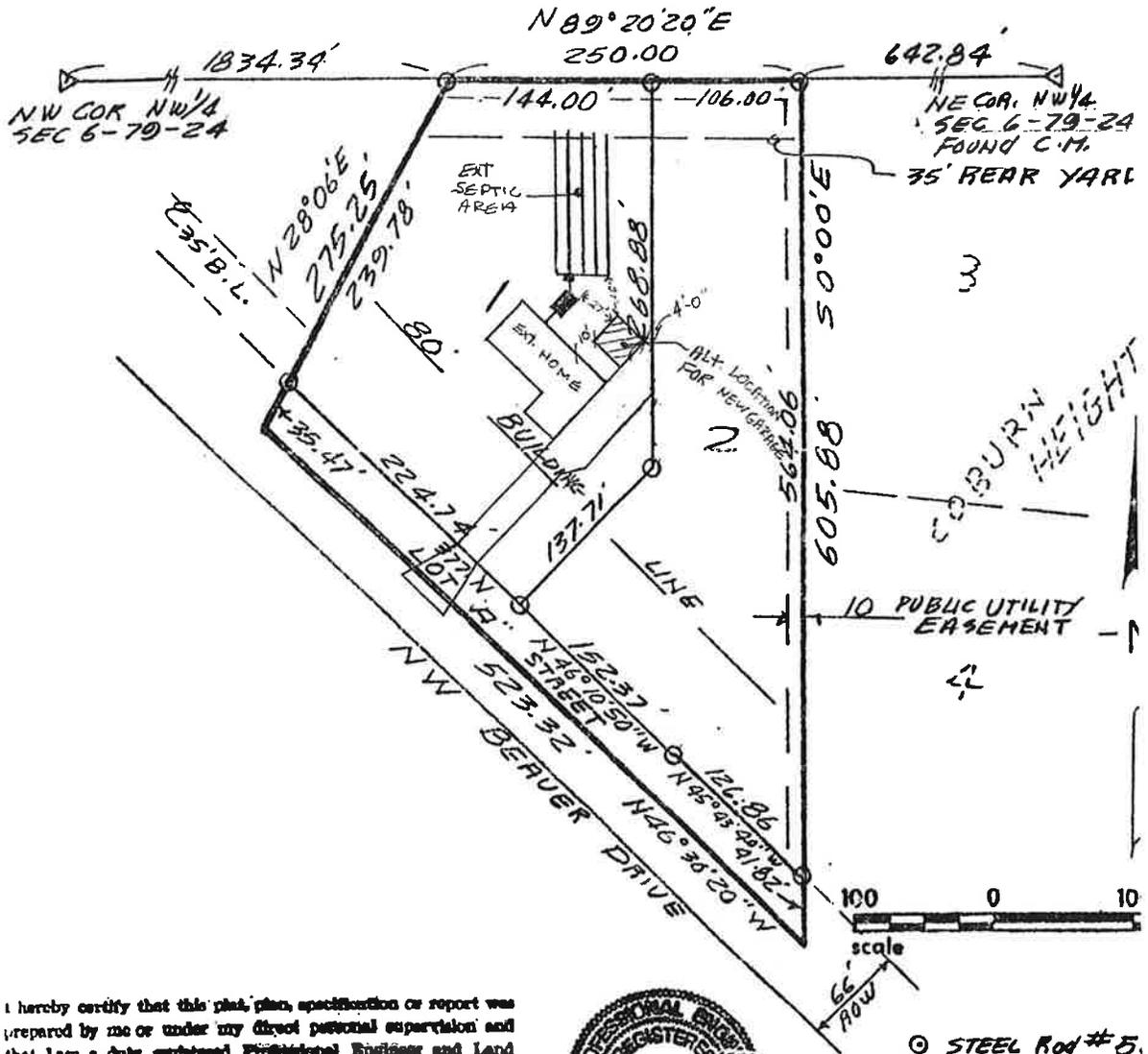
# COONS HEIGHTS

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I hereby certify that this plat, plan, specification or report was prepared by me or under my direct personal supervision and that I am a duly registered Professional Engineer and Land Surveyor, under the laws of the State of Iowa.

Signed D. M. Piagentini Date 5-12-1987  
 D. M. PIAGENTINI, P. E. & L. S. IOWA REG. NO. 6228



© STEEL ROD # 5.

Associated Engineering Company of Iowa

2917 HARDING ROAD - DES MOINES, IOWA 50310

- C. Accessory Buildings. No accessory building shall be constructed upon a lot until the construction of the main building has been actually commenced, and no accessory building shall be used if the main building has been unused for a period of six (6) months or longer.

No accessory building shall be erected in any required yard other than a rear yard, except as provided hereinafter. Accessory buildings in rear yards shall be at least five (5) feet from alley lines; and at least two (2) feet from lot lines adjoining lots which are in any "R" District, and on a corner lot they shall conform to the setback regulations on the side street. Accessory buildings may be erected as a part of the principal building, or may be connected thereto by a breezeway or similar structure, provided all yard requirements for a principal building are complied with. Except as hereinafter provided, an accessory building which is not a part of the main building shall not occupy more than thirty (30) percent of the rear yard and shall not exceed twelve (12) feet in height. This regulation shall not be interpreted to prohibit the construction of a four hundred forty (440) square foot garage on a minimum rear yard and the additional side and rear yard requirements for accessory buildings in R1-A Districts.

No accessory building shall be constructed upon a lot until the construction of the main building has been actually commenced, and no accessory building shall be used unless the main building on the lot is also being used.

- D. Corner Lots. For corner lots, platted or of record after the effective date of this ordinance, the front yard regulation shall apply to each street side of the corner lot.

On corner lots platted or of record as of the effective date of this title, the side yard regulation shall apply to the longer street side of the lot except in the case of reverse frontage where the corner lot faces an intersecting street. In this case, there shall be a side yard on the longer street side of the corner lot of not less than fifty (50) percent of the front yard required on



January 27, 2016

Aaron Wolfe  
Senior Planner  
City of Johnston  
P.O. Box 410  
6221 Merle Hay Road  
Johnston, IA 50131

RE: Coon Heights Plat 2  
Development Review No. 3  
Case No. PZ 15-40

Foth Infrastructure and Environment, LLC has completed a review of the Preliminary and Final Plat dated January 19, 2016 for the above referenced project. Based on our review of project reference above, the following comments are offered:

**Preliminary Plat**

1. Applicant shall show sanitary sewer service design information for lot 1 including proposed invert elevations and pipe slope.
2. Provide cleanouts along service lines and reduce angle of 90° bend on service to lot 2.
3. Center sanitary services within 40' sanitary sewer easement to move services back from ROW.
4. Specify type of water service connection to existing main for lot 2.
5. Display location of curb stop for proposed water service for lot 2.
6. Provide tree inventory for any trees in area of water and sanitary services that might be affected.
7. Display existing water service to lot 1.

**Final Plat**

8. No further comments.

Please contact me at 515.251.2564 if you have questions or comments.

Sincerely,

**Foth Infrastructure & Environment, LLC**

A handwritten signature in black ink, appearing to read "Joshua C. DeBower".

Joshua C. DeBower  
Lead Civil Engineer

jcd:mms3



MEMORANDUM  
City of Johnston, Iowa

---

DATE: December 22, 2015

TO: Art Coons, Owner / Applicant  
Associated Engineering, Consultant

FROM: Aaron Wolfe, Senior Planner

RE: **Coons Heights Plat 2 Preliminary and Final Plats**

We have reviewed the preliminary and final plats for Coons Heights Plat 2 and note the following:

**Lot Configuration**

1. Subdivision of this property, as proposed would shift the rear yard setback for Lot 1 to the east property line. As such, this would cause the house on Lot 1 to become a legally non-conforming land use since the building would be partially inside the required 40 foot rear yard setback. The zoning ordinance prohibits the subdivision of land that will create a nonconforming land use. This issue will need to be resolved prior to the plat proceeding through the review/approval process.

**Preliminary Plat**

1. Include a vicinity sketch.
2. Include the names of adjacent property owners.
3. The following is the address for Lot 2 and should be listed on the preliminary plat: 7001 Forest Drive.
4. Show existing utilities that Lot 2 will connect into and their size.
5. Indicate Lot 2 connections for water and sanitary sewer into the existing systems and their size.
6. Provide a note regarding who's responsible for installation of utilities to Lot 2 and when they'll be constructed.
7. Indicate fire hydrant coverage area. Hydrants shall be separated by no less than 100 feet and have a 300 foot coverage radius.
8. Indicate all building setback lines (front, side, and rear yard).
9. Please see additional comments on the preliminary plat as provided by Foth Infrastructure and Environment, LLC.

### **Final Plat**

1. Include the names of adjacent property owners.
2. The following is the address for Lot 2 and should be listed on the final plat:  
7001 Forest Drive.
3. Provide a note regarding who's responsible for installation of utilities to Lot 2.
4. Indicate all building setback lines (front, side, and rear yard).
5. A petition and waiver for future NW Beaver Drive improvements must be submitted prior to council approval of the final plat. A copy of the petition and waiver will be provided by the City.
6. Please see additional comments on the final plat as provided by Foth Infrastructure and Environment, LLC..

The legal documents listed below must be received by City staff and the City attorney for review at least six (6) working days prior to the City Council meeting that the item will be taken up at:

1. Attorney's Title Opinion
2. Polk County Treasurer's Tax Certificate
3. Owner(s) Consent to Plat
4. Lender(s) Consent to Plat (if mortgage on the property)

**This project is scheduled for a development review meeting on Wednesday, December 23<sup>rd</sup>, 2015 at 1:30 P.M.** The meeting will be held at Johnston City Hall Community Development Department. Four full size copies of revised final plat, four 11 x 17 inch reductions and a PDF version of the final plat must be submitted by Wednesday, December 30<sup>th</sup>, 2015 in order to proceed to the Planning and Zoning Commission on Monday, January 11<sup>th</sup>, 2016 and to the City Council on Monday January 19<sup>th</sup>, 2016. In order for the item to proceed to the January 19<sup>th</sup> City Council meetings, all of the noted legal documents will need to be submitted by Friday, January 8, 2016. Prior to the above noted meetings, a notice will be sent to adjacent properties regarding the proposed replatting.

If you have any questions, please contact me at 727-7766 or by email at [awolfe@cityofjohnston.com](mailto:awolfe@cityofjohnston.com).

cc: Josh DeBower, Foth  
David Wilwerding, Community Development Director  
Clayton Ender, Planning Intern

PETITION AND WAIVER

THIS AGREEMENT made and entered into by and between the City of Johnston, Iowa, hereinafter called the CITY, and the undersigned property owners in said City, hereinafter called the PROPERTY OWNERS, WITNESSETH:

WHEREAS, the City proposes to construct certain public improvements ("improvements") in said City; and

WHEREAS, the undersigned Property Owners desire that the improvements be constructed to benefit their respective properties and that special assessments be levied against their property as hereinafter described opposite their names. The general description and location of said improvements being as follows:

NW Beaver Drive Improvements adjacent to the south-west boundary of *Coons Heights Plat 2*. The assessable improvements would include a standard thirty-one foot local street, drainage improvements up to a 12" diameter pipe, a four-foot sidewalk, proportionate share of engineering and administration and proportionate depth of pavement (depth 7").

The properties to be assessed are described as follows:

Lot 1 and Lot 2 Coons Heights Plat 2

NOW, THEREFORE, BE IT AGREED AMONG THE PARTIES HERETO AS FOLLOWS:

As soon as practicable the City shall have the right to cause the above described improvements to be constructed in accordance with such plans and specifications as it shall deem appropriate. The construction of said improvements shall be under the supervision of an engineer to be selected by the City.

For the purpose of this Agreement, the City may elect to enter into one or more contracts for the construction of said improvements as a part of any contract for a public improvement project entered into prior to the receipt of this instrument as authorized by Section 384.41(2) of the City Code of Iowa.





**PLANNING & ZONING COMMISSION**

City of Johnston  
 6221 Merle Hay Road, Johnston, IA 50131

Minutes  
 Regular Meeting: Monday, January 11, 2016

**AGENDA**

**1. Call to Order**

Chairman Petersma called the meeting to order at 7:00 p.m.

**2. Roll Call**

	Spencer	Severino	Johnson	Smith	Whitaker	Petersma	Anderson
<b>Present</b>	X	X	X	X	X	X	X
<b>Absent</b>							

**City Staff Present:** David Wilwerding, Aaron Wolfe, Clayton Ender

**3. Approval of Agenda**

Petersma called for a vote to approve the agenda.

	Spencer	Severino	Johnson	Smith	Whitaker	Petersma	Anderson
<b>Aye</b>	X	X	X	X	X	X	X
<b>Nay</b>							
<b>Abstain</b>							

**4. Approval of Meeting Minutes:** Regular Meeting of November 30, 2015

Petersma called for a vote to approve the minutes of November 30, 2015.

**Roll Call Vote:**

	Spencer	Severino	Johnson	Smith	Whitaker	Petersma	Anderson
<b>Aye</b>	X	X	X	X	X	X	X
<b>Nay</b>							
<b>Abstain</b>							

**5. PZ Case No. 15-41; Crosshaven Outlots Plat 2;** The applicant, Hubbell Properties I, L.C. proposes to subdivide a 58.36 acre parcel into 3 unbuildable outlots to facilitate a 1031 property exchange. The subject property is located east of NW 100<sup>th</sup> Street and north of Little Beaver Creek.

Wilwerding presented the staff report.

Motion by Anderson, second by Spencer to approve PZ Case No. 15-41, the Final Plat for Crosshaven Outlots Plat 2, subject to the following conditions:

1. The project shall conform to the requirements, standards and regulations of the City of Johnston.
2. Submission of all final plat documentation to City's Staff and Attorney, for review and approval, must occur six (6) working days prior to the City Council's regular meeting.

**Roll Call Vote:**

	Spencer	Severino	Johnson	Smith	Whitaker	Petersma	Anderson
<b>Aye</b>	X	X	X	X	X	X	X
<b>Nay</b>							
<b>Abstain</b>							

**6. PZ Case No. 15-40; Coons Heights Plat 2, Preliminary and Final Plats;** The applicant, Art Coons, has submitted a Preliminary and Final Plat to subdivide 1.49 acres at the NE corner of NW Beaver Drive and Forest Drive.

Wolfe presented the staff report. Wolfe noted public correspondence was received which is included in the meeting packet, and further noted additional correspondence between staff and neighboring properties and from Mr. Coons attorney, Ben Bruner, were provided on the dais prior to the meeting.

Art Coons, 6921 NW Beaver Drive, the applicant, indicated he did not wish to make any comments.

Larry Gulleen, 7050 Forest Drive, believes there are positives to having a lot subdivided here, but noted concerns after the process of the last year and a half. Specifically, Mr. Coons has noted previously that if he couldn't build an accessory building he would build a large garage with a small rental unit, which causes concerns. Mr. Gulleen noted several provisions outlined in the January 8, 2016 letter from Michele Brott. Mr. Gulleen provided a copy of the 1988 Board of Adjustment application in which Mr. Coons was granted a variance for a garage in the side yard. Mr. Gulleen stated that the existing accessory building is a trespass because the eave overhangs the neighbor's property that needs to be resolved prior to a subdivision action.

Petersma inquired how a non-conforming structure could impact a subdivision action. Gulleen responded that it is there attorney's opinion it has to be addressed prior to a subdivision.

Jack Davis, 6917 NW Beaver Drive, stated they are the adjoining owner affected by the non-conforming structure and they would like it addressed, but have never proceeding with legal proceedings to address it.

Art Coons stated that he previously owned the property where the Davis's now live, and they have never addressed him wanting to remedy the situation, which is approximately an 8 inch eave overhang on one corner of the garage. He is willing to remedy the situation; however, their driveway also encroaches on his property, which he would expect to also be addressed.

Mr. Gulleen stated their desire for a minimum square footage requirement for a single family home on Lot 2, at a minimum, but the preference would be to incorporate this lot into the existing Forest Drive covenants so those property owners could enforce them. Mr. Gulleen noted that the original Board of Adjustment information showed the septic leach field in an area which is very different than what is shown on the preliminary plat and he believes it is actually outside of the easement area. Mr. Gulleen requested the Commission delay action on the plat until the eave issue is resolved, include a recommendation on the minimum house size on Lot 2 and make sure the septic tank leach field location is addressed.

