



City Council Information Packet

August 15, 2019

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IP6. Memo from City Manager: Blackbird Investments / Forest View Tenants Association Request for Financial Incentives [Previously distributed in 8/1 Information Packet]

IP7. Memo from Housing & Community Development: Aid to Agencies Recommendations [Previously distributed in 7/25 Info Packet]

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August 15, 2019

Council Tentative Meeting Schedule

ATTACHMENTS:

Description

Council Tentative Meeting Schedule



City Council Tentative Meeting Schedule

Subject to change

August 15, 2019

<u>Date</u>	<u>Time</u>	<u>Meeting</u>	<u>Location</u>
Tuesday, August 20, 2019	5:00 PM 7:00 PM	Work Session Formal Meeting	Emma J. Harvat Hall
Tuesday, September 3, 2019	5:00 PM 7:00 PM	Work Session Formal Meeting	Emma J. Harvat Hall
Tuesday, September 17, 2019	5:00 PM 7:00 PM	Work Session Formal Meeting	Emma J. Harvat Hall
Tuesday, October 1, 2019	5:00 PM 7:00 PM	Work Session Formal Meeting	Emma J. Harvat Hall
Monday, October 14, 2019	4:00 PM 4:30 PM	Reception Joint Entities Meeting	City of Iowa City Emma J. Harvat Hall
Tuesday, October 15, 2019	5:00 PM 7:00 PM	Work Session Formal Meeting	Emma J. Harvat Hall
Monday, November 4, 2019	5:00 PM 7:00 PM	Work Session Formal Meeting	Emma J. Harvat Hall
Tuesday, November 19, 2019	5:00 PM 7:00 PM	Work Session Formal Meeting	Emma J. Harvat Hall
Tuesday, December 3, 2019	5:00 PM 7:00 PM	Work Session Formal Meeting	Emma J. Harvat Hall
Tuesday, December 17, 2019	5:00 PM 7:00 PM	Work Session Formal Meeting	Emma J. Harvat Hall



August 15, 2019

Memo from City Manager: FY 21 Budget Preparation

ATTACHMENTS:

Description

Memo from City Manager: FY 21 Budget Preparation



CITY OF IOWA CITY MEMORANDUM

Date: August 14, 2019
To: Mayor and City Council
From: Geoff Fruin, City Manager
Re: FY21 Budget Preparation

Background

The Finance Department and City Manager's Office have commenced work preparing the upcoming FY21 (July 1, 2020 through June 30, 2021) budget document. Beginning in September, individual departments will start drafting their requests for operational and capital needs. The City Manager's Office will deliver a recommended FY21 budget in December of this year and City Council deliberations will begin in January with final adoption in March of 2020.

Staff will continue to use the City Council's strategic plan as guide in developing our budget recommendations. We also will consider the service delivery and infrastructure needs of the community. It is important before staff dives deep into budget preparation that the City Council provide guidance on your priorities and any special projects, service enhancements or new initiatives that you would like to see funded in the upcoming budget. Similarly, staff would like guidance on your expectations for the City tax rate, particularly as property assessments have increased significantly this past year.

Budget Climate

Iowa City has experienced rapid growth in our community over the last five or more years. The increased development has led to growth in our taxable property values and thus has largely offset losses in our tax base attributable to the 2013 State of Iowa property tax reform legislation. While the growth has helped us offset these losses, it has not been enough to allow for us to keep up with the growing municipal service demands of the community. Thus, many operations are stressed attempting to maintain service levels with largely the same resources while our community has grown both in population and in physical size. Staff expects this stress to intensify as population trends are still increasing, while tax reform will not be fully phased in until 2024, and some segments of the building market are slowing.

In March of this year, the Iowa City Assessor's Office mailed 2019 property assessments. Those new property valuations will serve as the base values for calculating taxes paid for FY21 budget year. Therefore, the City's tax rate should be developed with these higher than typical assessments in mind. To help illustrate the impact of the of the new assessments, here are three tax scenarios for different classifications of property, assuming Iowa City leaves the tax rate flat (\$15.833 per \$1,000) for FY21:

Property Classification	Average 2019 Assessment Increase	Increase in Taxes Paid to City for a home previously valued at \$200k*	Increase in Taxes Paid to City for a business previously valued at \$500k	Increase in Taxes Paid to City for an apartment building previously valued at \$1 million
Residential	9.25%	\$167/yr		
Commercial	10.72%		\$764/yr	
Multi-Residential	16.00%			\$1,211/yr

**Assumes a flat rollback figure from the State of Iowa*

The City Council should also recall that the City taxes only account for approximately 41% of the tax bill. Thus, the tax increase numbers in the above table will very likely be higher depending on decisions made by the other taxing bodies (e.g. Iowa City Community School District, Johnson County and Kirkwood Community College).

The City Council's strategic plan calls for the continued reduction in our property tax levy. At this preliminary stage in the budget process, staff anticipates being able to reduce our debt service levy, but does not anticipate a recommendation to reduce other levies, such as the General Fund and Employee Benefit levies. Depending on expense priorities of the City Council it may be necessary to increase our levy. A discussion of those priorities follows in the next section.

Significant New Expenses

The following is a brief outline of significant new expenses that are either known, planned or needing further consideration during the upcoming budget session:

Significant Personnel Costs for Existing Employees

- **Health Insurance:** After adoption of the FY20 budget, staff was notified of a recommended 16% increase in healthcare premiums. The increase resulted from a sharp increase in claims paid the last half of the year and continued high projected claims going forward. The approved budget only contained a 5% escalator, which means the adopted budget is already experiencing a shortfall of approximately \$875,000. Surplus dollars and reserves will be used to close this gap in the current FY20 budget. Looking ahead to FY21 staff will need to increase health insurance premiums paid by the City to not only cover this gap but also provide for another increase in FY21 premiums.
- **Minimum Wage:** The City Council expressed a desire to achieve a \$15/hour minimum wage by July 1, 2021. Our current minimum wage is \$11.50. To get to \$13.25 on July 1, 2020 staff anticipates an increase in hourly wages of \$350k. The General Fund is impacted the most as it accounts for an estimated \$300k of the \$350k. These costs are recurring and will escalate in future years.
- **Conversion of Hourly Employees to Permanent:** As detailed in a separate memo to the City Council, the conversion of the remaining nine hourly positions to permanent status could cost a maximum of \$865k in the first year. Salary and benefit costs will increase each year thereafter.

Other City Council Priorities

- **Aid to Agencies:** The City Council amended the FY20 budget to increase the General Fund contribution to the Aid to Agencies grant program from \$250k to \$501k. This was publicly communicated as a one-time increase. Staff intends to reduce this budget back down to a

figure that accounts for some type of inflationary index from the \$250k level as the funding for this program had been flat for several years prior to Council's one-time bump. The City Council should notify staff if you wish to see a significant increase in this grant program.

- Affordable Housing: Last year, staff indicated to Council that \$650k has been incorporated into the regular operating budget for affordable housing programs. In the last two years, the Council has increased that contribution to \$1 million using one-time funds. Staff plans to keep the contribution at or near the \$650k amount unless direction to use any available one-time funds is provided.
- Sanxay-Gilmore House: Although the demolition of the Sanxay-Gilmore is no longer imminent, the Council will want to consider preparing for the need to relocate it if the university decides to move ahead with demolition. The estimates of relocation to the City-owned lot across Market Street range from approximately \$600k to \$1.2 million depending on the extent of rehabilitation work needed after the house is moved. If an alternative site is identified that land acquisition costs would need to be added as well.
- Recreation Facility Master Plan: Staff and the Parks Commission will be recommending a Facility Master Plan in the upcoming budget. This plan will focus on recreation centers, pools and athletic complexes. These types of facilities were not included in the recent Parks Master Plan and are all in need of significant investment in the coming decade. The estimated cost for this study is between \$125k-\$150k.
- Climate Action Plan: The City Council has called for an accelerated implementation of the Climate Action Plan. This will require significant financial resources, especially if the Council wants to begin to incentivize emission reduction actions in our existing building stock. It is very possible that an alternative revenue source will be needed to scale such programs for a community of our size.
- Transit Service Enhancements: Staff expects that transit study will contain several costly options for enhanced service levels (Sunday service, expanded evening service, fare free options, etc.). While we currently operate a surplus in the transit fund, those excess dollars have been getting set aside for facility and bus replacement. Significant increases in service will necessitate an alternative revenue unless cost saving measures are also identified.

Core Service Needs

Nearly every City Department can articulate a desire for increased staffing. The City Manager's Office has taken a conservative approach to adding staff the last few years as we will not fully realize the financial impact of the property tax reform changes until 2024. However, as the community continues to grow at a rapid pace, it is becoming more difficult to keep up with service expectations with staffing levels established 10-20 years ago. While not representative of all needs, here are a few key areas of our organization that need strong consideration in the upcoming budget:

- Police: The department remains steadily busy throughout the year. There is a strong need to increase the number of officers on the street and in our investigations unit. However, we are strained not only financially but also physically with the police department building. Currently, we have 84 sworn officers and two short-term extra positions that are being paid through grants. Keeping the department at 86 officers when the grants roll off would be a good short-term goal. The Animal Services Division in the Police Department has also struggled to meet growing demands with existing staff resources. Another customer service focused position would greatly enhance their ability to serve the region.
- Engineering: Iowa City has maintained a very aggressive capital program for the last 5-10 years and our projections do not show signs of slowing down in the future. Keeping projects on schedule will require more help in Engineering. The extra assistance will also allow staff to

focus on key updates to City Code that have been placed on the backburner for several years due to the project volume in the division.

- Refuse: The success of the revamped yard waste / household compost program has pushed us to the point of needing another route. It is uncertain at this time if the new route will necessitate a change in the monthly yard waste fee of \$2.
- NDS: The sustained level of growth in the community along with an array of new planning initiatives like the form based code and a need to update district plans in future growth areas is straining the urban planning division. Adding a half-time or full-time equivalent in this division would help make sure we are properly prepared to expand our borders in the coming decade. In addition, staff is looking at adding an Energy Code Inspector position. This position would presumably be funded with building permit fees.
- Transportation Services: Transportation Services has several front-line staff needs. On the parking side, an extra parking enforcement staff would help expand coverage to neighborhoods where we receive complaints or requests for proactive enforcement. More consistent enforcement downtown and in Riverfront Crossings would help turnover of spaces as well. Another parking deck maintenance position would help expand coverage on evenings and weekends and improve response time to customers in need. The positions would also reduce lost revenue due to forced gate openings that occur when staff cannot immediately address an equipment problem in the decks. Lastly, the whole department would benefit greatly from a data analyst position. Transit and parking operations generate extensive data, but staff rarely has the time to properly analyze the data in a way that can make our operations more efficient.
- Parks and Recreation: Park maintenance staff has not grown in recent years despite the addition of several park sites (Ashton, TTRA, RFC Park, etc.). While we have increased some contract mowing, there is a strong need to expand full-time staff to keep up with basic maintenance duties. We also have a small forestry operation that will need to be increased if the City Council wishes to see our annual tree planting numbers increase.

Capital Budget Considerations

- Street Repairs: Public Works aims to complete a road condition analysis prior to the end of the year. This study will help guide decisions regarding appropriate funding levels needed for road repairs. Given the cost of such repairs it is expected that increased bonding or alternative revenue source will be needed to make significant headway with our road conditions.
- City Facilities: With a growing community and aged facilities, the City needs to be more aggressive planning and saving for facility replacements and renovations. The Council started a facility reserve fund last year and staff would again aim to make a significant contribution to that fund this coming year. In the near term, staff will be identifying land acquisition funds for the future relocation of Fire Station #3. This is for land acquisition only, but staffing a new fire station #5 (\$1.5-\$2 million) would be required before the relocation could take place. We would also like to begin a preliminary facility analysis for a new Police Station and develop a funding plan for the forthcoming Senior Center building assessment. Other top facility priorities (excluding recreational facilities) include Transit, Equipment Maintenance and Landfill.
- Unfunded Park Master Plans: The Parks Commission has recommended that the City move forward with phased implementation of the City Park and East Side Sports Complex master plans. Both projects would require an alternative revenue source and/or significant private and state funds to fully complete.

Consideration of Alternative Revenues

Should Council wish to pursue new revenue sources to support some of the items discussed above, here are some options for you to consider:

- **Increased Property Taxes:** The Council can increase several different levies to generate revenues. The Emergency Levy, Employee Benefit Levy and Debt Service Levy can all increase beyond their current rate. For example, a \$.25 cent increase in the Emergency Levy will generate approximately \$1 million. Council will need to consider the financial impact on property owners and renters, as well how the use of property tax capacity may impact our bond rating.
- **Utility Tax:** The current 1% utility tax generates approximately \$900k annually. The City Council can raise this tax up to 5% by ordinance. A tax on utilities might be a logical consideration for incentive programs that target reductions in carbon emissions from the existing building stock or through an urban forestation initiative.
- **User Fees:** The use of user fees will likely be limited, but in some cases, could help us achieve council goals. For example, stormwater funds may be able to provide for targeted tree planting and natural area restoration. Similarly, parking fees may be able to help us meet carbon reduction goals in the transportation sector.
- **Local Option Sales Tax (LOST):** The Iowa City metro area is the only one in the State of Iowa without a LOST. Iowa City passed a LOST after the 2008 flood and raised over \$30 million in four years that helped support the Wastewater Treatment Plant expansion and the Gateway Project. Depending on similar votes in other communities and rural Johnson County, a LOST could generate between \$8-\$12 million per year in revenue. Most cities in Iowa rely on these funds for road repairs, public facilities, parks and other capital-intensive projects. Unless a LOST is perpetual in nature, it is not advised that these funds support operational needs.

Discussion Questions for the City Council

Staff is not requesting that the City Council make firm decisions at the August 20th work session. Rather we hoping to listen to a conversation about your priorities so we can start the budget compilation process as informed as possible. It is always much easier to incorporate Council priorities into the budget early in the process as opposed to near the end when Council has its final deliberations. Here are a few questions to help guide your discussion:

1. Is reducing the City's tax rate, especially considering recent property assessments, still a priority for the City Council? Do you have any general goals for the overall tax rate?
2. Which of the new expense items are of the highest priority to the Council? Are there any that would not be considered a high priority?
3. Is supplementing staffing in existing departments a high priority? Are there certain operations that you would like to see expand service levels?
4. Are there items not discussed in the memo that the Council would like staff to explore?
5. Is the Council open to alternative sources? If so, which ones and for what possible purposes.

Staff looks forward to the discussion and will be prepared to answer questions on August 20th.

Attachment: 2019 Budget Engagement Summary to Date



CITY OF IOWA CITY MEMORANDUM

Date: August 9, 2019

To: Geoff Fruin, City Manager

From: Ashley Monroe, Assistant City Manager

Re: Initial Summary of “Chip In” Budget and Strategic Plan Priority Survey

Introduction

This year staff expanded upon the City pre-budget engagement opportunities with a community-wide survey and onsite activities at a Party in the Park at Wetherby Park and a day at the Iowa City Farmer’s Market. The survey and these engagement activities were intended to get our residents sharing which of the City Council’s Strategic Plan goals and corresponding initiatives are most important. The outcomes of each activity are highlighted below:

In-Person Engagement

Staff attending the Wetherby Party in the Park on July 25, had families, adults, and children visit a table which held seven voting vases (one for each Strategic Goal) and play counting chips. Each of the seven goals had a list of examples matching the issues listed in the Community survey. Participants were asked to distribute their chips by level of importance. For example, if they felt strongly about recreation programs and planting trees, they should find the matching vase and “vote” with their chips. Participants could put all chips into one vase/goal or distribute them among lots of the goals. They were also given one red-colored chip to signify the most important issue. The same process was followed for the Farmer’s Market on July 27.

Party in the Park and Farmer’s Market Chip In Responses						
Goal	Action	Wetherby	Market	Total	Responses	Red (#1)
1	Promote Strong and Resilient Economy	29	8	37	10.8%	6
2	Encourage Vibrant and Walkable Urban Core	21	13	34	10%	2
3	Foster Healthy Neighborhoods	46	28	74	21.6%	6
4	Maintain Strong Financial Foundation	16	7	23	6.7%	0
5	Community Engagement & Intergovernmental Cooperation	21	19	40	11.7%	1
6	Promote Environmental Sustainability	34	37	71	20.8%	5
7	Advance Social Justice and Racial Equity	46	17	63	18.4%	10
	Totals	213	129	342	100%	30

Wetherby participants were more likely to live nearby than the Farmer’s Market participants; market participants identified themselves as residents but did not disclose where in town they live.

Chip In Community Survey

This year the City surpassed last year's 599 responses with 856 survey responses. City Departments were encouraged to place paper copies in public common areas, and at least two organizations in the City shared paper or electronic copies with clients and members.

Residents were asked:

- 1) What are the most important issues the City should address (check up to ten)
- 2) The strategic goal most important to me is (check one answer)
- 3) Please finish the sentence below with one word: "*In the next five years, fill in the blank will help Iowa City become a more inclusive, just, and sustainable community.*"
- 4) In what part of town do you live? (A map shown for residents to choose)

Priorities by Geographic Area

The "Chip In" Survey had representation from all parts of Iowa City. The following information illustrates highlights by geographic area for survey responses:

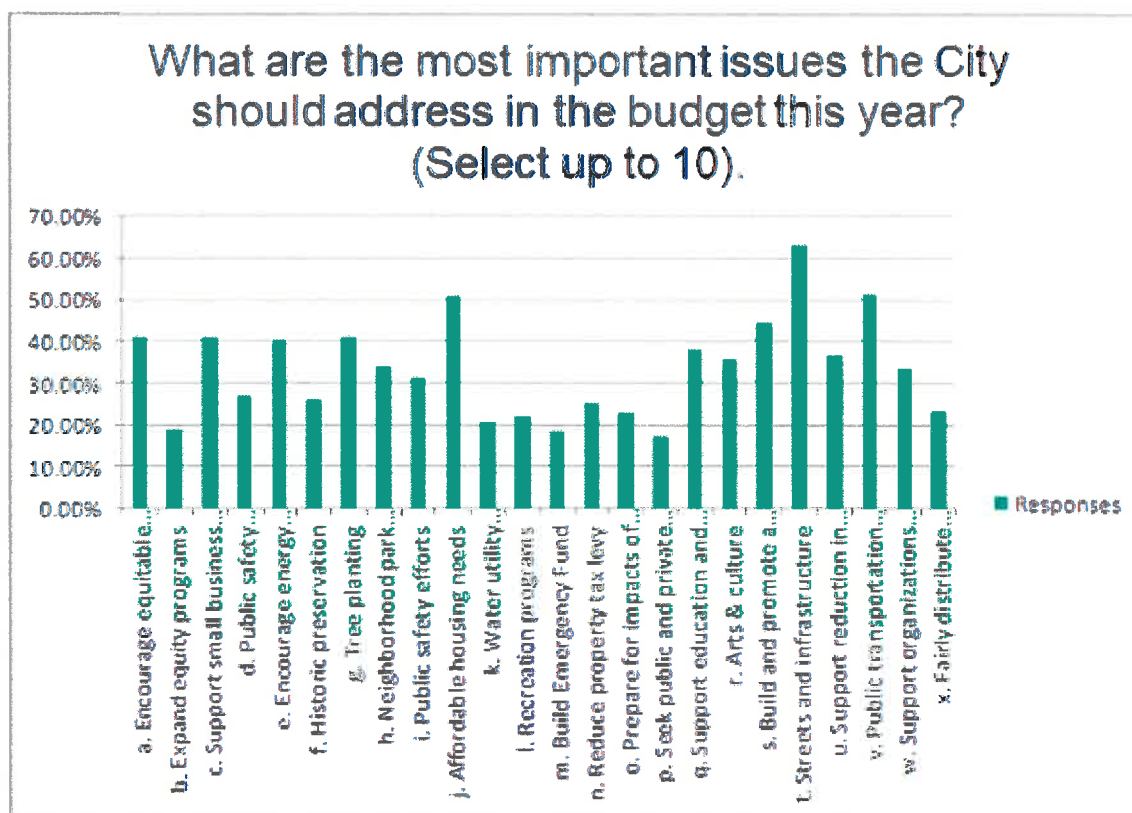
- Seven of nine geographic areas said that Strategic Goal #3 "Foster Healthy Neighborhoods" is top priority; five had ranked as #1
- Strategic Goal #1 "Promote a Strong and Resilient Economy" was the second top priority; it ranked second in five of nine areas and one ranked it as third highest priority
- Six of nine areas had "Promote Environmental Sustainability" in top three priorities; Central and North areas ranked it as the most important issue and it ranked as fourth most important for Northwest, Northeast, and Southwest areas.
- The Downtown area, which had one of the smallest response rates, cited Strategic Goal #7 "Advance Social Justice and Racial Equity" as the most important; it ranked in the top three priorities for five of nine areas.
- Only Downtown respondents cited Strategic Plan #2 "A Vibrant and Walkable Urban Core" as a top priority (#3); other geographic areas prioritized different goals

Top Priorities Overall

The Survey asked participants to choose up to ten (10) issues that were most important for the City to support. Overall, the top issues for survey respondents align very well with the priorities they also ranked as the top 3-4 Strategic Plan goals.

Percentage of survey respondents who selected the following as one of their top ten most important issues	
Streets and Infrastructure	63.5%
Public Transportation Improvements	52.19%
Affordable Housing Needs	52.07%

Build and Promote a Livable Community for All	45.13%
Tree Planting	41.61%
Encourage Energy Efficient Buildings	41.24%
Encourage Sustainable Economic Growth	40.75%
Support Small Business and Entrepreneurs	40.63%
Support Education and Workforce Programs	37.59%
Support Reduction in Consumption of Goods and Minimize Solid Waste	37.10%



These issues saw increases from 2018 in the number of respondents selecting them as top priorities in 2019:

Tree planting	Neighborhood park improvements
Encourage energy efficient buildings	Water utility improvements
Arts and culture	Public safety engagement and education
Recreation programs	Support small business and entrepreneurs
Build Emergency Fund	Fairly distribute environmental benefits and burdens

Ideas for our future

Survey respondents were asked to use a word to describe what will make Iowa City a more inclusive, just, and sustainable community in the next five years. In the visual representation of those responses, the size of the word is increased each time a word is repeated. Not shown in the word cloud below but especially noteworthy, was the number of times “I” or “We” were responses, indicating that our residents want to take ownership of the role they play in improving our community.





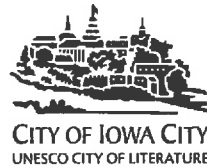
August 15, 2019

Pending City Council Work Session Topics

ATTACHMENTS:

Description

Pending City Council Work Session Topics



PENDING CITY COUNCIL WORK SESSION TOPICS

August 12, 2019

Strategic Plan Actions Requiring Initial City Council Direction:

1. Through cooperation with the Iowa City School District, Iowa Workforce Development, Kirkwood Community College, Iowa Works, and others, increase opportunities for marginalized populations and low-income individuals to obtain access to skills training and good jobs
2. Improve collaborative problem-solving with governmental entities in the region on topics of shared interest
3. Explore expanded use of a racial equity toolkit within City government, embedding it within city department and Council levels

Other Topics:

1. Joint meeting with the Telecommunications Commission
2. Evaluate need for a Local Option Sales Tax (LOST)
3. Consider a plan for rubberized surfacing at park playgrounds and develop strategies to address equity gaps noted in the Parks Master Plan and plan for the equitable distribution of destination parks within an easy and safe distance of all residents. (Parks Commission to discuss in July)
4. Review of RFC Form Based Code changes recommended by Opticos. Also including density bonus provisions and height allowances
5. Review of staff's growth boundary analysis (Johnson County Fringe Area Agreement Update)
6. Discuss amending City Code to require staff and rezoning applicants of large-scale developments to consider the effects of the proposed projects on future carbon emissions and absorption capacity, and to take actions that will help achieve the City's carbon emission reduction goals
7. Discuss alcohol usage policies in City parks
8. Review of the Aid to Agencies process
9. Possible joint work session with Planning and Zoning Commission on the South District Form Based Code (Fall 2019)



August 15, 2019

Memo from City Manager: Hourly Position Analysis

ATTACHMENTS:

Description

Memo from City Manager: Hourly Position Analysis



CITY OF IOWA CITY MEMORANDUM

Date: August 14, 2019
To: Mayor and City Council
From: Geoff Fruin, City Manager
Re: Hourly Position Analysis

Introduction

During budget deliberations in January, the City Council requested that staff, with coordinated feedback from AFSCME, evaluate whether certain hourly positions should be converted to permanent positions. Starting with a list of twenty-two temporary positions, staff worked with AFSCME who reduced the list to nine positions that deserve further consideration (not including two Communications positions that Council already converted to permanent status). Assistant City Manager, Ashley Monroe, and Human Resources Administrator, Karen Jennings, subsequently prepared the position by position analysis for such a conversion. That report follows this cover memo.

I would like to thank the AFSCME executive team for their assistance in reviewing this issue. The dialogue with AFSCME was professional and productive and I understand and respect their position that the remaining nine positions should be considered for permanent status.

This memo outlines a cost summary for the conversion of the remaining nine positions and states my recommendation and accompanying rationale.

Cost Summary

The following table outlines the estimated maximum first year cost scenarios for conversion of the nine remaining positions.

Job Title	Location	Maximum General Fund Cost (First Year)	Maximum Employee Benefit Cost (First Year)	Total maximum cost for conversion to permanent status (First Year)	FTE
Animal Center Clerk	Animal Control	\$22,593.62	\$33,330.86	\$55,924.49	1.26
Creative Assistant	Communications	\$27,374.25	\$18,147.53	\$45,521.78	0.63
Communications Aide	Communications	\$25,605.21	\$35,666.54	\$61,271.75	1.26
Clerical Assistant - Engineering	Engineering Services	\$25,421.50	\$25,192.46	\$50,613.96	1.0
Intake/Customer Service Clerk	Housing Authority	\$11,417.54	\$28,308.37	\$39,725.91	1.0
Video Production Specialist	Senior Center	\$17,232.25	\$20,103.68	\$46,057.79	0.5
Senior Center Clerical Assistant	Senior Center	\$9,660.30	\$14,034.80	\$23,695.10	0.76
Customer Service Attendants	Recreation	\$142,027.29	\$193,109.96	\$335,137.25	7.0
Maintenance Aide	Library	\$46,680.57	\$87,126.37	\$133,806.94	3.13
Human Resources Office Assistant	Personnel	\$21,309.60	\$13,699.45	\$35,009.05	0.5
GIS Technician	ITS	\$24,892.40	\$14,333.63	\$39,226.03	0.5

Total		\$374,214.53	\$483,053.65	\$865,990.05	17.54
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* By Council decision, the Communications positions listed in gray were converted to permanent status in May 2019

Absorbing approximately \$886k (17.54 FTE positions), will be extremely difficult, especially considering other City Council priorities. Combined with the planned bump in minimum wage for hourly employees to \$13.25 (estimated cost of \$350k) the one-year increase in personnel expenses above and beyond traditional increases for existing staff may easily exceed \$1 million. These expenses will grow in future years as employees earn merit increases, receive negotiated bumps in pay, and as benefit costs increase.

Recommendation

I have two significant concerns with proceeding on these position conversions. The first is simply the financial challenge that is described above. Financing these conversions will be difficult by themselves, but doing that simultaneously while also addressing other Council priorities may not be feasible without a supplemental revenue source.

The second concern is that adding these positions will add marginal increases in service benefits to the public while many City operations are increasingly showing a need for new staff simply to maintain service levels that our public expects. In my view, the public would benefit more from a focus on adding positions in those operations that are struggling to keep up with growing service demands. Furthermore, if our financial capacity is consumed by the conversion of existing positions, it may be years before we can begin to address the growing operational needs. For these reasons, my recommendation is to keep each of the nine positions as hourly. Those employees will benefit to a lesser degree from the Council's goal to reach a \$15/hr minimum wage by July 1, 2021.

If the Council wishes to proceed with conversions, I would urge you to further narrow the list of nine and convert the remaining positions over a few years. To aid you in this discussion, I offer my thoughts on priorities.

The positions that would provide the most benefit to the city as permanent positions include in non-rank order are the Animal Center Clerk, Engineering Clerical Assistant, Senior Center Clerical Assistant and Recreation Customer Service Attendants. There are a few positions that I would strongly suggest you either leave hourly or simply eliminate upon vacancy. Those include the Senior Center Video Production Specialist, Human Resources Office Assistant and GIS Technician. The latter two were introduced as new hourly positions in the FY 2020 budget and would not have been recommended for creation as permanent positions.

Staff looks forward to your discussion and direction on this topic.



CITY OF IOWA CITY MEMORANDUM

Date: August 15, 2019

To: Geoff Fruin, City Manager

From: Ashley Monroe, Assistant City Manager
Karen Jennings, Human Resources Administrator

Re: Hourly Employee Analysis

1) Background

In January 2019, Council held two brief discussions regarding the exploration of converting positions working a consistent year-round schedule from hourly to a permanent status. After determining it too complex an issue to decide before the impending deadline for the FY2020 budget, staff was directed to return to City Council by August with a full analysis for applicable positions.

AFSCME representatives and management staff have met three times through this process to finalize the existing authorized temporary positions agreed upon for further analysis. The following positions met the criteria of working a fairly consistent schedule of an average of 20 hours each week through the duration of the year and were selected by AFSCME for further study:

Job Title	Location	Vacancy Status	Current # employed
Animal Center Clerk	Animal Control	2 Filled	2
Creative Assistant	Communications	1 Filled	1* (Converted)
Communications Aide	Communications	2 Filled	2* (Converted)
Clerical Assistant - Engineering	Engineering Services	1 Vacant	2
Video Production Specialist – Senior Center	Senior Center	1 Filled	1
Senior Center Clerical Assistant	Senior Center	1 Vacant	1
Intake/Customer Service Clerk	Housing Authority	1 Vacant	2
Maintenance Aide	Library	6 Filled	6
Customer Service	Recreation	25 Filled	25
Human Resources Assistant	Personnel	1 Vacant - New	0
GIS Assistant	ITS	1 Vacant - New	0
Total			39

2) AFSCME Involvement in Position Review

On April 10, the City Manager's Office and Human Resources Division met with AFSCME representatives and shared plans for analyzing each of the temporary/hourly positions that are being evaluated for permanent status. We also shared with AFSCME a list of all temporary positions that meet criteria for hours worked on consistent, year-round basis. Our initial count was 22 positions filled by more than 150 temporary/hourly employees. In May, the City Council authorized the conversion of two of the initial 22 positions to permanent status. Those positions were in the Communications Division (Communications Aide and Creative Assistant) and are now filled as permanent positions.

