

JOHNSTON CITY COUNCIL  
COUNCIL MEETING NO. 16-14  
Johnston City Hall, 6221 Merle Hay Road  
TUESDAY, July 5, 2016  
7:00 p.m.

1. CALL TO ORDER

Mayor Dierenfeld called the meeting to order at 7:03 p.m.

2. ROLL CALL

Present: Clabaugh, Lindeman, Cope, Temple  
Absent: Brown

3. WELCOME

Mayor Dierenfeld welcomed residents and guests to the meeting.

4. PLEDGE OF ALLEGIANCE

City Clerk Cyndee Rhames led the meeting in the Pledge.

5. AGENDA APPROVAL

Motion by second by to approve the Agenda as presented.

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

Motion Approved: 4-0

6. PUBLIC COMMUNICATIONS

None

6. PUBLIC HEARINGS

- a. Conduct a Public Hearing and Consider Resolution No. 16-149 – Approving a Development Agreement with Mark Shryock (**Pursuant to Chapter 414 of Iowa Code, Action on this Item Must Occur prior to Close of the Public Hearing**), and
- First Reading of Ordinance No. 948 Approving an Amendment to the Official Zoning Map for 13.88 acres and adjoining right-of-way from A-R, Agricultural Reserve District to R-1(75) Single-Family Residential District. The subject property is located west of NW 100<sup>th</sup> Street and approximately 275' south of the Johnston city limits.
- The Public Hearing opened at 7:05 p.m.
- Senior Planner Aaron Wolfe reviewed the proposed rezoning, noting that the applicant had submitted a development concept showing a layout of 14 new lots and one existing lot over the proposed rezoning area, and a development agreement limiting density in the project to 1.35 units per acre. He noted that the Planning & Zoning Commission had approved the request at their June 13 meeting.
- Wolfe noted that the subject property includes a portion of an existing pond and dam but that the City has no jurisdiction over the pond or the dam as both are privately owned. He reviewed the DNR classifying the dam as a moderate hazard dam and as it doesn't meet the design criteria of a moderate hazard dam, it is considered to be in a deficient state by the DNR. Wolfe advised that staff had forwarded the concept plan to the DNR for advice on the potential impact the development may have on the dam and pond. Wolfe noted that the DNR concluded that the development would not affect the current classification of the dam, nor would it be cause for additional maintenance. Wolfe also noted that staff was recommending that affected parties owning a portion of the pond or dam develop a permanent maintenance agreement to address the aging dam, but that such agreement was not a condition of the rezoning, as the pond and dam are privately owned.
- Wolfe further outlined utility and parkland considerations for the development.
- Council Member Cope noted the concern of the neighbors that if the DNR changed their recommendation on improvements to the dam, that they would bear an increased financial risk. Cope inquired as to whether those costs could be borne by the developer as part of the development agreement or included as a condition for plat approval. Community Development David Wilwerding noted that the issue for action tonight is whether or not the land use is consistent with the plan for the area, and that detailed engineering would come at the Preliminary Plat stage. Council Member Temple noted that he had concerns about leaving the issue until the platting stage. He also noted his concern with increased density in the area.

One of the applicants, Matt Heuton, addressed the Council, noting that he would guarantee that there would not be 15 lots in the development, and it was possible that 13 would be the maximum.

Monique Van Der Heijden, 10113 NW 80<sup>th</sup> Lane, addressed the Council noting that she was the property owner currently responsible for maintenance on the dam. She noted her surprise of the deficient classification of the dam, as the letter they had from 2011 showed it as satisfactory. Wilwerding noted that a copy of the 2012 letter outlining the DNR's revised classification would be provided to Mrs. Van Der Heijden.

Mark Mertens, 10105 NW 80<sup>th</sup> Lane, addressed the Council inquiring as to whether the dam was a low or moderate hazard dam, and why.

Council Member Cope asked how the city can ensure that any financial burden is divvied up among all the property owners should the DNR require additional maintenance on the dam.

Wilwerding noted that a maintenance agreement could be negotiated by the property owners but that the city cannot require the parties to enter into agreements for private properties. He noted that the city can regulate any issue called out by the DNR, but that to date, the only issue the DNR raised regarding the proposed development was the accommodation of overflow routes or drainage from the pond.

Discussion continued regarding the issue of maintenance of the dam and how to ensure that maintenance is performed.

Council members asked for clarification on the impact of not approving the development agreement. Council Member Cope noted that he would like to see language related to the maintenance included in the development agreement. Council Member Lindeman noted that while he did not disagree, he didn't feel the Council had the legal authority to do that as the dam is on private property. Council Member Cope noted that he was not against the development, but that language needed to be added for maintenance of the dam to protect all the property owners before he was comfortable approving the rezoning.

Matt Heuton addressed the Council again, noting that as developers they had made changes to their initial plan, decreasing from 22 lots to 14 lots, and that they're willing to work out maintenance issues with neighboring properties.

Melissa Hills, engineer for the developer, noted that the action tonight is related only to the zoning and density.

Cope noted that he was concerned that there would not be the same amount of leverage to address the dam maintenance issue at the time of platting as there is now at the rezoning. Wilwerding noted that while the City cannot require the residents to get together to agree to a maintenance plan, there was an opportunity during the plat approval to have another development agreement calling for maintenance, addressing overflow and impacts by the development and that the lots created by this proposed development meet all standards and conditions.

Motion by Temple to approve Resolution No. 16-149 with the comment that if there is not some sort of maintenance agreement in place during the platting process, he will not be voting in favor of the plat. Second by Lindeman with emphasis on the comment made by Temple.

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

Motion Approved:           4-0

The Public Hearing closed at 8:07 p.m.

Motion by Temple second by Cope to approve First Consideration of Ordinance No. 948.

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

Motion Approved:           4-0

## 7. CONSENT AGENDA

- a. Consider Minutes of June 20, 2016, Work Session
- b. Consider Minutes of June 20, 2016, Council Meeting
- c. Consider Resolution No. 16-144 – Certifying the 2016 Special Federal Census for the City of Johnston to the Iowa Secretary of State and the Treasurer of the State of Iowa.
- d. Consider Resolution No. 16-143 – Acceptance of the Greenwood Hills Greenbelt-Phase 2 Grading and Utilities Project and approval of Pay Request No. 12 releasing retainage to Corell Contractors, Inc. in the amount of \$128,756.47.
- e. Consider approval of Pay Application No. 5 to Corell Contractor, Inc. for the NW 63<sup>rd</sup> Place Extension from NW 59<sup>th</sup> Court to Merle Hay Road project.