Wolfe stated that proposed condition # 4 references the notes on the plat which would require both lots to connect to the sanitary sewer system when the new structure connects on Lot 2.

Matt Bednar, 7011 Forest Drive, noted that the Board of Adjustment action affirmed the 35 foot setback along the north property line of the Coons property that action could have been challenged by Mr. Coons but was not so is now final.

Mr. Coons noted that the 35 foot setback line doesn't pertain to this plat, noting it was required at the time because a road was originally envisioned along the north side of his property and the City required a 35 foot setback.

Wolfe clarified that setbacks can change when properties are replatted and the case law cited in the Brott letter were reviewed by the City's Attorney's and they did not find them to be applicable. Wolfe clarified the 1988 Board of Adjustment action was to allow an accessory building in the side yard, but did not specify a specific distance the structure had to be from the property line. A two foot side yard setback was permitted at that time.

Anderson inquired about the covenants issue. Wolfe clarified that the City has never required covenants to be put into place requiring a minimum house size, but the subdivision regulations do permit covenants to be required.

Mr. Gulleen noted that when the variance was granted the site plan showed a 5 foot setback, and now this is an issue of trespass laws, that needs to be addressed and further covenants are needed to prevent against Mr. Coons threat to build a large garage with an apartment.

Mary Davis, 6917 NW Beaver Drive, indicated she's the lot owner to the east where the existing garage overhangs their property line. The garage was there when they built their house, but they weren't aware of the issue.

Petersma closed the public comment period at 7:53 p.m.

Severino noted that much of the information was received late, so case law couldn't be reviewed, so he is relying on the advice of the City Attorney. Severino stated that is a sad situation where people are trying to get one up on one another, but he doesn't believe the Commission has the authority to stop a plat that meets all of the City's requirements.

Smith noted her agreement with Severino's statement. Smith doesn't believe the trespass issue is something that is within the authority of the Commission. Whitaker concurred with Severino and Smith's statements.

Motion by Smith, second by Whitaker to approve PZ Case 15-40, the Preliminary and Final Plats for Coons Heights Plat 2 subject to the following conditions:

1. The project shall be in conformance and in accordance with the requirements, standards and regulations of the City of Johnston, and any other requirement of state or federal law or administrative rule.
2. Submission of all Final Plat documentation to City's Staff and Attorney, for review and approval, must occur six (6) working days prior to the City Council's regular meeting.
3. Prior to Council approval of the Final Plat the applicant shall submit a petition and waiver for future NW Beaver Drive improvements.
4. Lots 1 and 2 are required to connect to sanitary sewer, the timing and installation of which is detailed on the plat.
5. The Preliminary Plat shall be amended to address the following items:
  - a. Indicate the location and size of existing sanitary sewer on NW Beaver Drive and means/method of connecting to such.
  - b. Address all outstanding comments provided by Foth Infrastructure & Engineering, LLC. in their letter dated January 8, 2016.

Petersma moved to amend the motion to add condition # 6, requesting the City Council strongly consider establishing a minimum square footage requirement and other aesthetic characteristics deemed appropriate to ensure the single family home on the proposed Lot 2 matches the character of the neighborhood. Seconded by Smith.

Johnston noted concern that such a requirement could be considered spot zoning and that would be a concern.

**Roll Call Vote on the Motion to Amend:**

	Spencer	Severino	Johnson	Smith	Whitaker	Petersma	Anderson
<b>Aye</b>				X		X	X
<b>Nay</b>	X	X	X		X		
<b>Abstain</b>							

Petersma noted the motion to amend failed.

**Roll Call Vote on the Original Motion:**

	Spencer	Severino	Johnson	Smith	Whitaker	Petersma	Anderson
<b>Aye</b>	X	X	X	X	X	X	X
<b>Nay</b>							
<b>Abstain</b>							

**7. Other Business.**

Johnson requested that the staff allow time at a future Commission meeting to discuss minimum building requirements, house sizes, architectural requirements, etc. to determine if these are items that should be considered to be added to the Zoning Ordinance.

**8. Adjournment.**

Meeting adjourned at 8:13 PM.

---

**Chair**

---

**Secretary**

## Notice of Public Meeting

January 13<sup>th</sup>, 2016

The Johnston City Council will hold a Public Meeting at 7:00 p.m. on **Tuesday, February 2<sup>nd</sup>, 2016**. This meeting will be held in the Council Chambers of Johnston City Hall, 6221 Merle Hay Road to consider the following item:

### **PZ Case No. 15-40; Coons Heights Plat 2 Preliminary & Final Plat**

The applicant, Art Coons has submitted a preliminary plat & final plat for the subdivision of 1.49 acres at the NE corner of NW Beaver Drive and Forest Drive. The site is zoned R-1(100), Single Family Residential.

If you have questions or comments on the above-described action, please contact the city staff person listed below, or attend the meeting at the above-listed date and time. Additional information, including the preliminary & final plat is also available at <http://www.cityofjohnston.com/index.aspx?nid=435>.

**Aaron Wolfe, Senior Planner**  
Johnston City Hall; 6221 Merle Hay Road; Johnston, IA 50131  
Phone: 727-7766; Email: [awolfe@cityofjohnston.com](mailto:awolfe@cityofjohnston.com)

OWNER	ADDRESS	CITY, STATE, ZIP
WHITEY STANGE	7020 FOREST DR	JOHNSTON, IA, 50108
RICHARD GRADOVILLE	5220 NW 70TH PL	JOHNSTON, IA, 50109
KRISTINE FLYNN	5271 NW 70TH PL	JOHNSTON, IA, 50110
SHANE VER STEEG	7031 FOREST DR	JOHNSTON, IA, 50111
THOMAS EVANS	7005 NW BEAVER DR	JOHNSTON, IA, 50112
POLK COUNTY	5885 NE 14TH ST	JOHNSTON, IA, 50113
GREGORY CERASO (TRUSTEE)	7030 FOREST DR	JOHNSTON, IA, 50114
MARK YOCUM	7021 FOREST DR	JOHNSTON, IA, 50115
KRISTINE FLYNN	5251 NW 70TH PL	JOHNSTON, IA, 50116
NANCY KNAPP (TRUSTEE)	5221 NW 70TH PL	JOHNSTON, IA, 50117
DANIEL HANNAN	7041 FOREST DR	JOHNSTON, IA, 50118
RUSSEL GERKE	6915 NW BEAVER DR	JOHNSTON, IA, 50119
BILLY BROWN	6910 NW BEAVER DR	JOHNSTON, IA, 50120
BRUCE ILER	6960 NW BEAVER DR	JOHNSTON, IA, 50121
RICHARD GRADOVILLE	5220 NW 70TH PL	JOHNSTON, IA, 50122
JACK DAVIS	6917 NW BEAVER DR	JOHNSTON, IA, 50123
BENSON ASHMEAD	6885 NW BEAVER DR	JOHNSTON, IA, 50124
MARY ELLEN ANDERSON	7000 FOREST DR	JOHNSTON, IA, 50125
ARTHUR SLUSARK	7010 FOREST DR	JOHNSTON, IA, 50126
BRAD MOCK	6980 NW BEAVER DR	JOHNSTON, IA, 50127
BRUCE ILER	6970 NW BEAVER DR	JOHNSTON, IA, 50128
MATTHEW BEDNAR	7011 FOREST DR	JOHNSTON, IA, 50129
LISA SOLDAT (TRUSTEE)	6940 NW BEAVER DR	JOHNSTON, IA, 50130
LARRY GULLEN	7050 FOREST DRIVE	JOHNSTON, IA, 50131
LARY ANDERSON	7040 FOREST DRIVE	JOHNSTON, IA, 50132

December 15, 2015

David,

Again, thank you for continuing to keep us abreast of the applications and actions taken on the property at 6921 NW Beaver Drive. In general we see the application to subdivide as having potentially positive impact on our situation. That, of course, depends on how the new lot is ultimately used.

In looking at the application, we would like the City to consider the following items in its deliberations:

1. We are most concerned with the nature of any residence that would be built on this lot. Last year, Mr. Coons told us about his thoughts on a potential subdivision of his property. He said he would consider subdivision of the property if he could not build his desired accessory structure on his current property. He threatened to subdivide his lot and build a multiple stall garage with a residential rental property on the second story. This, of course, would not be acceptable to us.

City Code paragraph 180.39 states:

**CHARACTER OF DEVELOPMENT. *The Council*** shall have the right to agree with the subdivider regarding the type and character of development that will be permitted in the subdivision, and ***may require that certain minimum regulations regarding this matter be incorporated in deed restrictions. Such regulations shall be intended to protect the character and value of the surrounding development and shall also tend to secure the most appropriate development of the property being subdivided (emphasis added).***

Our subdivision includes the frontage land that the new homeowner must cross for access from Forest Drive. The house number will likely be within our subdivision numbering system. We would like the new property be required to submit to the Forest Drive covenants for construction of a home. Such covenants serve to improve the value of the lot. They protect the value of our homes and, in fact, will protect the value of Mr. Coons' home as well. Alternatively, a simple requirement that a single story home have at least 2,000 square feet of living space and a two story home have at least 2,700 square feet of living space (with minimum of 1,350 square feet of living space on the first floor) would be representative of the neighborhood, including Coons Heights. A third option would be to have this property would now be contained in two plats (Coons Heights and Forest Drive) replatted into the single Forest Subdivision, where the covenants would apply naturally. As we have shown, it is well within the law for these types of covenants to be required by the City when property values may be impacted.

We believe these issues must be addressed before the application proceeds to the Planning and Zoning Commission.

3. We would note that there is no engineer's signature and seal on the application and proposed plat. We believe that a signed and sealed survey is required before the application can be considered. Also, side yard and rear yard setbacks are not shown.
4. In particular, the 35' setback from the Bednar property is not on the proposed plat. The setback was originally created in favor of Mr. Coons. That setback was relied upon by the Bendars when they purchased their house, and therefore the setback is binding. This legal position was upheld as a proper building setback line by action of the Board of Adjustments. No court challenge was completed by Mr. Coons in the allotted timeframe. Because the setback line was originally created in Mr. Coons's favor and relied upon by the Bednars, the City should not legally be allowed to nullify it.
5. As far as the current septic system,
  - We believe the new lot line, coupled with septic system siting requirements will encroach upon the current septic lateral field. That would mean that Mr. Coons will need to connect to the City Sewer system.
  - Also, we understand that there is a new law that requires septic system inspection upon transfer or sale of property. This law may apply here should Mr. Coons attempt to maintain his current septic field.
  - We believe that there may be a requirement that Mr. Coons pay for the sewer hookup fee on the new property to accomplish this subdivision of his property.
6. We believe that any new lot must comply with the grading requirements of section 145 of the code, including storm water control.
7. We think that it would be beneficial to have the new lot be named 7001 Forest Drive, in keeping with our numbering system. Again, this property will appear to be part of the Forest Drive development.

We would like to be kept informed on any developments in this filing. Thank you again for your help and consideration.

Respectfully,

Larry Gulleen	Jeff & Mary Ellen Anderson	Matt and Mary Bednar	Larry Anderson
7050 Forest Dr.	7000 Forest Drive	7011 Forest Drive	7040 Forest Drive
Johnston, IA	Johnston, IA	Johnston, IA	Johnston, IA



REPLY TO DES MOINES OFFICE

January 8, 2016

Via Email: [Tim@ladenpearsonlaw.com](mailto:Tim@ladenpearsonlaw.com)

Mr. Tim Pearson  
Johnston City Attorney  
LADEN AND PEARSON, P.C.  
3231 E. Euclid Avenue  
Suite 300  
Des Moines, IA 50317

RE: Proposed Subdivision of Coons Heights

Dear Tim:

As you know, I represent a variety of Johnston residents, specifically Dr. and Mrs. Matthew and Mary Bednar and Dr. and Mrs. Jeff and Mary Ellen Anderson. I have been provided with information regarding a proposed development at the entryway of the Forest Development. My clients, along with their neighbors, have provided the City with their concerns.

As my clients and their neighbors pointed out, there is a concern with the continued trespass by virtue of the illegal overhang of the detached garage on the Coons' current property. While the City may or may not have had code provisions in place in 1988 regarding overhangs, property lines and trespass laws have not changed. The overhang is a continuing trespass and should not be deemed conforming. Such a declaration is tantamount to the City sanctioning this continuing trespass. I understand there was a variance in 1988. The variance, BOA Case number 88-6, does not grant a taking of the adjoining neighbor's land. Rather, the variance is plainly limited and speaks to location of the detached structure. Accordingly, variance or not, the trespass is non-conforming.

Also missing from the proposed subdivision is the 35' setback along the Bednar property. As previously discussed, this setback was relied upon in the development and sale of the adjoining property, and is therefore an enforceable right by adjoining neighbors; such a right survives subsequent sales. Gray v. Osborn, 739 N.W.2d 855, 860 (Iowa 2007); Middle Road Developers v. Windmill Design & Develop., 746 N.W.2d 279, 2008 WL 141658, at \*3 (Iowa Ct. App. 2008) ("The recent case of Gray v. Osborn makes it *clear* that the plat map alone can provide the necessary language to bind successive owners of real estate to restrictions or limitations on its use.").

Further, planned expansion requires critical assessment of any purposed development. The plans should bear an engineer's stamp and approval for several reasons, but one of the most

DAVIS BROWN KOEHN SHORS & ROBERTS P.C.

PHONE 515.288.2500  
FIRM FAX 515.243.0654  
WWW.DAVISBROWNLAW.COM

THE DAVIS BROWN TOWER, 215 10<sup>TH</sup> ST., STE. 1300, DES MOINES, IA 50309  
THE HIGHLAND BUILDING, 4201 WESTOWN PKWY., STE. 300, WEST DES MOINES, IA 50266  
THE AMES OFFICE, 2605 NORTHRIDGE PKWY., STE. 101, AMES, IA 50010  
THE EMMETSBURG OFFICE, 2214 MAIN ST., P.O. BOX 314, EMMETSBURG, IA 50536

important is water and flooding concerns. Runoff is a common concern in central Iowa and changing topography necessarily changes runoff and water collection. Flooding is a devastating and expensive issue for homeowners. What is the plan for grading and water runoff?

Also, as a part of planned expansion, the City Code empowers the City Council to protect Johnston residents through section 180.39. This section empowers the City Council to keep accountability on developers and subdivisions. Certainly, Johnston wants to continue its place in the greater Des Moines area as an appealing suburb where home values are secure investments. Allowing a rental unit on top of a garage into an existing development will undercut property values, without question. It is, without a doubt, a garage in disguise. The City has an obligation to protect property values from the devastating impacts of unplanned expansion, and section 180.39 does exactly that.

In that vein, the protection of the character suggests that the primary structure on the proposed subdivision should be in line with neighborhood. To be in line with the neighborhood, the structure should be something more than an apartment. My clients have suggested a square footage minimum. Such a requirement is certainly permitted by section 180.39 and would serve to protect the neighborhood's property values by maintaining character, resell potential and property taxes.

My clients appreciate your attention to these very important matters.

Very truly yours,

DAVIS, BROWN, KOEHN, SHORS & ROBERTS, P.C.

A handwritten signature in cursive script, appearing to read "Michele L. (Warnock) Brott".

Michele L. (Warnock) Brott

**From:** Bruner, Benjamin D.  
**Sent:** Monday, January 11, 2016 12:49 PM  
**To:** 'awolf@ci.johnston.ia.us'  
**Cc:** 'acoons@q.com'  
**Subject:** Art Coons - P&Z Commission Subdivision Item (1/11/16)

Aaron-

Mr. Coons asked me to forward my comments to you prior to tonight's P&Z meeting on his subdivision plat. My quick comments to Ms. Warnock's (counsel for neighbors) letter are as follows though:

- A "Overhang of Garage": As stated in the staff report, should the structure be deemed non-conforming for some reason (which it shouldn't be), due to the change in requirements over time, the garage would be deemed a lawful-nonconforming structure regardless. This claimed "illegal" trespass by the overhang of the garage is thus wholly irrelevant to the subdivision plat approval and discussion. Any claimed trespass would need to be dealt with outside of this P&Z Commission meeting as this is not the appropriate venue. Further, in my limited knowledge of the facts of this overhang, any claim of trespass by the overhang would be defended by the claim of a prescriptive easement. In short again though, this issue is wholly irrelevant to the subdivision plat approval before the P&Z Commission.
- B "35' Setback": This proposed 2<sup>nd</sup> plat supersedes any prior setback in favor of a 10' side yard setback on the newly created lot 2. The case law that she references deals with beneficial easements and storm water detention restrictions and does not reference or otherwise apply to setbacks. As all parties are aware, such setbacks are subject to change (via city code modifications or otherwise --- like re-platting).
- C "Grading and Water Runoff": Again this item is wholly inapplicable to this subdivision plat discussion and analysis. Grading and water issues are dealt with when building plans are submitted and permitting is given. The issue before the P&Z is merely the subdivision of the lot.
- D "City Imposed Covenants": As noted in the staff report, the city controls character of development through use of zoning regulations and leaves the private property owners to decide whether to place tighter land use controls via covenants. The practice has not been to require execution of covenants affecting character of development. Should that change in this situation, it would be a drastic overstep which would be met by resistance city-wide most certainly. Further, it is not within the rights of adjacent landowners to compel or seek adjacent property owners submit to certain land use controls --- via covenants or otherwise.