In subsequent meetings, AFSCME reviewed the list of positions and provided their opinions of which positions should be evaluated. Ultimately, nine positions currently employing 39 temporary staff members were identified as

needing final guidance from the City Council. AFSCME was given an opportunity to review the position analysis that follows. They are also aware that the Council may choose to discuss topic at the August 20th work session.

3) Impacts and Considerations

The following provides an overview of the factors and considerations necessary to review the nine hourly positions for conversion to a permanent status:

1. Impact on current employees

Iowa Civil Service law has several requirements that the City must follow:

- Iowa Code Chapter 400 says that all positions except those excluded from Civil Service statute (Library and some non-bargaining) will be subject to civil service testing requirements. In many positions, this test is the employment application itself and the oral interview but for some positions additional job-related tests may be used.
- Additionally, Iowa Code Chapter 35C requires all positions to be filled by competitive examination or appointment to be posted for at least 10 days before application deadline.

These requirements mean that the City is required to post for “new” positions and cannot move someone who currently holds a similar temporary/hourly position directly into a new permanent position. Instead, we will need to inform impacted hourly staff of the elimination of their existing hourly positions and notify them of the process to apply for the newly created permanent positions. It is important to note that with some positions, it is expected that the number of people needed to fill permanent roles will be fewer than the number of people that currently fill the corresponding hourly positions. In those cases, some temporary/hourly employees will no longer have an employment opportunity with the City.

Furthermore, the minimum qualifications and job duties for each position considered for permanent status have been reviewed and, in many cases, alterations will be necessary. Increasing required qualifications and expanding job duties offer service level enhancements to the community but could also increase barriers to entry for people hoping to find work with the City. In some cases, people currently employed in temporary/hourly positions may not end up being qualified or interested in the expanded job duties or schedules of the resulting permanent position.

These provisions and considerations apply to all positions reviewed below except for the Human Resources Assistant and GIS Assistant (confidential employees). However, those two positions were newly created in the FY 2020 budget and have not been posted or filled because of this pending analysis.

2. Bargaining Unit Provisions

Converting positions from temporary/hourly to permanent status would make the positions, with few exceptions, a part of the AFSCME Local #183 Collective Bargaining Unit. The provisions of the AFSCME collective bargaining agreement holds the City to certain obligations. For example, Article 13 of the AFSCME collective bargaining agreement requires internal posting of positions and establishes seniority rights for bargaining unit members. This means that if current AFSCME employees have interest in any of the newly created positions and have appropriate qualifications for the job, there are positions currently held by hourly staff that could be filled by existing AFSCME employees based on seniority, leaving current hourly employees without a position at the City.

This provision applies to most of the positions reviewed below.

3. Impacts on Supervisory Positions

Iowa Code Chapter 20 includes a ‘supervisory employee exclusion’ which prevents bargaining unit employees from being supervised by other bargaining unit employees.

The City does have AFSCME positions that manage hourly staff that are outside of the bargaining unit. If the supervised hourly positions are brought into AFSCME as permanent positions, this directly impacts the existing

corresponding AFSCME supervisory position. That existing AFSCME position would need to be evaluated and re-graded, based on removal of supervisory duties, or, the position would need to be moved out of the union as a new non-bargaining unit position.

This provision does not currently apply to the positions below but if departments were to re-organize at a future date, Chapter 20 must be applied as appropriate.

4) Individual Position Analysis

In addition to the considerations above, the following charts provide a basic position and cost analysis for each of the nine positions AFSCME leadership and City staff agreed to evaluate. Detailed analysis for each can be found by the index below:

- 1) Animal Center Clerk – Page 4
- 2) Engineering Clerical Assistant – Page 6
- 3) Housing Authority Intake/Customer Service Clerk – Page 8
- 4) Senior Center Clerical Assistant – Page 10
- 5) Senior Center Video Production Specialist – Page 12
- 6) Recreation Customer Service Attendant – Page 14
- 7) Library Maintenance Aide – Page 16
- 8) Human Resources Assistant – Page 18
- 9) GIS Assistant – Page 19
- 10) Total Cost Summary – Page 20

- 1) **Animal Center – Animal Center Clerk:** The Animal Center front desk operations currently has one full-time equivalent (FTE) permanent Animal Center Assistant and two hourly Animal Center Clerks, each working 25 hours weekly. Animal Center Clerks greet visitors, assist with adoption and intake of animals, perform cashier duties, handle license mailing, and some digital maintenance activities. Changing the two hourly positions to permanent will not significantly alter their responsibilities but may necessitate the creation of a higher leadership role for an existing position (Animal Center Assistant). That position would also need to be posted for hire. When the new leadership role is filled, the two hourly Clerk positions would become two new .63 FTE Assistant permanent positions.

Animal Center Clerk			
	Status quo (hourly)	Possible change (permanent)	Comments
Staffing structure	Two 25/week hourly Animal Center Clerks; Two occupied	Two .63 FTE Assistants	The number of positions and hours worked would stay the same if the positions shifted to permanent status.
Minimum Requirements	<ul style="list-style-type: none"> High school diploma Six months clerical office experience Experience with care and handling of animals 	<ul style="list-style-type: none"> Associates Degree One year clerical office experience Care and handling of animals 	Additional minimal requirements would enhance service levels but may create barriers to employment for some applicants.
Duties/ Responsibilities	<ul style="list-style-type: none"> Greets and directs visitors at Animal Center; serves as front office cashier and public relations receptionist; cleans and disinfects animal areas; counsels pet adoptions; educates the public regarding animal related issues; Impounds animals and assists with animal care 	Status quo duties	
Supervisory structure	Reports to Animal Services Coordinator	Possible restructuring of Division, including the creation of a new 1 FTE position that would serve in a leadership role for expanded permanent office/customer service staff	The estimated cost to replace existing FT assistant position with a new position to lead part-time Assistants is approximately \$69,142 (Assuming a Grade 4)
Pay/Proposed Grade	\$11.50 and \$12.00/hour	Grade 2 (\$25,605.21 at .63FTE) plus access to city subsidized health and dental insurance	With benefits and insurance the total cost increase to convert two positions is estimated to be \$55,924.49. This assumes both employees will opt for family health insurance. This number will be lower if single or no insurance is selected by one or both of the employees.

Impacts on employees and applicants:

1. Two people hold existing hourly Animal Center Clerks, however the conversion to permanent may require replacing an existing, filled, 1 FTE Assistant position with one 1 FTE leadership position to be filled by posting.
2. Changes proposed for a benefitted Clerk position are limited and will likely not significantly alter the level of skill and responsibility for applicants, nor change levels of services provided.
3. The maximum cost to move these two positions to permanent part-time is equivalent to adding 1 FTE Streets or Wastewater Maintenance Worker III position.

Total wage & benefit: \$84,541.28 (does not include additional leadership staff)	
Cost difference for first year: \$55,924.49 (does not include additional leadership staff)	
\$22,593.62 FY2020 General Fund	\$33,330.86 FY2020 Employee Benefits Fund

- 2) **Engineering – Clerical Assistant:** The Engineering Division currently has two Clerical Assistant positions scheduled 20 hours weekly. These two employees answer and route calls, collect mail, support the sidewalk inspection program, and help contractors in the permitting process for work in the right-of-way. Calls from the Streets Division roll over to the Engineering Desk. A change in position status will add a couple of duties but not result in significantly altered responsibilities for the position.

Currently, one of the two positions is vacant because one of the employees transferred to an open position at the Senior Center. Engineering has been operating without anyone in the position covering mornings since early July, as staff has been waiting for the outcome of this evaluation before posting.

Clerical Assistant - Engineering			
	Status quo (hourly)	Possible change (permanent)	Comments
Staffing structure	Two 20/week hourly Clerical Assistants; One occupied, one vacant	1 FTE Clerical Assistant	The number of positions would decrease, and hours worked would increase to full-time, if the positions shifted to permanent status.
Minimum Requirements	High School Diploma	<ul style="list-style-type: none"> One month working with the public required; familiarity with computer systems. experience with engineering, development, or related fields preferred 	Higher salary and availability of benefits may lead to an increased applicant pool with overall higher levels of experience.
Duties/ Responsibilities	<ul style="list-style-type: none"> Greets visitors to Engineering Division Receives and routes phone calls Supports sidewalk inspection program Assists contractors with permitting work in the right of way 	All "status Quo" responsibilities plus: <ul style="list-style-type: none"> support for grant programs; maintaining the "adopt an intake" program 	
Supervisory structure	Reports to City Engineer	No change	
Pay/Proposed Grade	\$12.50/hour	Grade 2 (\$40,643 at 1 FTE) plus access to city subsidized health and dental insurance	With benefits and insurance the total cost increase is estimated to be \$50,613.96. This assumes both employees will opt for family health insurance. This number will be lower if single or no insurance is selected by one or both of the employees.

Impacts on employees and applicants:

1. Converting the Engineering Clerical Assistant positions to one FTE would impact one current hourly employee.

2. Changes proposed for a benefitted Clerical Assistant position are limited and will likely not significantly alter the level of skill and responsibility for applicants, nor change levels of services provided by the Division.
3. Rationale for changing the position from two half-time positions to one full-time position is based upon interest in continuity of services and expanded knowledge from the Clerical Assistant.

Total wage and benefit: \$65,835.66	
Cost difference in first year: \$50,613.96	
\$25,421.50 FY2020 General Fund	\$25,192.46 FY2020 Employee Benefits Fund

- 3) **Housing Authority - Intake/Customer Service:** The Iowa City Housing Authority is funded by the United States Department of Housing and Urban Development and serves multiple counties. The federal funds are passed through to the City's budget and the flexibility of funding is dependent upon yearly federally calculated allocations. Over the past few years, the Housing Authority has had the ability to expand its administrative budget to accommodate expenditures and if Council were to convert the Intake Assistant positions to permanent status, the ICHA has the capacity to do it at this time. It must be noted that five years ago, federal funding allocations dropped, leading to the elimination of the Intake Clerk positions in question. The staff in these positions were eliminated until funding capacity returned. At that time, duties were shifted, and hourly employees were hired to maintain service levels. It is possible that a return to a permanent model will not be sustainable in future years if federal funds decrease.

Intake/Customer Service Assistant – Housing Authority			
	Status quo (hourly)	Possible change (permanent)	Comments
Staffing structure	Two 20/week hourly Intake/Customer Service Assistants; One occupied, one vacant	Two 0.5 FTE Intake/Customer Service Assistants	The number of positions and hours worked would stay the same if the positions shifted to permanent status.
Minimum Requirements	<ul style="list-style-type: none"> High School Diploma Confidential record handling requires staff to complete in-house training and be certified from the FBI's Criminal Justice Information Services (CJIS) 	<ul style="list-style-type: none"> One month working with the public required; familiarity with computer systems; ability to complete CJIS certification training; bilingual skills preferred 	Higher salary and availability of benefits may lead to an increased applicant pool with overall higher levels of experience.
Duties/ Responsibilities	<ul style="list-style-type: none"> Greets visitors to Housing Authority Receives and routes phone calls, and schedules appointments Explains forms to the public and distributes completed forms to staff Prepares, maintains, and tracks requests for information from other city, state and federal entities, routing information to staff for follow up 	All "Status Quo" responsibilities plus: <ul style="list-style-type: none"> Data entry of waiting list and address change forms 	
Supervisory structure	Reports to Housing Administrator	No change	
Pay/Proposed Grade	\$12.00/hour	Grade 2 (\$20,321 at .5FTE) plus access to city subsidized health and dental insurance	With benefits and insurance the total cost increase is estimated to be \$39,725.90 This assumes both employees will opt for family health insurance. This number will be lower if single or no insurance is selected by one or both of the employees.

Impacts on employees and applicants:

1. Converting the Housing Authority Intake positions limits the sustained impact on current employees to one person, as staff has been waiting for the outcome of this evaluation before posting for one vacant position.
2. Changes proposed for a benefitted Intake position are limited and will likely not significantly alter the level of skill and responsibility for applicants, nor change levels of services provided. One highly automated process would be transitioned from two FTE currently performing the task and given to the Intake position as an additional duty.
3. Availability of funding is dependent upon yearly federally calculated allocations. Although the financial impacts to the City do not affect the General Fund, funding will come from other City funds.

Total wage and benefit: \$68,951.56	
Cost difference in first year: \$39,725.91	
\$11,417.54 (Wages) FY2020 Housing Authority Funds	\$28,308.37 (Benefits) FY2020 Housing Authority Funds

- 4) **Senior Center Administrative Clerk Assistant:** In 2003, the City was required to convert The Center's morning Receptionist position working 20 hours weekly to permanent status because the employee worked in excess of the AFSCME collective bargaining agreement limitations for temporary employees. The current afternoon Clerk Assistant therefore performs lighter tasks and responsibilities because by AFSCME contract, non-union positions cannot hold the same responsibilities and functions as benefitted union positions. The Center has been operating with this model for the past fifteen years, despite the challenge of dividing tasks accordingly. If the position were to be converted to match the Receptionist, duties would be made the same. Additionally, to preserve continuity of services at The Center's front desk, a request for a short overlap in schedules would be brought to Council for approval, keeping the newly converted position at 0.63 FTE and adding 0.13 FTE to the existing permanent Receptionist position.

Clerical Assistant – Senior Center			
	Status quo (hourly)	Possible change (permanent)	Comments
Staffing structure	One vacant 25/week hourly Clerical Assistant	One .63FTE Receptionist	The number of positions and hours worked would stay the same for this position if it shifts to permanent status.
Minimum Requirements	<ul style="list-style-type: none"> Six months working with the public; familiarity with computer systems 	<ul style="list-style-type: none"> High school degree required; one month working with the public required; familiarity with computer systems 	Higher salary and availability of benefits may lead to an increased applicant pool with overall higher levels of experience.
Duties/ Responsibilities	<ul style="list-style-type: none"> Processes Center memberships, parking permits and parking ticket sales; Customer service and staff support Makes copies at request of public and staff. 	All "Status Quo" responsibilities plus: <ul style="list-style-type: none"> Assists staff with maintaining digital screen messaging and communications at The Center 	
Supervisory structure	Reports to Senior Center Coordinator	No change	
Pay/Proposed Grade	\$11.50/hour	Grade 2 (\$25,605 at .63FTE) plus access to city subsidized health and dental insurance	With benefits and insurance, the total cost increase is estimated to be \$28,266.68 This assumes employee will opt for family health insurance. This number will be lower if single or no insurance is selected.

Impacts on employees and applicants:

1. Converting the Clerical Assistant position has no impact on current employees at this time, as it has been vacant, awaiting the outcome of this evaluation.
2. Changes proposed for a benefitted Clerical Assistant position will match those of a Grade 2 Receptionist, which matches the position currently working morning hours at The Center.

3. A request of .13 FTE additional hours would accompany a change of the Clerical Assistant position from hourly to permanent to accommodate a slight overlap in lunch hour and match the two Receptionist scheduled hours (.63 FTE)
4. The maximum cost to move positions to permanent part-time is equivalent to salary and benefits for almost 1 FTE Transit or Parking Maintenance Worker I.

Total wage and benefit: \$60,061.75 (includes .13 change in current .5 Receptionist hours)	
Cost difference in first year: \$46,057.79 (includes .13 change in current .5 Receptionist hours)	
\$17,232.25 FY2020 General Fund	\$20,103.68 FY2020 Employee Benefits Fund

- 5) **Senior Center - Video Production Specialist:** This position would have minimal change in duties and responsibilities. Although the position helps assist participants and members at The Center with technology and creates programming for The Center, the role is solely focused on services specific to one department. If the position were to be converted, the City Manager's recommendation would be to not fill the position due to higher staffing priorities. The employee currently working hourly would be permitted to remain in the role until their departure, upon which, the City would not fill it as a permanent position.

Video Production Specialist – Senior Center			
	Status quo (hourly)	Possible change (permanent)	Comments
Staffing structure	One occupied 20/week hourly Video Production Specialist	One .5 FTE Video Production and Technology Specialist	The number of positions and hours worked would stay the same if shifted to permanent status.
Minimum Requirements	<ul style="list-style-type: none"> A background in communications, telecommunications, broadcast, film, or video production; proficiency or ability to learn all aspects of digital video production 	<ul style="list-style-type: none"> High school degree; background in communications, telecommunications, broadcast, film, or video production; proficiency or ability to learn all aspects of digital video production; experience working with older adults preferred 	
Duties/ Responsibilities	<ul style="list-style-type: none"> Assists in recruitment, training, and coordination of volunteers to work on Senior Center Television Coordinates and assists in the production of in-house Center programs and promotional materials Manages SCTV equipment and maintains archive Assists in coordinating technology literacy programs 	No change	Media production is an evolving industry. Some responsibilities of the current Video Production Specialist are anticipated to transition from “traditional” aspects of media production regardless of whether the position is converted to permanent status. The hourly position is moving successfully towards modern methods and project approaches.
Supervisory structure	Reports to Senior Center Coordinator	No change	
Pay/Proposed Grade	\$12.50/hour	Grade 8 (\$24,882 at .5FTE) plus access to city subsidized health and dental insurance	With benefits and insurance the total cost increase is estimated to be \$23,695.10. This assumes the employee will opt for family health insurance. This number will be lower if single or no insurance is selected by the employee.

Impacts on employees and applicants:

1. Converting the position to permanent would impact one current employee.

2. There would be little to no change in the responsibilities of the position but based upon the technical nature of position responsibilities, pay is estimated at a Grade 8 to match similar positions in the City.

Total wage and benefit: \$38,916.80	
Cost difference in first year: \$23,695.10	
\$9,660.30 FY2020 General Fund	\$14,034.80 FY2020 Employee Benefits Fund

- 6) **Parks and Recreation - Customer Service Attendant:** The City's two Recreation Centers are operational seven days a week, almost 365 days a year, open between nine and fifteen hours a day. Coverage is needed in the Customer Service Attendant role to primarily receive phone calls, assist with registrations, respond to the public in-person, and perform building walk-throughs.

At the August 6 Council meeting, Council permitted the transition of one Recreation Supervisor to an Assistant Recreation Superintendent role for the purpose of assisting the Recreation Superintendent with supervision duties for the customer service and recreation staff. Prior to this transition, the Recreation Superintendent was the direct supervisor of the Customer Service Attendants and some other Recreation hourly staff working between two buildings. Before this change, a conversion of the Customer Service positions to permanent status would have necessitated the creation of a brand-new, additional position to supervise the newly permanent staff, at a minimum cost of approximately \$92,000 including benefits. Pre-emptively moving the Recreation Supervisor from AFSCME status at a real cost difference of approximately \$7,000 in year one, creation of a new position to supervise Customer Service staff is no longer needed.

Customer Service Attendant – Recreation Services			
	Status quo (hourly)	Possible change (permanent)	Comments
Staffing structure	25 hourly Customer Service Attendants working varying schedules	Four FTE and Six 0.5FTE Customer Service Attendants	The number of positions would decrease by approximately 15; hours worked would be either 20 or 40 hours per week, if shifted to permanent status.
Minimum Requirements	No experience required	<ul style="list-style-type: none"> High school diploma or equivalent; familiarity with computer, phone, and cash register systems; three months customer service experience; experience with youth, or special populations preferred; bilingual skills preferred. 	Higher salary and availability of benefits may lead to an increased applicant pool with overall higher levels of experience.
Duties/ Responsibilities	<ul style="list-style-type: none"> Answers phone calls Assists the public with registrations Handles cash deposits Walks the recreation centers to ensure public needs are met 	All "Status Quo" responsibilities plus: <ul style="list-style-type: none"> Volunteer recruitment or management Assistance with program marketing Processes invoices 	Additional minimal requirements would enhance service levels but may create barriers to employment for some applicants
Supervisory structure	Report to Assistant Recreation Superintendent	No change	
Pay/Proposed Grade	\$11.50 - \$15.00/hour	Grade 2: (6) (\$20,321.60 at .5FTE) (4) (\$40,643.20 at 1 FTE) plus access to city subsidized health and dental insurance	With benefits and insurance, the total cost increase is estimated to be \$335,137.25 This assumes all ten employees will opt for family health insurance. This number will be lower if single or no insurance is selected.

Impacts on employees and applicants:

1. Converting the Customer Service Attendant positions will likely impact approximately 25 existing employees, the majority not being hired for the reduced number of available positions. It is possible that additional employees may be impacted, as the number of hourly customer service employees shifts frequently, and this was a snapshot in time (month of April 2019) which most accurately reflected an average number of employees able to cover operations at both Recreation Centers.
2. To meet the level of responsibilities in commensurate pay grades, enhancements proposed for a benefitted Customer Service Attendant position include responsibilities such as assistance with department and recreation program communications, and volunteer programs.
3. It is possible that a small group of employees working a set schedule may provide a consistent level of service, improving operations in Recreation. Currently, the large number of employees makes scheduling coverage challenging at times, especially during periods of school breaks.
4. The maximum cost to move positions to permanent full-time and part-time is equivalent to salary and benefits for approximately 5.5 Police Officers or 6 full time Maintenance Worker I in Streets or Parks Maintenance.

Total wage and benefit: \$447,612.36	
Cost difference in first year: \$335,137.25	
\$142,027.29 FY2020 General Fund	\$193,109.96 FY2020 Employee Benefits Fund

- 7) **Library – Maintenance Aides:** The Library currently has a Maintenance staff of eleven, including five permanent positions, four FTE and one part-time employee. The balance of maintenance staff includes six hourly staff, working an average of 14.75 hours per week, generally on a consistent schedule. The Library, like the Recreation Centers, operates nearly every day of the year, has staff working all day and third-shift hours, and has a very large floor area to keep clean and maintained each of those days. At this time, the maintenance staff is supervised by the Building Manager. Responsibilities during the hours of operation primarily include custodial work and some limited response to needs of the public. If converted to permanent roles, Library Maintenance would increase the level of skill and responsibilities to that of a maintenance worker or custodian. The Library is planning to go through a comprehensive analysis of staffing positions when they update their Strategic Plan but the review of Maintenance Aide positions at this time, was encouraged by AFSCME representation and Library Administration.

Maintenance Aide - Library			
	Status quo (hourly)	Possible change (permanent)	Comments
Staffing structure	Six Maintenance Aides with varying weekly hourly schedules (Total of 273 hours)	(1) 1 FTE Maintenance Worker I (MWI) (1) .63 MWI (1) .5 FTE MWI (2) .5 FTE Custodians (Total of 285 hours)	The number of positions would be reduced, and hours worked would increase, if all positions were shifted to a permanent status.
Minimum Requirements	<ul style="list-style-type: none"> High school diploma or equivalent; valid driver's license 	<ul style="list-style-type: none"> High school diploma or equivalent; valid driver's license; six months experience in building maintenance. 	Higher salary and availability of benefits may lead to an increased applicant pool with overall higher levels of experience.
Duties/ Responsibilities	<ul style="list-style-type: none"> Cleans, mops, dusts, vacuums, and removes trash and recycling Sets up meeting room tables and chairs Performs snow removal Sets and disarms alarms Monitors and issues tickets in library parking area 	No change in position responsibilities but the distribution of duties will establish new permanent Maintenance Worker positions (3) and new permanent Custodian positions (2).	The prime differentiation between Library Custodians and Maintenance Workers is that MW positions do higher level repairs and have more interaction with the public; currently, the only two permanent status Custodians work overnight.
Supervisory structure	Reports to Building Manager	No change	
Pay/Proposed Grade	\$11.50 – 14.00/hour	Grade 1 (\$39,436.80 at .5 FTE) plus access to city subsidized health and dental insurance Grade 2: (\$20,321.60 at .5FTE) (\$25,605.21 at .63FTE) (\$40,643.20 at 1 FTE) plus access to city subsidized health and dental insurance	With benefits and insurance the total cost increase to create these new positions is estimated to be \$119,090.50 This assumes the five hired employees will opt for family health insurance. This number will be lower if single or no insurance is selected by the employee.

Impacts on employees and applicants:

1. Converting the hourly Maintenance Aide positions would impact six people currently in these positions.
2. Changes proposed include increasing the responsibilities of the Maintenance Aides to a level of Maintenance Worker I positions (including basic maintenance and repair skills). Two of the positions would be created as new Custodians, accountable for responsive service to the public as well as scheduled deep cleaning and similar activities.
3. The maximum cost to move Library Maintenance positions to permanent status is equivalent to salary and benefits for approximately 2.7 Police Officers or 3 full-time Maintenance Worker I in Streets or Parks Maintenance.

Total wage and benefit: \$211,279.20	
Cost difference in first year: \$135,806.94	
\$48,680.57 FY2020 General Fund	\$87,126.37 FY2020 Employee Benefits Fund

- 8) **Human Resources Office Assistant:** The Human Resources Office Assistant is a position newly approved in the FY2020 budget. The position is intended to provide 20 hours weekly filing and office task support to the Human Resources Division. As the organization grows, office help is needed but if converted to a permanent status position, the City Manager would likely not fill this position due to higher staffing priorities.

Human Resources Office Assistant			
	Status quo (hourly)	Possible change (permanent)	Comments
Staffing structure	UI work study staffing 15-20 hours per week during the school year, 20 hours/week temporary staff during the summer	One .5FTE Office Assistant	
Minimum Requirements	<ul style="list-style-type: none"> High school diploma or equivalent; familiarity with standard office equipment; familiarity with customer service experience 	All "status quo" plus: <ul style="list-style-type: none"> prior office or clerical experience 	Higher salary and availability of benefits may lead to an increased applicant pool with overall higher levels of experience
Duties/ Responsibilities	<ul style="list-style-type: none"> Answers phone Greets and assists internal and external walk-in customers Data entry, filing, scanning Assists with applicant correspondence and advertising 	All "status quo" plus <ul style="list-style-type: none"> Exports and distributions job applications Assists with posting and advertising of open positions Benefits reconciliation Assists with new employee orientations 	Establishing a permanent benefit-eligible position in lieu of the work-study model, will provide staffing stability that will allow this position to be assigned a higher level of responsibility.
Supervisory structure	Reports to Human Resources Administrator	No change	
Pay/Proposed Grade	New position	New Confidential grade 22. at \$21,309.60 for .5FTE plus access to city subsidized health and dental insurance	With benefits and insurance the total cost increase is estimated to be \$35,009.05. This assumes the employee will opt for family health insurance. This number will be lower if single or no insurance is selected by the employee.

Impacts on employees and applicants:

- Hiring for the Human Resources Assistant position has no impact on current staff, as staff has been waiting for the outcome of this evaluation before posting.
- Will require amending the Administrative and Confidential pay plan to create a new grade 22 wage scale to align compensation with position responsibility and qualifications.

Total wage and benefit: \$35,009.05	
Cost difference in first year: \$35,009.05	
\$21,309.60 FY2020 General Fund	\$13,699.45 FY2020 Employee Benefits Fund

- 9) **Information and Technology Services - GIS Assistant:** The GIS Assistant is a position newly approved in the FY2020 budget. Position funding would come from the Internal Service Fund, rather than the General Fund. The position is intended to provide 20 hours weekly GIS project support to all City departments. City departmental GIS needs continue to grow, but if converted to a permanent status position, the City Manager would likely not fill this position due to higher staffing priorities.

GIS Assistant			
	Status quo (hourly)	Possible change (permanent)	Comments
Staffing structure	New position. No current staff.	One .5FTE Assistant	
Minimum Requirements	<ul style="list-style-type: none"> Completion of at least one GIS course 	<ul style="list-style-type: none"> Completed at least one year of school toward a bachelor's degree in GIS, Engineering, Planning, Computer Science, or related field/equivalent 	Additional minimal requirements may create barriers to employment for some applicants but may also lead to an increased applicant pool with overall higher levels of experience.
Duties/ Responsibilities	<ul style="list-style-type: none"> Manage GIS-related databases Conduct research, create maps and exhibits in coordination with City departments Provides training 	No change	
Supervisory structure	Reports to Information Services Coordinator	No change	
Pay/Proposed Grade	New position	New Confidential grade 24 at \$24,892.40 .5FTE plus access to city subsidized health and dental insurance	With benefits and insurance the total cost of a new .5 FTE is \$39,226.03. This assumes the employee will opt for family health insurance. This number will be lower if single or no insurance is selected by the employee.

Impacts on employees and applicants:

- Hiring for the GIS Technician position has no impact on current staff, as staff has been waiting for the outcome of this evaluation before posting.
- This position would be considered an Administrative/Confidential position, Pay Plan Grade 24.

Total wage and benefit: \$39,226.03	
Cost difference in first year: \$39,226.03	
\$24,892.40 FY2020 Wages (Non-General Fund impact)	\$14,333.63 FY2020 Benefits (Non-General Fund impact)

5) Total Costs

In summary, the first table below identifies the expense to General Fund and Employee Benefit Fund. The Housing Authority positions and GIS position would be funded outside the General Fund therefore the second table shows impacts to these other City funds. The final chart shows the total cost from all City funds. All charts identify the number of full-time position equivalents used for budgeting purposes. In the FY2020 budget, the City added 1.38 FTE in the General Fund and 1.25 FTE in Enterprise Funds (2.63 FTE over all funds). The City had gone through several years of attrition in employees and not until FY2018 did the City begin to add FTE. During these three years, the City has added an average of 2.41 FTE over all funds.