- If possible, please include the same in the agenda for tonight.

Thanks.

**Benjamin D. Bruner**

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**IN THE COURT OF APPEALS OF IOWA**

No. 7-953 / 07-0425  
Filed January 16, 2008

**MIDDLE ROAD DEVELOPERS, L.C., RICHARD  
W. CURTIS, TRACEY L. CURTIS, RINO C. DELLA  
VEDOVA, CURTIS A. SCHNELL and BENNA LEA SCHNELL,**  
Plaintiffs-Appellees,

vs.

**WINDMILLER DESIGN AND DEVELOPMENT  
COMPANY, an Iowa Corporation and CITY OF  
BETTENDORF, IOWA, an Iowa Municipal Corporation,**  
Defendants-Appellants.

---

Appeal from the Iowa District Court for Scott County, Mary Howes, District  
Associate Judge.

Defendants-appellants appeal from a district court order enjoining the  
development of a parcel of land. **AFFIRMED.**

Tricia Spratt Fairfield of Vollertsen, Britt & Gorsline, Davenport, for  
appellant, Windmill Design and Development Company.

Michael Walker and Patrick Vint of Hopkins & Huebner, P.C., Davenport,  
for appellant, City of Bettendorf.

Terry Giebelstein and Wendy Meyer of Lane & Waterman, L.L.P.,  
Davenport, for appellees.

Considered by Sackett, C.J., and Vaitheswaran and Baker, JJ.

**BAKER, J.**

In this case, we consider whether a note on a plat map can create a use restriction running with the land, thereby preventing a city from selling a parcel of land to a developer without the use restrictions noted on the plat map. For the reasons expressed below, we affirm the trial court's injunction.

**I. Background and Facts**

Appellee Middle Road Developers, L.C., is the owner of real estate platted as Century Heights Twelfth Addition in the city of Bettendorf. At the time the area was being developed, Robert Fick, principal developer for Middle Road, was told by Bettendorf's planning staff that the city required outlots be set aside in the creek area of the addition for use as a stormwater detention area. The dedication of the stormwater management area in the addition was part of a larger regional stormwater detention facility created by the city and was consistent with the city's comprehensive use map.

Middle Road did not resist the city's requirement of the outlots for green space. In February of 2003, Middle Road conveyed outlot A to the city via a warranty deed, for \$27,240, which was below the market price of the land. The deed was prepared by the city's attorney.

The general notes on the plat map of the Twelfth Addition include the following recitation:

ALL OF OUTLOT A IS A SEWER, DRAINAGE AND DETENTION BASIN EASTMENT. OUTLOT A IS DEDICATED TO THE CITY OF BETTENDORF, IOWA, FOR STORMWATER MANAGEMENT PURPOSES. IT SHALL BE USED AS A RECHARGE-INFILTRATION-DETENTION AREA WITH NATIVE VEGETATION MAINTAINED BY THE CITY OF BETTENDORF, IOWA.

In addition to being consistent with the city's requirements, the designation of outlot A made the residential housing lots adjacent to outlot A more valuable than other lots in the area.

Appellees Richard and Tracey Curtis purchased lot 21 in Century Heights Eleventh Addition, which backed up to outlot A, in May 2001. At that time, Richard Curtis spoke with head city planner, Mark Brockway, about outlot A. Brockway told Curtis that the green space area would remain in its natural state and the city could not change that designation. In May of 2005, the Curtises contacted Fick about building a larger home on lot 16 of Century Heights Sixteenth Addition, which adjoins outlot A. At that time, Tracey Curtis spoke with city planner, Gregory Beck, who assured her outlot A was for water retention only and nothing could be built on it.

Appellee Rino Della Vedova owns lot 17 of Century Heights Twelfth Addition, which adjoins outlot A. He purchased the lot from Craig Windmiller of Windmiller Design and Development Company, who also built Della Vedova's home on the lot. Prior to the purchase, he viewed the plat map of the Twelfth Addition, including the dedication language regarding outlot A. Windmiller also told him that outlot A was to remain green space.

Appellees Curtis and Benna Lea Schnell own lot 16 of Century Heights Twelfth Addition, which adjoins outlot A. Benna Lea testified that they paid a premium for the lot because it adjoined outlot A, they built a house that architecturally takes advantage of the green space, and their use and enjoyment of the property would be drastically affected by a house being built on outlot A.

In mid 2005, Windmiller approached the city about buying all or a portion of outlot A because he had a buyer interested in building there. The city determined that outlot A was larger than necessary for stormwater management. The city published a notice regarding the proposed sale in the August 25, 2005 Bettendorf News, but did not otherwise notify any of the surrounding homeowners of the proposed sale.

On September 6, 2005, the city sold the eastern portion of outlot A to Windmiller, who owned a contiguous lot, for the same amount the city had purchased it from Middle Road. Windmiller subsequently requested the land be re-platted as part of a lot in Fieldstone Pointe Second Addition, intending to build a single family residence on the land. The city approved the re-platting.

In the fall of 2005, Windmiller regraded the eastern portion of outlot A, causing the native vegetation to be removed from the property. It was at this time that the appellees discovered the eastern portion of outlot A had been sold.

On November 16, 2005, appellees Middle Road, Curtis, Della Vedova, and Schnell filed a petition for temporary and permanent injunction against Windmiller. On March 2, 2006, the appellees amended the petition to include the City of Bettendorf. Following a December 5-6, 2006 trial, the court issued an order enjoining Windmiller and the city from using any portion of outlot A for any purpose other than as a recharge-infiltration-detention area with native vegetation. Windmiller and the city appeal.

## **II. Merits**

Because “[a] request for an injunction invokes the court’s equitable jurisdiction,” our review is de novo. *Matlock v. Weets*, 531 N.W.2d 118,

121 (Iowa 1995). Although we are not bound by them, we give weight to the trial court's fact findings, especially concerning the credibility of witnesses. *Id.* We review a decision by the trial court to allow an exception to the statute of frauds and admit oral evidence of a contract for correction of errors at law. *Kolkman v. Roth*, 656 N.W.2d 148, 151 (Iowa 2003).

#### A. Use Restriction/Covenant Running with the Land

The appellants argue the note on the plat map does not create a covenant or use restriction running with the land. Windmiller also argues a strict test should be applied in construing agreements that restrict the free use of property.

It is well settled that "restrictions on the free use of property are strictly construed against the party seeking to enforce them, . . . and doubts will be resolved in favor of the unrestricted use of property." *Stockdale v. Lester*, 158 N.W.2d 20, 22 (Iowa 1968) (citations omitted). This strict rule of construction, however, "should never be applied in such a way as to defeat the plain and obvious purpose of the restriction." *Leverton v. Laird*, 190 N.W.2d 427, 432 (Iowa 1971) (quoting *Jones v. Haines, Hodges & Jones Bldg. & Dev. Co.*, 371 S.W.2d 342, 344 (Mo. Ct. App. 1963)). "[T]he true rule is that the intention of the parties may be ascertained from the language of the instrument or may be implied from the surrounding circumstances." *Id.* (citation omitted). A more liberal approach recognizes building restrictions "more as a protection to the property owner and the public rather than as a restriction on the use of property." *Id.* at 431 (citations omitted).

While it may have been previously unclear whether a plat map could create a covenant or use restriction running with the land, the recent case of

*Gray v. Osborn*, 739 N.W.2d 855 (Iowa 2007), makes it clear that the plat map alone can provide the necessary language to bind successive owners of real estate to restrictions or limitations on its use. In *Gray*, noting that “[a]n easement created via a plat map is valid under Iowa law,” the court looked to the intention of the parties to determine the existence of an easement. *Gray*, 739 N.W.2d at 861 (citing *Maddox v. Katzman*, 332 N.W.2d 347, 351 (Iowa Ct. App. 1982)). The court held that, because the plat clearly denoted an intention to create an easement, and the purchasers had notice, the plat established an easement. *Id.* at 861-62.

We believe the same reasoning applies to this case and hold that the note on the plat map establishes use restrictions. “[W]hen land is dedicated with limitations on the dedication and the city accepts the plat as dedicated, such action is not void and the limitations have been recognized.” *Leverson*, 190 N.W.2d at 433. The city bought outlot A at below market value for the dual purpose of providing a drainage basin and green space. The purposes were clearly noted on the plat. Because the plat map clearly denoted an intention to create use restrictions and Windmiller had notice of the restrictions, the plat established the use restrictions, which survive the city's ownership and are applicable to Windmiller. See *id.* at 434 (“[U]se restrictions survive public ownership by the city and are applicable to its grantees.”).

#### **B. Admission of Oral Evidence**

The appellants also argue that the trial court erred in allowing oral evidence of the plaintiffs' discussions with city employees because the statute of

frauds renders evidence of an oral promise creating an interest in land inadmissible.

[T]he erroneous admission of evidence does not require reversal unless a substantial right of the party is affected. In other words, the admission of evidence must be prejudicial to the interest of the complaining party. This requires a finding that it is probable a different result would have been reached but for the admission of the evidence or testimony.

*Mohammed v. Otoadese*, 738 N.W.2d 628, 633 (Iowa 2007) (internal citations and quotations omitted). Because we hold that the language on the plat itself establishes use restrictions, evidence regarding the plaintiffs' discussions with city employees is irrelevant to the outcome of this case. Therefore, we need not consider this issue on appeal.

### C. Proper Procedure for Sale of Outlot

The appellants also argue that the city properly sold a portion of outlot A to Windmillers without the restrictions because it properly followed Iowa Code section 354.23 (2005) for vacation and sale of the land. The determination of whether the city followed the proper procedure involves two questions: (1) whether the sale procedure was proper under Iowa Code section 364.7 and (2) whether the city could vacate the use restrictions under section 354.23 as part of the sale. We find that the sale procedure was appropriate but could not be done without the use restrictions.

Pursuant to section 354.23, a city "may vacate part of an official plat that had been conveyed to the city . . . or dedicated to the public which is deemed by the governing body to be of no benefit to the public." See also *Carson v. State*, 240 Iowa 1178, 1189, 38 N.W.2d 168, 175 (1949) ("[W]here land, already

publicly owned, is designated for some particular public use no contractual trust arises in favor of the general public that precludes subsequent diversion of it by proper legislative authority to some other and different public use.”).

Once the city determined it did not need the portion of outlot A, it was empowered to sell it. See *Leverton*, 190 N.W.2d at 434. The city could not, however, sell the land free of the restrictions contained in the plat. Where “each lot owner is presumed to have bought with notice of and in reliance on the material in the plat dedication, [p]rivate rights have arisen.” *Id.* Although the city can sell the land, “in doing so it should not be allowed to destroy the original scheme of restrictive covenants applicable to all of the other land.” *Id.* The appellants knew the user restrictions were in the plat and also knew of the prior position of adjoining landowners. Further, the adjoining landowners acquired rights to the restrictions because of the increased value and desirability of their properties because of those restrictions. Even if we were to hold that the attempted release of the restriction was a vacation of public lands, this case turns on the rights created at the time outlot A was conveyed to the city and is not controlled by the city’s later attempted nullification of the restriction. The sale of the land was proper; the attempted release of the restrictions was not.

### III. Conclusion

The plat map clearly creates use restrictions, and Windmiller had notice of the restrictions. The city could sell outlot A but not free of the restrictions contained in the plat. We affirm the trial court’s injunction prohibiting Windmiller and the city from using any portion of outlot A for any purpose other than as a

recharge-infiltration-detention area with native vegetation.

**AFFIRMED.**

**739 N.W.2d 855**

**Stephen GRAY and Shelly Gray,  
Husband and Wife, Appellants**

**v.**

**James R. OSBORN, III, Appellee,  
Tamra Randall, Intervenor-Appellee.  
Tamra Randall, Appellee**

**v.**

**Stephen Gray and Shelly Gray,  
Appellants,  
Joan K. Peck and Marjoric A.  
Thirkettle, Intervenor-Appellees.**

**No. 05-1850.**

**Supreme Court of Iowa.**

**October 5, 2007.**

[739 N.W.2d 857]

Gregory J. Epping of Terpstra, Epping & Willett, Cedar Rapids, for appellants.

Mark E. Mossman of Mossman & Mossman, L.L.P., Vinton, for appellees Osborn and Randall.

Vernon P. Squires of Bradley & Riley, P.C., Cedar Rapids, for intervenors-appellees Peck and Thirkettle.

APPEL, Justice.

Header ends here.

In this case, we consider whether landowners have an easement across the property of an adjoining landowner or whether they committed trespass when they attempted to exercise rights pursuant to the claimed easement. The district court found that an express easement existed and dismissed claims for trespass and injunctive relief. The court of appeals reversed, and we granted further review. For the reasons expressed below, the decision of the court of appeals is vacated and the decision of the district court is affirmed.

**I. Factual Background and Proceedings.**

The facts in this case are generally undisputed. Tamra Randall owned undeveloped property in rural Benton County. In September 1996, Randall recorded the consent and dedication agreement and plat for what is now known as Maple Ridge Estates I. The plat called for the subdivision of the land into five lots. The plaintiffs, Stephen and Shelly Gray, currently own Lot 5.

The plat for Maple Ridge Estates I states that an ingress-egress easement runs across the northern border of Lot 5. The easement is indicated by a dotted line running parallel to the northern border of the property with the phrase "50' ingress egress easement" placed in the middle of the area between the northern border of Lot 5 and the dotted line. The easement abuts a public roadway, 59th Street Trail, on its western end. The eastern end of the easement connects with property that is not described on the plat. In the words familiar to those experienced in real estate transactions, the dominant estate was not specifically identified or described with particularity on the plat.

[739 N.W.2d 858]

NOTE: OPINION CONTAINING TABLE OR OTHER DATA THAT IS NOT VIEWABLE

The consent and dedication agreement, however, did not explicitly refer to an ingress-egress easement across Lot 5. The only restriction concerning building in the subdivision is a setback restriction, requiring all buildings to be at least fifty feet from any public roadway and no closer than twenty feet from any side lot line.

These documents also did not mention the existence of a private gravel road which lay north of the easement and connected 59th Street Trail to lands to the east. At the time of the September 1996 filings, Randall was enmeshed in a dispute with her northern neighbors, Kenneth and Marcia Rick,



regarding the ownership of the gravel road. The Ricks claimed ownership

[739 N.W.2d 859]

to the northern two-thirds of the gravel road, and litigation commenced regarding the precise boundary between the two properties. Prior to the dispute, Randall had been using the road to access property she owned to the east of Maple Ridge Estates I.

Randall decided that in light of the boundary dispute, she needed to designate a fifty-foot easement, on what was indisputably her property, across the northern boundary of Lot 5. Thus, in the event she was unsuccessful in her litigation with the Ricks, Randall would continue to have secure access to her eastern property through the easement. If unsuccessful, she intended to relocate the road across the fifty-foot easement reserved in the plat for Maple Ridge Estates I.

In January 1998, Randall prevailed in her litigation with the Ricks. As a result of her success, Randall could still access her eastern property by way of the gravel road. She took no action at that time, therefore, to relocate the gravel road onto the easement.

In early 2000, Randall filed a plat for Maple Ridge Estates II. At the time she recorded this plat, she was still the owner of Lot 5 in Maple Ridge Estates I. Maple Ridge Estates II subdivides property located to the east of Maple Ridge Estates I. The plat for Maple Ridge Estates II shows the same fifty-foot, ingress-egress easement along the northern border of Lot 5 of Maple Ridge Estates I. The Maple Ridge Estates II plat does not alter the location, dimension, or purpose of the easement.

As with the Maple Ridge Estates I plat, Randall also filed covenants related to Maple Ridge Estates II. The restrictive covenants convey a fifty-foot easement to the owners of

Lots 3 and 4 "over and upon the road shown on the plat for Maple Ridge Estates II . . . ."

After these documents related to Maple Ridge Estates I and Maple Ridge Estates II were recorded, a series of land transactions occurred. Ultimately, Stephen and Shelly Gray, the plaintiffs in this case, became owners of Lot 5 in Maple Ridge Estates I. The Grays' deed specifically noted that their purchase was subject to all covenants, restrictions, and easements of record. In adjoining Maple Ridge Estates II, Joan K. Peck and Marjorie A. Thirkettle became owners of Lot 3 and James R. Osborn III became owner of Lot 4.

Prior to the purchase of their interest in Maple Ridge Estates I, Lot 5, the Grays obtained an abstract of title and a title opinion. The Grays were further provided with a copy of the plat for Maple Ridge Estates I by their realtor. The Grays saw the wording related to the easement on the plat, but professed to have difficulty reading it because of the copy's poor, fuzzy quality. The Grays claim to have been told by someone that the easement was for utility purposes only.

After purchasing the property, the Grays decided to construct a fence for their horses. Worried about possible restrictions, Stephen Gray questioned Randall as to the fence's proper location. At trial, Randall testified that she told Gray not to construct any type of permanent fence within the fifty-foot easement. Gray disputed this testimony, claiming that there was no mention of the easement. In any event, the Grays' fence essentially follows the southern line of the fifty-foot easement.

After Osborn constructed his home on Maple Ridge Estates II, Lot 4, Peck and Thirkettle became concerned about the proximity of their home on Lot 3, to the driveway used by Osborn to reach his residence. Osborn, Peck, and Thirkettle were

utilizing the gravel road, which lay north of the easement, to access their property.

[739 N.W.2d 860]

The end of the road, however, veered south and crossed onto the Peck/Thirkettle lot in order to connect to Osborn's lot. After considerable discussion, Osborn agreed to change his manner of access by constructing a driveway "spur" on the Grays' land, which he believed was subject to the ingress-egress easement.

No one contacted the Grays before construction began on Osborn's new access. From here, the dispute escalated. The Grays built a temporary and later a permanent fence blocking access to the new driveway. Osborn reacted by destroying the fence with a skid loader.

Shortly after the destruction of the Grays' fence, they filed an action in district court for temporary and permanent injunction, claiming trespass and seeking damages for the destruction of the fence, cleanup costs, and the cost to rebuild the fence. Osborn filed a counterclaim for declaratory relief, seeking a judicial declaration of the existence and validity of a fifty-foot, ingress-egress easement over Lot 5. Peck and Thirkettle intervened, claiming an interest in the easement as adjoining landowners. Randall also intervened as a portion of the claimed easement lays on her property directly north of the Grays.

In June 2004, the district court denied the application for a temporary injunction, but ordered Osborn not to expand the spur and ordered that no one exercise additional use of the easement. At trial, the Grays claimed Osborn violated the order by using the easement as a parking lot during his Halloween party and sought monetary damages for this violation. Osborn, in turn, alleged that the Grays constructed a shed on the easement in violation of the court's order.

The matter came to trial on May 9, 2005. On October 10, 2005, the district court found in favor of Osborn and the other parties aligned with him. According to the district court, the recorded documents demonstrated the existence of an express fifty-foot easement over the northern boundary of the Grays' lot. The district court further found that the easement was for the benefit of Lots 3 and 4 owned by Peck, Thirkettle, and Osborn in Maple Ridge Estates II. The Grays filed a timely notice of appeal.

We transferred the case to the court of appeals. The court of appeals found that the two filed plats were insufficient to create an easement because they were made at different times and because the language of the second plat cannot be used to create an easement over the Grays' land. The court of appeals reversed the district court order and remanded the case for consideration of the Grays' claims for trespass and injunctive relief. We granted further review.

## II. Standard of Review.

The parties do not agree on the appropriate standard of review. The Grays contend our review is *de novo* as the determination of easement rights is equitable. Osborn and aligned parties assert our review is for errors of law. We agree. The original action was filed by the Grays as a "petition at law," while Osborn counterclaimed for declaratory judgment. Whether a declaratory judgment action is considered legal or equitable in nature is "determined by the pleadings, the relief sought and the nature of each case." *Bjork v. Dairyland Ins.*, 174 N.W.2d 379, 382 (Iowa 1970). Further, the parties made evidentiary objections during trial, some of which were sustained, which suggests a trial at law. Because we generally hear a case in the same manner in which it was tried to the district court, our review is for errors of law. *Johnson v. Kaster*, 637 N.W.2d 174, 177 (Iowa 2001). "The

[739 N.W.2d 861]

trial court's findings carry the force of a special verdict and are binding on us if supported by substantial evidence. If the findings are ambiguous they will be construed to uphold, not defeat, the judgment." *Id.*

### III. Discussion.

In their review, the court of appeals addressed the issue of whether two successive plats could be read together to create an express easement. Whether two successively filed documents may be read together to create an easement appears to be a matter of first impression. We believe, however, that there is an antecedent legal question that is wholly dispositive. For the reasons discussed below, we hold that the plat for Maple Ridge Estates I alone creates an express easement across the Grays' property in favor of Osborn and the aligned parties.

An easement is a restriction on another person's property rights. *Indep. Sch. Dist. of Ionia v. De Wilde*, 243 Iowa 685, 692, 53 N.W.2d 256, 261 (1952). Express grant or reservation is one of the ways an easement may be created. *Nichols v. City of Evansdale*, 687 N.W.2d 562, 568 (Iowa 2004). Because an easement is an interest in real property, any express easement falls within the statute of frauds and must be in writing. *See Iowa Code § 622.32* (2007).

An easement created via a plat map is valid under Iowa law. *Maddox v. Katzman*, 332 N.W.2d 347, 351 (Iowa Ct. App.1982). Today, no magic words or terms of art are necessary to create an easement. In determining the existence of an easement, the intention of the parties is of paramount importance. Restatement (Third) of Property: Intent to Create a Servitude § 2.2 cmt. d (2000).

The recorded plat for Maple Ridge Estates I clearly denotes an intention to

create an easement along the northern border of Lot 5. Not only is the easement's location and dimension specifically delineated, the precise term "EASEMENT" is used. Moreover, the easement's purpose—ingress and egress — is explicitly noted. *See Iowa Code § 354.6(2)* ("Easements necessary for the orderly development of the land within the plat shall be shown and the purpose of the easement shall be clearly stated."). The Grays' reliance on *Maddox's* requirement of a detailed description of the easement's purpose, therefore, is without merit as ingress egress is sufficiently comprehensive.

Nevertheless, plaintiffs argue that the easement must fail because the plat does not specifically state which property is to be the easement's dominant estate. Where there is a technical deficiency in a land transaction, however, we have held the ambiguity may be resolved by resorting to the intention of the parties as gleaned from the instrument itself and the surrounding circumstances, including subsequent conduct by the parties. *Goss v. Johnson*, 243 N.W.2d 590, 595 (Iowa 1976) (citing *Flynn v. Michigan-Wisconsin Pipeline Co.*, 161 N.W.2d 56, 64-65 (Iowa 1968)).

The instrument and the surrounding circumstances clearly show that the property abutting the east end of the easement is the dominant estate. First, the plat states that the easement's purpose is for ingress and egress and the easement itself connects the eastern property to a public roadway — 59th Street Trail. Thus, on its face, the easement explicitly is designed to provide access to the public highway. This articulated purpose is irreconcilable with the Grays' claim that Lot 5 serves as *both* the servient and dominant estate. Lot 5 already has direct access to

[739 N.W.2d 862]

59th Street Trail, so it would glean no benefit from the easement. Moreover, as easements are extinguished when the dominant and servient estates merge, it would be both

illogical and impossible to create an easement for the benefit of the same land which the easement burdens. The plat's obvious import, therefore, is that the property to the east of Lot 5, unconnected to the roadway, is the dominant estate.

Second, Randall testified at trial that her purpose in creating an easement on Maple Ridge Estate I plat was to benefit the eastern half of her property. This testimony is consistent with her contemporaneous boundary dispute with the Ricks. Had Randall not prevailed, she would not have had access to her property east of Lot 5.

Third, the plat for Maple Ridge Estates II explicitly points to Lots 3 and 4 as the dominant estates. It may be true, as the Grays claim, that "construing together deeds and mortgages made at different times, by different parties, with different objects, having nothing in common except that they refer to some one or more of adjoining lots with which they are concerned" is ordinarily not sufficient to create an easement. 28A C.J.S. *Easements* § 57 at 235-38 (2007). In this case, however, both plats were filed by a common owner, Randall, prior to her sale of Lot 5, only a few years apart, and for arguably the same purpose. If nothing else, the second plat evidences Randall's intent, as subsequent conduct by the parties, to create an easement over Lot 5 for the benefit of her eastern property.

Finally, it is clear that the Grays are chargeable with actual notice of the easement. Stephen Gray testified that at the time of his purchase of Lot 5 he was provided a copy of the plat for Maple Ridge Estates I. He stated that although an easement was clearly visible on the plat, he could not read the words "ingress" and "egress" because their copy was difficult to read. The Grays mistakenly believed that the easement was for utility purposes only. This court held long ago, however, that

[o]ne who purchases land with knowledge of facts as would put a prudent person upon inquiry, which, if prosecuted with ordinary diligence, would lead to actual notice of rights claimed adversely by another, is chargeable with the actual notice he would have received.

*Johnson v. Chicago B. & Q. R.R.*, 202 Iowa 1282, 1288-89, 211 N.W. 842, 846 (1927). At the very least, the plat for Maple Ridge Estates I clearly put the Grays on inquiry notice. Additionally, although Stephen Gray denied Randall's testimony that she specifically informed him of the easement during their telephone conversation, the fact that the Grays ultimately placed their fence on the southern border of the easement is strongly suggestive of actual knowledge.

Because we hold that the Maple Ridge Estate I plat established an express easement, we need not address the question of whether an express easement is created by two separate documents under the facts and circumstances presented in this case.

#### IV. Conclusion.

By specifically providing the location, dimension, and purpose of the easement, the plat for Maple Ridge Estates I created an express easement over the plaintiffs' lot. Any ambiguity, moreover, as to the easement's dominant estate is resolved by resort to the intention of the parties. Both the instrument itself and the surrounding circumstances support a finding of a valid easement.

[739 N.W.2d 863]

**DECISION OF COURT OF APPEALS  
VACATED; DISTRICT COURT  
JUDGMENT AFFIRMED.**

## Aaron Wolfe

---

**From:** Joni Starace [Joni@ladenpearsonlaw.com]  
**Sent:** Wednesday, January 27, 2016 2:43 PM  
**To:** Aaron Wolfe; David Wilwerding  
**Cc:** Tim Pearson; Bob Laden  
**Subject:** Coons Height, Plat 2 - Letter of January 8, 2016

Gentlemen,

We have had the opportunity to review Michelle Brott's letter of January 8, 2016 as well as the cases referred therein. Said cases relate to easements, and not to set backs, thus we do not believe they are applicable to the facts and circumstances in this case. Under Ms. Brott's theory, an individual would never be able to replat.

Thank you and should you have further questions, please feel free to contact us.

Tim Pearson  
Robert H. Laden  
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January 28, 2016

City Council

We appreciate the ability to give input and influence the decisions surrounding the PZ Case No. 15-40; Coons Heights Plat 2 replatting. In general we see the application to subdivide as having potentially positive impact on our situation. That, of course, depends on how the new lot is ultimately used. A new home that is similar to the neighborhood would be an improvement.

In looking at the application, we would like the City to consider the following items in its deliberations:

1. We are most concerned with the nature of any residence that would be built on this lot. Last year, Mr. Coons told us about his thoughts on a potential subdivision of his property. He said he would consider subdivision of the property if he could not build his desired accessory structure on his current property. He threatened to subdivide his lot and build a multiple stall garage with a residential rental property on the second story. This, of course, would not be acceptable to us.

City Code paragraph 180.39 states:

**CHARACTER OF DEVELOPMENT.** *The Council shall have the right to agree with the subdivider regarding the type and character of development that will be permitted in the subdivision, and may require that certain minimum regulations regarding this matter be incorporated in deed restrictions. Such regulations shall be intended to protect the character and value of the surrounding development and shall also tend to secure the most appropriate development of the property being subdivided (emphasis added).*

Access to this property is from Forest Drive. The house number will be within our subdivision numbering system. We would like the new property to resemble the homes of Forest Drive. We ask the City Council to place minimum deed restrictions on this plat. Restrictions serve to improve the value of the lot. They protect the value of our homes and, in fact, will protect the value of Mr. Coons' home as well. They will also "secure the most appropriate development of the property being subdivided."

Here are the restrictions we ask for, and that are reasonable for both the Forest Drive and Coons Heights neighborhoods.

- A single story home have at least 2,000 square feet of living space and a two story home have at least 2,700 square feet of living space (with minimum of 1,350 square feet of living space on the first floor)
- Minimum 2 car attached garage.
- Siding is brick, stone, lap siding, or stucco.
- Building colors that blend in with the surrounding neighborhoods.
- Paved driveway.
- Architectural or better grade shingles

Given Mr. Coons's verbalization of his intent to create an accessory structure with ancillary living space included, we have attached pictures of a known example of such a structure as a tangible demonstration of the reality of our concerns. This house was listed and sold last year in Nevada, IA as a 2 BR house.

2. We believe that the illegal trespass of the existing accessory structure must be rectified before the lot can be subdivided.

City Code paragraph 166.03 states:

**COMPLIANCE REQUIRED.** Except as hereinafter specified, no building or structure shall be erected, converted, enlarged, reconstructed, or structurally altered, *nor shall any building or land be used or site improved, or land subdivided, which does not comply with or maintained in accordance with all of the district regulations established by this ordinance for the district in which the building or land is located (emphasis added).*

We realize that under Johnston City Code section 166.12, a nonconforming structure that was conforming at the time it was built may be used as a legal nonconforming structure. We also understand that Mr. Coons had received a variance to allow him to site his unattached garage in his side yard instead of his back yard.

However, another section of the City Code speaks to this issue as well:

**166.08 CONTINUING EXISTING USES.** *The lawful use of land or buildings* existing at the effective date of adoption or amendment of this ordinance may be continued even though such use may not conform to the regulations of this ordinance for the district in which it is located. Any use in existence at the adoption hereof which was not a lawful "nonconforming" use under the previous Zoning Ordinance shall not be authorized to continue as a nonconforming use pursuant to this ordinance, or amendments thereto, and shall be considered an unlawful use. A property owner may request a determination of the lawful status of a nonconforming use from the Zoning Administrator. The burden of establishing that any nonconforming use is lawful shall be upon the owner of the nonconforming use and not the City. The Zoning Administrator shall maintain a registry of nonconforming use requests and their disposition. A determination may be appealed to the Board of Adjustment under the provisions of Section 166.16 (*emphasis added*).

We do not believe that Mr. Coons has ever had a lawful building, which is required in order to subdivide the property:

- His current unattached garage was built 2.01' from the property line.
- The eaves of the accessory structure extend approximately 4' from the garage and overhang the neighboring property.
- As is pointed out in the letter submitted by our lawyer, Michele Brott, though there may not have been an explicit zoning ordinance at the time of construction of the accessory

structure that referred to eave overhangs, the construction created a trespass which continues to this day.

- His variance was granted based on a submitted setback plan of 5' 1", which would not have created a trespassing problem. Mr. Coons then changed the siting of the building without notifying the Board of Adjustments of the siting change and the trespass that it created. We believe that it is probably that the Board of Adjustments would have never granted the variance if they had known that the building would have created a continuing trespass. We have attached both the variance application and granted variance which proposed a setback that would not have caused a trespass, along with pictures showing the eave of the accessory structure overhanging the neighboring property by 2 to 3 feet.
- No easement has been granted to Mr. Coons and no property has been carved out and sold to Mr. Coons to accommodate the non-compliant siting of the accessory structure.

Since the property cannot be subdivided under section 166.03 unless the land is in compliance with the code. Since the continuing trespass is unlawful, the property and building fail to meet the standards of 166.08. Therefore we believe that the continuing trespass must be addressed before the subdivision application may be approved by the City Council.