Job Title	Department funded by General Fund	Maximum General Fund Cost (First Year)	Maximum Employee Benefit Cost (First Year)	Total maximum cost to convert to permanent status (First Year)	FTE
Animal Center Clerk	Animal Control	\$22,593.62	\$33,330.86	\$55,924.49	1.26
Clerical Assistant - Engineering	Engineering Services	\$25,421.50	\$25,192.46	\$50,613.96	1.0
Video Production Specialist	Senior Center	\$17,232.25	\$20,103.68	\$46,057.79	0.5
Senior Center Clerical Assistant	Senior Center	\$9,660.30	\$14,034.80	\$23,695.10	0.76
Customer Service Attendants	Recreation	\$142,027.29	\$193,109.96	\$335,137.25	7.0
Maintenance Aide	Library	\$46,680.57	\$87,126.37	\$133,806.94	3.13
Human Resources Office Assistant	Personnel	\$21,309.60	\$13,699.45	\$35,009.05	0.5
Creative Assistant*	Communications	\$27,374.25	\$18,147.53	\$45,521.78	0.63
Communications Aide*	Communications	\$25,605.21	\$35,666.54	\$61,271.75	1.26
General Fund Total		\$337,904.59	\$440,411.65	\$787,038.11	16.04

* By Council decision, the Communications positions listed in gray were converted to permanent status in May 2019

Job Title	Department funded by other City funds	Maximum Wage Cost (First Year)	Maximum Benefit Cost (First Year)	Total max cost to convert to permanent status (First Year)	FTE
Intake/Customer Service Clerk	Housing Authority	\$11,417.54	\$28,308.37	\$39,725.91	1.0
GIS Technician	ITS	\$24,892.40	\$14,333.63	\$39,226.03	0.5
Other City Funds Total		\$36,309.94	\$42,642.00	\$78,951.94	1.5

Maximum total from all City funds FY2020	\$374,214.53	\$483,053.65	\$865,990.05	17.54
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Should the City Council wish to proceed with conversion of these hourly positions to permanent positions, staff would take the following steps:

1. Finalize the job descriptions and seek formal Council approval to create the new positions.
2. Inform existing temporary/hourly staff of the revised job description, the elimination of their hourly positions, and of the application process for the newly created positions.
3. Complete the hiring process, fill new positions, and terminate hourly staff who are not hired into newly created permanent positions.

If Council wants to make these changes effective immediately or upon vacancy in the hourly positions, then staff would also need to amend the FY2020 budget. Otherwise, staff can plan for changes with the FY2021 budget (effective July 1, 2020). For this analysis, costs were calculated with the most current FY2020 Pay Plan rates. At FY2021, salary costs will increase accordingly, aligning with next year's AFSCME and Administrative and Confidential Pay Plans.

The cost of conversion can be split between the General Fund and the Employee Benefits Fund (as shown above). Assuming that family insurance is selected by the employees holding the new permanent positions, the estimated

new costs to the General Fund would be approximately \$321,235 and the estimated new cost to the Employee Benefits Fund would be \$429,239.58, a total of \$759,196.52 for the remaining FY2020 budget year.

Accounting for the Communications positions converted in May 2019, the maximum cost to convert all these positions to benefitted, permanent positions, would be approximately \$865,990.05 in FY2020.



August 15, 2019

Memo from City Manager: **Update:** Blackbird Investments / Forest View Tenants Association Request for Financial Incentives

ATTACHMENTS:

Description

Memo from City Manager:Update: Blackbird Investments / Forest View Tenants Association Request for Financial Incentives



CITY OF IOWA CITY MEMORANDUM

Date: August 15, 2019

To: Mayor and City Council

From: Geoff Fruin, City Manager

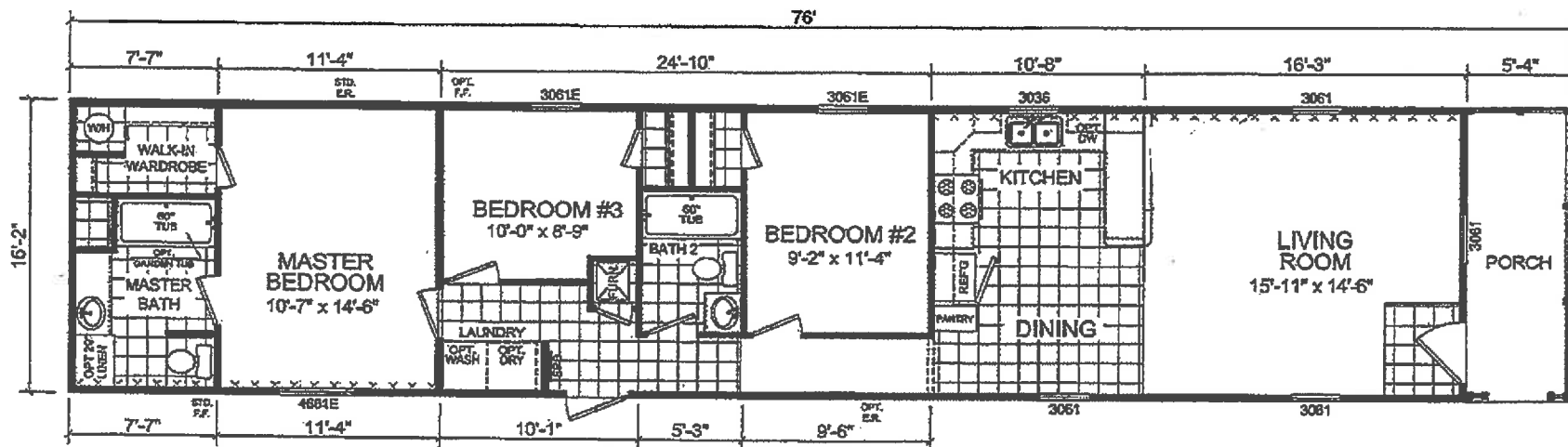
Re: Update: Blackbird Investments / Forest View Tenants Association Request for Financial Incentives

In the City Council's August 1st Information Packet, I outlined a request received from the developer, Blackbird Investments, and the Forest View Tenants Association for \$1.2 million in financial assistance to support wider homes in the Forest View neighborhood. A copy of that memo is attached for referenced.

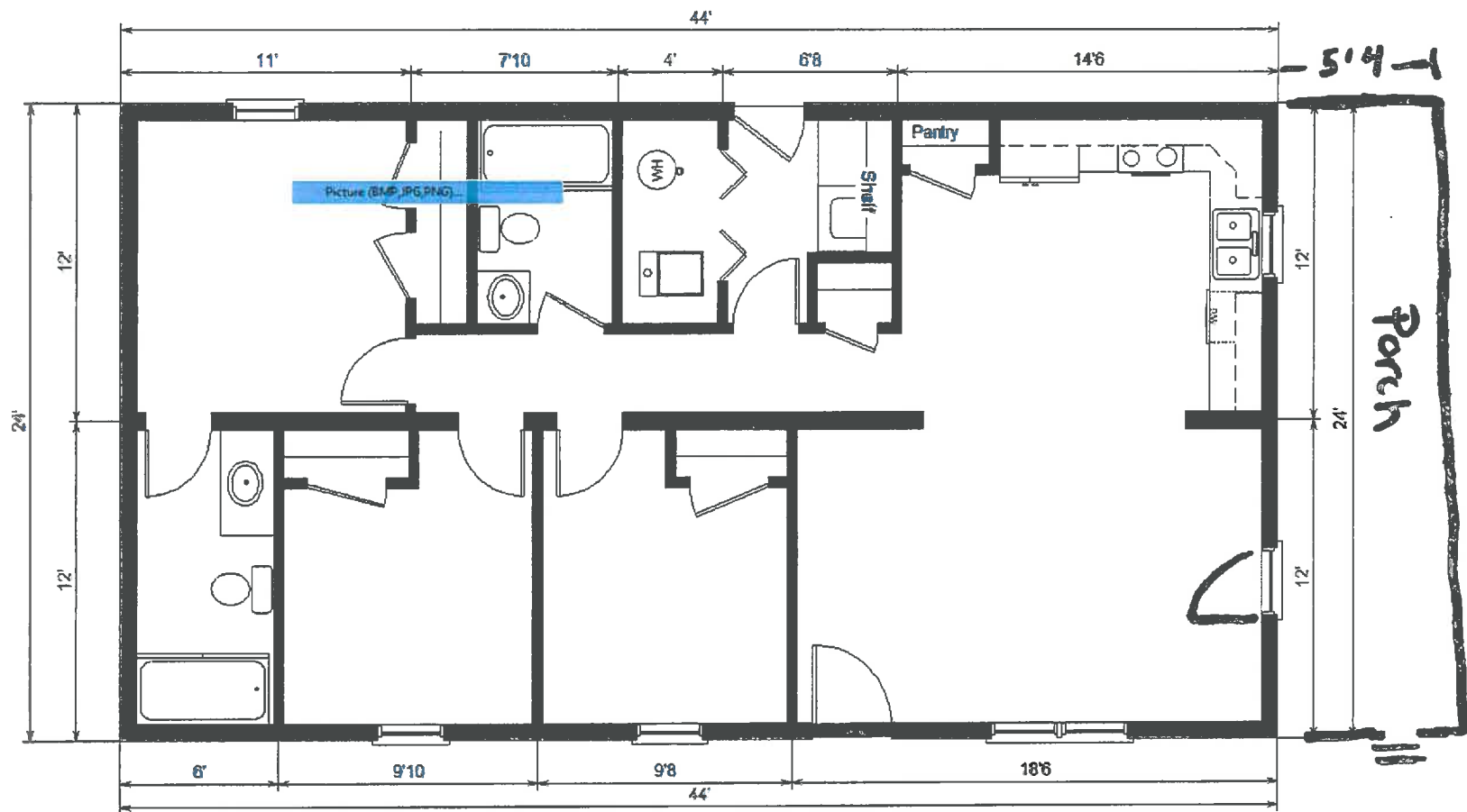
Since that time, I have received a couple of questions from Council Members and have also had the chance to speak with Blackbird Investments about the request. The following supplemental information is intended to aid your August 20th deliberation on this request:

- Amount of the Request: The \$1.2 million request represents the estimated cost of \$20,500 per house. As mentioned by the developer at the August 6th meeting, the final request may be higher depending on actual costs, timing of the project and nature of the funding source.
- Need for a Rezoning: Blackbird has indicated to staff that they do not believe a rezoning will be required to accommodate wider homes. However, until we receive exact dimensions and the proposed layouts on the variety of lot sizes we cannot make that determination.
- Size of Homes: Attached are the dimensions of the approved single-wide and newly requested double-wide homes. It is important to note that the homes are wider, but not larger. The square footage of the wider homes is actually just short of the square footage for the single-wide homes and both homes have the same number of bedrooms and bathrooms. Presumably the wider homes feature a more desirable floor plan for the future residents.
- Gap Financing: In conversation with the developer, it is my understanding that they will not pursue funding if the process requires a gap financing analysis. The length of time needed to complete the analysis will cause delays in the project that are not be acceptable to the team. Thus, any financing must be without review of a detailed financial need for such assistance.

Staff continues to recommend that the developer apply for existing affordable home dollars through our established competitive processes or via outside agencies such as the Housing Trust Fund of Johnson County. If they are successful in receiving funding for increasing the width of all or some of the homes, they can then work with staff on any land use approvals that may be required. If Council wishes to directly fund the request through means other than TIF financing then staff recommends partial funding using all or a portion of accumulated land banking and/or affordable housing opportunity funds.



	APPROVER'S SEAL	MODIFICATIONS		MODEL: 1680 265		SHEET: L-101 REV. B
		1	REVISED ROOM SIZES	DATE	09-08-15	
		2	MOVED STD FF TO FDS	JLF	12-16-16	
				3BD 2BATH		LITERATURE PLAN
				DRAWN BY: TCowley		
				DATE: 04-24-15		
				SCALE: 1/8" = 1'-0"		



Floor Plan and Dimensions are Subject to Review and Change by Drafting Department.



August 15, 2019

Memo from City Manager: Blackbird Investments / Forest View Tenants Association Request for Financial Incentives [Previously distributed in 8/1 Information Packet]

ATTACHMENTS:

Description

Memo from City Manager: Blackbird Investments / Forest View Tenants Association Request for Financial Incentives [Previously distributed in 8/1 Information Packet]



CITY OF IOWA CITY MEMORANDUM

Date: July 31, 2019
To: Mayor and City Council
From: Geoff Fruin, City Manager
Re: Blackbird Investments / Forest View Tenants Association Request for Financial Incentives

Background

Earlier this year, the City Council approved a rezoning for the area along N Dubuque Street and I-80 commonly referred to as Forest View. The City Council also recently created an Urban Renewal Area that could potentially facilitate Tax Increment Financing (TIF) support for the construction of Algonquin and Forest View Drive. These two roadways will serve a broad public purpose for the City and staff is currently reviewing roadway costs to determine a proportion that may be appropriate for future TIF rebates. In addition to the possible development agreement covering a cost share of the roadway, the developer (Blackbird Investments) needs to complete the platting process and secure City Council approval on their final housing relocation plan. These steps must be completed prior to construction commencing.

New Financial Request

On July 16th, I received a request from Blackbird Investments and the Forest View Tenants Association to change to wider homes in the new Forest View neighborhood. The cost of moving to a wider home was estimated at \$20,500 per home for a total cost of \$1.2 million. The request stated that Blackbird Investments does not have the financial ability to cover the additional \$1.2 million and thus they are seeking assistance from the City to fill that gap.

A second request was also made to have the City take ownership of private common areas that are planned in the development (Lot 49 and Outlot D). The stated intention of this request was to avoid having the homeowners become financially responsible for maintaining the property.

Legislative Process Implications

A change to the size of homes may cause a need for another rezoning as additional waivers from dimensional standards beyond those previously approved may be required. Alternatively, Blackbird Investments could choose to plat larger lots and presumably reduce the number of new homes in the neighborhood. If a rezoning is needed, it will likely be a 3-4 month process with staff and Planning and Zoning Commission review occurring prior to the Public Hearing and three considerations of the City Council. Both the rezoning process and a change in lot sizes will have implications for the housing relocation plan.

\$1.2 million of gap financing is a significant request that is greater than our annual allotment to the Affordable Housing Fund. Thus, such a request would likely need to be made through TIF. As previously mentioned, staff is currently reviewing the use of TIF to support public infrastructure that serves a greater benefit than the neighborhood itself. This process considers the cost of the roadway, but does not trigger a full gap analysis of the entire development. The new request is for gap financing, which triggers a full financial review of all the components of the development as well as compliance with the Council's TIF policies. A gap analysis will take several months to complete and likely require outside consultant expertise because of the size and complexity of the development. It is unlikely that such an analysis could be completed by the end of the calendar year. Once it is completed, the Council would have to amend the Urban

Renewal Plan to include the project. The recently approved Urban Renewal Plan did not contemplate funding support beyond the \$12.9 million total roadway infrastructure costs. State law requires a formal amendment to the Urban Renewal Plan anytime a new project is considered. That process will take 2-3 months.

Staff Recommendation

Prior to potentially initiating legislative processes that will be time-consuming and costly for all involved, staff would like to receive direction from the City Council as to whether you wish to entertain this new request.

Staff's recommendation is to allow the developer to apply for existing affordable home dollars through our established competitive processes or via outside agencies such as the Housing Trust Fund of Johnson County. If they are successful in receiving funding for increasing the width of all or some of the homes, they can then work with staff on any land use approvals that may be required.

Staff does not support transitioning to a gap analysis for use of TIF. As it stands today, the City is likely to consider multimillion-dollar TIF support for the public infrastructure. While we believe this support is justified, it is certainly not the norm for private developments. Additionally, the housing standards have been thoroughly vetted throughout the multi-year planning and approval process and provide for a quality neighborhood and living accommodations for the future residents. While the City has not directly subsidized the housing, it has been made very clear through the comprehensive plan and rezoning processes that significant increases in density and intensity throughout the project were found to be acceptable in order to make the current relocation plan work without direct financial support.

On the second request for public ownership of Lot 49 and Outlot D, that was a topic of discussion through the staff review process and rezoning. We do not believe there is a compelling public interest for the City to own that land and recommend that the developer and future homeowners association maintain the property. Homeowner associations commonly care for similar property across the community and we do not see any reasons that distinguish these parcels from dozens and dozens of others maintained by private associations.



August 15, 2019

Memo from Housing & Community Development: Aid to Agencies
Recommendations [Previously distributed in 7/25 Info Packet]

ATTACHMENTS:

Description

Memo from Housing & Community Development: Aid to Agencies Recommendations



CITY OF IOWA CITY MEMORANDUM

Date: July 15, 2019
To: Iowa City City Council
From: Vanessa Fixmer-Oraiz, Housing and Community Development Commission Chair
Re: Aid to Agencies Recommendations

Introduction

At our July 11, 2019 meeting, Housing and Community Development Commission (HCDC) discussed different ways to modify the Aid to Agencies (A2A) process. That discussion was largely in reaction to two memos which proposed modifications. The first was from City of Iowa City Neighborhood Services staff dated July 3, 2019, and second was from the Agency Impact Coalition dated July 10, 2019 (both attached). HCDC voted to recommend for consideration both memos to Council with the following changes and clarifications.

Recommendations

For the staff memo, HCDC recommends supporting staff recommendations with the exception that the City should continue funding for emerging agencies up to 5% of the A2A budget. While the City allocates CDBG/HOME, Climate Action Grants, and Social Justice and Racial Equity Grants, these do not necessarily fund general operational expenses. HCDC encourages less established agencies to apply for project grants, but believes it is important to provide general operational funding in addition to project-based funding to help these organizations establish themselves.

For the Agency Impact Coalition memo, HCDC recommends supporting all points in addition to the following staff suggestions on how to implement two of the items. First, each Commissioner will serve as a liaison for 2-3 funded agencies to help schedule annual site visits and improve familiarity with funded agencies. Second, staff and HCDC will establish annual meetings with agencies as part of the timeline review process for City Steps. This will provide an opportunity for HCDC, agency executives, and City staff to have discussions outside of the funding cycle. Specifically, this would allow HCDC to receive updates from agencies on trends, gaps, and needs and to review and debrief City Steps and other relevant plans guiding annual allocations processes.

Next Steps

Many of these changes can be incorporated this fiscal year for the FY21 funding round while others will take time. Immediate steps that HCDC would like to implement are as follows:

- Determine liaisons for currently funded agencies
- Schedule a timeline City Steps review for this summer with agency leaders
- Have staff provide a funding recommendation for FY21 using HCDC-approved criteria
- Provide HCDC questions in advance for FY21 applicants prior to meetings

HCDC hopes that these recommendations and changes will help the Commission, staff, and agencies to work more collaboratively to face the challenges and opportunities ahead and to meet the increasing needs of those within our community who require it most. Please let us know if you have any questions as you consider these recommendations.



CITY OF IOWA CITY MEMORANDUM

Date: July 3, 2019

To: Housing and Community Development Commission

From: Erika Kubly, Neighborhood Services Coordinator
Kirk Lehmann, Community Development Planner

Re: Aid to Agencies Recommendations

Introduction:

Iowa City has historically funded a portion of the operating costs of local non-profits that serve low income residents through the Aid to Agency (A2A) fund. Last year, the City Council adopted recommendations made by the Housing and Community Development Commission (HCDC) to provide stable funding for existing nonprofits and to also provide new opportunities for developing agencies to receive funds through the A2A allocation process. After this past allocation cycle, Council asked HCDC to review their processes and determine the best way to move forward with funding recommendations. This memo contains staff recommendations to modify the A2A process based on historical precedent and feedback from HCDC and agencies.

History/Background:

The goal of A2A has historically been to provide a stable source of operational funding for human service agencies serving low- and moderate-income (LMI) residents. Council first began having HCDC recommend A2A allocations in 2010 to align funding recommendations with the priorities set in CITY STEPS, the City's five-year federally mandated consolidated plan for housing, services and jobs for LMI residents. Prior to that point, a committee of City Council members and staff allocated the funding to a core group of agencies. New applicants typically were not funded; however, this began to change once HCDC started making funding recommendations.

On July 17, 2018, City Council adopted policies revising the process based on HCDC input. There were three main changes. First, 5% of A2A funding was set aside for "emerging" agencies, defined as agencies that have not existed as a legal entity for at least two years or have not received A2A in any of the last five years. Second, the remaining funds were available to "Legacy" agencies, defined as those who have existed as a legal entity for at least two years and have received A2A funding in any of the last five years. Allocations to Legacy agencies were awarded over a two year period to provide stability. Finally, HCDC created a goal of providing 70% of funds to High priority agencies, 25% to Medium priority agencies and 5% to Low priorities agencies with an intent of spreading funding between priority groups and reducing competition to receive a High priority designation.

This revised process was first used for the FY20 funding allocation. The City estimated a budget of \$355,000 for Legacy agencies and \$19,000 for emerging agencies. At their January 17, 2019 meeting, HCDC noted that A2A funds had remained stable over the last several years while needs increased. In addition, more agencies were applying and receiving funds. As such, HCDC recommended that Council fully fund the requests of FY20 Legacy agencies, totaling \$625,500, and requested a work session with Council to discuss why they recommended funding over their budget estimate. After meeting together on February 5, 2019, Council agreed to fully fund the Legacy requests for a single year with the condition that HCDC revisit the A2A process to avoid future unexpected budget recommendations.

HCDC has had ongoing discussions about how to revise the process at their monthly meetings since April 2019. Because the FY21 Joint Funding Applications will be released on August 1, 2019, changes related to the process must be determined at the July HCDC meeting in order to be incorporated into the next funding cycle.

Staff Recommendation

Based on the feedback received, staff recommends A2A return to its original intent of providing a stable funding source for human service agencies serving LMI residents based on the funding priorities set in CITY STEPS for public service agencies. Every five years, the priorities in CITY STEPS are reviewed and a new plan is adopted. City staff is currently working on the new five-year CITY STEPS plan, which will need to be adopted by the City Council and accepted by the federal government by July 1, 2020.

During the new plan development process, staff recommends identifying and limiting A2A applicants to a core group of service providers which meet the established priorities. These identified agencies would then apply on a competitive basis based on identified priorities, history of funding, and capacity. Beginning with FY22, agencies would apply on a two-year cycle. This process would provide stable funding for agencies with demonstrated capacity to effectively utilize A2A dollars. The priorities and agencies allowed to apply would be reevaluated with each new five-year plan to address changing priorities or gaps of service as identified in CITY STEPS. If needed, there would also be a mechanism to modify the number of eligible agencies during the five-year planning period through the federally defined Consolidated Plan amendment process.

Because the FY21 Joint Funding Application process will begin before the adoption of *City Steps 2025*, staff recommends limiting FY21 A2A applications to those agencies who applied for Legacy funds in FY20. This is consistent with the expectation of a two-year funding cycle when Legacy agencies applied last year. For the remaining fiscal years covered by *City Steps 2025* (FY2022 through FY2025), staff recommends that the 2021-2025 Plan identify a set of 15-20 core agencies to be funded through A2A for public service funding. This will help focus funds in a strategic manner and provide the stability desired by agencies.

A2A applicants will continue to apply through the United Way Joint Funding process. Every two years, HCDC will review and approve the ranking criteria for evaluation of the public service applicants. With the FY21 allocation cycle, staff will rank applications based on these criteria and make a funding recommendation for HCDC to consider. HCDC can recommend changes to staff's recommendation. The HCDC recommendation would be submitted to City Council for their consideration and adoption.

Staff also recommends discontinuing the emerging agencies set-aside due to alternative funding opportunities that are now available. The City has allocated \$25,000 in Climate Action Grants and \$75,000 in social justice and racial equity grants. These grants are expected to continue, and both have equity components and an emphasis on serving disadvantaged populations. Project-based CDBG/HOME grants are also available for emerging agencies or those who have not received grant funds in the past. These different sources are a good fit for emerging agencies and can help agencies build capacity and establish a track record. As an agency becomes more established and can demonstrate the ability to meet priority needs and grant requirements, they may be eligible to be incorporated into the A2A funding cycle based on their ability to address *City Steps 2025* priorities.

Proposed Timeline

August 1, 2019: FY21 A2A applications are released to agencies that were awarded funds last year through the United Way Joint Funding process.

September 12, 2019: FY21 A2A applications due.

September 19, 2019: HCDC receives copies of FY21 A2A applications for review. HCDC will compile questions for agencies regarding their applications ahead of the November meeting.

November 21, 2019: HCDC discusses questions for agencies at their November meeting. Staff will compile and send out questions to agencies in preparation for HCDC's December meeting.

December 19, 2019: Question & Answer session with A2A applicants. Agencies are provided questions in advance and invited to attend HCDC's December meeting.

December 2019: Draft of *City Steps 2025* complete. Draft will include updated priorities and identification of core agencies who are eligible for A2A funding for FY22 through FY25.

January 16, 2020: Staff provides FY21 A2A funding recommendations to HCDC at their January meeting. HCDC considers modifications and makes an FY21 A2A funding recommendation to Council.

April-May 2020: HCDC reviews, considers changes, and recommends *City Steps 2025* to Council. Council holds a Public Hearing and considers changes and adoption of *City Steps 2025*, in addition to HCDC's FY21 A2A funding recommendation.

August 2020: FY22-23 A2A applications are released to eligible agencies identified in *City Steps 2025*.

August 2022: FY24-25 A2A applications are released to eligible agencies identified in *City Steps 2025*.

Summers 2021-2024: Annual timeline review of *City Steps 2025* priorities and core agencies who are eligible for A2A funding. If modifications are needed, the Consolidated Plan would be amended in accordance with the Citizen Participation Plan.

To: Housing and Community Development Commission

From: Agency Impact Coalition

Re: Aid to Agencies Process

Date: July 10, 2019

The Housing and Community Development Commission's leadership and determination demonstrated throughout the FY20 Aid to Agencies funding process compelled and inspired local agencies identified by the City of Iowa City as Legacy Agencies to form a coalition, the Agency Impact Coalition. The Coalition has been meeting regularly with much of the initial discussions focused on how to better advocate for the work of our organizations and the collective impact we have throughout the community.

HCDC is continuing its drive to improve the Aid to Agencies process and recently sent out a survey to solicit feedback from funded agencies. However, the survey questions did not get to the heart of the recommendations and concerns that have consistently been articulated during Coalition meetings and we realized the majority of our feedback fell under the category of "other." As a result, we are submitting this single response. The suggestions below are made in the spirit and hope of creating a better informed and more participatory, collaborative process for both Aid to Agencies and CDBG/HOME awards:

- Inclusion of annual site visits to the funded agencies and/or as part of the orientation and on-boarding for HCDC members. Local not-for-profit executives bring decades of experience and are themselves subject-matter experts. We are eager for our community to understand the complexity and nuances of our services, the constituencies we serve, and the challenges we face. This may be time intensive, but it would set an entirely different foundation and context from which to work.
- Joint meetings outside of the funding cycle for HCDC, not-for-profit executives, and Neighborhood Services Department staff to thoroughly debrief CITY STEPS, the Annual Action Plan, and other relevant plans underpinning and guiding the allocations process for both Aid to Agencies and the annual CDBG/HOME competitions. Components of these conversations could include updates on trends, gaps, and needs.
- Better leverage the professional experience and practical knowledge of the Neighborhood Services Department staff. City staff add valuable perspective which is not being fully integrated into the process and dialogue.
- Create a data driven process that aligns with CITY STEPS and reorients the dialogue to be driven by need as opposed to managing scarcity.
- Our collective impact has substantial economic multipliers and significant public benefits that positively impact our community. Is there a method to more formally recognize this to better inform policy makers and as a component of the City's annual budget process?
- Specific to the application(s) and review therein, ensure additional questions to applicants are standardized and made available to everyone in advance.

In addition to these suggestions we support staff recommendations made in their July 3, 2019 memo to HCDC and the approaches recommended to reorient the process back to the original intent of, "providing a stable funding source for human service agencies serving LMI residents based on the funding priorities set in CITY STEPS...". Please know it is with the highest regard that we write. Members of this Commission have approached their charge with determination, integrity, compassion, and empathy. You have anguished over the decisions to be made and taken an unprecedented and bold position to which our Council responded. Please know that you have inspired and motivated us. We are eager to work more collaboratively to face the challenges and opportunities ahead and recognize that we come with the common intention of improving the health, safety and well-being of our community.

MINUTES

PRELIMINARY

HOUSING AND COMMUNITY DEVELOPMENT COMMISSION JULY 11, 2019 – 6:30 PM SENIOR CENTER, ROOM 202

MEMBERS PRESENT: Megan Alter, Charlie Eastham, Vanessa Fixmer-Oraiz, John McKinstry, Maria Padron

MEMBERS ABSENT: Matt Drabek, Lyn Dee Hook Kealey, Peter Nkumu, [vacant]

STAFF PRESENT: Kirk Lehmann, Erika Kubly

OTHERS PRESENT: Delaney Dixon, Nicki Ross, Adam Robinson, Amy Greazel, Ellen McCabe, Ron Berg, Michelle Heinz, Missie Forbes, Crissy Canganelli, Christi Regan, Heath Brewer, Ellie Paxson, Genevieve Anglin

RECOMMENDATIONS TO CITY COUNCIL:

By a vote of 5-0 the Commission recommends to City Council modifications to the Aid to Agencies process and approve FY21 Aid to Agencies forms as with changes as discussed.

CALL MEETING TO ORDER:

Fixmer-Oraiz called the meeting to order at 6:30 PM.

APPROVAL OF THE JUNE 20, 2019 MINUTES:

McKinstry moved to approve the minutes of June 20, 2019. Eastham seconded the motion. A vote was taken and the motion passed 5-0.

PUBLIC COMMENT FOR TOPICS NOT ON THE AGENDA:

Crissy Canganelli (Shelter House) submitted correspondence dated July 2, 2019 to provide corrected information from the minutes of the Human Rights Commission heard by the Commission at their previous meeting. Lehmann read the correspondence:

Good Morning:

I am writing to provide a correction to information provided to the Human Rights Commission during its May 15, 2019 meeting. The draft Meeting Minutes which are available to the public indicate that County Supervisor Porter reported to the Commission that, "Johnson County just gave Shelter House \$630,000."

The Johnson County Board of Supervisors allocated a total of \$630,000 to the Housing Trust Fund of Johnson County which was made available for affordable housing initiatives over the past fiscal year. Of the funds awarded to Shelter House by the HTFJC, \$250,000 came from Johnson County. Funds were awarded as a loan, are repayable to the HTFJC, and were restricted for a new construction project at 820 Cross Park Avenue.

The Human Rights Commission minutes were included in the June Housing and Community Development Committee Meeting packet, as such, I request this correction in fact be provided to both the Commission and relevant Iowa City staff.

I am deeply grateful for the partnership and support of the City of Iowa City in all aspects of Shelter House programming and would be happy to provide any additional information that would be helpful. Please do not hesitate to contact me by phone or email.