3. The 35' setback from the Bednar property is not on the proposed plat. The setback was originally created in favor of Mr. Coons. That setback was relied upon by the Bendars when they purchased their house, and therefore the setback is binding. This legal position was upheld as a proper building setback line by action of the Board of Adjustments. No court challenge was completed by Mr. Coons in the allotted timeframe.

We have attached two letters from our lawyer that focus on this issue. We agree with the City that the cases cited by our lawyer arose from legal actions surrounding easement issues. However, included in the judgements were clarifications about the ability of a property owner to rely on the legal plat lines that were approved and recorded. This recorded plat is law just like City Code is law. Because the setback line was originally created in Mr. Coons's favor and relied upon by the Bednars, the City should not legally be allowed to nullify it since such nullification harms the value of the Bednar property value. This is especially true if Mr. Coons is allowed to build a structure that is essentially an accessory structure with minimal residential space attached which will destroy property values of the surrounding neighborhood.

Thank you again for your help and consideration.

Respectfully,

Larry Gulleen  
7050 Forest Dr.  
Johnston, IA

Jeff & Mary Ellen Anderson  
7000 Forest Drive  
Johnston, IA

Matt and Mary Bednar  
7011 Forest Drive  
Johnston, IA

Larry Anderson  
7040 Forest Drive  
Johnston, IA

# coons property



© 2014 Pictometry

03/29/2014

**Example of Accessory building with living space attached.  
2 BR house for sale - 21493 620th Ave, Nevada, IA 50201**





REPLY TO DES MOINES OFFICE

October 13, 2014

City of Johnston Board of Adjustment  
Johnston City Hall  
6221 Merle Hay Road  
Johnston, Iowa 50131

RE: BOA Docket 14-07

Dear Board of Adjustment:

I am writing to provide a written summary of the legal arguments supporting my clients' appeal. In accordance with the Board's mandate, I am submitting this document by noon on October 13, 2014 to allow sufficient consideration in advance of the October 16<sup>th</sup> meeting.

My remarks will be limited to the specific issue of the 35' setback on Coons' plat map and the legal effect of the same. I will not repeat the arguments previously made regarding the fact that the more restrictive covenant applies, under both Iowa law and the City Code, but have attached my previous correspondence which sets forth the specific legal support for that conclusion. See exhibit A.

It appears the question at hand is:

**Does an approved and recorded plat map, containing a 35' setback apply when the City Code's general setback rule for accessory structures is 10'?**

Both the Iowa Supreme Court and the Iowa Court of Appeals have answered this question, "YES." In Iowa, a plat map that is approved and recorded creates an enforceable setback, and is enforceable by adjoining neighbors. Gray v. Osborn, 739 N.W.2d 855, 860 (Iowa 2007) (exhibit B); Middle Road Developers v. Windmill Design & Develop., 746 N.W.2d 279, 2008 WL 141658, at \*3 (Iowa Ct. App. 2008) (exhibit C).

In 2007, on further review, the Iowa Supreme Court answered "YES" and ruled in favor of an adjoining neighbor who asked the Court to enforce a 50' ingress-egress easement, *only* shown on the approved and recorded plat map of a landowner. The owner of the property built a fence through the 50' ingress-egress area, preventing his neighbor from access and ignoring the language on his plat map. The Supreme Court agreed with the neighbor finding the plat map's limitations cannot be ignored by the landowner. Id. at 861. The legal issue was that the easement was *only* on the plat map and nowhere else. The Iowa Supreme Court ruled that "the plat for the

#2517863

DAVIS BROWN KOEHN SHORS & ROBERTS P.C.

[landowner] alone creates an express easement across the [landowner's] property in favor of the [neighbors]." Id. Easements, like setbacks, are validly created by plats.

Here, the situation is nearly identical. The aggrieved parties are the neighbors seeking to enforce a setback found on the landowner, Mr. Coons' recorded and approved plat. See exhibit D. Mr. Coons would like to ignore the plat and build based upon the "minimums" found in the City Code. Like the Iowa Supreme Court in the Gray case, this Board must find that under Iowa law, a plat map creates a legally valid and enforceable restraint on the use of property.

In 2008, the Iowa Court of Appeals also answered "YES." Relying on the Gray decision, the Iowa Court of Appeals said, "The recent case of Gray v. Osborn makes it *clear* that the plat map alone can provide the necessary language to bind successive owners of real estate to restrictions or limitations on its use." Middle Road, 2008 WL 141658 at \*3. Expanding Iowa law, the Court of Appeals stated that the "same reasoning [in Gray] applies to this case and hold that *the note on the plat map establishes use restrictions.*" Id. The Johnston City Code section 166.20 clearly agrees and is in accord with these legal precedents.

Interestingly, in the Middle Road case, the Court found it important that subsequent building expansions and development relied upon the recorded and approved plat map. It is common sense that is common enough for the judiciary, as well. Quite plainly adjoining neighbors and future expansion rely on these recorded documents, approved by the City and recorded by the County.

In short, setbacks and easements are created by plat maps. Here, an enforceable setback was created by the recorded and approved plat map. Pursuant to Iowa law, Coons, or any subsequent owner, cannot build *anything* in the 35' setback no more than the landowner in Gray could build a fence.

Like the Courts, this Board should place value on the original intent of the setback platted in 1987. Attached to this letter is correspondence from Larry Gulleen. See exhibit E. Mr. Gulleen recalls a road between Bednar and Coons' properties in the early 1980's. Many residents recall discussion that a more permanent road was envisioned and anticipated. The City Staff attempted to bring some historical information as to this issue at the last meeting. It was clear that many roads were envisioned in the growing area that was to be developed (now, the Forest, the Wilderness and Coburn). It is also clear that the historical records are incomplete and personal recollections can fill the gaps in history. Mr. Coons has offered several reasons for the 35' setback. At least one of his many reasons was that there was to be a road developed. Thus, as all the evidence, guided by the law reveals—the 35' setback is not extraneous. Originally, it was for a road; now it has been relied upon by subsequent development and continues to have meaning. It has meaning and, under Iowa law, that meaning must be enforced.

The remaining argument against enforcement of the setback in this case is whether it applies to primary structures only, or all structures. The City Staff argued that it might apply only to primary structures in its memorandum at the last meeting, but failed to identify any legal

grounds for that conclusion. The Johnston City Code defines building setback lines in section 165.04(44). Clearly, building setback lines may apply to both or either primary or accessory structures. The term “setback” is also defined more broadly:

165.04(206) “Setback” means the required minimum horizontal distance permitted *between the building line* and the related front, side, or rear property line.

42. “Building line” means the extreme overall dimensions of *a building* as determined from its exterior walls or any part of a structural support or component that is nearest to the property line, other than usual uncovered steps and patios.

39. “Building” means *any structure having a roof supported by walls* or by columns intended for enclosure, shelter or housing of persons, animals, *or chattel*. When any portion thereof is entirely separated by walls in which there are no common walls connecting doors or windows or any similar opening, each portions so separated shall be deemed a separate building.

Reading these definitions, there is nothing in the City Code that suggests the phrase “35’ setback” as shown on the plat map should be limited to primary structures. The setback on the plat map, by its very language, does not limit its application to primary structures. This makes sense when thought of in the relevant historical context. In 1987, there was a road and/or an intended road. Thus, a general setback was appropriate to allow future expansion. Additionally, it bears mention that the accessory structure envisioned is not a mere outbuilding for tools or lawn equipment. The footprint of the proposed structure exceeds 1,300 square feet and would be constructed in such a way that it cramps the property line and the adjoining neighbor.

In summary, our clients ask that you reconsider the decision to nullify and erase words from the plat map. We ask that you also answer “YES” that the Coons’ plat map plainly creates a 35’ setback applicable to all buildings (primary and accessory) that cannot be ignored. We ask that you answer “no” to issuing any permits related to 6921 N.W. Beaver Drive which violate the 35’ setback, relied upon by subsequent developers when building.

I am happy to answer any additional questions or explain my clients’ positions further at the hearing on October 16, 2014. Thank you for your continued attention to these very important matters.

Very truly yours,

DAVIS, BROWN, KOEHN, SHORS & ROBERTS, P.C.



Michele L. Warnock

**40' PRIVATE SANITARY SEWER EASEMENT**

Beginning at the Southwest corner of Lot 1 in COONS HEIGHTS; thence North 28°56'03" East along the West Line of said Lot 1, a distance of 124.83 feet; thence South 89°27'28" East, a distance of 45.47 feet; thence South 28°56'03" West, a distance of 157.74 feet to the South Line of said Lot 1; thence North 45°14'31" West, a distance of 41.58 feet to the Point of Beginning. Containing 0.13 ACRES, more or less.

**40' LATERAL FIELD EASEMENT**

Beginning at the Northeast corner of Lot 1 in COONS HEIGHTS; thence South 01°07'46" West along the East Line of said Lot 1, a distance of 102.01 feet; thence North 89°27'28" West, a distance of 40.00 feet; thence North 01°07'46" East, a distance of 102.01 feet; thence South 89°27'28" East, a distance of 40.00 feet to the Point of Beginning. Containing 0.04 ACRES, more or less.

PRELIMINARY PLAT  
**COONS HEIGHTS**  
**PLAT 2**  
 SHEET 1 OF 1

**OWNER/DEVELOPER**

ART COONS  
 6921 NW BEAVER DR.  
 JOHNSTON, IA 50131  
 (515) 313-1322

**LEGAL DESCRIPTION**

LOT 1 IN COONS HEIGHTS, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF JOHNSTON, POLK COUNTY, IOWA.

SAID PARCEL CONTAINS 1.44 ACRES, MORE OR LESS.

**NOTES**

- CORNERS SHOWN TO BE SET ON THIS PLAT WILL BE ESTABLISHED WITHIN ONE YEAR OF THE RECORDING OF THIS PLAT.
- FEMA FLOOD ZONE INFORMATION:  
 ZONE X  
 COMMUNITY PANEL NUMBER 1907450004D  
 REVISED 7/19/2000
- ZONING: R-1 (100) SINGLE FAMILY RESIDENTIAL DISTRICT  
 FRONT: 40'  
 REAR: 40'  
 SIDEYARDS: 10' MIN/21' TOTAL
- NO GRADING OR TREE REMOVAL IS PROPOSED WITH THIS PLAT.
- EXISTING FENCE CROSSING SOUTH LINE OF LOT 2 SHALL BE REMOVED AT TIME OF CONSTRUCTION ON LOT 2 AT THE OWNER OF LOT 2'S EXPENSE.
- SEWER SERVICE  
 A. AT THE TIME OF INSTALLATION OF THE SEWER SERVICE TO LOT 2 THE SERVICE TO LOT 1 SHALL BE INSTALLED.  
 B. AT THE TIME OF INSTALLATION OF THE SEWER SERVICE TO LOT 1 THE EXISTING LATERAL FIELD FOR LOT 1 WILL BE VACATED ACCORDING TO THE STATE OF IOWA CODE.  
 C. THE INDIVIDUAL LOT OWNERS ARE RESPONSIBLE FOR INSTALLATION OF THEIR OWN SERVICES.

**VICINITY SKETCH**



**CERTIFICATION**

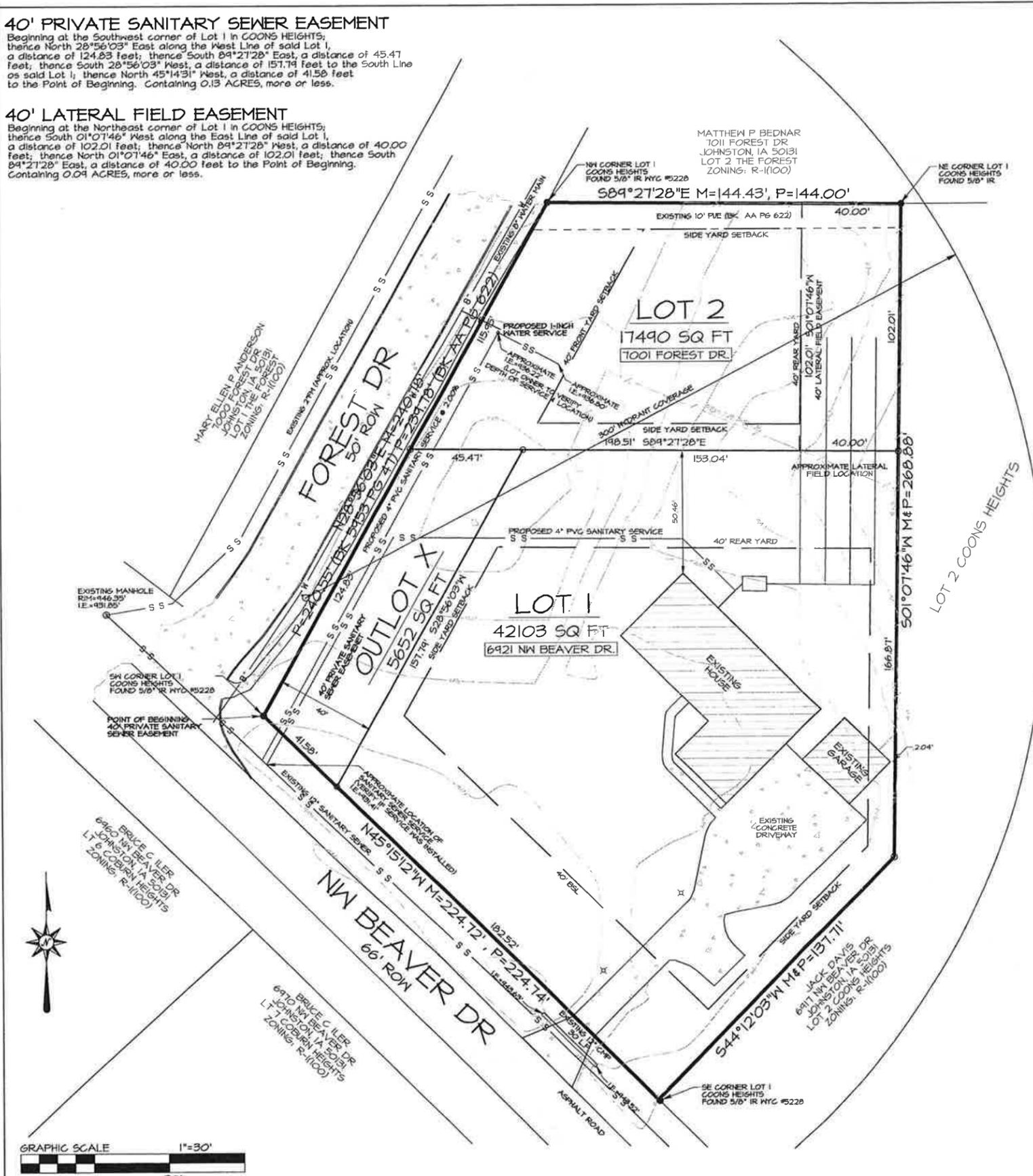
I hereby certify that this plat, plan, specification or report was prepared by me or under my direct personal supervision and that I am a duly licensed Professional Engineer and Land Surveyor, under the laws of the State of Iowa.

Signed: *D.M. Piagentini* Date: 01/19/2016  
 D.M. PIAGENTINI, P.E. & L.S. License No. 5228  
 My registration expires December 31, 2016



**LEGEND**

- MONUMENT FOUND AS NOTED
- SET 1/2" IR W/ PINK CAP #5228
- ▲ SECTION CORNER FOUND AS NOTED
- △ SECTION CORNER SET AS NOTED
- M= MEASURED DISTANCE OR BEARING
- P= RECORDED DISTANCE OF BEARING



**AEC ASSOCIATED ENGINEERING COMPANY OF IOWA**  
 2917 Martin Luther King Jr. Pkwy Des Moines, IA 50310  
 Phone: (515) 255-3156 Fax: (515) 255-3157

www.aecofiowa.com  
 PROJECT #: 206154

# FINAL PLAT COONS HEIGHTS PLAT 2 SHEET 1 OF 1

## OWNER/DEVELOPER

ART COONS  
6921 NW BEAVER DR.  
JOHNSTON, IA 50131  
(515) 313-1322

## LEGAL DESCRIPTION

LOT 1 IN COONS HEIGHTS, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF JOHNSTON, POLK COUNTY, IOWA.

SAID PARCEL CONTAINS 1.49 ACRES, MORE OR LESS.

## NOTES

- CORNERS SHOWN TO BE SET ON THIS PLAT WILL BE ESTABLISHED WITHIN ONE YEAR OF THE RECORDING OF THIS PLAT.
- FEMA FLOOD ZONE INFORMATION:  
ZONE X  
COMMUNITY PANEL NUMBER 1907450004D  
REVISED 7/19/2000
- ZONING: R-1 (100) SINGLE FAMILY RESIDENTIAL DISTRICT  
FRONT: 40'  
REAR: 40'  
SIDEYARDS: 10' MIN/21' TOTAL
- NO GRADING OR TREE REMOVAL IS PROPOSED WITH THIS PLAT.
- EXISTING FENCE CROSSING SOUTH LINE OF LOT 2 SHALL BE REMOVED AT TIME OF CONSTRUCTION ON LOT 2 AT THE OWNER OF LOT 2'S EXPENSE.
- SEWER SERVICE  
A. AT THE TIME OF INSTALLATION OF THE SEWER SERVICE TO LOT 2 THE SERVICE TO LOT 1 SHALL BE INSTALLED.  
B. AT THE TIME OF INSTALLATION OF THE SEWER SERVICE TO LOT 1 THE EXISTING LATERAL FIELD FOR LOT 1 WILL BE VACATED ACCORDING TO THE STATE OF IOWA CODE.  
C. THE INDIVIDUAL LOT OWNERS ARE RESPONSIBLE FOR INSTALLATION OF THEIR OWN SERVICES.

## CERTIFICATION

I hereby certify that this plat, plan, specification or report was prepared by me or under my direct personal supervision and that I am a duly licensed Professional Engineer and Land Surveyor, under the laws of the State of Iowa.		
Signed <i>D.H. Piagentini</i>	Date 01/19/2016 D.H. PIAGENTINI, P.E. & L.S. License No. 5228 My registration expires December 31, 2018	

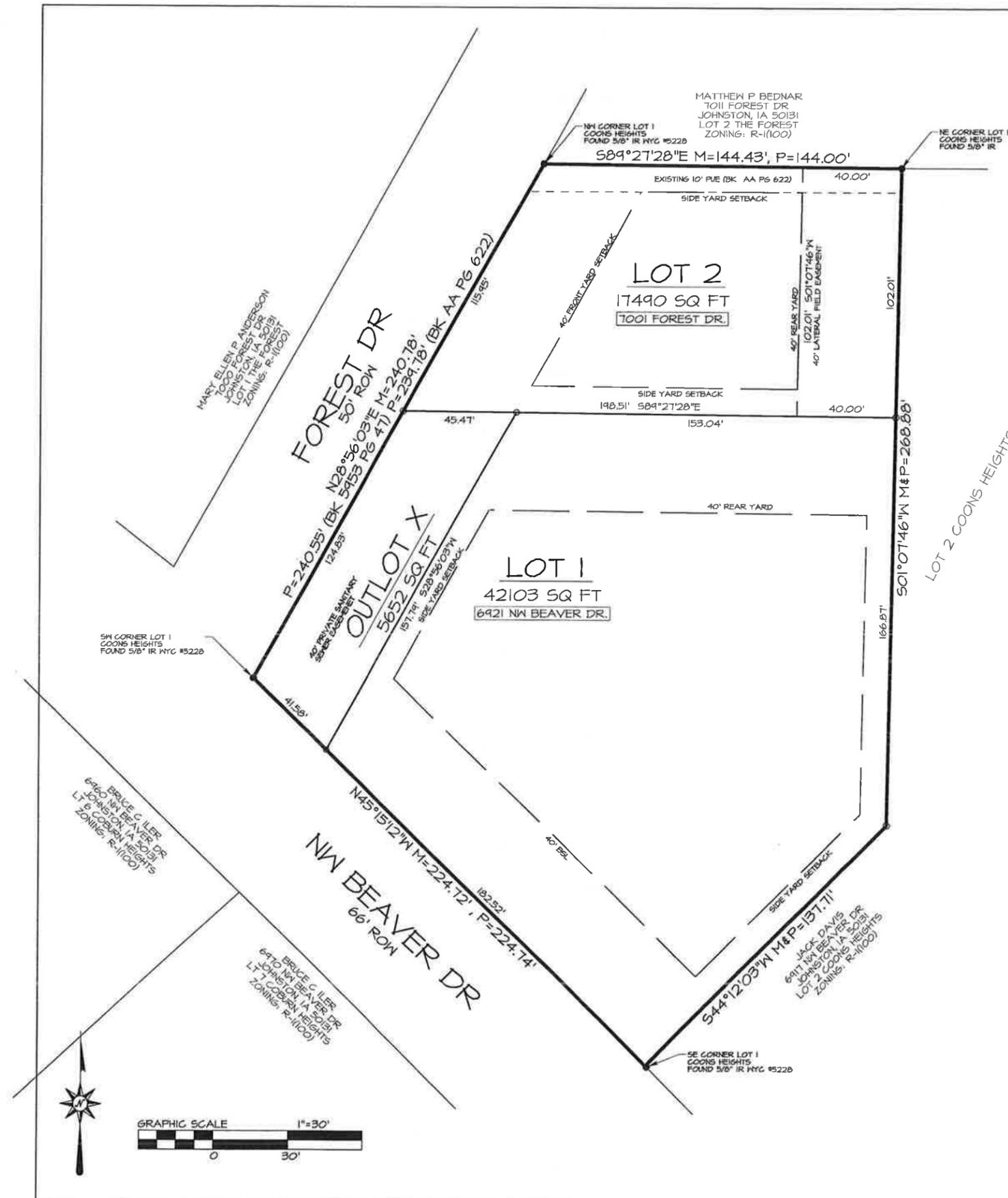
## LEGEND

- MONUMENT FOUND AS NOTED
- SET 1/2" IR W/ PINK CAP #522B
- ▲ SECTION CORNER FOUND AS NOTED
- △ SECTION CORNER SET AS NOTED
- M= MEASURED DISTANCE OR BEARING
- P= RECORDED DISTANCE OF BEARING

**AEC ASSOCIATED ENGINEERING COMPANY OF IOWA**  
2917 Martin Luther King Jr. Pkwy Des Moines, IA 50310  
Phone: (515) 255-3156 Fax: (515) 255-3157

www.aecofiowa.com  
PROJECT #: 206154

FIRST SUBMITTAL DATE: 12/7/15





ITEM NO. **9d**

**OFFICE OF THE CITY ADMINISTRATOR**

Johnston, Iowa  
AGENDA COMMUNICATION  
February 2, 2016 Meeting

SUBJECT: Payment of Claims	ACTION REQUIRED: <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Approval <i>J.D.</i> <input type="checkbox"/> Receive/File <input type="checkbox"/> Attorney Review
----------------------------	--

SYNOPSIS:	Attached for your review is the list of claims for payment in the amount of \$195,442.25
FISCAL IMPACT:	Money is available to pay claims in the amount of \$195,442.25
RECOMMENDATION:	By motion approve payment of claims in the amount of \$195,442.25

**Motion by \_\_\_\_\_, second by \_\_\_\_\_, to approve claims as presented.**

VENDOR NAME	DESCRIPTION	FUND	DEPARTMENT	AMOUNT
MISC	MULEPATI, ANJIB	GENERAL FUND	CROWN POINT	227.50
	PHI, HIEU	GENERAL FUND	SIMPSON BARN	<u>130.00</u>
			TOTAL:	357.50
ACME TOOLS	DEWALT CAR CHARGER	GENERAL FUND	PARKS & TRAILS	<u>109.99</u>
			TOTAL:	109.99
ANIMAL RESCUE LEAGUE OF IOWA	LIVE ANIMAL INTAKE SERVICE	GENERAL FUND	ANIMAL CONTROL	<u>250.00</u>
			TOTAL:	250.00
ARAMARK UNIFORM SERVICES	UNIFORMS	GENERAL FUND	PARKS & TRAILS	150.57
	UNIFORMS	GENERAL FUND	PARKS & TRAILS	150.57
	UNIFORMS	GENERAL FUND	PARKS & TRAILS	150.57
	MATS FOR CROWN POINT	GENERAL FUND	CROWN POINT	45.11
	UNIFORMS	GENERAL FUND	BUILDING & HOUSING	3.70
	UNIFORMS	GENERAL FUND	BUILDING & HOUSING	3.70
	UNIFORMS	ROAD USE TAX	ROADS,BRIDGES,SIDEWALK	179.05
	UNIFORMS	ROAD USE TAX	ROADS,BRIDGES,SIDEWALK	179.05
	UNIFORMS	WATER O/M	WATER	63.07
	UNIFORMS	WATER O/M	WATER	138.31
	UNIFORMS	SEWER O/M	WASTEWATER	63.07
	UNIFORMS	SEWER O/M	WASTEWATER	<u>138.30</u>
			TOTAL:	1,265.07
ARDICK EQUIPMENT CO INC	SIGNS, SIGN RIVITS & POST	GENERAL FUND	PARKS & TRAILS	<u>112.25</u>
			TOTAL:	112.25
ARNOLD MOTOR SUPPLY, LLP	ANTI-FREEZE	GENERAL FUND	POLICE	13.86
	ANTI-FREEZE	ROAD USE TAX	ROADS,BRIDGES,SIDEWALK	<u>69.30</u>
			TOTAL:	83.16
AUTOMATIC SYSTEMS CO	SCADA REPAIR	WATER O/M	WATER	<u>383.75</u>
			TOTAL:	383.75
BAKER GROUP	HVAC MAINTENANCE AGREEMENT	GENERAL FUND	FIRE	4,576.13
	HVAC MAINTENANCE AGREEMENT	GENERAL FUND	AMBULANCE	<u>4,576.12</u>
			TOTAL:	9,152.25
BIDWELL, KATRENA	REPLACE GLASSES-CASE 16-00	GENERAL FUND	POLICE	<u>38.71</u>
			TOTAL:	38.71
BRADLEY TOOLS & FASTENERS	SAW BLADES	GENERAL FUND	SIMPSON BARN	<u>39.90</u>
			TOTAL:	39.90
BUSINESS FURNITURE WAREHOUSE	FURNITURE RENTAL-CENSUS OF	GENERAL FUND	ECONOMIC DEVELOPMENT	<u>700.00</u>
			TOTAL:	700.00
CARPENTER UNIFORM COMPANY	LITEX VEST - SAMIR	GENERAL FUND	POLICE	675.00
	LITEX VEST - THOREN	GENERAL FUND	POLICE	<u>675.00</u>
			TOTAL:	1,350.00
CENTURY LINK	PHONE SERVICES - CITY BLDG	GENERAL FUND	ROADS,BRIDGES,SIDEWALK	121.58
	PHONE SERVICES - CITY BLDG	GENERAL FUND	LIBRARY	121.58
	ALARM MONITORING- PARKS DE	GENERAL FUND	PARKS & TRAILS	59.90
	PHONE SERVICES - CITY BLDG	GENERAL FUND	PARKS & TRAILS	121.58
	LONG DISTANCE SERVICES	GENERAL FUND	ECONOMIC DEVELOPMENT	47.31

VENDOR NAME	DESCRIPTION	FUND	DEPARTMENT	AMOUNT
	ALARM MONITORING - CITY HA	GENERAL FUND	BUILDING & HOUSING	19.97
	PHONE SERVICES - CITY BLDG	GENERAL FUND	BUILDING & HOUSING	121.58
	ALARM MONITORING - CITY HA	GENERAL FUND	PLANNING & ZONING	19.96
	PHONE SERVICES - CITY BLDG	GENERAL FUND	PLANNING & ZONING	121.58
	ALARM MONITORING - CITY HA	GENERAL FUND	CITY HALL	19.97
	PHONE SERVICES - CITY BLDG	GENERAL FUND	CITY HALL	121.56
	ALARM MONITORING- WATER DE	WATER O/M	WATER	52.53
	PHONE SERVICES - CITY BLDG	WATER O/M	WATER	121.58
	ALARM MONITORING- WATER DE	SEWER O/M	WASTEWATER	52.52
	PHONE SERVICES - CITY BLDG	SEWER O/M	WASTEWATER	121.58
			TOTAL:	1,244.78
CINTAS CORPORATION #762	CLEANING SERVICES-CITY HAL	GENERAL FUND	CITY HALL	113.20
			TOTAL:	113.20
CITY OF DES MOINES	WRA	SEWER O/M	WASTEWATER	28,027.50
	WRA	SEWER O/M	WASTEWATER	3,108.00
	WRA	SEWER O/M	WASTEWATER	7,571.50
	WRA	SEWER O/M	WASTEWATER	25,769.25
			TOTAL:	64,476.25
CLIVE POWER EQUIPMENT	ARBORIST SAW	GENERAL FUND	PARKS & TRAILS	260.00
			TOTAL:	260.00
CONCRETE TECHNOLOGIES INC. RECYCLING D	ASPHALT- EMERG. SEWER REPA	SEWER O/M	WASTEWATER	482.39
			TOTAL:	482.39
CONSOLIDATED ELECTRICAL DISTRIBUTORS,	LIGHTING REPAIR/PARTS- FIR	GENERAL FUND	FIRE	4.84
	LIGHTING REPAIR/PARTS- FIR	GENERAL FUND	AMBULANCE	4.83
	BREAKERS FOR BRINE BLDG.	GENERAL FUND	CITY HALL	4.58
	LIGHTING REPAIR/PARTS- FIR	GENERAL FUND	CITY HALL	90.42
	ELECTRICAL FOR BRINE BLDG	ROAD USE TAX	ROADS, BRIDGES, SIDEWALK	93.87
			TOTAL:	198.54
CORELL CONTRACTOR INC	NW 63RD PLACE EXTENSION	NW 64th & 63rd PL	ROADS, BRIDGES, SIDEWA	2,267.65
			TOTAL:	2,267.65
CSB INSURANCE	ADDL' INSURANCE PROPERTY/V	GENERAL FUND	PROPERTY, WORK COMP, INS	327.00
			TOTAL:	327.00
DAVE CUBIT	REIMBURSE- DC TRIP EXPENSE	WATER O/M	WATER	36.96
	REIMBURSE- DC TRIP EXPENSE	SEWER O/M	WASTEWATER	36.96
			TOTAL:	73.92
DENNIS MESSENGER	REIMBURSE-AIRFARE- ACLARA	WATER O/M	WATER	255.10
	REIMBURSE-ACLARA CONF. REG	WATER O/M	WATER	249.50
	REIMBURSE-AIRFARE- ACLARA	SEWER O/M	WASTEWATER	255.10
	REIMBURSE-ACLARA CONF. REG	SEWER O/M	WASTEWATER	249.50
			TOTAL:	1,009.20
DES MOINES BICYCLE COLLECTIVE	MAYOR'S BIKE RIDE AD	GENERAL FUND	PARKS & TRAILS	500.00
			TOTAL:	500.00
DES MOINES IRON & SUPPLY CO.	ANGLE IRON	ROAD USE TAX	ROADS, BRIDGES, SIDEWALK	25.86
			TOTAL:	25.86