Crissy Canganelli, Executive Director of Shelter House

RECOMMEND TO CITY COUNCIL MODIFICATIONS TO THE AID TO AGENCIES PROCESS AND APPROVE FY21 AID TO AGENCIES FORMS:

Kubly began by summarizing a memo from staff regarding Aid to Agencies (A2A) recommendations dated July 3, 2019. Overall, staff recommends returning A2A to its original intent of providing stable funding for human service agencies serving low- and moderate-income residents based on the priorities set in CITY STEPS. Every five years, these priorities are reviewed. Staff is currently developing the new five-year plan, to be adopted by Council and the federal government by July 1, 2020. During the planning process, staff recommends limiting A2A applicants to a core group of service providers which meet its established priorities. These agencies would then competitively apply based on these priorities, their history of funding, and their capacity. Beginning with FY22, agencies would apply on a two-year cycle. The priorities and agencies allowed to apply would be reevaluated with each new five-year plan to address changing priorities or gaps of service as identified. If needed, the City could modify eligible agencies during the five-year period as well through the Consolidated Plan amendment process.

Kubly continued that because the FY21 Joint Funding Application process will begin before the adoption of City Steps 2025, staff recommends limiting FY21 A2A applications to agencies who applied for Legacy funds in FY20, consistent with the expectation of a two-year funding cycle when Legacy agencies applied last year. For the remaining fiscal years covered by City Steps 2025, staff recommends that the Plan identify 15-20 core agencies to be funded through A2A. Applicants will continue to apply through the United Way Joint Funding process. Every two years, HCDC will review and approve the ranking criteria for evaluation of the public service applicants. With the FY21 allocation cycle, staff will rank applications based on these criteria and make a funding recommendation for HCDC to consider. HCDC can recommend changes to staff's recommendation. The HCDC recommendation would be submitted to City Council for their consideration and adoption.

Kubly noted staff also recommends discontinuing the emerging agencies set-aside due to available alternative funding opportunities, such as Climate Action Grants and the Social Justice/Racial Equity grants. Project-based CDBG/HOME grants are also available. These sources can help agencies build capacity and establish a track record. As an agency demonstrates its ability to meet priority needs and grant requirements, they may be incorporated into the A2A funding cycle based on addressing priorities.

Eastham noted that the staff recommendation does not discuss the budget and asked if the Commission can recommend a higher budget amount. Kubly noted the City Manager is leading that discussion and has invited agencies to meet this month prior to the establishment of next year's budget.

Fixmer-Oraiz stated that the alternative project grants discussed are unclear as to whether they allow operational funding. She noted it is important for the Commission to show support for agencies to help them get off the ground, and operational funding is often the first step.

Eastham added that he would like more discussion with agencies to see how they would like to see newer agencies gaining access to the newer larger agency funding during the five-year City Step timeline.

Alter added that in the memo it does note as an agency becomes more established and demonstrates they meet grant priorities and requirements they may be eligible to be incorporated. Alter asked how an emerging agency would be able to prove that if they don't have access to funds to help them.

Fixmer-Oraiz suggested the Commission discuss the Agency memo and then take comments from the audience. Fixmer-Oraiz read the memo the Commission received from the Agency Impact Coalition regarding the Aid to Agencies process dated July 10, 2019.

The Housing and Community Development Commission's leadership and determination demonstrated throughout the FY20 Aid to Agencies funding process compelled and inspired local agencies identified by the City of Iowa City as Legacy Agencies to form a coalition known as the Agency Impact Coalition. The Coalition has been meeting regularly with much of the discussions focused on how to better advocate for the work of our organizations and the collective impact we have throughout the community. HCDC is continuing its drive to improving the Aid to Agencies process and recently sent out a survey to solicit feedback from funded agencies. However the survey questions did not get to the heart of recommendations and concerns that have been consistently articulated during Coalition meetings and we realize the majority of our feedback fell under the category of "other". As a result we are submitting this single response, the suggestions below are made in the spirit and hope of creating a better informed and more participatory collaborative process with Aid to Agencies and CDBG/HOME awards.

- *Inclusion of annual site visits to the funded agencies and more as part of the orientation and onboarding for HCDC members. Local not-for-profit executives bring decades of experience for the complexity and nuances of our services, the constituencies they serve and the challenges we face. This may be time intensive but would create an entirely different context for which to work.*
- *Joint meetings outside the funding cycle for HCDC, not-for-profit executives and neighborhood services development staff to thoroughly debrief City staff on the Annual Action Plan and other relevant plans underpinning and guiding the allocations process for both Aid to Agencies and the annual CDBG/HOME competitions. Components of these conversations can include updates on trends, gaps and needs.*
- *Better leverage of professional experience and practical knowledge of the neighborhood services departmental staff. City staff add valuable perspective which is not being fully integrated into the process and dialogue.*
- *Create a data-driven process that aligns with City Steps and reorganize the dialogue to be driven need as opposed to managing scarcity.*
- *Our collective impact has substantially economical multipliers and substantial benefits that positively impact our community. Is there a method to more formally recognize this to better inform policy makers and as a component of the City's annual budget process.*
- *Specific to the applications and review therein, assure additional questions to the applicants are standardized and made available to everyone in advance.*

In addition to these suggestions we support staff recommendations made at the July 3, 2019 memo to HCDC and the approaches recommended to reorient the process back to the original intent of "providing a stable funding source for human aid agencies serving LMI residents aligning funding with priorities set in City Steps". Please note it is with the highest regard we write, members of this Commission have approached their charge with determination, integrity and compassion and empathy. You have languished over the decisions to be made and taken an unprecedented and bold position to which the Council responded. Please note you have inspired and motivated us, we are eager to work more collaboratively to face the challenges and opportunities ahead and recognize we come with a common intention of improving the health, safety and wellbeing of our community.

Fixmer-Oraiz stated for the record she is deeply moved by this memo and thanked the Coalition for putting it together, HCDC appreciates and recognizes the absolute impact the agencies have on our community which is why HCDC feels so passionate about making this work.

Eastham would appreciate hearing overall thoughts on the question of setting an amount for Aid to Agencies in the City's budgeting. He wants to understand what the agencies are actually interested in, is it the overall amount of agency funding or if it is a single, reliable process for knowing how much funding the City is going to provide from year to year for each agency.

Crissy Canganelli (Shelter House) responded by saying they are interested in both. The City Manager reached out to the agencies and asked if they would be able to meet as Kubly mentioned before the end of the month. Canganelli added that this cannot be separated into parts, it is all connected, and they want to build relationships and have more of a participatory and collaborative process which allows all groups

to learn from one another. She noted that the City has never looked at funding as to what is the need versus managing scarcity. In the past it has been approached from the managing scarcity end. She added they need to understand they all want to do good and do the good work well, they don't understand what the baseline is yet, so they need to work better together to inform that, she has every confidence they will be able to move that line item up. There are other parts of the conversation as well, they need to look at how agencies could manage resource differently, and open things up in a different way.

Eastham said the process staff proposed says the annual amount of Aid to Agencies funding is going to be determined through negotiations between agencies and the City Manager directly. He notes that might work out well but wants to know if agencies have an idea for the role of the HCDC in that process.

Canganelli said the Commission brings the balance to the conversation, it should be a combination of all three parts. She doesn't feel it is up to the agencies to define who plays what role or how much of a part, but they want to segment out the different voices within this process to avoid excluding them, so the combination would be City staff, HCDC, and nonprofits informing the conversation from an early point. Not only in the budgeting process but also for the Commission to get to know the agencies a little more before they are at the point of reviewing and analyzing applications.

Alter said it is a relief to hear of a desire for a more collaborative process, it is too much to shoulder on one part. She loves the idea of annual site visits and would like to increase those. The site visits HCDC did recently really helped make everything fall into place for her and makes it real. They got to have candid conversations with residents, staff, and executive directors.

Fixmer-Oraiz liked adding to the conversation the trends, gaps, and needs to take into consideration. She feels it will be important to learn what agencies are seeing and experiencing versus an application. She notes there is a need for collaboration and everyone having a better understanding of one another.

Fixmer-Oraiz wonders when the Agencies meet with the City Manager if it would be beneficial to have a member of HCDC present. Eastham agrees it would be helpful.

Eastham liked the memo, the name Agency Impact Coalition, and the points about creating a data-driven process and looking at collective impact. The collective impact point is intriguing, Padron put together a data-filled PowerPoint presentation which helped persuade Council, so the more data the better.

Fixmer-Oraiz wants to look at short- versus long-term goals, things that could be accomplished easily such as increasing site visits, and wants to discuss actionable items to take from this conversation.

Lehmann said staff has discussed some of these ideas in terms of short- and long-term items. He said the idea of having liaisons to schedule site visits is a good one, with nine commissioners there would be two or three agencies per person, and that could be accomplished early into this fiscal year and have the liaisons schedule visits for the different sites.

Padron said the liaison would schedule the visit but every commissioner would have the freedom to go on the visit. Lehmann said that would be correct, and if they could avoid having more than four at one visit it would help logistics to avoid having trips be a formal meeting.

Lehmann said with regards to the timeline review, he likes the idea of joint meetings outside of the funding cycle for nonprofit executives, staff, and HCDC to meet at one of the HCDC's meeting for an agency debrief and discussion.

Eastham would like site visits and the conversational get together but also likes the idea of staff making a funding recommendation which has not been done in the past. Lehmann agreed and noted he matched the questions on the application to a point system staff would use to make recommendations. He wants there to be transparency on how decisions are being made for staff recommendations.

Alter asked if there has been discussion amongst staff or the agencies regarding the prioritization of high, medium and low priority, because it has been something they have struggled with. Lehmann said for the

next year's funding cycle, where the new City Steps will not be done yet, it will be incorporated into one of the questions on the scoring criteria under community need, the need has to be listed as a high priority to get all 15 points, but the difference from a high to medium priority throughout the whole application however is only a difference of two points out of 100. In the future the City Steps will discuss how to prioritize or reallocate priorities based on the survey, which explicitly mentions priorities, and try to use the general public input rather than just HCDC. Lehmann feels there needs to be some sort of prioritization.

Alter said often high priorities are at crisis level with high need and high impact but the flip side low priorities are often preventative or helping to avert crisis so she would hate to lose those. It will be important to remember that when looking at data and the results from the survey.

Fixmer-Oraiz read a comment received on the survey. *"I believe the choices made regarding low, medium and high priority are somewhat subjective, children services are important as are women services, aging services and mental health. My fear is when start segregating groups in this way it minimizes growth opportunities for programs and hurts populations in our community that simply don't have access to other resources. Maybe if there was more clarity in how/why the rankings came to be it wouldn't be as much of a concern."* Fixmer-Oraiz just wanted to put that quote out there because it speaks to the subject at hand. Fixmer-Oraiz asked where the rankings came from, she assumes City Steps. Lehmann believes they came from HCDC after City Steps was adopted.

Genevieve Anglin (United Action for Youth) noted that it has been difficult that her agency does a lot of different things but because they have the word youth in their title they have always been classified into youth services. Over half their budget is used for homeless services and mental health services, so that complicates how they answer the questions on the application.

Fixmer-Oraiz feels there needs to be a discussion on what questions should be on the application, a discussion between the Commission and the agencies so they don't miss the mark. However they are at the point now where the funding cycle is upon them so they will have to put up with some of the issues, there won't be time for a total overhaul.

McKinstry stated he was pleased the Agency Impact Coalition was supportive of the staff recommendations and staff is supportive of the agencies so that is a good basis to proceed, looking at the points both have made and fuse them together.

Fixmer-Oraiz asked if it is as simple as to adopt the Agency Impact Coalition's and staff memo recommendations. Lehmann said what would be good to go through the main framework in the staff memo and add in the items (maybe all) from the Coalition memo and then go through the ranking criteria so there is a basis for ranking this year and next year it can be tweaked after City Steps is complete. Kubly added they will need to adopt the draft application or make suggestions for changes so it can be given to The United Way to be released.

Fixmer-Oraiz suggested they discuss from the staff memo the emerging agency funds, and asked if the two new funding sources were project based grants or could they be operational. Lehmann said they are project based but believes an agency could pay for staff. Fixmer-Oraiz noted keeping the emerging agency funds would be good because there just aren't a lot of funds available for operations and the category was created with an amount based on staff salary. Lehmann said the \$15,000 for legacy funding was created due to staff salary needs – not the \$5,000 minimum for emerging agency funds.

Eastham suggested a recommendation that the other two sources of funds, social justice grants and climate action grants be available for operational needs. Kubly said they could make that recommendation but they do not have the authority to make that change. Lehmann suggested that HCDC send a representative to each of those commissions to make that recommendation during their public comment process. Lehmann said from staff perspective it is nice to have the distinction between project based and operational grants because project based grants have very concrete accomplishments whereas operational funding is harder to evaluate success. Fixmer-Oraiz said that is why most grants won't fund operations and why perhaps HCDC should keep the emerging agency funding set-aside.

Lehmann said if HCDC is adopting the staff memo as their recommendation the Commission will need to add something about having Council look for funding sources, perhaps the two listed or others, to fund operational costs for newer agencies to help them get off the ground. Fixmer-Oraiz noted the survey had a few comments supporting the emerging agency funding and others that said it wasn't enough funding to even help. Fixmer-Oraiz feels they need to keep the emerging agency funds and perhaps with this data-driven process they can show the need for increasing the amount of funding to emerging agencies.

Padron asked overall how this new process will be more permanent or secure for the legacy agencies. Is the only difference the five years? She thought there would be a group of agencies, older agencies, who will get money for sure every year, but if there is a process of ranking and voting then how are we assuring them they will get the money every year. Lehmann said with staff recommendations, there should be more consistent viewpoints over time, whereas with HCDC every year the membership changes by at least three people and that can change the direction. Additionally concrete ranking criteria should provide more stability. Padron said in the few years she has been on the Commission even with clear ranking criteria people find a way to rank differently so she would like to ask Council to commit to a certain amount for some agencies. Fixmer-Oraiz said that is the hope of the meeting between the Coalition and the City Manager to come to an agreement for stabilization. Padron asked if it was possible to just promise some agencies an amount of money for several years, they would still have to apply and have applications reviewed, but less ranking and more like an entitlement grant. Lehmann said theoretically that is possible, but that is very different from what has been done. Padron doesn't feel the process described in the staff memo is different than what is being done now, other than the five years of funding, but could be stuck for five years with a low amount of funding. Fixmer-Oraiz said that is why she wanted to focus on short-term and long-term goals, changes they could make tonight and then others that would need further discussion.

McKinstry added this is a political process, new City Council members are elected all the time, HCDC members change, needs in the community change, there are many variables so there needs to be some flexibility. He appreciated the Agencies noted that part of their job is to inform the community about what they do so Council members could have the correct information and create relationships with agencies and make decisions. He feels getting started in the process earlier and being more collaborative will help.

Alter stated there are however some constants, need is there, the executive directors and people working in these agencies are subject matter experts and know best what the needs are and how to best use the funds. She added having stability would help agencies do the work they need instead of going through this process every year or couple of years. And then if there is a spike in trends or crisis moment agencies can modify or amend ongoing needs to show the new needs. Alter agrees with Padron that doing this would be radical but having bureaucracy not be a barrier.

Fixmer-Oraiz stated the only real answer moving forward is to be more collaborative and to have open communication to make sure changes are made and informed. She feels a recommendation at this time would be to adopt the staff memo with the additions from the Coalition memo, she added she would like to keep the support of the emerging agency funds. Eastham agreed and added the City Manager needs to hear clearly what amount of funding Aid to Agencies needs to be.

The recommendation is the staff memo recommendation, paragraphs one through four, plus the Agency Impact Coalition memo points integrated, with the addition of a HCDC liaison to each agency for site visits recommended in bullet point one, paragraph five from the staff memo would be edited to note HCDC recommends continuing the emerging agency funding at its current 5% set aside. Eastham agrees but adds Council should still look at the other two sources of funding for emerging groups. With regards to the application, staff is interested in asking for LMI breakdowns in question six, which says "provide us with succinct specific description of your primary target population, describe client groups in terms of their primary needs and strengths, what barriers do they face. If the agency serves a regional area provide percent of overall clients that are Johnson County residents." Lehmann said the way they have graded that in the past is specific to 30% area median income or equivalent, 50% AMI or equivalent or 80% AMI or equivalent. He said they could potentially include that in a separate question in the appendix for agency demographics, knowing not all agencies have this data so they could say "or provide strong evidence of AMI served" or leaving it open to have "or those at similar standard of income level such as

poverty line” leaving it open for the agency describes their services.

Fixmer-Oraiz is curious of the agency perspective on this question of providing LMI demographics and the points assigned to the LMI. Having the data helps HCDC with their deliberations but she knows not all track the data, such as Free Lunch Program or Table to Table.

Chelsey Markle (the Arc of Southeast Iowa) said it is complicated for them, they do disability services and it is not necessarily a large LMI population but the funding received goes 100% towards the ones who can use the services.

Fixmer-Oraiz asked if there was any way to just offer a comment box for the agencies to allow agencies to explain special situations.

A member of the audience who was a former Table to Table board member stated a comment box would be very helpful so they could explain they do not keep actual statistics on the people who are eating the food, however they do their due diligence with the organizations who are giving out the food.

Lehmann said adding a comment box to every question would double the number of questions which complicates the application. McKinstry suggested just one extra question at the end that is an open comment box to address in detail answers to questions above. Fixmer-Oraiz feels that could get complicated and would rather have a comment box after each question and go for quality and not worry about quantity of questions.

Alter noted the LMI in particular, time and time again is hard to quantify when filling out the scoring if there isn't LMI data and it is such a large chunk of points and the comment box would be useful.

Fixmer-Oraiz noted there was a comment in the survey about the funding question and the way it is asked in the application doesn't fit every organization. Lehmann said there have been questions/issues with the financial fee structure question as well as Form C and the auto calculations also causes hiccups. Kubly believes those hiccups have been resolved but will check with United Way to make sure it is taken care of.

Lehmann said the Commission discussed cutting down the financial section, he as staff would primarily look at agency revenues, expenses and in-kind support, that he doesn't look as closely at fund balances or restricted funds so that may simplify the application. Padron is interested to see how much goes out to the programs and how much is salaries and operations. Lehmann said that is split out in the expenses.

The Commission agreed they would only need a comment box for question six regarding the LMI served or benefits to LMI populations.

Fixmer-Oraiz also noted they would need to be clearer moving forward to let the agency partners know when they needed to attend meetings for questions/answer periods.

Kubly asked if they will be doing a memo to Council with all these recommendations included. Fixmer-Oraiz agreed it would be best, have staff put together a memo and the chair will sign it.

Lehmann said the final piece is the scoring criteria. First is taken directly from question one “what specific need of the community is being addressed” so the first criteria is community need. 15 points describes a high priority need the completely addresses the community need and will solve the need; 10 points is high priority which addresses the community need and would have a major impact; 8 points would then be medium or low priorities that completely address the community need and have impact; 3 points for indirectly supporting the need or no supporting documentation or statistics, significant areas are missed in addressing the area; 0 points if it is not identifying a need described in City Steps.

McKinstry stated there are high quality agencies and people who provide good documentation and while it may be hard to differentiate high from medium or low priorities (they are all priorities) he doesn't have any recommendation for a better system.

Fixmer-Oraiz feels this is an area the Commission needs to work on, it's not perfect, so maybe keeping it as is for this round but digging into it in the future.

Lehmann said with this new system staff will score all the applications, provide a rationale for the scores to the Commission and then the Commission will decide if they accept the staff recommendations or wish to make changes.

Lehmann reviewed the rest of the other questions and scoring and the Commission agreed it was a good range of scores and criteria to move forward. He also noted they would look at the previous year's applications to note progress and outcomes from the agencies on previous awards. Fixmer-Oraiz noted that outcomes questions can be quantitative and some are qualitative, for example Habitat for Humanity does great work, but serves less people than other agencies. Eastham noted it must be looked at by individual agency, how their outcomes benefit the people they serve and compare to similar agency, such as did this Habitat chapter serve the same number of people that another Habitat chapter did and that is what they should be asking for. Lehmann liked that idea, they struggle with the depth of service versus the breath of service. Alter felt there is no need for some many categories or ranges of outcomes, it should be an either you are doing it or not. Lehmann agreed and noted staff can use its knowledge of other agencies to know what is happening. They also look at the success and experience of working with agencies in the past. Fixmer-Oraiz suggested combining the last two scoring criteria into a single question.

McKinstry moved to recommend to City Council modifications to the Aid to Agencies process and approve FY21 Aid to Agencies forms as with changes as discussed. Alter seconded the motion. A vote was taken and the motion passed 5-0.

REVIEW AND DISCUSS THE SOUTH DISTRICT HOME INVESTMENT PROGRAM:

Kubly updated the Commission, noting staff went back to Council in May because staff was having trouble locating properties. Since then, they located a property and have a purchase agreement out that will go to Council next week (1232-1234 Sandusky Drive). The purchase price is \$124,000 for the duplex so they are excited about the affordability of the property. It is currently vacant because it sustained fire damage earlier this year and tenants were relocated after the fire.

Eastham asked if there were any insurance proceeds used to repair the fire damage. Kubly assumes there were for the property owner at that time.

Lehmann added one of the units was already stripped down to the studs so that will make the renovation on that unit easier. After the fire, the owners replaced the roof and furnace. This is a side-by-side duplex so it will be two units. Of the two tenants that were renting the units, one left the state but the other might be interested in purchasing one of the units.

Kubly stated even with the fire damage they are confident they can repair and rehab the units within the budget. They will have to condo the units so they can sell them separately and there is a building code/fire requirement that may have some additional costs.

Eastham asked if staff was proposing to proceed with selling the units to a program qualified buyer under the requirements of the South District Home Investment Program, which was already approved by Council but now the purchase has to go back to Council. Lehmann said Council directed staff to reach out to property owners to locate properties based on the staff South District memo from December. Kubly said this specific acquisition will go before Council next week.

Eastham asked the Commission to discuss the modifications to the Program as proposed by Habitat.

Heath Brewer (Executive Director, Iowa Valley Habitat for Humanity) stated in terms of the purchase of property and the larger portion of investment the City would have to make is to stabilize the neighborhood by balancing affordable homeownership opportunities with affordable rental options and they understand



August 15, 2019

Memo from City Clerk: Listening Post Update [Previously distributed in 8/1 Information Packet]

ATTACHMENTS:

Description

Memo from City Clerk: Listening Post Update



CITY OF IOWA CITY MEMORANDUM

Date: August 1, 2019
To: Mayor and City Council Members
From: Kellie K. Fruehling, City Clerk
Re: Listening Post Update

In 2018 Council held four listening posts:

- Thursday, February 22, 4:30-6:00 p.m., Kirkwood Community College – IC Campus (Mayor Pro tem Taylor and Council member Mims)
- Saturday, June 9, 9:30-10:00 a.m., Washington Street Farmers Market (Mayor Pro tem Taylor and Council member Cole)
- Thursday, August 16, 6:00-8:00 p.m., Willow Creek Park – Party in the Park (Council member Mims and Council member Thomas)
- Thursday, November 29, 5:30-7:00 p.m., Irving Weber Elementary, 3850 Rohret Rd (Mayor Throgmorton and Mayor Pro tem Taylor)

In 2019 the following listening posts have been held:

- Monday, February 11, 5:30-7:00 p.m., Iowa Memorial Union, Black Box Theatre – Room #360 — 125 N Madison Street (Council member Cole and Council member Salih)
- Wednesday, May 29, 6:30-8:00 p.m., Lemme Elementary School Library, 3100 E. Washington St (Council member Thomas and Council member Teague)

No additional dates are currently scheduled. Suggested quarterly posts are February, May, August, and November. Suggested sites include:

- Farmer's Market (Wednesday or Saturday)
- Party in the Park
- Uptown Bill's
- Pheasant Ridge Neighborhood Center, 2651 Roberts Road
- Senior Center Lobby



August 15, 2019

Memo from Media Production Services Coordinator: Future of the Telecommunications Commission [Previously distributed in 8/1 Information Packet]

ATTACHMENTS:

Description

Memo from Media Production Services Coordinator: Future of the Telecommunications Commission



CITY OF IOWA CITY MEMORANDUM

Date: July 22, 2019

To: Ashley Monroe, Assistant City Manager

From: Ty Coleman, Media Production Services Coordinator

Re: Future of the Telecommunications Commission

Introduction:

The Iowa City Telecommunications Commission has been asked to consider its role as a commission, given that the local cable TV franchise agreement with Mediacom has expired.

History/Background:

The City Council formed the Iowa City Broadband Telecommunications Commission at the time of Iowa City's first cable TV franchise agreement with its first cable TV service provider. The Council enacted the Broadband Telecommunications Franchise Enabling Ordinance (later to be known as the Cable Television Franchise Enabling Ordinance), which established standards, regulations, and procedures for the granting of a cable television franchise, as well as defined the Telecommunications Commission and its role (attached).

The purpose of the Commission was to recommend policies to the City Council on the regulation, development, and operation of cable television, telecommunications, and communications systems in Iowa City. Many of the Commission's established duties included actions related to the powers of the City as allowed by the local franchise agreement, such as resolving disputes between subscribers and the cable provider, providing recommendations related to basic tier rate regulation, conducting a triennial review of the cable TV system and recommending improvements to the system and amendments to the franchise agreement, establishing and administering sanctions to ensure compliance with the franchise enabling ordinance, and soliciting, reviewing, and providing recommendations to Council for selection of applicants for franchise. Other duties included promoting awareness of the local access channels, educating the public on telecommunications matters affecting consumers, identifying public rights-of-way issues and concerns, and making recommendations regarding development of the local communications infrastructure.

In 2007, Iowa adopted a law that created a state franchise process for cable providers. Our local franchise agreement with Mediacom was able to remain in effect until its natural expiration, which took place on August 1, 2018. Mediacom has been operating under a state-issued

franchise since this date and it is highly unlikely that a cable TV provider would ever seek a local franchise agreement in the future, though permissible by state law.

Discussion of Solutions:

Given the lack of a local cable TV franchise, the Telecommunications Commission has been considering its role going forward and how it might envision its potential for providing a valuable service to our community. While members of the Commission have agreed that the group does not have as great a purpose as it once did due to the end of the local franchise and a reduced number of access channels (UI, ICCSD, and ICPL channels have ceased use of their channels), the group has discussed its interest in the development of a municipal broadband advisory board. The Commission's proposal is attached for City Council's review and consideration.

The Telecommunications Commission has stated that it will continue to operate as a Commission until it is decided by Council that it should either disband or that a municipal broadband advisory board be formed to explore the potential for creating a municipal broadband system in Iowa City.

Recommendation:

Staff recommends that the Commission's proposal be reviewed and that the City Council determine whether the Commission should be disbanded, whether to proceed with an advisory board, or whether it is necessary to meet with the Telecommunications Commission to discuss the proposal.

Iowa City Telecommunications Commission

Municipal Broadband Advisory Board Proposal to Iowa City City Council

The Iowa City Telecommunications Commission was originally formed to advise, review, and resolve issues involving cable providers operating under the Iowa City franchise. Iowa City's municipal franchise agreement with Mediacom expired on August 1, 2018. At this time the commission was tasked with identifying future duties and responsibilities. This proposal is the result of that discussion.

The Iowa City Telecommunications Commission proposes that the Iowa City City Council form an advisory board to explore creating a municipal broadband network to serve Iowa City.

The board shall be established as follows:

- The mission of the Municipal Broadband Advisory Board is to assist the City with determining whether a municipal broadband deployment in Iowa City is in the best interest of the community. This includes, but is not limited to:
 - Identifying the pros and cons of a municipal broadband deployment.
 - Outlining requirements for municipal broadband.
 - Financing recommendations and cost estimation.
 - Achieving diverse stakeholder representation and viewpoints.
- The board shall be established for one year. The board will determine frequency of meetings.
- The board shall consist of ten (10) members appointed by City Council or chosen by the Telecommunications Commission from a pool of candidates. Board members shall be chosen based on specialty and expertise. Relevant experience includes, but is not limited to:
 - Information technology, especially networking
 - Government agencies, especially municipal
 - Regulated utilities
 - Non-profit organizations
 - Institutions, including but not limited to the Iowa City Community School District and the University of Iowa
 - Small and large businesses
 - Professional services, for example: accountants, contractors, bankers, lawyers
 - Students
- Board members duties include, but are not limited to:
 - Gather and present information about existing municipal broadband deployments.
 - Work with city officials to identify municipal infrastructure that can be utilized for broadband, estimate cost, and address other feasibility concerns.
 - Assess broadband access throughout the community to help prioritize deployment.
 - Provide a recommendation to City Council and assist in drafting RFP (if requested).
- Board leadership shall consist of the following:
 - Chair
 - Secretary

The Iowa City Telecommunications Commission has determined that since there is no city franchise agreement it no longer has a purpose. Once City Council has reached a decision on this proposal the Telecommunications Commission will disband unless tasked with advisory board candidate selection.

Chapter 4

CABLE TELEVISION

Division 1. Enabling Ordinance

12-4-1: SHORT TITLE:

This chapter shall be known and may be cited as the *CABLE TELEVISION FRANCHISE ENABLING ORDINANCE*. (Ord. 05-4169, 7-5-2005)

12-4-2: DEFINITIONS:

For the purpose of this chapter the following terms, phrases and words and their derivations shall have the meanings specified herein. When not inconsistent with the context, words used in the present tense include the future and words in the singular number include words in the plural number.

ACCESS OR PUBLIC, GOVERNMENT, AND EDUCATIONAL ACCESS CHANNELS: Public, educational, government, library, and university access channels.

ADDITIONAL SERVICE: A subscriber service provided by the grantee for which a special charge is made based on program or service content, time or spectrum space usage.

ANNUAL GROSS REVENUES: All revenue received by the grantee from all sources in connection with the operation of grantee's cable television system. Gross revenues shall include, without limitation, amounts for all cable service, including, but not limited to, basic service and tier service, premium and pay per view services, advertising, leased access, installation and all other revenues derived from the operation of grantee's cable television system. Gross revenues shall not deduct the following: a) any operating expense; b) any accrual, including, without limitation, any accrual for commissions; or c) any other expenditures, regardless of whether such expense, accrual or expenditure reflects a cash payment, but revenue shall be counted only once in determining gross revenue. Gross revenues shall also include the revenue of any affiliate, subsidiary, parent, or any person or entity in which each grantee has a financial interest, derived from the operation of the cable television system for advertising, or for any other business operation of the cable television system, to the extent such revenue is derived through any means that has the effect of avoiding the payment of franchisee fees that would otherwise be paid to the grantor. Revenues of both grantee and an affiliate, subsidiary, parent, or any person or entity in which the grantee has a financial interest that represents a transfer of funds between them and that would constitute gross revenues of both the grantee and the affiliate, subsidiary, parent, or any person or entity in which the grantee has a financial interest shall be counted only once for purposes of determining gross revenues. Gross revenues shall not include franchise fees, any other fee, assessment, sales or other similar tax imposed by law on subscribers or that grantee is legally obligated to collect.

BASIC SUBSCRIBER TELEVISION SERVICES OR BASIC SERVICES: A separately available basic service tier to which subscription is required for access to any other tier of service. Such basic service tier shall, at a minimum, consist of the following: All signals carried in fulfillment of the cable act, sections 614 and 615; any public, educational, and governmental access programming required in this chapter or the franchise; any signal of any television broadcast station that is provided by the cable

operator to any subscriber, except a signal which is secondarily transmitted by a satellite carrier beyond the local service area of such station. Additional signals may be added to the basic tier by the grantee.

CABLE SERVICE: The one-way transmission to subscribers of: a) video programming; or b) other programming service; and c) subscriber interaction, if any, which is required for the selection (or use) of such video programming or other programming service or as otherwise provided by law or regulation.

CABLE TELEVISION CHANNEL: A portion of the electromagnetic frequency spectrum which is used in a cable system and which is capable of delivering a television channel as defined by the federal communications commission.

CABLE TELEVISION SYSTEM CHANNEL CAPACITY: The highest total number of cable television channels on which television signals from separate sources may be delivered downstream simultaneously to every subscriber in the network. The network may have additional channel capacity for specialized or discrete purposes, but the technical performance specified shall not be materially degraded thereby.

CABLE TELEVISION SYSTEM OR CABLE SYSTEM (Also Referred To As SYSTEM): A facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include: a) a facility that serves only to retransmit the television signals of one or more television broadcast stations; b) a facility that serves subscribers without using any public rights of way; c) a facility of a common carrier which is subject, in whole or in part, to the provision of title II of the cable act, except that such facility shall be considered a cable system to the extent such facility is used in the transmission of video programming directly to subscribers; or d) any facilities of any electric utility used solely for operating its electric utility systems. Cable television system, for the purpose of this chapter, shall include facilities owned or operated by a person providing cable service or multiple channels of video programming to subscribers on private property that receive cable service or multiple channels of video programming in whole or in part via cable, fiber or other wires or lines that are within the public rights of way regardless of whether the person providing cable service or multiple channels of video service from a common carrier pursuant to tariff or otherwise or other person that retains the programming on private property receives video programming transmission services, cable service, or other multiple channel video ownership, control and responsibility for all facilities located outside of the private property line.

CHANNEL FREQUENCY RESPONSE: Within a cable television channel, the relationship as measured at a subscriber terminal between amplitude and frequency of a constant amplitude input signal at all specified frequencies within each channel.

CITY: The city of Iowa City, Iowa, its officers and employees unless otherwise specifically designated, the area within the territorial city limits of the city and such territory presently outside the city limits over which the city may assume jurisdiction or control by virtue of annexation.

CLOSED CIRCUIT OR INSTITUTIONAL SERVICE: Such video, audio, data and other services provided to and between institutional users. These may include, but are not limited to, one-way video, two-way video, voice, audio or digital signals transmitted among institutions and/or to residential subscribers.

COMMENCE OPERATION: Operation will be considered to have commenced when sufficient distribution facilities have been installed so as to permit the offering of full network services to at least twenty five percent (25%) of the dwelling units located within the designated service area.

COMMISSION: Refers to the Iowa City telecommunications commission.

COMMUNICATIONS POLICY ACT OR CABLE ACT: The cable communications policy act of 1984, the cable television consumer protection and competition act of 1992, and the telecommunications act of 1996, as it may be amended or succeeded.

COMPLAINT: An oral or written indication from a subscriber of a problem with any aspect of cable service.

CONTIGUOUS: Abutting or within two hundred feet (200').

COUNCIL: The city council of the city of Iowa City, and any legally appointed or elected successor or agency.

DATA GRADE: Coded transmissions primarily digital in nature.

DAYS: Business days.

DOWNSTREAM: The direction of transmission over the cable television system from the head end or hub to a subscriber's terminal.

DROP: A coaxial connection from feeder cable to the subscriber/user television set, radio or other terminal.

FCC: The federal communications commission and any legally appointed or elected successor.

FAIR MARKET VALUE: The price that a willing buyer would pay to a willing seller for a going concern based on the system valuation prevailing in the industry at the time.

FIBER: A transmission media of optical fiber cable capable of carrying transmissions by means of light wave impulses.

FIBER NODE: The local transition point between the fiber distribution portion and the coaxial distribution portion of the upgraded cable communications system.

FRANCHISE: A franchise contract entered into voluntarily by the grantee, containing the specific provisions of the franchise granted, including referenced specifications, franchise proposal, applications and other related material. The franchise granted pursuant to this chapter grants the nonexclusive rights to construct, operate and maintain a cable communications system along the streets and public ways and grounds within all or a specified area in the city. Any such authorization, in whatever form granted, shall not mean or include any license or permit required for the privilege of transacting and carrying on a business within the city as required by other ordinances and laws of the city.

FRANCHISE AREA: The entire city, or portions thereof, for which a franchise is granted under the authority of this chapter. If not otherwise stated in the franchise, the franchise area shall be the corporate limits of the city, including all territory thereafter annexed to the city.

FRANCHISE FEE: The percentage, as specified by this chapter, of the grantee's gross revenues from all sources payable in exchange for the rights granted pursuant to this chapter and the franchise agreement.

FULL NETWORK SERVICE: All basic services and additional services offered by the grantee.

GRANTEE: All persons including, but not limited to, subsidiaries, parent or affiliate companies, associations or organizations having any rights, powers, privileges, duties, liabilities or obligations, under this chapter, and under the franchise ordinance, collectively called the franchise, and also includes all persons having any title to or interest in the system, whether by reason of the franchise itself directly or by interest in a subsidiary, parent or affiliate company, association or organization by any subcontract, transfer, assignment, management agreement or operating agreement or an approved assignment or transfer resulting from a foreclosure of a mortgage security agreement or whether otherwise arising or created, and shall include the lawful successor, transferee, or an assignee of such franchisee or grantee.

HEAD END: The land, electronic processing equipment, antennas, tower, building and other appurtenances normally associated with and located at the starting point of a cable television system, excluding the studio.

HUB CONFIGURATION: A cable television system design technology wherein all transmission paths either originate or terminate at a central location within the community.

INSTALLATION: The extension and/or construction of the system from the main trunk and/or feeder cable to subscribers' terminals except where such a procedure is required by this chapter without charge when it will mean the extension and/or construction of the system to one point in a designated building.

LOCAL DISTRIBUTION CENTER: A facility, within the community remote from but connected to the hub, which distributes signals from the hub to a specified area in the cable television system.

LOCAL DISTRIBUTION CENTER: A facility which originates from a local distribution center as opposed to the hub.

MAY: Is permissive.

NETWORK NOISE: That combination of undesired and fluctuating disturbances within a cable television channel, exclusive of undesired signals of discrete frequency which degrade the reproduction of the desired signal and which are due to modulation processes, thermal effects and other noise producing effects, not including hum. Network noise is specified in terms of its RMS voltage or its mean power level as measured in a four (4) MHz band above the lower channel boundary of a cable television system.

NEW HOUSING AREA: Any area containing any newly constructed, rehabilitated, or restored residential or commercial unit which does not exist prior to the effective date of the franchise.

OPEN VIDEO SYSTEM: Any channel or a facility consisting of a set of transmission paths and associated signal generation, reception and control equipment that is designed to provide cable television service, which includes video programming, which is provided to multiple subscribers within a community, and which the federal communications commission or its successor has certified as compliant with part 76 of the rules of the federal communications commission, 47 CFR, part 76, as amended from time to time.

PERSON: An individual, partnership, association, organization or corporation or any lawful successor transferee.

PHYSICAL MILES OF PLANT: Total miles of trunk, feeder, super trunk, and fiber optic cable.

PUBLIC RIGHTS OF WAY OR STREETS AND PUBLIC GROUNDS: The surface, the air space above

the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, park, parkways, waterways, utility easements or other public right of way now or hereafter held by the city which shall entitle the city and the grantee to the use thereof for the purpose of installing and maintaining the grantee's cable television system. No reference herein, or in any franchise, to the streets and public grounds shall be deemed to be a representation or guarantee by the city that its title to any property is sufficient to permit its use for such purpose, and the grantee shall, by its use of such terms, be deemed to gain only such rights to use property in the city as the city may have the undisputed right and power to give.

REASONABLE NOTICE: The provision of notice of contemplated action delivered at least forty eight (48) hours prior to such action.

RESIDENT: Any person residing in the city or as otherwise defined by applicable law.

RESIDENTIAL SUBSCRIBER: A subscriber who receives a service in an individual dwelling unit where the service is not to be utilized in connection with a business, trade or profession.

SALE: Includes any sale, asset exchange or offer for sale.

SHALL AND MUST: Each is mandatory.

STRAND MILE: Messenger strand as measured from pole to pole without taking into consideration sag or downguys, and for buried plant, actual trench feet.

STUDIO: The land, electronic processing equipment, towers, building, cameras, lights and other appurtenances normally associated with and located at the grantee's local origination and/or public access plants of a cable television system, excluding the head end.

SUBSCRIBER TERMINAL: An electronic device which converts signals to a frequency not susceptible to interference within the television receiver of a subscriber, and any channel selector which permits a subscriber to view all signals delivered at designated converter dial locations at the set or by remote control.

SUBSTANTIALLY COMPLETED: Operation will be considered substantially completed when sufficient distribution facilities have been installed so as to permit the offering of full network services to at least ninety percent (90%) of the dwelling units in the service area to which access is legally and reasonably available.

SYSTEM FACILITIES: The cable communications system constructed for use within the city, without limitation, the head end, antenna, cables, wires, lines, towers, amplifiers, converters, health and property security systems, equipment or facilities located within the corporate limits of the city designed, constructed or wired for the purpose of producing, receiving, amplifying and distributing by coaxial cable, fiber optics, microwave or other means, audio, radio, television and electronic signals to and from subscribers, in the city and any other equipment or facilities located within the corporate limits of the city intended for the use of the cable communications system; provided, however, such system facilities excludes building, contracts, facilities, and equipment where its sole use is for providing service to other system facilities located outside the city limits.

TERMINAL ISOLATION: At any subscriber terminal, the attenuation between that terminal and any other subscriber terminal in that network.

UPSTREAM: A signal originating from a terminal to another point in the cable television system including video, audio or digital signals for either programs or other uses such as security alert services, etc. (Ord. 05-4169, 7-5-2005)

12-4-3: CABLE TELEVISION ADMINISTRATOR AND IOWA CITY TELECOMMUNICATIONS COMMISSION:

- A. Administrator: The city manager is hereby authorized to appoint a cable television administrator for the purpose of exercising the city's continuing administration of the franchise. Such responsibility shall include, but not be limited to, the following matters:
1. Receive and investigate such complaints, disputes or disagreements as may be directed or referred to the city of Iowa City, Iowa, between subscribers or potential subscribers and grantees of a cable television system and other distribution systems interconnected with the cable television system, not first able to resolve their differences.
 2. Report recommendations upon complaints, disputes or disagreements after investigation to the Iowa City telecommunications commission for the issuance of finding.
 3. Review and audit reports, records, communications and grantee regulations submitted to the city of Iowa City, Iowa, and conducting such inspections of the system as may be necessary in support of such review as provided for in this chapter.
 4. Work with the public and the media to assure that all tariffs, rates, charges and rules pertinent to the operation of the cable television system in the city of Iowa City, Iowa, are made available for inspection by the public at reasonable hours and upon reasonable request.
 5. Confer and coordinate with the grantee on the interconnection of the city's cable television system with other similar networks.
 6. Advise the Iowa City telecommunications commission.
 7. Other such duties as the city manager or Iowa City telecommunications commission may assign.
 8. Promote usage and understanding of the access channels.
 9. Research and recommend new technologies that may be useful to the city, community, and cable system.
- B. Commission Established: Within thirty (30) days of the granting of the first franchise, there shall be appointed a commission to be known as the Iowa City telecommunications commission.
- C. Composition And Term: The Iowa City telecommunications commission shall consist of five (5) citizens of the city appointed by the city council for a term of three (3) years; except that the first appointees shall be appointed one for a term of one year, two (2) for a term of two (2) years and two (2) for a term of three (3) years; and thereafter, each shall be appointed for a term of three (3) years. Following system completion, it is recommended that a majority of the members be subscribers to the system at the time of their appointment.
- D. Commission Powers And Duties: The duties of the Iowa City telecommunications commission shall be as follows:
1. Resolving disputes or disagreement between subscribers, potential subscribers and grantee should such parties be unable first to resolve their dispute. The Iowa City telecommunications commission shall conduct a public hearing upon any petition by any person seeking resolution of

a dispute concerning the operation of any franchise granted hereunder. The hearing shall be conducted pursuant to the Iowa administrative code, and following such hearing, the Iowa City telecommunications commission shall issue its finding or determination. Said finding or decision shall be final, and any person aggrieved may seek relief therefrom in the district court of Iowa as provided by state law.

2. Reviewing and auditing reports submitted to the city as required and said such other correspondence as submitted to the city concerning the operation of the cable television system so as to ensure that the necessary reports are completed and fulfilled pursuant to the terms of this chapter.
 3. Work with the public and the media to assure that all records, rules and charges pertinent to the cable television system in the city of Iowa City are made available for inspection at reasonable hours upon reasonable notice.
 4. Confer with the grantee and advise on the interconnection of the city's cable system with other cable and communications systems.
 5. Subsequent to the initial franchise, solicit, review and provide recommendations to the city council for selection of applicants for franchise under this chapter.
 6. Initiate inquiries, receive requests for review of rates charged by the grantee and provide recommendation on such actions to the city council.
 7. Conduct evaluations of the system at least every three (3) years with the grantee and, pursuant thereto, make recommendations to the city council concerning system improvements and amendments to this chapter or any franchise agreement.
 8. Establish and administer sanctions as authorized by the city council to ensure compliance with this chapter.
 9. Make recommendations to the grantee of the cable television system and to the educational and governmental users of the educational and governmental access channels.
 10. Ensure that the grantee makes the public access channel available to all residents of the city on a nondiscriminatory basis.
 11. Assure that the operation of the public access channel be free of program censorship and control.
 12. Cooperate with the entities operating access channels as those entities develop rules for such channels.
 13. Perform such other duties and functions relative to public access channels as may be appropriate in order to maximize its use among the widest range of individuals, institutions and other organizations within the city. This shall include recommendations to the city council for utilization of the annual franchise payment.
- E. Rules And Regulations: The Iowa City telecommunications commission shall adopt such rules and regulations as are necessary to carry out its functions and to ensure that due notice is given to all parties concerning any hearing on any complaints to said Iowa City telecommunications commission and the hearings are held promptly in accordance with reasonable notice to all parties. The Iowa City telecommunications commission shall also have such powers to include the election of its own officers. (Ord. 05-4169, 7-5-2005)

12-4-4: REGULATORY JURISDICTION AND PROCEDURES:

A. Continuing Regulatory Jurisdiction: The city shall have continuing regulatory jurisdiction and supervision over the operation of any franchise granted hereunder and may from time to time adopt such reasonable rules and regulations as it may deem necessary for the conduct of the business contemplated thereunder. Provided, however, such exercise of rights or powers subsequent to the effective date of a franchise will not impair the rights of the grantee thereunder, and if locally imposed, place an undue financial burden on such grantee.

B. Regulatory Procedures:

1. The Iowa City telecommunications commission shall consider any inquiry or proceeding, excluding those described in subsections B2 and B3 of this section, requiring city council action to be taken in regard to the cable television system or franchise, whether upon application or request by the grantee or any other party or on its own motion, and shall submit such consideration, together with the Iowa City telecommunications commission's recommendation, to the city council. Any action by the city council on any Iowa City telecommunications commission recommendation shall be taken only after thirty (30) days' notice of said proposed action, inquiry or proceeding is published in the official newspaper having general circulation and a copy of said notice is served upon the grantee. The grantee shall have an opportunity to respond at the hearing and/or in writing. Members of the public shall have an opportunity to respond or comment in writing on the proposed action and appear at said proceeding or hearing; however, such hearing or proceeding shall be set no later than ninety (90) days after notice to the grantee and the city council shall act upon this proceeding within one hundred eighty (180) days of the notice of hearing unless such time is extended by agreement between the city council and the grantee. The decision of the city council shall become a final determination.
2. Rate regulation procedures shall be conducted in accordance with the time frame established in division 2, "Rate Regulations", of this chapter.
3. The city shall have one hundred twenty (120) days to act upon any request for approval of a transfer that contains or is accompanied by such information as is required in accordance with FCC regulations and by the city. If the city fails to render a final decision on the request within one hundred twenty (120) days, such request shall be deemed granted unless the requesting party and the city agree to an extension of time.
4. The public notice required by this section shall state clearly the action or proposed action to be taken, the time provided for response, including response by the public, the person or persons in authority to whom such responses shall be addressed and such other procedures as may be specified by the city council. If a hearing is to be held, the public notice shall give the date, location and time of such hearing. The grantee will be provided with reasonable notice for any hearing conducted in regard to its operation.

C. Triennial Franchise Review:

1. On or about the third and sixth anniversaries of the effective date of the franchise, the city will schedule a public meeting or meetings with the grantee to review the franchise performance, plans and prospects. The city may require the grantee to reasonably make available specified records, documents and information for this purpose, and may inquire in particular whether the grantee is supplying a level and variety of services equivalent to those being generally offered at that time in the industry in comparable market situations.

2. The city shall first confer with the grantee regarding modifications in the franchise which might impose additional obligations on the grantee, and the grantee may in turn seek to negotiate relaxations in any requirements previously imposed on it which are subsequently shown to be impractical.
 3. Within thirty (30) days of the conclusion of such negotiations, the city may direct the grantee to show cause why specified terms and conditions should not be incorporated into the franchise and the grantee may similarly file with the city a written request that specified obligations of its franchise be removed or relaxed. Implementation of such requests shall correspond as nearly as possible with the procedures set forth herein. The Iowa City telecommunications commission will recommend to the council changes in the franchised rights and obligations of the grantee only if it finds from all available evidence that such changes will not impair the economic viability of the system or degrade the attractiveness of the system's service to present and potential subscribers.
- D. Expiration: Upon completion of the term of any franchise granted under this chapter, the city may in its sole discretion grant or deny renewal of the franchise of the grantee in accordance with the provisions of the cable act. (Ord. 05-4169, 7-5-2005)

12-4-5: SIGNIFICANCE OF FRANCHISE:

- A. Franchise Nonexclusive: Any franchise granted hereunder by the city of Iowa City, Iowa, shall not be exclusive and the city reserves the right to grant a franchise to any person, firm, company, corporation or association at any time. The grant of one franchise does not establish priority for use over the other present or future permit or franchise holders or the city's own use of the streets and public grounds. The city shall at all times control the distribution of space in, over, under or across all streets or public grounds occupied by the cable communications system.
- B. Franchise Amendable: The scope of any franchise granted hereunder shall be deemed amendable from time to time by mutual consent, to allow the grantee and the city to innovate and implement new services and developments.
- C. Privileges Must Be Specified: No privilege or exemption shall be inferred from the granting of any franchise unless it is specifically prescribed. Nothing in this chapter shall be deemed to require the granting of a franchise when in the opinion of the council it would not be in the public interest to do so.
- D. Authority Granted: Any franchise granted hereunder shall give to the grantee the right and privilege to construct, erect, operate, modify and maintain in, upon, along, above, over and under streets which have been or may hereafter be dedicated and open to public use in the city, towers, antennas, poles, cables, electronic equipment and other network appurtenances necessary for the operation of a cable television system in the city, subject to limitations contained in this chapter.
- E. Previous Rights Abandoned: A franchise granted hereunder shall be in lieu of any and all other rights, privileges, powers, immunities and authorities owned, possessed, controlled or exercisable by a grantee or any successor pertaining to the construction, operation or maintenance of a cable communications system in the city. The acceptance of a franchise shall operate, as between grantee and the city, as an abandonment of any and all such rights, privileges, powers, immunities

and authorities within the city. All construction, operation and maintenance by the grantee of any cable system in the city shall be under the franchise and not under any other right, privilege, power, immunity or authority.

- F. Subject To Other Regulatory Agencies' Rules And Regulations: The grantee shall at all times during the life of any franchise granted hereunder be subject to all lawful exercise of the police power by the city and other duly authorized regulatory state and federal bodies.
- G. Pole Use Agreements Required: No franchise granted hereunder shall relieve the grantee of any obligation involved in obtaining pole or conduit use agreements from the gas, electric and telephone companies, or others maintaining poles or conduits in the streets of the city, wherever the grantee finds it necessary to make use of said poles or conduits.
- H. No Right Of Property: The award of any franchise hereunder shall impart to the grantee no right of property in or on city owned property.
- I. Franchise Binding: All provisions of this chapter and any franchise granted hereto shall be binding upon the grantee, its successors, lessees or assignees.
- J. General City Ordinances: Any franchise granted by the city is hereby made subject to the general ordinance provisions now in effect and hereafter made effective. Nothing in the franchise shall be deemed to waive the requirements of the various codes and ordinances of the city regarding permits, taxes, fees to be paid, or manner of construction.
- K. No Waiver Of Rights: No course of dealing between the grantee and the city nor any delay on the part of the city in exercising any rights hereunder shall operate as a waiver of any such rights of the city or acquiescence in the actions of the grantee in contravention of rights except to the extent expressly waived by the city or expressly provided for in the franchise. (Ord. 05-4169, 7-5-2005)

12-4-6: THE CABLE TELEVISION FRANCHISE:

No cable communications system, open video system, or person providing cable service shall be allowed to occupy or use the streets of the city or be allowed to operate within the city without a franchise granted pursuant to this chapter. All cable television franchises in the city shall be subject to the terms of this chapter. Any franchise granted for an open video system shall comply with all sections of this chapter, unless precluded from compliance by specific sections of applicable law.

- A. Franchise Required: No person, firm, company, corporation or association shall construct, install, maintain or operate within any public street in the city, or within any other public property of the city, any equipment or facilities for the distribution of cable service over a cable television system or an open video system to any subscriber unless a franchise authorizing the use of the streets or properties or areas has first been obtained pursuant to the provisions of this chapter, and unless such franchise is in full force and effect. Any franchise granted for an open video system shall comply with all sections of this chapter, unless precluded from compliance with specific sections by federal or state law, rule, or regulation.

B. Franchise Applications: Public notice of request for proposals. The city may invite applications for a cable television franchise by means of a public notice advertising the availability of its request for proposals.

1. The public notice shall contain, but need not be limited to:

- a. A description of the franchise area which is sought.
- b. A statement that a formal request for proposals is available to prospective applicants from a city official whose name, address, and telephone number are specified.
- c. A statement that applications for the franchise must be submitted in writing in the form and manner specified in the request for proposals no later than a date certain.
- d. A statement that all applications will be made available for public inspection during normal business hours at a specified location.

C. Request For Proposals: Prior to inviting any applications for any television franchise, the city shall prepare a request for proposals that shall contain, but need not be limited to, the following:

1. A description of the cable television system and services desired by the city including any system specifications established by the city.
2. A statement specifying the form that all applications shall follow.
3. A statement indicating the amount of the application fee (if any) to be submitted with the application, and the manner in which such fee is to be submitted.
4. A statement that all applications must contain the information required by the request for proposal.
5. The closing date for the submission of applications.
6. The name, address, and telephone number of the city official(s) who may be contacted for further information.

D. Review Of Qualifications: Specific permission to operate a cable television system under the provisions of this chapter may be granted by the city council of the city to any grantee after: a review of the legal, character, financial, technical qualifications; an analysis of adequacy and feasibility of the grantee's construction arrangements; an assessment of whether public, educational and governmental access channel and institutional network capacity, equipment, facilities, services, and financial support are reasonable; a determination of whether the proposal meets the future cable communications needs of the city; and a review of the provision of other such information, equipment, services and support as required by the city, and after the city council has approved the grantee's qualifications as a part of a public proceeding affording due process.

E. City Discretion: The city, at its discretion, may reject any application for a franchise. In awarding a franchise, the city: Shall allow the applicant's cable system a reasonable period of time to become capable of providing cable service to all households in the franchise area; may require adequate assurance that the cable operator will provide adequate public, educational, and governmental access channels and institutional network capacity, equipment, facilities, services, and financial support; shall determine the ability of the proposal to meet the future cable communications needs

of the city; and may require adequate assurance that the cable operator has the financial, technical, or legal qualifications to provide cable service.

- F. Requirement For Public Hearing On Reasonable Notice: The city shall conduct a public hearing prior to awarding any cable television franchise. The hearing shall be preceded by reasonable notice to each of the franchise applicants and to the public, and shall be conducted by the city in accordance with the following procedures:
1. There shall be an agenda for the hearing which shall specify the proposal(s) to be considered at the hearing.
 2. Every person who has applied for a cable television franchise shall appear at the hearing either in person or by authorized representative. The application of any applicant not so appearing shall not be further considered, except for good cause shown.
 3. All applicants shall be given an opportunity to participate in the hearing, but nothing contained herein shall limit the power of the presiding officer to establish reasonable time limits and otherwise limit repetitive statements or questions.
 4. The notice of hearing shall:
 - a. Conform to all relevant state and local laws and ordinances.
 - b. Describe the agenda to be considered at the public hearing.
 - c. Indicate that copies of all franchise applications are available for public inspection during normal business hours at a place to be specified in the notice.
- G. Duration Of Franchise: Upon filing by the grantee of the proper acceptance, the bond and the required insurance and security fund, the franchise shall take effect as provided in section [12-4-10](#) of this chapter, and shall continue in full force and effect for a term to be set by the council in the franchise.
- H. Exemptions: Subsections B, C, D, E, and F of this section do not apply to an incumbent operator afforded renewal rights under section 626 of the cable act. (Ord. 05-4169, 7-5-2005)

12-4-7: OPERATION OF FRANCHISE:

- A. Operation To Be In Accordance With Rules: The grantee shall maintain and operate its cable television system in accordance with the rules and regulations of the federal communications commission, the state of Iowa and/or the city as are incorporated herein or may be promulgated.
- B. Interruption Of Service; Notification: The grantee, whenever it is necessary to interrupt service over the cable television system for the purpose of network maintenance, alteration or repair, shall do so at such time as will cause the least amount of inconvenience to the subscribers, and unless such interruption is unforeseen and immediately necessary, the grantee shall give reasonable notice thereof to the affected subscribers.

- C. Office And Phone For Complaints: The grantee shall maintain an office within the city limits which shall be open during all normal business hours, including some weeknight and Saturday hours, have a listed local telephone number and be so operated that complaints and requests for repairs or adjustments may be received at any time.
- D. Service Records Maintained: The grantee shall at all times make and keep a list of all complaints and interruptions or degradation of service received or experienced during the term of franchise. The records maintained above shall also include complaint response time and service restoration period and shall be continuously open to inspection, examination or audit, subject to subscriber privacy rights pursuant to section 631 of the cable act, by any duly authorized representative of the city or member of the public.
- E. Grantee Rules And Regulations: The grantee shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonable and necessary to enable the grantee to exercise its rights and perform its obligations under this chapter and any franchise granted hereunder.
1. Rules To Be In Conformance With Other Regulations: None of such rules, regulations, terms and conditions promulgated under this subsection E shall be in conflict with the provisions hereof or the laws of the state, or the rules and regulations of the federal communications commission or any rules and regulations promulgated by the city in the exercise of their regulatory authority granted hereunder.
 2. All Rules To Be Filed With City: Three (3) copies of all rules, regulations, terms and conditions promulgated under this subsection E, together with any amendments, additions or deletions thereto, shall be kept currently on file with the city clerk and another copy thereof shall be maintained for public inspection during normal business hours at grantee's office in the city and the copy shall be provided to the Iowa City telecommunications commission; no such rules, regulations, terms, conditions or amendments, additions or deletions thereto shall take effect unless and until so filed and maintained. This subsection E2 is not intended to apply to the company's personnel and other internal rules and regulations.
- F. Subscribers' Antennas: The grantee shall not require the removal or offer to remove or provide any inducements for removal of any potential or existing subscriber's antenna as a condition of provision of service.
- G. Antenna Switch: The grantee, upon request from any subscriber, shall install at a reasonable charge a switching device to permit a subscriber to continue to utilize the subscriber's own television antenna.
- H. Service Response: The grantee shall provide same day service response, seven (7) days a week for all complaints and requests for repairs or adjustments received prior to two o'clock (2:00) P.M. each day. In no event shall the response time for calls received subsequent to two o'clock (2:00) P.M. exceed twenty four (24) hours.
- I. State Of The Art:
1. This section shall be reviewed by the city during its triennial reviews whose time frames are set forth in subsection [12-4-4C](#) of this chapter. In the event that the grantee, its parent company,

management firm or affiliates have installed state of the art improvements in any system of similar size owned by grantee, its parent company, management firm or affiliates, which increase channel capacity and provide additional cable service, make bidirectional capacity operational from the home, provide improvements in technological performance, provide for interactive services, and/or other substantial improvements, then the grantee shall make said improvements available to the city of Iowa City subscribers within one year.