VENDOR NAME	DESCRIPTION	FUND	DEPARTMENT	AMOUNT
DES MOINES METAL FABRICATING	CUTTING EDGES	GENERAL FUND	PARKS & TRAILS	209.91
	CUTTING EDGES	GENERAL FUND	PARKS & TRAILS	<u>251.85</u>
			TOTAL:	461.76
DEWEY FORD	ANTI-FREEZE, SEAL & THERMO	GENERAL FUND	POLICE	38.01
	TANK ASSEMBLY KIT	GENERAL FUND	POLICE	82.44
	SWITCH	ROAD USE TAX	ROADS, BRIDGES, SIDEWALK	<u>24.74</u>
			TOTAL:	145.19
DOCTORS NOW WALK-IN CARE	PRE-EMPLOYMENT PHYSICAL-TH	GENERAL FUND	POLICE	<u>245.00</u>
			TOTAL:	245.00
DORRIAN HEATING & COOLING	SERVICE CALL- FURNACE AT C	GENERAL FUND	CROWN POINT	257.05
	REPLACE HEAT EXCHANGER-CP	GENERAL FUND	CROWN POINT	<u>636.00</u>
			TOTAL:	893.05
ELECTRONIC ENGINEERING COMPANY	TWO-WAY RADIO BATTERY CHEC	GENERAL FUND	PARKS & TRAILS	<u>14.95</u>
			TOTAL:	14.95
EVERGREEN SOD & LANDSCAPING	HYDRANT METER REFUND	WATER O/M	WATER	<u>499.58</u>
			TOTAL:	499.58
FIRE RECOVERY EMS (FRUSA-EMS)	DECEMBER CHARGES	GENERAL FUND	AMBULANCE	<u>686.63</u>
			TOTAL:	686.63
FIRST CHOICE DISTRIBUTION	TROOPE BLACK MAT	GENERAL FUND	ROADS, BRIDGES, SIDEWALK	113.72
	JANITORIAL/CLEANING SUPPLI	GENERAL FUND	ROADS, BRIDGES, SIDEWALK	202.52
	JANITORIAL SUPPLIES	GENERAL FUND	ROADS, BRIDGES, SIDEWALK	47.10
	JANITORIAL SUPPLIES	GENERAL FUND	ROADS, BRIDGES, SIDEWALK	47.10
	JANITORIAL SUPPLIES	GENERAL FUND	PARKS & TRAILS	182.42
	JANITORIAL/CLEANING SUPPLI	GENERAL FUND	CITY HALL	202.51
	JANITORIAL/CLEANING SUPPLI	ROAD USE TAX	ROADS, BRIDGES, SIDEWALK	202.52
	JANITORIAL SUPPLIES	ROAD USE TAX	ROADS, BRIDGES, SIDEWALK	47.08
	JANITORIAL/CLEANING SUPPLI	WATER O/M	WATER	202.52
	JANITORIAL SUPPLIES	WATER O/M	WATER	47.10
	JANITORIAL/CLEANING SUPPLI	SEWER O/M	WASTEWATER	202.52
	JANITORIAL SUPPLIES	SEWER O/M	WASTEWATER	<u>47.10</u>
			TOTAL:	1,544.21
G & S SERVICE	TOWING SERVICES- PATROL CA	GENERAL FUND	POLICE	<u>50.00</u>
			TOTAL:	50.00
GOVERNMENT FINANCE OFFICERS ASSOC	GFOA DUES	GENERAL FUND	FINANCE	63.34
	GFOA DUES	WATER O/M	WATER	63.33
	GFOA DUES	SEWER O/M	WASTEWATER	<u>63.33</u>
			TOTAL:	190.00
GRIMES ASPHALT & PAVING CORP	COLD MIX FOR POT HOLE REPA	ROAD USE TAX	ROADS, BRIDGES, SIDEWALK	<u>122.64</u>
			TOTAL:	122.64
HB LEISEROWITZ	CAMERA- CRIME SCENE INVEST	GENERAL FUND	POLICE	<u>2,324.41</u>
			TOTAL:	2,324.41
HILLYARD/DES MOINES	RUGS FOR CROWN POINT	GENERAL FUND	CROWN POINT	<u>87.58</u>
			TOTAL:	87.58

VENDOR NAME	DESCRIPTION	FUND	DEPARTMENT	AMOUNT
HIRE QUALITY SOLUTIONS	TEMP. SERVICES - DAVIS	GENERAL FUND	BUILDING & HOUSING	868.00
	TEMP. SERVICES - DAVIS	GENERAL FUND	BUILDING & HOUSING	<u>558.99</u>
			TOTAL:	1,426.99
HUBBELL REALTY CO.	HYDRANT METER REFUND	WATER O/M	WATER	503.26
	HYDRANT METER REFUND	WATER O/M	WATER	<u>469.01</u>
			TOTAL:	972.27
IFSMA	IFSMA MEMBERSHIP DUES	GENERAL FUND	PLANNING & ZONING	<u>35.00</u>
			TOTAL:	35.00
IOWA DEPT OF TRANSPORTATION	PRINTER PAPER FOR PATROL C	GENERAL FUND	POLICE	366.12
	SHOVELS, ANTIFREEZE, ZIP T	GENERAL FUND	PARKS & TRAILS	110.80
	SHOVELS, ANTIFREEZE, ZIP T	GENERAL FUND	PARKS & TRAILS	<u>60.00</u>
			TOTAL:	536.92
IOWA DEPT. OF NATURAL RESOURCES	UST FUEL TANK RENEWAL TAGS	GENERAL FUND	ROADS, BRIDGES, SIDEWALK	65.00
	UST FUEL TANK RENEWAL TAGS	ROAD USE TAX	ROADS, BRIDGES, SIDEWALK	<u>65.00</u>
			TOTAL:	130.00
IOWA ONE CALL	ONE CALL LOCATES	WATER O/M	WATER	104.40
	ONE CALL LOCATES	SEWER O/M	WASTEWATER	<u>104.40</u>
			TOTAL:	208.80
IOWA PRISON INDUSTRIES	BUSINESS CARDS - McCLAIN	GENERAL FUND	POLICE	<u>40.00</u>
			TOTAL:	40.00
ISWEP	ISWEP MEMBERSHIP PROGRAM	STORM WATER O&M	STORM WATER	<u>3,257.91</u>
			TOTAL:	3,257.91
JOHNSTONE SUPPLY	SWITCH FOR FURNACE	ROAD USE TAX	ROADS, BRIDGES, SIDEWALK	27.41
	FURNACE CONTROL	ROAD USE TAX	ROADS, BRIDGES, SIDEWALK	<u>110.92</u>
			TOTAL:	138.33
KELTEK INCORPORATED	COMPUTER MOUNTING SUPPLIES	GENERAL FUND	FIRE	213.09
	RADIO REPAIR PARTS	GENERAL FUND	FIRE	94.30
	COMPUTER MOUNTING SUPPLIES	GENERAL FUND	AMBULANCE	213.08
	MOBILE DATA TERMINALS	EQUIP REPLACEMENT	RESCUE	2,371.16
	CREDIT-DATA MOBILE TERMINA	EQUIP REPLACEMENT	RESCUE	<u>2,296.16</u>
			TOTAL:	595.47
KINGSTON SERVICES	HYDRANT METER REFUND	WATER O/M	WATER	<u>1,150.00</u>
			TOTAL:	1,150.00
LAWSON PRODUCTS, INC	SHOP SUPPLIES, WASHERS, SC	GENERAL FUND	PARKS & TRAILS	423.47
	DRILL BITS, PLOW BOLTS, SU	ROAD USE TAX	ROADS, BRIDGES, SIDEWALK	<u>553.84</u>
			TOTAL:	977.31
LYNN ASWEGAN	MILEAGE REIMBURSEMENT- MTG	GENERAL FUND	POLICE	<u>17.28</u>
			TOTAL:	17.28
MATAI MEMBERSHIP CHAIRMAN	MATAI MEMBERSHIP APP.-JOHN	GENERAL FUND	POLICE	<u>10.00</u>
			TOTAL:	10.00
MENARDS CLIVE	PLYWOOD/ PAINT FOR SHELVES	GENERAL FUND	PARKS & TRAILS	79.98
	NAILS FOR BARN FLOOR	GENERAL FUND	SIMPSON BARN	19.78

VENDOR NAME	DESCRIPTION	FUND	DEPARTMENT	AMOUNT
	NAILS FOR BARN FLOOR	GENERAL FUND	SIMPSON BARN	29.67
	PLYWOOD/ PAINT FOR SHELVES	GENERAL FUND	CROWN POINT	244.89
			TOTAL:	374.32
MIDWEST OFFICE TECHNOLOGY INC	COPIER MAINT. & COPIES	GENERAL FUND	FIRE	4.13
	COPIER MAINT. & COPIES	GENERAL FUND	AMBULANCE	4.12
	COPIER MAINT. & COPIES	GENERAL FUND	BUILDING & HOUSING	19.66
	COPIER MAINT. & COPIES	GENERAL FUND	PLANNING & ZONING	22.86
	COPIER MAINT. & COPIES	GENERAL FUND	MAYOR, COUNCIL	37.76
	COPIER MAINT. & COPIES	GENERAL FUND	CITY ADMINISTRATOR	52.53
	COPIER MAINT. & COPIES	GENERAL FUND	CITY CLERK	19.48
	COPIER MAINT. & COPIES	GENERAL FUND	FINANCE	54.18
	COPIER MAINT. & COPIES	WATER O/M	WATER	167.14
	COPIER MAINT. & COPIES	SEWER O/M	WASTEWATER	167.14
			TOTAL:	549.00
MUNICIPAL EMERGENCY SERVICES	FIRE FIGHTING SUPPLIES	GENERAL FUND	FIRE	119.83
	FIRE FIGHTING SUPPLIES	GENERAL FUND	FIRE	201.47
			TOTAL:	321.30
MUNICIPAL SUPPLY INC	ROPE FOR ENTERING/EXT MANH	WATER O/M	WATER	70.00
			TOTAL:	70.00
McKINNEY EXCAVATING, LLC	EMERG. REPAIR- LOW PRESS.	SEWER O/M	WASTEWATER	5,450.03
			TOTAL:	5,450.03
NATIONAL ASSOC OF SCHOOL RESOURCE OFFI	NASRO DUES - SLACK	GENERAL FUND	POLICE	40.00
			TOTAL:	40.00
NEOPOST USA, INC	POSTAGE/MAIL MACHINE LEASE	GENERAL FUND	CITY ADMINISTRATOR	322.70
			TOTAL:	322.70
O'HALLORAN INTERNATIONAL INC	BACK COVER FOR MIRROR	ROAD USE TAX	ROADS, BRIDGES, SIDEWALK	44.90
			TOTAL:	44.90
PERFICUT LAWN & LANDSCAPE	HYDRANT METER REFUND	WATER O/M	WATER	606.25
			TOTAL:	606.25
PETROLEUM MARKETERS MUTUAL	UST INSURANCE PREMIUM	GENERAL FUND	ROADS, BRIDGES, SIDEWALK	780.00
	UST INSURANCE PREMIUM	ROAD USE TAX	ROADS, BRIDGES, SIDEWALK	780.00
			TOTAL:	1,560.00
PJ GREUFE & ASSOCIATES, LLC	TRAINING - JANUARY 2016	GENERAL FUND	FIRE	858.50
	TRAINING - JANUARY 2016	GENERAL FUND	AMBULANCE	858.50
			TOTAL:	1,717.00
PLUMB SUPPLY	VALVE KIT	GENERAL FUND	CROWN POINT	170.05
			TOTAL:	170.05
PREFERRED PEST CONTROL, INC	HYDRANT METER REFUND	WATER O/M	WATER	1,017.90
			TOTAL:	1,017.90
PTS OF AMERICA, LLC	PRISONER TRANSPORT SERVICE	GENERAL FUND	POLICE	300.00
			TOTAL:	300.00
RACOM CORPORATION	EDACS ACCESS	GENERAL FUND	POLICE	940.00

VENDOR NAME	DESCRIPTION	FUND	DEPARTMENT	AMOUNT
	EDACS ACCESS	GENERAL FUND	POLICE	940.00
	EDACS & BEON ACCESS	GENERAL FUND	FIRE	425.40
	EDACS & BEON ACCESS	GENERAL FUND	AMBULANCE	426.40
			TOTAL:	2,731.80
REFLECTIVE APPAREL FACTORY, INC	UNIFORMS- SAFETY GEAR- MAH WATER O/M		WATER	76.49
	UNIFORMS- SAFETY GEAR- MAH SEWER O/M		WASTEWATER	76.48
			TOTAL:	152.97
ROGNESS CORP.	HYDRANT METER REFUND	WATER O/M	WATER	375.41
			TOTAL:	375.41
RSM US, LLP	FY15 AUDIT PROGRESS BILLIN	GENERAL FUND	FINANCE	3,000.00
	FY15 AUDIT PROGRESS BILLIN	WATER O/M	WATER	3,000.00
	FY15 AUDIT PROGRESS BILLIN	SEWER O/M	WASTEWATER	3,000.00
			TOTAL:	9,000.00
SAMIR DZAFERAGIC	REIMBURSEMENT-MATAI DUES	GENERAL FUND	POLICE	31.20
			TOTAL:	31.20
SECRETARY OF STATE	NOTARY APPLICATION- CHILES	GENERAL FUND	POLICE	30.00
			TOTAL:	30.00
SHIVE HATTERY	BEAVER DRIVE TRAIL, PHASE	BEAVER DR.TRALL	ROADS, BRIDGES, SIDEWA	13,913.10
			TOTAL:	13,913.10
SMITH'S SEWER SERVICE	SEWER LINE CLEANING-CITY H	GENERAL FUND	CITY HALL	99.15
	LIFT STATION CLEANING	SEWER O/M	WASTEWATER	450.00
			TOTAL:	549.15
SNAP ON INDUSTRIAL	PULLER SET (shop tool)	GENERAL FUND	PARKS & TRAILS	325.83
			TOTAL:	325.83
SNYDER & ASSOCIATES INC	TERRA LAKE PARK IMPROVEMEN	TERRA LAKE	PARKS & TRAILS	48,370.00
			TOTAL:	48,370.00
SPRAYER SPECIALTIES INC	SALT BRINE HOSE PARTS	ROAD USE TAX	ROADS,BRIDGES,SIDEWALK	10.65
	DE ICING PARTS	ROAD USE TAX	ROADS,BRIDGES,SIDEWALK	31.90
	CALCUIM PART FOR SNOW PLOW	ROAD USE TAX	ROADS,BRIDGES,SIDEWALK	98.66
	SPANNER WRENCH	ROAD USE TAX	ROADS,BRIDGES,SIDEWALK	8.40
			TOTAL:	149.61
SPRINT	AIR CARDS FOR PATROL VEHIC	GENERAL FUND	POLICE	165.70
			TOTAL:	165.70
STAHL CONSTRUCTION	HYDRANT METER REFUND	WATER O/M	WATER	293.97
			TOTAL:	293.97
STATE HYGIENIC LAB-ACCTS REC	WATER QUALITY TESTING SERV	STORM WATER O&M	STORM WATER	186.00
			TOTAL:	186.00
THE UPS STORE	SHIPPING SERVICES- LED LIG	ROAD USE TAX	ROADS,BRIDGES,SIDEWALK	12.51
			TOTAL:	12.51
THORPE WATER DEVELOPEMENT	HYDRANT METER REFUND	WATER O/M	WATER	535.80
			TOTAL:	535.80

VENDOR NAME	DESCRIPTION	FUND	DEPARTMENT	AMOUNT
TOMPKINS INDUSTRIES INC	HYDRAULIC COUPLERS FOR PLO ROAD USE TAX		ROADS, BRIDGES, SIDEWALK	167.24
	PARTS - PLOW HYDRAULIC SYS ROAD USE TAX		ROADS, BRIDGES, SIDEWALK	<u>27.41</u>
			TOTAL:	194.65
TRUCK EQUIPMENT	MINI LIGHTBAR ROAD USE TAX		ROADS, BRIDGES, SIDEWALK	280.00
	CUTTING EDGES & CURBS GUAR ROAD USE TAX		ROADS, BRIDGES, SIDEWALK	799.20
	CUTTING EDGES & CURB GUARD ROAD USE TAX		ROADS, BRIDGES, SIDEWALK	<u>208.80</u>
			TOTAL:	1,288.00
TYLER TECHNOLOGIES	ON-LINE PAYMENTS FEE-FEB 2 WATER O/M		WATER	92.00
	ON-LINE PAYMENTS FEE-FEB 2 SEWER O/M		WASTEWATER	<u>92.00</u>
			TOTAL:	184.00
URBANDALE POLICE DEPARTMENT	"SERT" RANGE FEES-OCT. 7,2 GENERAL FUND		POLICE	75.00
	"SERT" RANGE FEE- DEC. 1,2 GENERAL FUND		POLICE	<u>75.00</u>
			TOTAL:	150.00
UTILITY EQUIPMENT CO.	HYDRANT FLANGE KIT FOR REP WATER O/M		WATER	<u>230.29</u>
			TOTAL:	230.29
VAN WALL GROUP	HANDLE FOR POLE SAW GENERAL FUND		PARKS & TRAILS	<u>35.72</u>
			TOTAL:	35.72
VERIZON WIRELESS	AIR CARDS FOR PATROL CARS GENERAL FUND		POLICE	480.18
	CELL PHONE SERVICES -FIRE GENERAL FUND		FIRE	236.16
	CELL PHONE SERVICES -FIRE GENERAL FUND		AMBULANCE	236.15
	CELL PHONE SERVICES- CD/BL GENERAL FUND		BUILDING & HOUSING	262.13
	CELL PHONE SERVICES- CD/BL GENERAL FUND		PLANNING & ZONING	379.99
	CELL PHONE SERVICE - PRICE GENERAL FUND		COMMUNICATIONS	<u>40.01</u>
			TOTAL:	1,634.62
WINDSTREAM IT-COMM.LLC.	PHONE SEVICES - CROWN POIN GENERAL FUND		PARKS & TRAILS	<u>176.55</u>
			TOTAL:	176.55
ZIEGLER INC	GENERATOR FOR ORCHARD MEAD SEWER O/M		WASTEWATER	<u>399.27</u>
			TOTAL:	399.27



VENDOR NAME	DESCRIPTION	FUND	DEPARTMENT	AMOUNT
IOWA DEPT OF NATURAL RESOURCES	WATER PERMIT-NW 60TH AVE P MERLE HAY EAST IMP ROADS, BRIDGES			<u>100.00</u>
			TOTAL:	100.00
IOWA DEPT. OF NATURAL RESOURCES	WASTEWTR PERMIT-NW 60TH PR MERLE HAY EAST IMP ROADS, BRIDGES			<u>100.00</u>
			TOTAL:	100.00

===== FUND TOTALS =====	
334 MERLE HAY EAST IMPROVEMEN	200.00
-----	
GRAND TOTAL:	200.00
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10a

## **Memorandum of Understanding**

**By and Between  
the Des Moines Area Metropolitan Planning Organization (“MPO”)  
and the City of Johnston  
for**

### **Complete Streets Tactical Starts Grant Program**

#### **Purpose**

The purpose of this Memorandum of Understanding (“MOU”) is to set guidelines for the disbursement, use and requirements for receiving and using funds from the Complete Streets Tactical Starts Grant Program in order to promote and demonstrate the benefits of implementing Complete Streets policies and principles.