2. The city shall hold a hearing to determine whether state of the art technology is required hereunder. Such hearing shall afford the grantee an opportunity to make a presentation on the state of the art change and whether the conditions specified herein indicate that a state of the art change is needed. The city may require the grantee to implement state of the art changes which meet the threshold specified herein. (Ord. 05-4169, 7-5-2005)

12-4-8: RIGHTS RESERVED TO THE CITY:

- A. Governing Requirement: At all times during the term of the franchise, grantee shall comply with all laws, rules or regulations of the city, state or federal governments, their regulatory agencies or commissions which are now applicable or may be applicable hereafter to the construction and operation of the cable communications system, including, without limitation, all laws, ordinances, or regulations now in force or hereafter enacted. Nothing herein shall be deemed a waiver of grantee's right to challenge the validity of any such law, rule or regulation.
- B. Change In Law Or Regulation: Notwithstanding any other provisions of this chapter to the contrary, the grantee shall at all times comply with all laws and regulations of the local, state and federal governments. In the event that any actions of the state or federal government or any agency thereof, or any court of competent jurisdiction upon final adjudication, substantially reduce in any way the power or authority of the city under this chapter or the franchise, or if in compliance with any local, state, or federal law or regulation, the grantee finds conflict with the terms of this chapter, the franchise, or any law or regulation of the city, then as soon as possible following knowledge thereof, the grantee shall notify the city of the point of conflict believed to exist between such law or regulation and the laws or regulations of the city, this chapter and the franchise. The city, at its option, may notify the grantee that it wishes to negotiate those provisions which are affected in any way by such modification in regulations or statutory authority. Thereafter, the grantee shall negotiate in good faith with the city in the development of alternate provisions which shall fairly restore the city to the maximum level of authority and power permitted by law. The city shall have the right to modify any of the provisions to such reasonable extent as may be necessary to carry out the full intent and purpose of this chapter and the franchise, subject to applicable federal and state law.
- C. Authority: The city reserves the right to exercise the maximum plenary authority, as may at any time be lawfully permissible, to regulate the cable television system, the franchise and the grantee. Should applicable legislative, judicial or regulatory authorities at any time permit regulation not presently permitted to the city, the city and the grantee shall negotiate in good faith to determine what additional regulation by the city shall be permissible.
- D. Right Of Amendment Reserved To City: The city may from time to time, add to, modify or delete provisions of this chapter as it shall deem necessary in the exercise of its regulatory powers. Provided, however, such exercise of rights or powers subsequent to the effective date of a franchise will not impair the rights of the grantee thereunder, and if locally imposed, place an undue financial burden on such grantee. Such additions or revisions shall be made only after a public

hearing for which the grantee shall have received written notice at least thirty (30) days prior to such hearing.

- E. **Grantee Agrees To City's Rights:** The city reserves every right and power which is required to be reserved or provided by an ordinance of the city, and the grantee by its acceptance of the franchise agrees to be bound thereby and to comply with any action or requirements of the city in its lawful exercise of such rights or powers which have been or will be enacted or established, subject to federal and state law.
- F. **City's Right Of Intervention:** The city shall have the right to intervene and the grantee specifically agrees by its acceptance of the franchise not to oppose such intervention by the city in any suit or proceeding to which the grantee is a party, provided, however, grantee shall not be obligated to indemnify the city for any such suit.
- G. **Powers Of The City:** Neither the granting of any franchise nor any provision governing the franchise shall constitute a waiver or bar to the exercise of any governmental right or power of the city.
- H. **City's Right Of Inspection:** The city reserves the right during the life of any franchise granted hereunder to inspect all system facilities and property and supervise all construction or installation work performed subject to the provisions of this chapter and to perform network measurements to ensure compliance with the terms of this chapter.
- I. **City's Right Of Acquisition:** Upon expiration of the term of the franchise or revocation or other termination as provided by law, the city shall have the right to purchase the cable television system as specified in subsection [12-4-11D](#) of this chapter.
- J. **City's Right Of Network Installation:** The city reserves the right during the life of any franchise granted hereunder to install and maintain free of charge upon or in the poles and conduits of the grantee any wire and pole fixtures necessary for municipal networks, on the following conditions: that such installation and maintenance thereof does not interfere with the operation of the grantee; that such fixtures be used for governmental and educational purposes, and the city agrees to indemnify the grantee for such use. (Ord. 05-4169, 7-5-2005)

12-4-9: APPLICATIONS FOR FRANCHISE:

No franchise may be granted until the applicant has successfully completed the application procedure.

- A. **Proposal Bond And Filing Fee:** All applicants must provide a proposal bond as required herein and pay a nonrefundable filing fee to the city of ten thousand dollars (\$10,000.00) at the time the application is submitted. This bond and filing fee does not apply to an incumbent operator afforded renewal rights under section 626 of the cable act.
- B. **Request For Proposal:** All applicants must complete the request for proposal (RFP) issued by the city which shall include, but not be limited to, the following:

1. **Name And Address Of Applicant:** The name and business address of the applicant, date of application and signature of applicant or appropriate corporate officer(s).
2. **Description Of Proposed Operation:** A general description of the applicant's proposed operation, including, but not limited to, business hours, operating staff, maintenance procedures beyond those required in this chapter, management and marketing staff complement and procedures and, if available, the rules of operation for public access.
3. **Signal Carriage:** A statement of the television and radio services to be provided, including both off the air and locally originated signals.
4. **Special Services:** A statement setting forth a description of the automated services proposed as well as a description of the funds, services, and production facilities to be made available by the grantee for the public, municipal and educational channels required to be made available by the provisions of this chapter.
5. **Schedule Of Charges:** A statement of the applicant's proposed schedule of charges as set forth herein.
6. **Corporate Organization:** A statement detailing the corporate organization of the applicant, if any, including the names and addresses of its officers and directors and the number of shares held by each officer and director.
7. **Stockholders:** A statement identifying the number of authorized outstanding shares of applicant's stock, including a current list of the names and current addresses of its shareholders holding three percent (3%) or more of applicant's outstanding stock.
8. **Intracompany Relationships:** A statement describing all intracompany relationships of the applicant, including parent, subsidiary or affiliated companies.
9. **Agreements And Understandings:** A statement setting forth all agreements and understandings, whether written or oral, existing between the applicant and any other person, firm, group or corporation with respect to any franchise awarded hereunder and the conduct of the operation thereof existing at the time of proposal submittal.
10. **Financial Statement:** If applicant is a corporation, audited financial statements for the two (2) previous fiscal years. If applicant is a partnership, copies of the U.S. partnership return of income (IRS form 1065) for the two (2) previous fiscal years. If applicant is a sole proprietorship, copies of the U.S. individual income tax return (IRS form 1040) for the two (2) previous fiscal years.
11. **Financial Projection:** A ten (10) year operations pro forma which shall include the initial and continuous plant investment, annual profit and loss statements detailing income and expenses, annual balance sheets and annual levels of subscriber penetration. Costs and revenues anticipated for voluntary services shall, if presented, be incorporated in the pro forma as required in this chapter, but shall be separately identified in the pro forma.
12. **Financial Support:** Suitable written evidence from a recognized financing institution, addressed to both the applicant and to the city, advising that the applicant's financial ability and planned operation have been analyzed by the institution, and that the financing institution is prepared to make the required funds available to applicant if it is awarded a franchise.
13. **Construction Timetable:** A description of system construction including the timetable for provision and extension of service to different parts of the city.

14. Technical Description: A technical description of the type of system proposed by the applicant, including, but not limited to, system configuration (i.e., hub, dual cable), system capacity, two-way capability, etc.
15. Technical Statement: A statement from the applicant's senior technical staff member or consultant advising that he/she has reviewed the network description, the network technical standards, performance measurements, channels to be provided, service standards, construction standards and conditions of street occupancy as set forth in or required by this chapter, and that the applicant's planned network and operations will meet all said requirements.
16. Existing Franchises: A statement of existing franchises held by the applicant including when the franchises were issued and when the systems were constructed and the present state(s) of the system(s) in each respective governmental unit, together with the name and address and phone number of a responsible governmental official knowledgeable of the applicant.
17. Convictions: A statement as to whether the applicant or any of its officers or directors or holders of three percent (3%) or more of its voting stock has in the past ten (10) years been convicted of or has charges pending for any crime other than a simple misdemeanor traffic offense, and the disposition of such case.
18. Operating Experience: A statement detailing the prior cable television experience of the applicant including that of the applicant's officers, management and staff to be associated, where known, with the proposed franchise.
19. Franchise Renewal Information: Subject to section 626 of the cable act, if an application is for renewal of a franchise, the proposal must include, in addition to the information required in subsections B1 through B18 of this section:
 - a. A summary of the technical, financial and programming history of the network since the granting of the original franchise.
 - b. A statement and timetable that outlines all proposed changes, expansion or improvements in the system as to services, programming or technical specifications during the forthcoming three (3) year review period.

C. Special Interests: In order to maximize the potential of the cable television system, comparative evaluations of applications will reflect the city's special interest in the following areas:

1. Programming And Production Assistance: A proposal for funding facilities, equipment or personnel beyond those required elsewhere to be designated to effect and promote public, educational, and government access, and community programming development.
2. Discrete Carriage Capacity: A proposal for the origination, experimental uses and/or interconnection by or of agencies specified in section [12-4-17](#) of this chapter for specialized needs and a plan accommodating such future needs as may arise.
3. Bidirectional Capacity: A proposal for effectuating the cable television system's bidirectional capacity and integration of the city's interactive system.
4. Multiorigation: A proposal for system construction in such a way that it is possible to allow occasional simultaneous cablecasting of different programs on the same channel to different parts of the city.

5. University Of Iowa: A proposal for interconnecting the city's cable television system with a University of Iowa cable network as specified by the university so that residents of the city will benefit from the university's resources.
 6. Converters: A proposal for inclusion of converters or other subscriber technology as part of the basic service.
 7. Institutional Network: A proposal to provide bidirectional interconnection of video, voice, audio and data among public sector locations and interconnect to the subscriber network.
 8. Home Interactive: A proposal to provide two-way services to subscribers' homes.
- D. Additional Requirements: The application for franchise shall respond specifically, and in sequence, to the RFP. Twenty (20) copies of the application shall be supplied to the city. The city may, at its discretion, consider such additional information as part of the application.
- E. Supplementation To Applications: The city reserves the right to require such supplementary, additional or other information as the city deems reasonably necessary for its determinations. Such modifications, deletions, additions or amendments to the application shall be considered only if specifically requested by the city. (Ord. 05-4169, 7-5-2005)

12-4-10: ACCEPTANCE AND EFFECTIVE DATE OF FRANCHISE:

- A. Franchise Acceptance Procedures: Any franchise awarded hereunder and the rights, privileges and authority granted thereby shall take effect and be in force from and after the sixtieth day following the award thereof, provided that within sixty (60) days following award from the effective date the grantee shall file with the city the following:
1. A notarized statement by the grantee of unconditional acceptance of the franchise; and
 2. A certificate of insurance as set forth in section [12-4-14](#) of this chapter; and
 3. A letter of credit as set forth in section [12-4-15](#) of this chapter; and
 4. Reimbursement to the city for the costs of publication of this chapter, and cost of the initial franchising process; and
 5. Written notification of the grantee's location and address for mail and official notifications from the city.
- B. Forfeiture Of Proposal Bond: Should the grantee fail to comply with subsection A of this section, it shall acquire no rights, privileges or authority under this chapter whatever, and the amount of the proposal bond or certified check in lieu thereof, submitted with its application, shall be forfeited in full to the city as liquidated damages.
- C. Grantee To Have No Recourse: The grantee shall have no monetary recourse whatsoever against the city for any loss, cost, expense or damage arising out of any provision or requirement of this chapter or its regulation or from the city's lawful exercise of its authority to grant additional franchises hereunder. This shall not include negligent acts of the city, its agents or employees.

D. Acceptance Of Power And Authority Of City: The grantee expressly acknowledges that in accepting any franchise awarded hereunder, it has relied upon its own investigation and understanding of the power and authority of the city to grant the franchise.

E. Inducements Not Offered: The grantee, by accepting any franchise awarded hereunder acknowledges that it has not been induced to enter into the franchise by any understanding or promise or other statement, whether verbal or written, by or on behalf of the city concerning any term or condition of the franchise that is not included in this chapter. (Ord. 05-4169, 7-5-2005)

12-4-11: TERMINATION OF FRANCHISE:

A. Grounds For Revocation: The city reserves the right to revoke any franchise and rescind all rights and privileges associated with the franchise in the following circumstances:

1. If the grantee should default in the performance of any of its material obligations under this chapter or the franchise and fails to cure the default within sixty (60) days after receipt of written notice of the default from the city, or such longer time as specified by the city.
2. If the grantee should fail to provide or maintain in full force and effect the construction bond, letter of credit and liability and indemnification coverages as required in this chapter.
3. If a petition is filed by or against the grantee under the bankruptcy act or any other insolvency or creditors' rights law, state or federal, and the grantee shall fail to have it dismissed.
4. If a receiver, trustee or liquidator of the grantee is applied for or appointed for all or part of the grantee's assets.
5. If the grantee makes an assignment for the benefit of creditors.
6. If the grantee violates any order or ruling of any state or federal regulatory body having jurisdiction over the grantee, unless the grantee or any party similarly affected is lawfully contesting the legality or applicability of such order or ruling and has received a stay from a court of appropriate jurisdiction.
7. If the grantee evades any of the provisions of this chapter or the franchise.
8. If the grantee practices any fraud or deceit upon the city or cable subscribers.
9. Subject to sections [12-4-19](#) and [12-4-20](#) of this chapter, if the grantee's construction schedule is delayed later than the schedule contained in the franchise or beyond any extended date set by the city.
10. If the grantee materially misrepresents facts in the application for a franchise.
11. If the grantee ceases to provide services over the cable communications system for seven (7) consecutive days for any reason within the control of the grantee.
12. If the grantee fails to comply with any material access provisions of this chapter or the franchise.

- B. Procedure Prior To Revocation: Upon the occurrences of any of the events enumerated in subsections A1, A2, A11, and A12 of this section, the city council may, after hearing, upon thirty (30) days' written notice to the grantee citing the reasons alleged to constitute cause for revocation, set a reasonable time in which the grantee must remedy the cause. If, during the thirty (30) day period, the cause shall be cured to the satisfaction of the city, the city may declare the notice to be null and void. If the grantee fails to remedy the cause within the time specified, the council may revoke the franchise. In any event, before a franchise may be terminated, the grantee must be provided with an opportunity to be heard before the city council.
- C. Effect Of Pending Litigation: Unless a stay is issued by a court of appropriate jurisdiction, pending litigation or any appeal to any regulatory body or court having jurisdiction over the grantee shall not excuse the grantee from the performance of its obligations under this chapter or the franchise. Failure of the grantee to perform material obligations because of pending litigation or petition may result in forfeiture or revocation pursuant to the provisions of this section.
- D. Purchase Of System By City: If a renewal of a franchise held by a grantee is denied and the city acquires ownership of the cable system or effects a transfer of ownership of the system to another person, any such acquisition or transfer shall be:
1. At fair market value, determined on the basis of the cable system valued as a going concern but with no value allocated to the franchise itself; or
 2. In the case of any franchise existing on the effective date of this chapter, at a price determined in accordance with the franchise if such franchise contains provisions applicable to such an acquisition or transfer.
 3. If a franchise held by the grantee is revoked for cause and the city acquires ownership of the cable system or effects a transfer of ownership of the system to another person, any such acquisition or transfer shall be at an equitable price.
- E. Restoration Of Public And Private Property: In removing its plants, structures and equipment, the grantee shall refill at its own expense any excavation made by it and shall leave all public ways and places and private property in as good condition as existed prior to grantee's removal of its equipment and appliances, without affecting the electric or telephone cables, wires or attachments. The city shall inspect and approve the condition of the public ways and public places and cables, wires, attachments and poles after removal. Liability insurance, indemnity, the performance bond and security fund provided in this chapter shall continue in full force and effect during the period of removal.
- F. Restoration By City; Reimbursement Of Costs: If the grantee fails to complete any work required by subsection E of this section or any work required by other law or ordinance within the time established and to the satisfaction of the city, the city may cause such work to be done and the grantee shall reimburse the city the costs thereof within thirty (30) days after receipt of an itemized list of such costs, or the city may recover such costs as provided in this chapter.
- G. Lesser Sanctions: Nothing shall prohibit the city from imposing lesser sanctions or censures than revocation.

H. Expiration; Extended Operation: Upon the expiration of a franchise, the city may, by resolution, on its own motion or request of the grantee, require the grantee to operate the franchise for an extended period of time not to exceed six (6) months from the date of any such resolution under the same terms and conditions as specified in this chapter and the franchise. All provisions shall continue to apply to operations during an extension period. The city shall serve written notice at the grantee's business office of intent to extend under this section at least thirty (30) days prior to expiration of the original franchise or any extensions thereof. (Ord. 05-4169, 7-5-2005)

12-4-12: REPORTS AND RECORDS OF THE GRANTEE:

A. Annual Financial Reports Required: The grantee shall file annually with the city clerk not later than three (3) months after the end of its fiscal year during which it accepted a franchise hereunder and within four (4) months after the end of each subsequent fiscal year, two (2) copies of:

1. The report to its stockholders; and
2. An annual, fully audited and certified revenue statement from the previous calendar year for the Iowa City system, including subscriber revenue from each category of service and every source of nonsubscriber revenue.

B. Annual Facilities Report Required: Within thirty (30) days of a request by the city, the grantee shall file annually with the city clerk two (2) copies of a total facilities report setting forth the total physical miles of plant installed or in operation during the fiscal year and a strand map showing the location of same.

C. Annual Service Record Report Required: The grantee shall make available to the city for its inspection at the grantee's office, a list of all trouble complaints and network downtime received or experienced during the fiscal year. All such submitted data shall also include complaint disposition and response time.

D. Annual Measurements Report Required: The grantee shall within thirty (30) days of a request by the city, provide two (2) copies of a report on the network's technical measurements, as set forth herein.

E. Tests Required By City: Technical tests required by the city as specified in this chapter and the franchise shall be submitted within fourteen (14) days of notification.

F. Annual Operations Reports Required: The grantee shall file annually with the city clerk not later than three (3) months after the end of its fiscal year during which it accepted a franchise hereunder and within four (4) months after the end of each subsequent fiscal year two (2) copies of the following supplemental information:

1. If a nonpublic corporation, a list of all current shareholders and bondholders both of record or beneficial. If a public corporation, a list of all shareholders who individually or as a concerted group hold five percent (5%) or more of the voting stock of the corporation.
2. A current list of all grantee's officers and directors including addresses and telephone numbers.

3. The names of both business and residential addresses and phone numbers of the cable television system resident manager and engineer.
 4. Two (2) copies of all types of subscriber agreements. Copies of individual subscribers' agreements are not to be filed with the city.
 5. Copies of all rules and regulations promulgated by the grantee during the fiscal year in the conduct of its business in accordance with the provisions of this chapter.
 6. A copy of the annual report(s) of the parent firm(s) which own an interest of more than three percent (3%) or more of the voting stock of the grantee; and such other annual report(s) of subsidiaries or divisions of the parent firm(s) as the city deems necessary for the enforcement of this chapter and the franchise.
- G. Annual Subscriber Notification: Copies of all annual subscriber notifications required by the federal communications commission.
- H. Application For Certificate Of Compliance: The grantee shall give formal notice to the city that it is seeking a certificate of compliance from the federal communications commission. Within five (5) calendar days upon filing such a request with the federal communications commission, the grantee shall file two (2) copies of its application for certification with the city clerk.
- I. Public Availability Of Reports: Such documents and reports as required under this chapter must be available to the public in the office of the city clerk, during normal business hours. Subscribers shall be notified of the availability of such reports in ways approved by the Iowa City telecommunications commission.
- J. Correspondence: The grantee shall, upon request of the city, file with the city clerk a copy of each petition, application and communications transmitted by the grantee to, or received by the grantee from, any federal, state or other regulatory commissions or agencies having competent jurisdiction to regulate and pertaining to the operations of any cable television system authorized hereunder.
- K. City's Access To Records:
1. Reasonable Notice: The city reserves the right during the life of any franchise granted hereunder to have access, necessary for the enforcement of this chapter and the franchise, at all normal business hours and, upon the giving of reasonable notice, to all of the grantee's books, necessary for the enforcement of contracts, engineering plans, income tax returns, accounting reports, financial statements and service records and other like materials relating to the property and the operation under the franchise, and to all other records required to be kept hereunder. Nothing contained herein shall prevent the grantee from enjoining the city from reviewing documents relating to proprietary interests not related to its operation under this chapter in the city's regulatory program.
 2. Additional Reports: The grantee shall prepare and furnish to the city at the times and in the form prescribed, such additional reports with respect to its operation, affairs, transactions or property, as may be reasonably necessary and appropriate to the performance of any of the rights, functions or duties of the city in connection with this chapter or the franchise.

3. Confidential Information: The grantee acknowledges that the reports, books and records which must be prepared and furnished to the city in connection with this chapter or a franchise granted under this chapter may constitute public records under state law and the grantee may be required to permit examination and copying of such records upon request. If the city receives a demand from any person for disclosure of any information, which the grantee has designated as confidential, the city shall immediately advise the grantee of the request and provide the grantee with a copy of any written request.

L. Proof Of Bonds And Insurance: Grantee shall submit to the city the required bond, or a certified copy thereof and all certificates of insurance required by this chapter. (Ord. 05-4169, 7-5-2005)

12-4-13: FRANCHISE PAYMENT:

A. Filing Fee: Applicants for an initial franchise hereunder shall pay a nonrefundable filing fee to the city of ten thousand dollars (\$10,000.00) which sum shall be due and payable at the time of submission of the application.

B. Franchising Compensation: Grantees of a franchise hereunder shall provide an initial payment to the city in an amount equal to the direct costs of granting the initial franchise including, but not limited to, consultant fees, which sum shall be due and payable concurrently with the grantee's acceptance of the franchise, to offset the city's costs in the franchise awarding process. (Ord. 05-4169, 7-5-2005)

C. Annual Franchise Payment: Grantees of a franchise hereunder shall pay to the city an annual fee in an amount equal to five percent (5%) of the "annual gross revenues", as defined herein, in lieu of all other city permits and fees, to be utilized in part by the city to offset its cable television related regulatory and administrative costs and to maximize awareness and use of the public, education, and governmental access and institutional network capacity. If the maximum franchise fee allowed by law is greater than five percent (5%), the city may require the higher amount. The franchise payment shall be in addition to any other payment owed to the city by the grantee and shall not be construed as payment in lieu of municipal property taxes or other state, county or local taxes. The city shall provide the grantee written notice forty five (45) days prior to collection of an increased franchise fee. (Ord. 05-4169, 7-5-2005; amd. Ord. 06-4201, 4-4-2006)

D. Method Of Computation; Interest:

1. Sales taxes or other taxes levied directly on a per subscription basis and collected by the grantee shall be deducted from the local annual gross revenues before computation of sums due the city is made. Payments due the city under the provisions of subsection C of this section shall be computed quarterly as of March 31, June 30, September 30 and December 31 for the respective quarters of each year ending on said dates and shall be paid quarterly within three (3) months after each respective computation date at the office of the city clerk during the city clerk's regular business hours. The payment period shall commence as of the effective date of the franchise. The city shall be furnished a statement with each payment, by the grantee's division controller, reflecting the total amounts of gross revenue and the above charges, deductions and computations, for the quarterly payment period covered by the payment.

2. In the event that any payment is not made as required, interest on the amount due, as determined from the annual gross revenues as computed by a certified public accountant shall

accrue from the date of the required submittal at an annual rate of twelve percent (12%). The percentages designated in this section may be amended no more than once each year by the council, consistent with increased costs for municipal facilities and supervision and applicable rules of other regulatory agencies.

- E. Rights Of Recomputation: No acceptance of any payment by the city shall be construed as a release or as an accord and satisfaction of any claim the city may have for further or additional sums payable as a franchise fee under this chapter or for the performance of any other obligation of the grantee. All amounts paid shall be subject to audit and recomputation by the city. (Ord. 05-4169, 7-5-2005)

12-4-14: LIABILITY AND INDEMNIFICATION:

- A. Indemnification Of Franchise: It shall be expressly understood and agreed by and between the city and any grantee hereunder that the grantee shall save the city harmless from all loss sustained by the city on account of any suit, judgment, execution, claim or demand which the city may legally be required to pay as a result of the enactment of this chapter and the award of a franchise to grantee, except as such suit, judgment, execution, claim or demand may arise from the process or action of selection of a grantee or grantees for award of a franchise as provided herein.
- B. Indemnification Of City In Franchise Operation: It shall be expressly understood and agreed by and between the city and any grantee hereunder that the grantee shall save the city and its agents and employees harmless from and against all claims, damages, losses and expenses, including attorney fees sustained by the city on account of any suit, judgment, execution, claim or demand whatsoever arising out of the installation, operation or maintenance of the cable television system by the grantee, its employees or agents, as authorized herein, whether or not any act or omission complained of is authorized, allowed or prohibited by this chapter and any franchise granted hereunder. This provision shall not apply to acts of the city, its agents or employees.
- C. Reimbursement Of Costs: The grantee shall pay and by its acceptance of any franchise granted hereunder agrees that it will pay all expenses and costs incurred by the city in defending the city with regard to all damages and penalties mentioned in subsections A and B of this section, except as such expenses may arise from the process (as above). Should the city decide to hire its own defense, such expenses will be borne by the city.
- D. Public Liability Insurance: The grantee shall maintain and by its acceptance of any franchise granted hereunder agrees that it will maintain throughout the term of the franchise, any extensions thereto or as required in this chapter, a general comprehensive liability insurance policy naming as the additional insured the city, its officers, boards, commissions, agents and employees, in a company registered in the state of Iowa, and which maintains a Best's rating of A- or better, in forms satisfactory to the city manager, protecting the city and all persons against liability for loss or damage, occasioned by the operations of grantee under any franchise granted hereunder, in the amounts of:
1. Two million dollars (\$2,000,000.00) for bodily injury or death to any one person, within the limit, however, of three million dollars (\$3,000,000.00) for bodily injury or death resulting from any one accident, and
 2. One million dollars (\$1,000,000.00) for property damage resulting from any one accident.

- E. Automobile Liability Insurance: The grantee shall maintain, and by its acceptance of any franchise granted hereunder specifically agrees that it will maintain throughout the term of the franchise, automobile liability insurance for owned, nonowned, or rented vehicles in the minimum amount of:
1. One million dollars (\$1,000,000.00) for bodily injury and consequent death per occurrence;
 2. One million dollars (\$1,000,000.00) for bodily injury and consequent death to any one person; and
 3. Five hundred thousand dollars (\$500,000.00) for property damage per occurrence.
- F. Insured: At any time during the term of the franchise, the city may request and the grantee shall comply with such request, to name the city as an additional insured for all insurance policies written under the provisions of this chapter or the franchise.
- G. Inflation: To offset the effects of inflation and to reflect changing liability limits, all of the coverages, limits, and amounts of the insurance provided for herein are subject to reasonable increases at the end of every three (3) year period of the franchise, applicable to the next three (3) year period, at the sole discretion of the city, upon a finding by the city of increased insurance risks requiring such changed limits.
- H. Notice Of Cancellation Or Reduction Of Coverage: The insurance policies mentioned above shall contain an endorsement stating that the policies are extended to cover the liability assumed by the grantee under the terms of this chapter and shall contain the following endorsement:
- This policy may not be canceled nor the amount of coverage thereof reduced until thirty (30) days after receipt by the City Manager of a written notice of such intent to cancel or reduce the coverage.*
- I. Evidence Of Insurance Filed With City Manager: All certificates of insurance shall be filed and maintained with the city manager during the term of any franchise granted hereunder or any renewal thereof.
- J. Extent Of Liability: Neither the provisions of this chapter nor any insurance accepted by the city pursuant hereto, nor any damages recovered by the city thereunder, shall be construed to excuse faithful performance by the grantee or limit the liability of the grantee under any franchise issued hereunder or for damages, either to the full amount of the bond or otherwise.
- K. Insurance For Contractor And Subcontractors: Grantee shall provide coverage for any contractor or subcontractor involved in the construction, installation, maintenance or operation of its cable communications system by either obtaining the necessary endorsements to its insurance policies or requiring such contractor or subcontractor to obtain appropriate insurance coverage consistent with this section and appropriate to the extent of its involvement in the construction, installation, maintenance or operation of grantee's cable communications system. (Ord. 05-4169, 7-5-2005)

12-4-15: BONDS:

- A. Proposal Bond: Each applicant for an initial franchise hereunder shall submit a proposal bond in a form acceptable to the city manager or a certified check on a bank that is a member of the Federal Deposit Insurance Corporation, payable to the order of the city in an amount of twenty five thousand dollars (\$25,000.00). Said bond shall remain in effect until such time as the applicant accepts the franchise and furnishes both the construction bond and the letter of credit as provided herein.
- B. Construction Bond: The grantee shall maintain and by its acceptance of any franchise granted hereunder agrees that it will maintain through the rebuild or construction of the cable television system as required by this chapter, a faithful construction bond running to the city, with at least two (2) good and sufficient sureties or other financial guaranties approved by the city manager, in the penal sum total of one million dollars (\$1,000,000.00) conditioned upon the faithful performance of the grantee in the construction or rebuild of a cable television system complying with related provisions of this chapter and the franchise, and upon the further condition that if the grantee shall fail to comply with any law, ordinance or regulation governing the construction or rebuild of the cable television system, there shall be recoverable jointly and severally from the principal and surety of the bond, any damages or loss suffered by the city as a result, including the full amount of any compensation, indemnification, or cost of repair, construction, removal or abandonment of any property of the grantee, plus a reasonable allowance for attorney fees and costs, up to the full amount of the bond. In addition, failure to meet construction deadlines shall result in forfeiture of said bond or withdrawal from the construction bond. The bond shall contain the following endorsement:

This policy may not be canceled nor the amount of coverage thereof reduced until thirty (30) days after receipt by the City Manager of a written notice of such intent to cancel or reduce the coverage.