#### **Recitals**

WHEREAS Complete Streets are streets that are for everyone, both designed and operated to enable the safe access of all users including people walking, rolling, biking, riding transit, and driving; and

WHEREAS Complete Streets can remove barriers to daily physical activity, promote more active transportation options, and improve the health outcomes of the community; and

WHEREAS the Complete Streets Tactical Starts Grant Program is intended to spur the adoption and implementation of Complete Streets policies by providing on-the-ground examples of the positive outcomes of such policies; and

WHEREAS the MPO has received \$75,000 of funding in total from the Wellmark Foundation in order to promote Complete Streets policies and principles. This funding will be distributed to six local agencies and organizations as approved by the MPO Policy Committee on November 19, 2015.

**NOW THEREFORE** it is agreed that there is a critical need for healthy, active, and safe streets for all users throughout the Des Moines Metropolitan region and the City of Johnston has been approved to receive \$15,000 in order to complete the NW 60<sup>th</sup> Avenue Trail Crossing and Extension project. This MOU is not a commitment of funds. It documents the guidelines for receiving, using, and accounting for these funds.

#### **The City of Johnston has Agreed to:**

1. Implement the project outlined in the Complete Streets Tactical Starts Grant application submitted to the MPO, representing to the MPO that the information in the application is accurate and complete; and

2. Provide a local match of \$58,100 for the completion of this project; and
3. Complete this project by August 1, 2016.
4. Give the MPO access to all books and records pertaining to the Project and its implementation, recognizing that all such information is to be deemed public records and the receiving agency shall be deemed the custodian thereof, all pursuant to Iowa Code Chapter 22.

**Process for Transferring Funds**

Complete Streets Tactical Starts Grant funds will be transferred from the MPO in full upon completion of the Project by the City of Johnston in accordance with this MOU and following the MPO's confirmation of the local match.

**Termination of MOU**

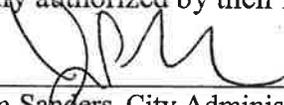
The MPO may terminate this MOU for its breach if written notice of breach is not satisfactorily cured within thirty (30).

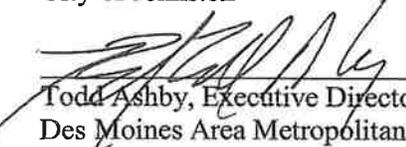
**Amendment of MOU or the Project**

This agreement or the Project may be amended from time-to-time by written mutual agreement of the parties. It will be intentionally reviewed by the parties at least every three (3) months during the term of the agreement for clarification and/or modification.

**Acceptance and Representation**

The undersigned parties hereby accept the terms of this MOU and the signatories affirmatively represent for the purpose of reliance that their signatures on this MOU have been duly authorized by their respective agencies.

  
\_\_\_\_\_  
Date: 1/20/16  
Jim Sanders, City Administrator  
City of Johnston

  
\_\_\_\_\_  
Date: 1/20/16  
Todd Ashby, Executive Director  
Des Moines Area Metropolitan Planning Organization

January 26, 2016

**City of Johnston**  
6221 Merle Hay Road  
PO Box 410  
Johnston, Iowa 50131-0410

**Attention: Jim Sanders, City Administrator**

**Re: Recreational Amenities for Multi-Residential Developments**

Dear Mr. Sanders:

Attached is the proposal for consulting services concerning the above noted project. Please review, sign below, and return a pdf copy of the signed proposal to me. We have made no changes to the text from the draft copy that was accepted by you earlier this week.

In addition, please let me know who my main contact in the Civic Administration will be as we work on this project.

Thank you for the opportunity to work on this exciting project!

Sincerely:



Glenn F. Lyons MCIP, Executive Director, Neighborhood Development Corporation

**On Behalf of the City of Johnston, I accept the terms of the attached proposal.**



---

Jim Sanders, City Administrator

1/26/16  
Date

## **The Assignment**

NDC proposes to undertake research and analysis regarding appropriate levels of recreational amenity provision in large multi-residential projects. In doing so, NDC will consider such issues as:

- The wide variety of target markets (e.g. young adults, seniors, families with children etc.) and income groups that developers appeal to in their various multi-residential projects;
- The wide variety of multi-residential housing types and densities (e.g. townhouse, low-rise and high-rise apartments, etc.) that are employed by multi-residential developers in Johnston;
- Resident needs for access to recreational amenities and their ability to access such amenities off-site;
- Appropriate types of on-site residential amenities for apartment projects being developed in Johnston, taking into consideration the factors described above;
- Appropriate criteria for determining when such amenities should be required on-site in multi-residential projects and in what manner; and
- Appropriate means of applying those standards in practice.

## **The Consulting Team**

Glenn Lyons will act as the primary consultant from NDC; he will be assisted by Abbey Gilroy – the Director of Real Estate Development for NDC. Biographies of the primary consultants are provided at the end of this proposal.

## The Neighborhood Development Corporation

The Neighborhood Development Corporation (NDC) is a non-profit 501 (c) (3) corporation that specializes in neighborhood revitalization projects in Greater Des Moines. Incorporated in 1999, NDC has undertaken a series of real estate development projects, including historic commercial building renovations and new commercial, residential and mixed use developments. NDC projects include the following:

- The Temple Block, a historic mixed-use building renovation, on 6<sup>th</sup> Avenue in Des Moines, recently sold to a local investor;
- The Wherry Block, a historic mixed-used building renovation, also on 6<sup>th</sup> Avenue;
- Wherry I and II, new one-storey commercial infill buildings, adjacent to the Wherry Block;
- La Placita on East Grand, an integrated complex composed of both renovated and newly developed commercial buildings recently sold to a local investor;
- Madison Flats, a new 27-unit apartment building located on Indianola Avenue in Des Moines, recently sold to a local investor; and
- Sevastopol Station, a new 2-storey, mixed use building located on East 6<sup>th</sup> Street in Des Moines.

NDC is currently developing three projects with more than 200 residential units and \$30 million, in value, namely:

- Dunham Square, a 176+ unit apartment project on Indianola Avenue in Des Moines;
- Mary Todd House, an 8 unit stacked townhouse project on SW 9<sup>th</sup> in Des Moines; and
- MacRae Terrace, a 6 unit stacked townhouse project also on SW 9<sup>th</sup>.

NDC is also:

- Beginning work on two new commercial developments in Des Moines;
- Undertaking consulting work for local public organizations and private investors in Historic West Des Moines, Uptown Ankeny, and Des Moines; and
- Providing support to neighborhood-led revitalization efforts along SW 9<sup>th</sup>, and Ingersoll & Grand Avenues in Des Moines.

## Project Time Frame

This project is expected to take approximately 90 days from the commission date. Work in the first 60 days will focus on research and analysis and the last 30 days will involve report writing and finalization.

## The Proposed Budget

The proposed budget is summarized in the following table. Funds for this project will be paid for by NDC with financial support from Polk County through its 28 E Agreement with NDC. The City of Johnston will not be responsible for any costs associated with the consulting contract.

<b>Proposed Budget</b>				
		<b>Hours</b>	<b>Rate</b>	<b>Fees</b>
<b>NDC</b>	Client Meetings	8	\$ 135	\$ 1,080
	Site Visits	6	\$ 135	\$ 810
	Research (Lit. Review)	16	\$ 135	\$ 2,160
	Research & Analysis	30	\$ 135	\$ 4,050
	Report Writing	18	\$ 135	\$ 2,430
				<b>\$ 10,530</b>
Expenses				\$ -
<b>Total Costs</b>				<b>\$ 10,530</b>
Less Polk County Funding				\$ (10,530)
<b>Cost to City of Johnston</b>				<b>\$ -</b>

## Deliverables

Project deliverables will include:

- Draft and final written reports reviewing the relative merits of introducing recreational amenity standards for multi-residential developments in Johnston, including if appropriate a draft set of standards for use in the City.

## Client Participation and Client-Consultant Relationship

The City of Johnston will be able to participate in the study in the following ways:

- Discussions with the consultants prior to project initiation;
- Discussions with the consultants during research and analysis phase of the report;
- Discussions with the consultants regarding the draft written report; and
- Discussions with the consultants concerning the next steps in the process following completion of the final written report.

Regardless of the cost of the project to the City of Johnston, this project will operate under a normal client-consultant relationship. NDC will act as the lead consultant and

will work for and on behalf of the City of Johnston. NDC will maintain professional standards of work, respect client confidentiality, etc.

### **Consulting Team Bios**

**Glenn Lyons** has over 35 years' experience as an urban, corporate and strategic planner in the public, non-profit and private sectors. His work is diverse involving community and business area revitalization, urban planning and real estate development, property tax consulting, heritage preservation, non-profit association management, crime prevention, affordable housing development, and teaching.

Glenn has worked throughout Western Canada, and in Arizona and Iowa. He has Masters Degrees in Environmental Design (Urbanism) and Business Administration (Finance) from the University of Calgary. He is a longstanding Member of the Canadian Institute of Planners.

Glenn is currently the Executive Director of the Neighborhood Development Corporation; a non-profit housing and commercial development company that is involved in neighbourhood revitalization efforts in Greater Des Moines. Previous experience in senior management positions includes work with the City of Calgary Planning & Building Department, the Calgary Downtown Association, Newell Group, Deloitte & Touche LLC, Lyons Venini & Associates, the Real Estate Development Institute, the Downtown Tucson Partnership, and the Downtown Community Alliance in Des Moines.

**Abbey Gilroy** has more than ten years' experience in real estate development, having worked previously for SVPA Architects, Kum & Go, and Beal Derkenne Construction. She has worked in 11 states executing land development deals for Kum & Go. Abbey managed the Sevastopol Station and Madison Flats developments while serving as NDC's Executive Director from 2012-14. In 2015, she returned to NDC as the Director of Real Estate Development and is leading NDC's Dunham Square project. Abbey has a Bachelor's Degree in Business from the Iowa State University.



OFFICES OF CITY ADMINISTRATION  
Johnston, Iowa  
AGENDA COMMUNICATION  
STAFF COMMUNICATION – February 2, 2016

<p>SUBJECT:</p> <p>IAMU SAFETY GROUP DIVIDEND</p>	<p>ACTION REQUIRED:</p> <p><input type="checkbox"/> Ordinance</p> <p><input type="checkbox"/> Resolution</p> <p><input type="checkbox"/> Approval</p> <p><input type="checkbox"/> Receive/File</p> <p><i>Jessa</i></p>
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SYNOPSIS:

The City participates in the Iowa Association of Municipal Utilities Safety Group Insurance Program for our workers compensation, auto and property/casualty insurance.

One of the many benefits of being a member of this group is the potential for a dividend reducing our insurance costs. If earned, a dividend, which is the amount of premium which exceeds the losses and company overhead expenses, is returned to participants in proportion to their premiums paid to the Safety Group.

For the period of April 1, 2014 through March 31, 2015, the City received a dividend in the amount of \$24,890.90.

Attached is copies of the Safety Group Divided Notice and the IAMU Safety Group Annual Report 2015.



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IOWA  
ASSOCIATION OF MUNICIPAL  
UTILITIES

## **IAMU Safety Group Annual Report 2015**

We are now enclosing our annual report for the 34<sup>th</sup> year of the IAMU Safety Group Program. This latest report covers the experience period that runs from April 1, 2014 to March 31, 2015.

This year we are pleased to report the dividend has improved from what it was last year with a total distribution of \$1,485,006. The package experience improved, and Workers' Compensation experience improved a little from last year. The continued work that cities and utilities are doing in loss prevention, along with the efforts of both IAMU Safety and Training Division and EMC, are evidenced by this excellent dividend.

The dividend is a unique feature of the Safety Group Program since it is a way to return money to members based on overall losses of the program. The IAMU plan is large enough now that it can sustain numerous losses and still report positive results. Monies not used for underwriting, loss control and claims handling, are returned to members in the same proportion as their premiums bear to the total.

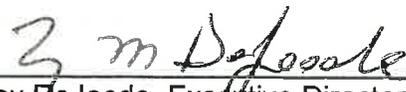
As always, we greatly appreciate your continued support to this extremely strong and beneficial program for IAMU members.

For the IAMU Trust Committee:

John Bilsten, Algona  
Chairman

Brad Honold, Coon Rapids  
Trustee

Pat Stief, Traer  
Trustee

  
Troy DeJoode, Executive Director

  
Robert E. Jester, Managing Agent

**Iowa Association  
of Municipal Utilities  
Safety Group**

**Dividend Calculation**

**Package Portion**

**April 1, 2014 to April 1, 2015**

Premiums	\$13,125,324		
Subtract retention	<u>-5,118,876</u>		
	8,006,448		
Less Losses	<u>-7,295,003</u>		
Dividend	<b>\$711,445</b>	÷3 =	<b>\$237,148</b>

**April 1, 2013 to April 1, 2014:**

Premiums	\$12,441,152		
Subtract retention	<u>-4,852,049</u>		
	7,589,103		
Less Losses	<u>-3,764,071</u>		
Dividend	<b>\$3,825,032</b>	÷3 =	<b>\$1,275,011</b>

**April 1, 2012 to April 1, 2013:**

Premiums	\$10,986,806		
Subtract retention	<u>-4,284,854</u>		
	6,701,952		
Less Losses	<u>-3,844,010</u>		
Dividend	<b>\$2,857,942</b>	÷3 =	<b>\$952,647</b>

<b>TOTAL PACKAGE PORTION:</b>	<b>\$237,148</b>
	<b>\$1,275,011</b>
	<b>\$952,647</b>
	<b><u>\$2,464,806</u></b>

## WORKERS' COMPENSATION PORTION

### April 1, 2014 to April 1, 2015

Premiums	\$7,581,066		
Subtract retention	<u>-2,350,130</u>		
	5,230,936		
Subtract losses and expenses	<u>-7,175,061</u>		
	<b>(\$1,944,125</b>	<b>÷ 3 =</b>	<b>(\$648,042)</b>

### April 1, 2013 to April 1, 2014:

Premiums	\$7,456,801		
Subtract retention	<u>-2,311,608</u>		
	5,145,193		
Subtract losses and expenses	<u>-5,814,075</u>		
	<b>(\$668,882)</b>	<b>÷ 3 =</b>	<b>(\$222,961)</b>

### April 1, 2012 to April 1, 2013:

Premiums	\$7,228,551		
Subtract retention	<u>-2,240,851</u>		
	4,987,700		
Subtract losses and expenses	<u>-4,200,338</u>		
	<b>\$787,362</b>	<b>÷ 3 =</b>	<b>\$262,454</b>

<b>TOTAL WORKERS COMPENSATION PORTION:</b>	<b>(\$648,042)</b>
	<b>(\$222,961)</b>
	<b><u>\$262,454</u></b>
	<b><u>(\$608,549)</u></b>

### **COMBINED CALCULATION:**

<b>PACKAGE:</b>	<b>\$2,464,806</b>
<b>WORKERS' COMPENSATION:</b>	<b><u>(\$608,549)</u></b>
<b>TOTAL DIVIDEND:</b>	<b><u>\$1,856,257</u></b>