- C. Release Of The Bond: Upon the city's determination that the construction or rebuild of a cable television system is complete, the grantee shall be notified by the city that the bond required under this section shall be released.
- D. Letter Of Credit:
1. The grantee shall obtain, maintain, and file with the city an irrevocable letter of credit from a financial institution acceptable to the city and licensed to do business in the state in an amount of seventy five thousand dollars (\$75,000.00), naming the city as beneficiary for the faithful performance by it of all the provisions of the franchise and compliance with all orders, permits and directions of any agency of the city having jurisdiction over its acts or defaults under the contract and the payment by the grantee of any claims, liens and taxes due the city which arise by reason of the construction, operation or maintenance of the system. The letter of credit shall be released only upon expiration of the franchise or upon the replacement of the letter of credit by a successor grantee.
 2. Within thirty (30) days after notice to it that any amount has been withdrawn from the letter of credit pursuant to subsection D1 of this section, the grantee shall pay to, or deposit with, the city clerk a sum of money or securities sufficient to restore such security fund to the original amount of seventy five thousand dollars (\$75,000.00) up to a total during the franchise term of five hundred thousand dollars (\$500,000.00).
 3. If the grantee fails to pay to the city any compensation required pursuant to this chapter within the time fixed herein; or, fails, after ten (10) days' notice to pay to the city any taxes due and

unpaid; or, fails to repay to the city, within such ten (10) days, any damages, costs or expenses which the city shall be compelled to pay by reason of any act or default of the grantee in connection with the franchise; notice of such failure by the office of the city manager, to comply with any provisions of the contract which the office of the city manager reasonably determines can be remedied by an expenditure of the letter of credit, the city clerk may immediately withdraw the amount thereof, with interest and any penalties, from the security fund. Upon such withdrawal, the city clerk shall notify the grantee of the amount and date thereof.

4. If the grantee wishes to contest withdrawal, the grantee may petition to the Iowa City telecommunications commission for a hearing within ten (10) days from date notice of withdrawal is mailed or otherwise given.

E. Replenishment Of Letter Of Credit And Construction Bond: No later than thirty (30) days, after mailing to the grantee by certified mail notification of a withdrawal pursuant to subsections C and D of this section, and after the total amount of funds in the letter of credit is fifty thousand dollars (\$50,000.00), the grantee shall replenish the letter of credit or construction bond in an amount equal to the amount so withdrawn. Failure to make timely replenishment of such amount to the letter of credit and construction bond shall constitute a violation of this chapter. (Ord. 05-4169, 7-5-2005)

12-4-16: FEES, RATES AND CHARGES:

- A. Schedule Filings: Subject to federal law, grantee shall file with the city schedules which shall describe all services offered, all rates and charges of any kind, and all terms and conditions relating thereto. No rates or charges shall be effective except as they appear on a schedule so filed. Grantee shall notify the city and subscribers in writing at least thirty (30) days prior to the implementation of any change in services offered, rates, charges, or terms and conditions related thereto.
- B. Nondiscriminatory Rates: Unless otherwise allowed by FCC regulation, grantee shall establish rates that are nondiscriminatory within the same general class of subscribers which must be applied fairly and uniformly to all subscribers in the franchise area for all services. Nothing contained herein shall prohibit the grantee from offering: 1) discounts to commercial and multiple-family dwelling subscribers billed on a bulk basis; 2) promotional discounts; 3) reduced installation rates for subscribers who have multiple services; or 4) discount for senior citizens and/or low income residents. Grantee's charges and rates for all services shall be itemized on subscriber's monthly bills.
- C. City Regulation: To the extent that federal or state law or regulation may now, or as the same may hereafter be amended to, authorize the city to regulate the rates for any particular service tiers, service packages, equipment, or any other services provided by grantee, the city shall have the right to exercise rate regulation to the full extent authorized by law, or to refrain from exercising such regulation for any period of time, at the sole discretion of the city.
- D. Rate Regulation Of The Basic Tier And Charges: The city will follow FCC rate regulations. In connection with such regulation, the city will ensure a reasonable opportunity for consideration of the views of interested parties; and the city attorney, or designee, is authorized to execute on behalf of the city and file with the FCC such certification forms or other instruments as are now or may hereafter be required by the FCC rate regulations.

- E. Ability To Petition: If applicable, the city shall have the right to petition the federal communications commission or other appropriate agency or organization to obtain rate regulation authority or to petition the federal body to review or regulate rates in the city.
- F. Notification Of Charges: The grantee may establish charges for its services not specified in subsection A of this section; however, all such charges, including, but not limited to, additional service, leased channel, discrete channel, and production rates shall be made public and two (2) copies of the schedule of charges, as originally and thereafter modified, shall be filed with the city clerk thirty (30) days prior to the effective date of such charges.
- G. Deposits On Advance Payments To Be Approved: The grantee shall receive no deposit, advance payment or penalty from any subscriber or potential subscriber other than those established in the schedule of charges previously filed with and/or approved by the city council.
- H. Purchase Of Switch: In the event that the FCC does not regulate antenna switches, and/or that a switch or other appurtenant device is required to permit subscribers to receive full broadcast network service, the grantee shall give the subscriber the option of purchasing the switch at a reasonable cost at the time of initial installation thereof, or of purchasing said switch or other appurtenant device at the then prevailing local installment plan interest rate. The grantee hereby agrees to allow the subscriber to provide a switch or other appurtenant device at its subscriber terminal, provided that such device meets with the approval of the grantee. Such approval shall not be withheld if it is shown that such device does not interfere with the operation of the cable television system. If the subscriber elects not to purchase or provide said switch or other appurtenant device, the grantee may make an additional charge for the rental of such switch or other appurtenant device providing that the additional charge is in accordance with the schedule of charges contained in the grantee's application for a franchise hereunder or hereafter shall be filed with and approved by the city.
- I. Subscriber Refunds In Addition To Those Authorized By The FCC:
1. If any subscriber of the grantee of less than ten (10) days terminates services due to the grantee's failure to render service to such subscriber of a type and technical quality provided for herein;
 2. If service to a subscriber is terminated by the grantee without good cause; or
 3. If the grantee ceases to provide service for twenty four (24) hours or more, the cable television system authorized herein for any reason except termination or expiration of a franchise granted hereunder;
- the grantee shall refund to such subscriber an amount equal to the monthly charge, installation and connection charge paid by such subscriber in accordance with the then existing schedule of charges.
- J. Disconnection: Except as provided by FCC rate regulations, there shall be no charge for disconnection of any installation or outlet. If any subscriber fails to pay a properly due monthly subscriber fee, or any other properly due fee or charge, the grantee may disconnect the subscriber's service outlet. Such disconnection shall not be effected until forty five (45) days after the due date of said delinquent fee or charge, and after adequate written notice of the intent to

disconnect has been delivered to the subscriber in question. Upon payment of charges due and the payment of a reconnection charge, if any, the grantee shall promptly reinstate the subscriber's cable service after request by subscriber.

- K. Rates Subject To Other Regulations: The grantee in submitting its request for approval of initial rates or any subsequent rates shall do so for basic service and related equipment to be performed to or for subscribers described in this chapter. If FCC rules and regulations, or any other applicable laws or regulations, shall subsequently determine that the city of Iowa City has jurisdiction over other services or service to be offered or performed, said rates shall be subject to approval by the city at that time.
- L. Reduction Of Fees: If during the term of any franchise or renewal thereof granted hereunder, the grantee receives refunds or if the cost of operation to the grantee is reduced as a result of an order of any regulatory body having competent jurisdiction, the grantee shall pass on to its subscribers on a prorated basis any such savings or reduced costs pursuant to FCC regulations.
- M. Rate Change Procedures:
1. Limitation On Application For Increase In Rates: The grantee shall not, unless allowed by FCC regulations, file more than one application for an increase in fees, rates or charges during any calendar year except to seek relief from the imposition of federal, state or local taxes or other legally imposed fees not contemplated in the most recent rate determination.
 2. Review Of Rates:
 - a. The Iowa City telecommunications commission shall review the grantee's schedule of fees, rates or charges that are within the city's regulatory jurisdiction, upon application by the grantee as herein provided or at any time on its own motion. The Iowa City telecommunications commission shall submit such schedule and any contemplated modifications thereof, together with its recommendations, to the city council as expressed in such a resolution. The city council may, pursuant to FCC regulations, reduce or increase such fees, rates or charges adopted for this purpose and, unless allowed by FCC regulations, no change in the grantee's schedule of fees, rates or charges shall be effective without prior action of the Iowa City telecommunications commission and the approval of the city council.
 - b. No such resolution shall be adopted without prior public notice and opportunity for all interested members of the public, including the grantee, to be heard, subject to the procedures set forth in this chapter. No change in city regulated fees, rates and charges shall take effect until thirty (30) days after the approval of the rates by the city council.
 3. Documentation Of Request For Increase: Any increase requests, in addition to other factors described in this section, shall be supported by a showing of increased costs for the existing services or proposed services and shall be filed in two (2) copies with the city clerk. If a grantee requests a change, it shall present in detail in writing the statistical basis, in addition to other requirements as set out in this section, for the proposed fee change in accordance with FCC rules.
 4. Records To Be Made Available: For the purposes of determining the reasonableness of grantee fees, rates or charges, grantee records relating the same shall be made available to the city. (Ord. 05-4169, 7-5-2005)

12-4-17: PUBLIC, EDUCATION AND GOVERNMENT CONNECTION TO CABLE TELEVISION SYSTEM:

The grantee shall provide, upon request within the city one connection and monthly service for basic service and all nonpay services to such public, parochial and nonprofit private schools, the University of Iowa, city designated public access facility, city and other government buildings and other agencies, provided such designated locations are within two hundred feet (200') of any network cable route. Initial installation shall be without charge. Rates for monthly service to residential or living units within such entities may be negotiated with each such entity. The grantee may charge for any excess footage on the basis of time and material for any such locations beyond the two hundred foot (200') limitation if such connection is designated by the city. The city reserves the right for itself and the above entities at their individual expense to extend service to as many areas within such schools, buildings and agencies as it deems desirable without payment of any additional installation fee or monthly fee to grantee. All such extensions, however, shall be accomplished in such a way so as not to interfere with the operation of the cable television system. Institutions receiving free drops will consult with grantee on the technical standards to be used for such extensions. The grantee shall comply with the public, educational and government access requirements specified in the franchise. (Ord. 05-4169, 7-5-2005)

12-4-18: INTERCONNECTION OF NETWORK:

The grantee shall be interconnected with other communities and cable companies as specified in the franchise. (Ord. 05-4169, 7-5-2005)

12-4-19: CONSTRUCTION TIMETABLE FOR INITIAL CONSTRUCTION:

- A. Permit Application: It is hereby deemed in the public interest that the system be extended as rapidly as possible to all residents within the city. Within ninety (90) days of the effective date of a franchise granted hereunder, the grantee shall file with the appropriate authorities and utilities all initial papers and applications necessary to comply with the terms of this chapter including the application for franchise and any additions or amendments thereto and shall thereafter diligently pursue all such applications. After the grantee has diligently pursued the acquisition of necessary pole attachment contracts, or other necessary easements, and where such necessary contracts have not been executed or easements obtained after a reasonable period of time as determined by the city, the city may, at its discretion, provide assistance to ensure the extension of the system to all residents.
- B. Commencement Of Construction: Within one hundred eighty (180) days of the effective date of FCC certification, the grantee shall initiate construction and installation of the cable television system. Such construction and installation shall be pursued with reasonable diligence.
- C. Commencement Of Operation: Within twelve (12) months of the effective date of FCC certification, the grantee shall commence operation within the meaning set forth in this chapter.
- D. Sustained Completion Of Construction: Within the time specified in the franchise agreement, the grantee shall have substantially completed construction of the service area within the meaning set forth in this chapter.

- E. Provisions Of Basic Service: Within the time specified in the franchise agreement, the grantee shall have placed in use sufficient distribution facilities so as to offer basic service to one hundred percent (100%) of the dwelling units in the service area to which access is legally and reasonably available.
- F. Delays And Extension Of Time: The city council may in its discretion extend the time for the grantee, acting in good faith, to perform any act required hereunder. The time for performance shall be extended or excused, as the case may be, for any period during which the grantee demonstrates to the satisfaction of the city council that the grantee is being subjected to delay or interruption due to any of the following circumstances if reasonably beyond its control:
1. Necessary utility rearrangements, pole change outs or obtaining of easement rights.
 2. Governmental or regulatory restrictions.
 3. Labor strikes.
 4. Lockouts.
 5. War.
 6. National emergencies.
 7. Fire.
 8. Acts of God.
- G. When Certain Operations Are To Commence: If FCC certification is not required for a franchise granted under this chapter, all time periods specified in subsections A, C, D and E of this section shall commence with the effective date of a franchise granted hereunder. (Ord. 05-4169, 7-5-2005)

12-4-20: CONSTRUCTION TIMETABLE FOR REBUILD CONSTRUCTION:

- A. Compliance With Construction And Technical Standards: Grantee shall construct, rebuild, install, operate and maintain its system in a manner consistent with all laws, ordinances, construction standards or guidelines, governmental requirements, FCC technical standards, and detailed technical standards provided for in the franchise.
- B. Construction Timetable: The grantee shall construct and complete the system rebuild in accordance with the timetable set forth in the franchise.
- C. Delays And Extension Of Time: The city council may in its discretion extend the time for the grantee, acting in good faith, to perform any act required hereunder. The time for performance shall be extended or excused, as the case may be, for any period during which the grantee demonstrates to the satisfaction of the city council that the grantee is being subjected to delay or interruption due to any of the following circumstances if reasonably beyond its control:
1. Necessary utility rearrangements, pole change outs or obtainment of easement rights.

2. Governmental or regulatory restrictions.
3. Labor strikes.
4. Lockouts.
5. War.
6. National emergencies.
7. Fire.
8. Acts of God. (Ord. 05-4169, 7-5-2005)

12-4-21: NETWORK DESCRIPTION:

A. System Bandwidth Capability:

1. The grantee shall install a cable network according to the following specifications: The initial system shall be designed to a capacity equivalent to a minimum of seven hundred fifty (750) MHz and as specified in the franchise. The grantee at its option may provide for this increased capacity at the time of initial construction.
2. As total bidirectional capacity is a priority goal of the city, applicants for a franchise hereunder may propose greater channel capacities and more sophisticated two-way capabilities than the minimums set forth herein. However, such proposal shall describe the particular community needs to be served thereby and shall detail, as part of the financial projection and support required in this chapter the associated costs and revenues.

B. System Configuration: The grantee shall design and construct the network using fiber to the node architecture, or better, in such a way as to provide maximum flexibility and to provide service to the fewest number of homes per fiber node as economically feasible.

C. Protection Of Subscriber Privacy Mandatory: Grantee shall at all times protect the privacy of subscribers, as provided in this chapter and other applicable federal, state, and local laws.

D. Notice Of Privacy Provisions: At the time of entering into an agreement to provide any cable service or other service to a subscriber, and at least once a year thereafter, grantee shall provide notice consistent with and in accordance with federal law in the form of a separate written statement to each subscriber which clearly and conspicuously informs the subscriber of:

1. The privacy rights of the subscriber and the limitations placed upon grantee with regard to this chapter and all other applicable federal, state, and local subscriber privacy provisions.
2. The nature of personally identifiable information collected or to be collected with respect to the subscriber and the nature of the use of such information.
3. The nature, frequency, and purpose of any disclosure which may be made of such information, including an identification of the types of persons to whom the disclosure may be made.
4. The period during which such information might be maintained by the cable operator.

5. The times and place at which the subscriber may have access to such information in accordance with this chapter and other applicable federal, state, and local law.
 6. A request for the subscriber signature allows for use of personally identifiable information.
- E. **Collection Of Personally Identifiable Information Prohibited:** Grantee shall not use or permit the use of the cable system to collect personally identifiable information concerning any subscriber, except as necessary to render a cable service or other service provided by the cable operator to the subscriber. Grantee shall not install or permit the installation of any special terminal equipment in any subscriber's premises for the two-way transmission of any aural, visual, or digital signals without the prior written consent of the subscriber. Grantee shall not tabulate, nor permit others to tabulate, any subscriber use of the cable system which would reveal the opinions or commercial product preferences of individual subscribers, whether residential or business, or of any occupant or user of the subscriber's premises without written authorization from the subscriber for his or her participation in a shop at home or similar service. When providing such service, the grantee may tabulate only those responses essential to the functioning of that shopping or other service, and may not use any such tabulation of individual preferences for any other purposes. Tabulations of aggregate opinion or preference are permitted, provided the aggregations are sufficiently large to assure individual privacy.
- F. **Disclosure Of Subscriber Information Prohibited:** Grantee shall not without the specific written authorization of the individual subscribers involved, sell or otherwise make available to any party any list of the names and addresses of individual subscribers, any list which identifies the viewing habits of individual subscribers, or any personal data, social security number, income and other data the grantee may have on file about individual subscribers, except as necessary to render or conduct a legitimate business activity related to a cable service or other service provided by the cable operator to the subscriber, provided, however, that such disclosure shall not reveal directly or indirectly the extent of viewing or other use by the subscriber of a cable service or other service provided by the cable operator, or the nature of any transaction made by the subscriber over the cable system.
- G. **Notices Of Monitoring:** Grantee shall report to the affected parties, the city and other appropriate authorities, any instances of monitoring or tapping of the system, or any part thereof, of which it has knowledge, which is not authorized under this section whether or not such activity has been authorized by grantee. Grantee shall not record or retain any information transmitted between a subscriber or user and any third party, except as required for lawful business purposes. Grantee shall destroy all subscriber or user information of a personally identifiable nature after a reasonable period of time, unless retention of such information is authorized by the affected subscriber or user.
- H. **Polling By Cable:** No poll or other upstream response from a subscriber shall be conducted or obtained except as part of a program that contains an explicit disclosure of the nature, purpose and prospective use of the results of the poll or upstream response and where the program has an informational, entertainment or educational function which is self-evident. Grantee or its agents shall release the results of upstream responses only in the aggregate and without individual references.
- I. **Monitoring Devices:** Grantee shall provide written notice to each subscriber when equipment is to be installed on the system which would permit the recording or monitoring of individual viewing habits of a subscriber or household; such equipment shall be installed only after prior written permission has been granted by the subscriber. Such permission may be valid for one year only and may be

renewed by permission of the subscriber. In no event shall such permission be obtained as a condition of service or continuation thereof. Grantee shall give each subscriber annual written notice of any such monitoring and of the subscriber's right to terminate the monitoring in accordance with the terms and conditions of the subscriber's contract with grantee.

- J. Personally Identifiable Information: Grantee shall not predicate regular subscriber service on the subscriber's grant or denial of permission to collect, maintain or disclose personally identifiable information. A subscriber may at any time revoke any permission previously given by delivering to the grantee a written statement of that intent.
- K. Correction Policy: Each subscriber shall be provided access to all personally identifiable information regarding such subscriber that grantee collects or maintains or allows to be collected or maintained, and such subscriber shall be provided the opportunity to correct any error in such information.
- L. Viewing Habits: Any information concerning individual subscriber viewing habits or responses, except for information for billing purposes, shall be destroyed within sixty (60) days of collection. Information for billing purposes shall be kept for two (2) years and then destroyed unless otherwise required to be kept by law.
- M. System Performance: This section is not intended to prohibit the use or transmission of signals useful only for the control or measurement of system performance.
- N. Subscriber And User Contracts:
1. This section shall be enforceable directly by every aggrieved subscriber or user and by every aggrieved person seeking to become a subscriber or user. Grantee shall include the following provision in every contract or agreement between grantee and any subscribers or user:

The subscriber/user, as part of this contract, has certain rights of privacy prohibiting the unauthorized monitoring of service and publication of personal information under the control of (Name of Grantee), including without limitation, information regarding program selections or service uses. (Name of Grantee) shall make available upon the request of the subscriber/user further description of said rights as established in its ordinance and franchise with the City of Iowa City.
 2. Grantee shall not allege or contend that any actual or potential subscriber or user may not enforce this chapter by reason of lack of privacy. (Ord. 05-4169, 7-5-2005)

12-4-22: NETWORK TECHNICAL REQUIREMENTS:

Each cable television system must be so designed, installed and operated as to meet FCC technical standards and standards set forth in the franchise. (Ord. 05-4169, 7-5-2005)

12-4-23: PERFORMANCE MEASUREMENTS:

- A. General Requirements: Test procedures utilized shall be in accordance with those promulgated by the FCC and the National Cable Television Association.
- B. Additional Tests And Inspections: The city reserves the right to:
1. Require additional tests for cause at specific terminal locations at the expense of the grantee; and
 2. Conduct its own inspections of the cable television system on its own motion at any time during normal business hours with reasonable advance notice.
- C. Report Of Measurements Combined: To the extent that the report of measurements as required above may be combined with any reports of measurements required by the FCC or other regulatory agencies, the city shall accept such combined reports, provided that all standards and measurements herein or hereafter established by the city are satisfied. (Ord. 05-4169, 7-5-2005)

12-4-24: CONSTRUCTION STANDARDS:

- A. Antennas And Towers: Antenna supporting structures (towers) shall be designated for the proper loading zone as specified in the Electronics Industry Association's specifications as amended from time to time.
- B. Compliance With Aviation Requirements: Antenna supporting structures (towers) shall be painted, lighted, erected and maintained in accordance with all applicable rules and regulations of the federal aeronautical agency, the state aeronautics board governing the erection and operation of supporting structures or television towers, and all other applicable local or state codes and regulations.
- C. City Approval Of Construction Plans: Prior to the erection of any towers, poles or conduits or the upgrade or rebuild of the cable communications system under this chapter, the grantee shall first submit to the city and other designated parties for review, such information as specified in the franchise. No erection or installation of any tower, pole, underground conduit, or fixture or any rebuilds or upgrading of the cable communications system shall be commenced by any person until approval, therefor, has been received from the city.
- D. Contractor Qualifications: Any contractor proposed for work of construction, installation, operation, maintenance, and repair of system equipment must be properly licensed under laws of the state, and all local ordinances. In addition, the grantee shall submit to the city, every two (2) years, a plan to hire persons locally for the construction, installation, operation, maintenance and repair of the system equipment.
- E. Minimum Interference: The grantee's system and associated equipment erected by the grantee within the city shall be so located as to cause minimum interference with the proper use of streets, alleys, and other public ways and places, and to cause minimum interference with the rights and reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways and places. No pole or other fixtures placed in any public ways by the grantee shall be placed in such a manner as to interfere with normal travel on such public way.

F. City Maps: The city does not guarantee the accuracy of any maps showing the horizontal or vertical location of existing substructures. In public rights of way, where necessary, the location shall be verified by excavation.

G. Quality Of Construction: Construction, installation, operation, and maintenance of the cable communications system shall be performed in an orderly and workmanlike manner, in accordance with then current technological standards. All cables and wires shall be installed, where possible, parallel with electric and telephone lines. Multiple cable configurations shall be arranged in parallel and bundled with due respect for aesthetic and engineering considerations.

H. Construction Standards: The construction, installation, operation, maintenance, and/or removal of the cable communications system shall meet all of the following safety, construction, and technical specifications and codes and standards:

Occupational safety and health administration regulations (OSHA).

National electrical code.

National electrical safety code (NESC).

National cable television standard code.

AT&T manual of construction procedures (blue book).

Bell telephone systems code of pole line construction.

All federal, state and municipal construction requirements, including FCC rules and regulations.

Utility construction requirements.

All building and zoning codes, and all land use restrictions, as the same exist or may be amended hereafter. (Ord. 05-4169, 7-5-2005)

12-4-25: ERECTION, REMOVAL AND COMMON USE OF POLES:

A. Approval For Poles: No poles shall be erected by the grantee without prior approval of the city with regard to location, height, types and any other pertinent aspect. However, no location of any pole or wire holding structure of the grantee shall give rise to a vested interest and such poles or structures shall be removed or modified by the grantee at its own expense whenever the city determines that the public convenience would be enhanced thereby.

B. Requirements To Use Existing Poles: Where poles already exist for use in serving the city and are available for use by the grantee, but grantee does not make arrangements for such use, the city may require the grantee to use such poles and structures if it determines that the public convenience would be enhanced thereby and the terms of the use available to the grantee are just and reasonable. (Ord. 05-4169, 7-5-2005)

12-4-26: CONSTRUCTION REPORTING REQUIREMENTS:

- A. Progress Reports: Within thirty (30) days of the granting of a franchise pursuant to this chapter, the grantee shall provide the city with a written progress report detailing work completed to date and a schedule for completion of construction. Such report shall include a description of the progress in applying for any necessary agreements, licenses, or certifications and any other information the cable television administrator may deem necessary. The content and format of the report will be determined by the cable television administrator and may be modified at the administrator's discretion.
- B. Time Frame For Reports: Such written progress reports shall be submitted to the city on a bimonthly basis throughout the entire construction or rebuild process. The cable television administrator may require more frequent reporting if the administrator determines it is necessary to better monitor the grantee's progress.
- C. Subscriber Information: Prior to the commencement of any major system construction, the grantee shall produce an informational document to be distributed to all residents of the area to be under construction, which shall describe the activity that will be taking place. The informational document shall be reviewed by the cable television administrator prior to its distribution. (Ord. 05-4169, 7-5-2005)

12-4-27: CHANNELS TO BE PROVIDED:

- A. Leased Access Channel: The grantee shall maintain at least one specifically designated channel for leased access uses. In addition, other portions of its nonbroadcast bandwidth, including unused portions of the specifically designated channels, shall be available for leased uses. On at least one of the leased channels, priority shall be given to part time users.
- B. Television Broadcast Signal Carriage: The grantee shall carry those television broadcast signals which are in accordance with part 76, section 76.63 of the FCC rules and regulations as such rules are amended from time to time. The provision of additional television broadcast signals as provided for in part 76, section 76.63(a) shall also be required as amended from time to time.
- C. Basic Service: Channels to be included on the first tier of service not requiring a converter or other appurtenance shall include: All television signals described in subsections A, B and D of this section. As the maximized use of the total channel capacity is of great interest to the city, applicants for a franchise hereunder may submit proposals to utilize channels beyond the basic service. Such a proposal may include the use of convertors at no additional charge to subscribers.
- D. Access Channels: Grantee shall provide the public, educational and governmental access channels as specified in the franchise. The entities operating access channels shall, in cooperation with the Iowa City telecommunications commission, develop rules for such channels. Such rules shall be placed on file with the city clerk. (Ord. 05-4169, 7-5-2005)

12-4-28: CONDITIONS OF STREET OCCUPANCY:

- A. Approval Of Proposed Construction: The grantee shall first obtain the approval of the city prior to commencing construction on the streets, alleys, public grounds or places of the city as specified in the franchise.
- B. Permits: A grantee shall obtain construction permits in conformance with all city rules and regulations.
- C. Changes Required By Public Improvements: The grantee shall, at its expense, protect, support, temporarily disconnect, or relocate in another public place any property of the grantee when required by the city by reason of traffic conditions, public safety, street vacation, street construction, change or establishment of street grade, installation of sewers, drains, water pipes, city owned power or signal lines, and tracts or any other type of structure or improvement by public agencies.
- D. Use Of Existing Poles Or Conduits: Nothing in this chapter or any franchise granted hereunder shall authorize the grantee to erect and maintain in the city new poles where existing poles are servicing the area. The grantee shall require permission from the city before erecting any new poles, underground conduit or appurtenances where none exist at the time the grantee seeks to install its network.
- E. Underground Installation: All installations shall be underground in those areas of the city where public utilities providing either telephone or electric service are underground at the time of installation. In areas where either telephone or electric utility facilities are aboveground at the time of installation, grantee may install its service aboveground, provided that at such time as those facilities are required to be placed underground by the city or are placed underground, the grantee shall likewise place its services underground without additional cost to the city or to the individual subscribers so served within the city. Where not otherwise required to be placed underground by this chapter or the franchise, the grantee's system shall be located underground at the request of the adjacent property owner, provided the excess cost over the aerial location shall be borne by the property owner making the request. All cable passing under the roadway shall be installed in conduit.
- F. Pedestals: When housing minihubs, switching or other equipment are to be utilized on the public right of way, such equipment must be completely buried beneath streets or sidewalks. Any pedestals located in the public right of way shall comply with city ordinances or regulations. All such buried equipment shall be shown in plan and cross section on the design plans for permits.
- G. Facilities Not To Be Hazardous Or Interfere: All wires, conduits, cables and other property and facilities of the grantee shall be so located, constructed, installed and maintained as not to endanger or unnecessarily interfere with the usual and customary trade, traffic and travel upon the streets and public places of the city. The grantee shall keep and maintain all its property in good condition, order and repair. The city reserves the right hereunder to inspect and examine at any reasonable time and upon reasonable notice, the property owned or used, in part or in whole, by the grantee. The grantee shall keep accurate maps and records of all its facilities and furnish copies of such maps and records as requested by the city. A grantee shall not place poles or other equipment where they will interfere with the rights or reasonable convenience of adjoining property owners or with any gas, electric or telephone fixtures or with any water hydrants or mains. All poles or other fixtures placed in a street shall be placed in the right of way between the roadway and the property, as specified by the city.

- H. Method Of Installation: All wires, cables, amplifiers, and other property shall be constructed and installed in an orderly manner consistent with the trade. All cables and wires shall be installed parallel with existing telephone and electric wires whenever possible. Multiple cable configurations shall be arranged in a parallel and bundled, with due respect for engineering and safety considerations. All installations shall be underground in those areas of the city where public utilities providing telephone and electric service are underground at the time of installation. All underground installations of wires and cable shall be buried at least twelve inches (12") belowground, and no trenching or other underground installation shall be commenced without notice to the city forester. All underground installation shall be performed in compliance with city forester directions.
- I. Protection Of Facilities: Nothing contained in this section shall relieve any person, company or corporation from liability arising out of the failure to exercise reasonable care to avoid injuring the grantee's facilities while performing any work connected with grading, regrading or changing the line of any street or public place or with the construction or reconstruction of any sewer or water system. Any person, company or corporation intending to perform any of the above described work in an area where grantee's facilities are located shall notify grantee at least twenty four (24) hours prior to performing said work.
- J. Requests For Removal Or Change: The grantee shall, on the request of any person holding a building moving permit, temporarily raise or lower its wires to permit the moving of said building. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same, and the grantee shall have the authority to require such payment in advance. The grantee shall be given not less than ten (10) working days' notice of any move contemplated to arrange for temporary wire changes.
- K. Authority To Trim Trees: The grantee may trim trees upon and overhanging streets, alleys, sidewalks and other public places of the city so as to prevent the branches of such trees from coming in contact with the wires and cables of the grantee. No trimming shall be done except under the supervision and direction of the city forester, upon the explicit prior written notification and approval of the city forester and at the expense of the grantee. The grantee may contract for such services; however, any firm or individual so retained shall receive city forester approval prior to commencing such activity.
- L. Restoration Or Reimbursement: In the event of disturbance of any street or private property by the grantee, it shall, at its own expense and in a manner approved by the city and the owner, replace and restore such street or private property in as good a condition as before the work causing such disturbance was done. In the event the grantee fails to perform such replacement or restoration, the city or the owner shall have the right to do so at the sole expense of the grantee. Payment to the city or owner for such replacement or restoration shall be immediate, upon demand, by the grantee. All requests for replacement or restoring of such streets or private property as may have been disturbed must be in writing to the grantee.
- M. Office And Records In City: The grantee shall, at all times, make and keep at an office maintained by the grantee in the city full and complete plans and records showing the exact location of all cable television system equipment installed or in use in the streets or other public places of the city. The grantee shall furnish the city complete maps upon request, compatible with the city's geographic information system, showing all of the cable television system equipment installed and in place in streets and other public places of the city. Such maps shall be updated annually.

- N. Emergency Removal Of Plant: If, at any time, in case of fire or disaster in the city, it shall become necessary in the reasonable judgment of the city to cut or move any of the wires, cables, amplifiers, appliances or appurtenances thereto of the grantee, such cutting or moving may be done and any repairs rendered necessary thereby shall be made by the grantee, at its sole expense, provided such repairs are not necessitated by negligent act of the city, in which case, cost for repairs shall be borne by the city.
- O. Alternate Routing Of Plant: In the event continued use of a street is denied to the grantee by the city for any reason, the grantee will make every reasonable effort to provide service over alternate routes. (Ord. 05-4169, 7-5-2005)

12-4-29: UNAUTHORIZED CONNECTIONS OR MODIFICATIONS:

- A. Unauthorized Connections Prohibited: It shall be unlawful for any firm, person, group, company, corporation or governmental body or agency, without the expressed consent of the grantee, to make any connection, extension or division, whether physically, acoustically, inductively, electronically or otherwise, with or to any segment of a franchised cable television system for any purpose whatsoever, except as provided in this chapter.
- B. Removal Or Destruction Prohibited: It shall be unlawful for any firm, person, group, company, corporation or governmental body or agency to wilfully interfere, tamper, remove, obstruct or damage any part, segment or content of a franchised cable television system for any purpose whatsoever. (Ord. 05-4169, 7-5-2005)

12-4-30: PREFERENTIAL OR DISCRIMINATORY PRACTICES PROHIBITED:

A. Prohibited Employment Practices:

1. The grantee shall not commit any of the following employment practices and agrees to prohibit the following practices in any contracts or subcontract entered into or effectuating the operation of the franchise:
 - a. To discharge from employment or refuse to hire any individual because of their race, color, religion, creed, sex, national origin, age, disability, marital status or sexual orientation.
 - b. To discriminate against any individual in term, conditions or privileges of employment because of their race, color, religion, creed, sex, national origin, age, disability, marital status or sexual orientation.
2. The grantee shall be an equal opportunity/affirmative action employer adhering to all federal, state or municipal laws and regulations. Pursuant to 47 CFR, section 76.311 and other applicable regulations of the FCC, grantee shall file an equal employment opportunity/affirmative action program with the FCC and otherwise comply with all FCC regulations with respect to equal employment/affirmative action opportunities.

- B. Employment Policy: Grantee shall take affirmative action to employ, during the construction, operation and maintenance of the cable communications system minorities and females as set

forth in the franchise. Upon request by the city, grantee shall submit to the city annual reports indicating such compliance.

- C. Procurement: For all services, materials or equipment purchased for the construction, operations or maintenance of the cable communications system, grantee shall wherever possible, purchase from competitively priced and otherwise qualified minority owned, or female owned businesses located in the city of Iowa City, as set forth in the franchise.
- D. Local Employment And Procurement Practices: Whenever possible, all services, personnel, hardware and supplies for the construction, maintenance and operation of the system shall be procured locally.
- E. Services To Be Equally Available: The grantee shall not refuse cable television services to any person or organization who requests such service for lawful purpose, nor shall a grantee refuse any person or organization the right to cablecast pursuant to provisions of this chapter. The grantee shall not, as to rates, charges, service facilities, rules, regulations or in any other respect, make or grant any unreasonable preference or advantage, nor subject any person to any prejudice or disadvantage. The grantee shall take affirmative steps to disseminate the information concerning the availability of its services to all minority and other underrepresented groups. This provision shall not be deemed to prohibit promotional campaigns to stimulate subscription to the system or other legitimate uses thereof, nor shall it be deemed to prohibit the establishment of a graduated scale of charges and classified rate schedules to which any customer coming within such classifications shall be entitled, provided such schedules have been filed with and approved by the city as provided in this chapter.
- F. Fairness Of Accessibility: The entire system of the grantee shall be operated in a manner consistent with the principle of fairness and equal accessibility of its facilities, equipment, channels, studios and other services to all citizens, businesses, public agencies or other entities having a legitimate use for the system. No one shall be arbitrarily excluded from its use. Allocation of use of said facilities shall be made according to the rules or decisions of regulatory agencies affecting the same, and where such rules or decisions are not effective to resolve a dispute between conflicting users or potential users, the matter shall be submitted for resolution by the Iowa City telecommunications commission. (Ord. 05-4169, 7-5-2005)

12-4-31: INSTALLATIONS, CONNECTIONS AND OTHER SERVICES:

- A. Standard Installations: Standard installation shall consist of a service not exceeding one hundred fifty feet (150') from a single point or pedestal attachment to the customer's residence. Service in excess of one hundred fifty feet (150') and concealed wiring shall be charged at such cost as exceeds normal installation costs. The desire of the subscriber as to the point of entry into the residence or commercial establishment and location of pedestal shall be observed whenever possible. Runs in building interiors shall be as unobtrusive as possible. The grantee shall use due care in the process of installation and shall repair any damage to the subscriber's property caused by said installation. Such restoration shall be undertaken within no more than ten (10) days after the damage is incurred and shall be completed as soon as possible thereafter.
- B. Deposits: Any deposit required by grantee shall bear interest at the current lending rate.

- C. Lockout Devices: The grantee shall provide to the potential subscriber, as part of its promotional literature, information concerning the availability of a lockout device for use by a subscriber. The lockout device described herein shall be made available to all subscribers requesting it beginning on the first day that any cable service is provided.
- D. Reconnection: Grantee shall restore service to customers wishing restoration of service provided customer shall first satisfy any previous obligations owed.
- E. Free Disconnection: Subscribers shall have the right to have cable service disconnected without charge. A refund of unused service charges shall be paid to the customer within sixty (60) days from the date of termination of service.
- F. Downgrade And Upgrade Fees: Any downgrade or upgrade fees shall conform with FCC rules. (Ord. 05-4169, 7-5-2005)

12-4-32: SERVICE CALLS AND COMPLAINT PROCEDURES:

- A. Business Office Staffing: Grantee shall provide all subscribers or users with at least thirty (30) days' prior written notice of a change in business office hours. The business office shall maintain a staff adequate to process complaints, requests for installation, service or repairs, and other business in a timely and efficient manner. Grantee shall add additional telephone lines and service representatives when existing lines are substantially utilized or when a pattern of subscriber complaints reflect a need for additional service employees. Additional offices and payment stations provided by the grantee shall be included in the franchise.
- B. Telephone Service: The grantee shall have a listed, locally staffed telephone number for service calls available twenty four (24) hours a day, seven (7) days a week. Said number shall be made available to subscribers and the general public. The grantee shall provide an unlisted locally staffed telephone number to the city and utility companies to enable the city or utility companies to reach the grantee in case of emergency on a twenty four (24) hour, seven (7) days a week basis.
- C. Grantee Rules: The grantee shall prepare and file with the city copies of all of its rules and regulations in connection with the handling of inquiries, requests and complaints. The grantee shall, by appropriate means, such as a card or brochure, furnish information concerning the procedures for making inquiries or complaints, including the name, address and local telephone number of the employee or employees or agent to whom such inquiries or complaints are to be addressed, and furnish information concerning the city office responsible for the administration of the franchise, including, but not limited to, the address and telephone number of said office.
- D. Equipment Service: The grantee shall service or replace without charge all equipment provided by it to the subscriber, provided, however, that the grantee may charge a subscriber for service to or replacement of any equipment damaged due to negligence of such subscriber.
- E. Subscriber Solicitation: Grantee shall provide the city with a list of names and addresses of all representatives who will be soliciting within the city and the area in and the dates within such

solicitations shall take place. Each such representative and all other employees entering upon private property shall be required to wear an employee identification card issued by grantee and bearing a picture of said representative. Grantee shall notify the general public of its solicitation in a manner calculated to reach residents in the areas to be solicited in advance of such solicitation.

- F. Sales Information: Grantee shall provide to all subscribers annually and all prospective subscribers or users with complete written information concerning all services and rates provided by grantee upon solicitation of service and prior to consummation of any agreement for installation of service. Such sales material shall clearly and conspicuously disclose the price and other information concerning grantee's least costly service. Such information shall be written in plain English and shall include, but shall not be limited to, the following: all services, tiers, and rates; deposits if applicable; installation costs; additional television set charges; service upgrade or downgrade charges; lockout devices; and information concerning the utilization of videocassette recorders (VCRs) with cable service(s) and the cost for hooking up such VCRs so that they function as manufactured.
- G. Billing Practices Information: Grantee shall inform all subscribers annually and all prospective subscribers or users of complete information respecting billing and collection procedures, procedures for ordering changes in or termination of services, and refund policies, upon solicitation of service and prior to the consummation of any agreement for installation of service. Such information shall be written in plain English.
- H. Notice Of Complaint Procedures: Grantee shall periodically, and at various times of the day, present its business office address and publicly listed local telephone number by means of alpha-numeric display on a local origination channel.
- I. Investigation And Remedial Action: For recurrent complaints regarding service deficiencies (other than total or partial loss of service, such as ghosting, weak audio signal, distortion, and the like), the cable television administrator may require the grantee to investigate and report to the causes and cures thereof, and the cable television administrator may also conduct an investigation. Thereafter, the cable television administrator may order specified remedial action to be taken within reasonably feasible time limits. If such action is not taken, or is ineffective, or if within thirty (30) days the grantee files with the city a notice of objection to the order, the city may conduct a hearing and may, if the evidence warrants a finding of fault on the part of the grantee, take appropriate action pursuant to the terms of this chapter. (Ord. 05-4169, 7-5-2005)

12-4-33: TRANSFER:

- A. Transfer Of Franchise: A franchise shall not be assigned or transferred, either in whole or in part, or leased, sublet, or mortgaged in any manner, nor shall title to the cable system, legal or equitable, or any right, interest or property therein, pass to or vest in any person without the prior written consent of the city, such consent not to be unreasonably withheld. Except that no consent shall be required for any sale, transfer, or assignment of ownership to an affiliate under common control with grantee, provided that prior to such transfer, grantee provides to the city verifiable information to establish that such transferee has the financial, legal and technical ability to fully perform all obligations of the franchise. No such consent shall be required, however, for a transfer by mortgage to a federally licensed lending institution in order to secure indebtedness. Within thirty (30) days of receiving the request for transfer, the franchising authority shall, in accordance with FCC rules and regulations, notify the grantee in writing of the information it requires to determine

the legal, financial and technical qualifications of the transferee. If the franchising authority has not taken action on the grantee's request for transfer within one hundred twenty (120) days after receiving such requested information, consent by the franchising authority shall be deemed given.

- B. **Transfer Of Ownership:** The grantee shall not sell, transfer or dispose of thirty percent (30%) or greater ownership interest in the grantee or more at one time of the ownership or controlling interest in the system, or thirty percent (30%) cumulatively over the term of the franchise of such interests to a corporation, partnership, limited partnership, trust or association, or person or group of persons acting in concert without the consent of the city. Every sale, transfer, or disposition of thirty percent (30%) or greater ownership interest as specified above in the grantee shall make the franchise subject to cancellation unless and until the city shall have consented thereto.
- C. **Transfer Of Control:** The grantee shall not change control of the grantee in whatever manner exercised without the prior written consent of the city.
- D. **City Approval:** Every change, transfer, or acquisition of control of the grantee shall make the franchise subject to cancellation unless and until the city shall have consented thereto. For the purpose of determining whether it shall consent to such change, transfer, or acquisition of control, the city may inquire into the legal, financial, character, technical and other public interest qualifications of the prospective transferee or controlling party, and the grantee shall provide the city with all required information. The city reserves the right to impose certain conditions on the transferee as a condition of the franchise to ensure that the transferee is able to meet existing ordinance and franchise requirements.
- E. **Assumption Of Control:** Any financial institution having a pledge of the franchise or its assets for the advancement of money for the construction and/or operation of the franchise shall have the right to notify the city that it will take control and operate the cable television system. If the financial institution takes possession of the cable communications system the city shall take no action to effect a termination of the franchise without first giving to the financial institution written notice thereof and a period of six (6) months thereafter (unless otherwise provided herein below): 1) to allow the financial institution or its agent(s) to continue operating as the grantee under the franchise; and 2) to request the city, and for the city to determine whether, to consent to the assignment of the grantee's rights, title, interest and obligations under the franchise to a qualified operator. The city acknowledges that in order for the financial institution to realize upon the collateral accorded to it by the loan documents, the financial institution must be entitled to a reasonable period of time after taking possession of the franchise under the loan document to obtain the city's consent to an assignment of the franchise to a qualified operator. The city agrees that such reasonable period of time is six (6) months after the financial institution takes possession of the cable communication system and, further, agrees that the city shall use its best efforts to decide upon the assignment of the franchise to the new operator proposed by the financial institution within such period of time. The financial institution shall be entitled to such possession and other rights granted under this subsection until such time that the city determines whether to consent to such assignment (the extended time). If the city finds that such transfer, after considering the legal, financial, character, technical and other public interest qualifications of the applicant are satisfactory, the city will consent to the transfer and assign the rights and obligations of such franchise as in the public interest. During the six (6) month period or extended time, the financial institution shall enjoy all the rights, benefits and privileges of the grantee under the franchise, and the city shall not disturb such possession by the financial institution, provided the financial institution complies in all respects with the terms and provisions of the franchise and this chapter. The various rights granted to the financial institution under this subsection are contingent

upon the financial institution's continuous compliance with the terms and provisions of this chapter and the franchise during the entire aforementioned six (6) month period or extended time, if applicable. For example, should an agent of the financial institution take possession of the cable communication system pursuant to rights granted to the financial institution under this subsection, and such agent fails to comply with the level of service requirements set forth in this chapter or the franchise, the rights granted to the financial institution under this chapter and the franchise shall automatically terminate.

- F. No Waiver Of City Property Rights: The consent or approval of the city or any other public entity to any transfer of the grantee shall not constitute a waiver or release of the rights of the city in and to the public property or public rights of way, and any transfer shall, by its terms, be expressly subordinate to the terms and conditions of this chapter and the franchise.
- G. Transfer Time Periods: In the absence of extraordinary circumstances, the city will not approve any transfer or assignment of the franchise prior to construction or the completion of the rebuild of the system. Subject to the conditions of section 617 of the cable act, the city shall not approve a transfer if the grantee has not held the franchise for a period of three (3) years.
- H. Right To Review Purchase Price: Based upon public information, the city reserves the right to review the purchase price of any transfer or assignment of the cable system.
- I. Signatory Requirement: Any approval by the city of transfer of ownership or control shall be contingent upon the prospective party becoming a signatory to the franchise agreement. (Ord. 05-4169, 7-5-2005)

12-4-34: PUBLICATION COSTS:

The grantee shall assume the cost of publication of the franchise ordinance as such publication is required by law. A bill for the publication costs shall be presented to the grantee by the city upon the grantee's filing of acceptance and shall be paid at that time. (Ord. 05-4169, 7-5-2005)

12-4-35: ORDINANCES REPEALED:

All ordinances and parts of ordinances in conflict with the provisions of this chapter are hereby repealed. (Ord. 05-4169, 7-5-2005)

12-4-36: SEPARABILITY:

If any section, subsection, sentence, clause, phrase or word of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such section, subsection, sentence, clause, phrase or word shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof. (Ord. 05-4169, 7-5-2005)

12-4-37: TIME IS OF THE ESSENCE TO THIS CHAPTER:

Whenever this chapter shall set forth any time for any act to be performed by or on behalf of the grantee, such time shall be deemed by the essence any failure of the grantee to perform within the time allotted shall always be sufficient grounds for the city to invoke an appropriate penalty including possible revocation of the franchise. (Ord. 05-4169, 7-5-2005)

12-4-38: NO WAIVER OF RIGHTS:

No course of dealing between the grantee and the city nor any delay on the part of the city in exercising any rights hereunder shall operate as a waiver of any such rights of the city or acquiescence in the actions of the grantee in contravention of rights except to the extent expressly waived by the city or expressly provided for in the franchise. (Ord. 05-4169, 7-5-2005)

Division 2. Rate Regulations

12-4-39: RATE REGULATION PROCEEDINGS:

Any rate regulation proceedings conducted under this division shall be in accordance with FCC rate regulations.

- A. 1. In the course of the rate regulation proceeding, the city may request additional information from the cable operator that is reasonably necessary to determine the reasonableness of the basic service tier rates and equipment charges. Any such additional information submitted to the city shall be verified by an appropriate official of the cable television system supervising the preparation of the response on behalf of the entity, and submitted by way of affidavit or under penalty of perjury, stating that the response is true and accurate to the best of that person's knowledge, information and belief formed after reasonable inquiry. The city may request proprietary information, provided the city shall consider a timely request from the cable operator that said proprietary information shall not be made available for public information, consistent with the procedures set forth in section 0.459 of the FCC rules and regulations.
- 2. Furthermore, said proprietary information may be used only for the purpose of determining the reasonableness of the rates and charges or the appropriate rate level submitted by the cable operator. The city may exercise all powers under the laws of evidence applicable to administrative proceedings under the laws of the state to discover any information relevant to the rate regulation proceeding, including, but not limited to, subpoena, interrogatories, production of documents and depositions.
- B. Upon termination of the rate regulation proceeding, the city shall adopt and release a written decision whether the rates or proposed rate increase are reasonable or unreasonable, and, if unreasonable, its remedy, including prospective rate reduction, rate prescription and refunds.
- C. The city may not impose any fines, penalties, forfeitures or other sanctions, other than permitted by the FCC rules and regulations, for charging an unreasonable rate or proposing an unreasonable rate increase. However, the city may impose fines or monetary forfeitures on a cable operator that does not comply with a rate decision or refund order of the city, directed specifically at the cable operator, pursuant to the laws of the state and this code.

- D. Consistent with the FCC rules and regulations, the city's decision may be reviewed only by the FCC.
- E. The city shall be authorized, at any time, to gather information as necessary to exercise its jurisdiction as authorized by the laws of the state, the cable act, and the FCC rules and regulations. Any information submitted to the city shall be verified by an appropriate official of the cable television system supervising the preparation of the response on behalf of the entity, and submitted by way of affidavit or under penalty of perjury, stating that the response is true and accurate to the best of that person's knowledge, information and belief formed after reasonable inquiry. (Ord. 05-4169, 7-5-2005)

12-4-40: CERTIFICATION:

The city shall file with the FCC the required certification as necessary. (Ord. 05-4169, 7-5-2005)

12-4-41: NOTIFICATION OF CHANGES:

With regard to the cable programming service tier, as defined by the cable act and the FCC rules and regulations, and over which the city is not empowered to exercise rate regulation, the cable operator shall give notice to the city of any change in rates for the cable programming service tier or tiers, any change in the charge for equipment required to receive the tier or tiers, and any changes in the nature of the services provided, including the program services included in the tier or tiers. Said notice shall be provided to the city at least thirty (30) business days prior to any change becoming effective. (Ord. 05-4169, 7-5-2005)

12-4-42: CABLE OFFICIAL:

The city may delegate its power to enforce this division to the Iowa City telecommunications commission or to employees or officers of the city, to be known as the cable official. The cable official shall have authority to:

- A. Administer oaths and affirmations;
- B. Issue subpoenas;
- C. Examine witnesses;
- D. Rule upon questions of evidence;
- E. Take or cause depositions to be taken;
- F. Conduct proceedings in accordance with this division;

- G. Hold conferences for the settlement or simplification of the issues by consent of the parties; and
- H. Take actions and make decisions or recommend decisions in conformity with this division. (Ord. 05-4169, 7-5-2005)



August 15, 2019

Letter from Climate Action Advisory Board: Recommendation for Climate Action Commission [Previously distributed in 8/1 Information Packet]

ATTACHMENTS:

Description

Letter from Climate Action Advisory Board: Recommendation for Climate Action Commission

Iowa City Climate Action Advisory Board

August 1, 2019

RE: Recommendation for a Climate Action Commission

Iowa City City Council Members,

In September 2018, the Iowa City City Council adopted the Iowa City Climate Action and Adaptation Plan, and at the same time dissolved the climate action steering committee of community stakeholders that assisted in development of the plan with Iowa City staff and a third-party consultant. This action was taken in accordance with the resolution that formed the committee and its purpose. At the time, the members of the steering committee recommended the formation of a community-based, self-governed, self-sustaining board, the Iowa City Climate Action Advisory Board, for a trial period of one-year to assist Iowa City staff with the arduous process of starting implementation of the plan.

We are now approaching the one-year mark for the trial period, and have observed the following successes and challenges:

- Formed four working groups to give focus to the issues of Buildings, Transportation, Communications, and Equity. The working groups have had partial successes but have also been slow to produce results as they rely on volunteer time.
- Established a Communications Strategic Plan, which has just begun to be activated.
- Started community outreach and awareness, but not at the frequency or visibility needed for the broader public to see and understand the impact.
- Inspired new partnerships and programs such as the Johnson Clean Energy District.
- Assisted city staff in review and development of a number of key programs including an Equity Fellow, mapping tools, a regional electric vehicle network, and a Climate Festival.
- Recommended Iowa City engagement in the University of Iowa's public-private partnership for the university's utilities.
- The board is not currently an official entity, can't raise funds, doesn't employ staff, and has no specific governing authority. To provide for these items and create a self-sustaining organization would require much greater involvement of time, finances, and influence.

It has become apparent now to the board members at the end of the one-year trial period that with limited volunteer time and resources, the focus of the effort of the board and its members should be on the implementation work of the climate action plan, and the focus should not be on sustaining an independent non-profit organization. **It is the board's recommendation the Iowa City City Council appoint a new Climate Action Commission to align with the declaration of a climate crisis in our community.** *Further details of the make-up of the commission and their role is attached to this letter.*

A Climate Action Commission would garner the credibility, influence, and greater capacity of a city council appointed organization with the support of city staff, budgets, and public

transparency. It would allow commission appointees to provide focus on developing key community partnerships, formal review and recommendation of proposed policy and programs, and advising on the best course of future actions. Understanding the limitations of a volunteer-based commission and capitalizing on their strengths is critical to the success of the overall plan.

Implementation of the climate action plan is a full-time job and more than any one person can undertake. **It is the board's recommendation the required financial and personnel resources be allocated for this effort.** That includes staffing a full-time coordinator(s), a champion of champions, that can do the day-to-day work such as meeting with key community stakeholders and partners, researching and writing policy and program proposals, coordinating with local and regional entities on behalf of the City of Iowa City, and tracking and measuring performance of the actions implemented. The climate action steering committee made a similar recommendation in September 2018 during the adoption of the plan and it has become even more apparent now, approximately one-year later. Current staff efforts have been successful in focusing on municipal efforts – the actions the City itself can take on its own, as well as managing the greenhouse gas inventory data and reporting; however, that has not allowed capacity for facilitating expanded outreach into the community. More can and should be done to influence action in the community. The members of the Climate Action Commission play an important part of that effort, but it needs an individual(s) championing activities on a daily basis. *Further details on proposed actions by different stakeholders in the implementation effort are attached to this letter.*

The members of the Climate Action Advisory Board support the decision of the Iowa City City Council to declare a climate crisis and are prepared to continue the challenging work ahead.

Signed,

Iowa City Climate Action Advisory Board Members:

Chair - Matt Krieger, Architect, Neumann Monson Architects

Secretary - Katie Sarsfield, Site Engineering Leader, Procter & Gamble Oral Care

Grace Holbrook, Student, University of Iowa

John Fraser, Management Consultant

GT Karr, Greater Iowa City Homebuilders Association

Liz Maas, Assistant Professor, Kirkwood Community College

Martha Norbeck, Owner and Architect, C-Wise Design and Consulting

Eric Tate, Assistant Professor, University of Iowa

Recommendations for the Climate Action Commission

A Climate Action Commission should consist of community members and stakeholders with the backgrounds and expertise needed to advise on the issues outlined in the climate action plan and to represent the populations impacted, similar to the original steering committee. The Iowa City Climate Action Advisory Board recommends the commission consist of at least nine members with preference given to the following types of representation:

- Local businesses (small and large)
- Design and construction industry
- Utility provider
- Institutions including public schools, colleges, and universities
- Students in higher education
- Community non-profits
- Bankers/economists
- Lawyers
- At-large neighborhood representative

It is recommended the commission members serve three-year terms with a limit of two consecutive terms to balance the need for institutional knowledge and expertise on the issues with the desire for new perspectives and defined community service periods.

Working groups or sub-committees focused on specific topics and issues are critically important to maintain progress on the key action areas of the plan and they facilitate engagement of community stakeholders not represented or with more specific expertise than those appointed to the commission. The board recommends the groups be established at the start of the commission's work to build upon current efforts.

Recommendations for Stakeholder Roles

The following are recommended roles and actions each type of stakeholder might take as part of the implementation of the Iowa City Climate Action and Adaptation Plan (*referred to as "the plan" below*) going forward.

Iowa City City Council and Iowa City Staff combined roles

- Review and decide on recommended modifications to the plan.
- Set policy.
- Develop, operate, and maintain programs, policies, and other actions at the recommendation of and review by the Climate Action Commission.
- Assign resources – personnel, material, and financial – to the recommended actions.
 - At this time, that should include a climate action coordinator, additional building inspectors, and possibly a sustainability communications assistant to provide greater public awareness of climate action activities.
- Establish a means for review through the 'lens' of climate action the actions by other Iowa City boards and commissions. This could be an evaluation tool like a checklist or some other method.

- Develop and report annual greenhouse gas inventory.
- Coordinate with other communities on combined efforts – legislative, programmatic, etc.
- Coordinate and collaborate with and provide support where needed to community partners and stakeholders.

Climate Action Commission roles

- Review, prioritize, advise, and make recommendations to the Iowa City City Council on any modifications required to the plan. The plan should be updated every five years with annual reporting on progress.
- Review, prioritize, advise, and make recommendations to the Iowa City City Council and Iowa City staff on actions to meet the reduction targets outlined in the plan.
- Participate in working groups/sub-committees focused on the plan's action areas.
- Coordinate with Iowa City staff on the development of community partners related to the plan. Develop awareness and support of partners. Where applicable, develop new programs with partners in alignment with the plan's actions.
- Participate in community engagement and outreach activities.
- Advocate as needed on policy at the municipal, state, and federal levels of government.
- Assist Iowa City staff in review of evaluation and tracking tools.
- Review annual reports on progress of the plan developed by Iowa City staff.
- Assist in recruiting new applicants for the commission and its working groups/sub-committees.
- Assist Iowa City staff in review of applications and development of programs related to climate action, including but not limited to: climate action ambassador program, climate action grants, etc.

Community partners roles

- Engage Iowa City staff, the Climate Action Commission and its working groups in actions related to the plan.
- Assist in building public awareness of the plan and the actions that relate to their own work/mission.
- Request support where and when applicable to advance progress on their own actions in support of the plan.
- Participate, get involved, influence others to do the same.



August 15, 2019

Planning and Zoning Commission: July 18

ATTACHMENTS:

Description

Planning and Zoning Commission: July 18

**MINUTES
PLANNING AND ZONING COMMISSION
JULY 18, 2019 – 7:00 PM – FORMAL MEETING
EMMA J. HARVAT HALL, CITY HALL**

PRELIMINARY

MEMBERS PRESENT: Larry Baker, Carolyn Dyer, Mike Hensch, Max Parsons, Billie Townsend

MEMBERS ABSENT: Phoebe Martin, Mark Signs

STAFF PRESENT: Sara Hektoen, Anne Russett

OTHERS PRESENT: Mike Welch, Joe Clark, Terry Protextor, Steven Polyak, Mary Ann Berg, Knute Carter, Michelle Edwards, Claude Laroche, Debra Brandt, Jan Kardos, Stephen Locher, Ruth Bradley (2669 Hickory Trail)

RECOMMENDATIONS TO CITY COUNCIL:

By a vote of 5-0 the Commission recommends approval of REZ19-08, a proposal to rezone approximately 36.81 acres of property located south of Scott Boulevard and north of Tamarack Trail from Interim Development Single-Family Residential (ID-RS) to Low Density Single-Family Residential (RS-5), subject to the following conditions:

1. 90 street trees will be installed, either by payment of a tree planting fee at a cost of \$500 per tree for the plantings of street trees within the public right-of-way or through installation prior to certificate of occupancy as determined through staff and developer negotiation. Trees will generally be located every 30' with modifications allowed due to drive-way distances. The Parks and Recreation Department will be responsible for identifying the appropriate locations for the trees.
2. Compliance with the preliminary plat in that traffic calming measures, like the traffic circles, are required and incorporated into the final design of the extension of Tamarack Trail.

CALL TO ORDER:

Hensch called the meeting to order at 7:00 PM.

ELECTION OF OFFICERS:

Dyer moved to elect Hensch as Chair. Parsons seconded the motion and the vote passed 5-0.

Hensch moved to elect Parsons as Vice Chair. Townsend seconded the motion and the vote passed 5-0.

Parsons moved to elect Signs as Secretary. Townsend seconded the motion and the vote passed 5-0.

PUBLIC DISCUSSION OF ANY ITEM NOT ON THE AGENDA:

None.

CASE NO. REZ19-08:

Applicant: TRD, LLC

Location: South of Scott Boulevard and north of Tamarack Trail

An application submitted by TRD, LLC for a rezoning of approximately 36.81 acres of property located south of Scott Boulevard and north of Tamarack Trail from Interim Development Single-Family Residential (ID-RS) to Low Density Single-Family Residential (RS-5).

Russett began the staff report with a map of the proposed rezoning area. The property is currently zoned Interim Development Single-Family Residential (ID-RS) and most of the area around the proposed rezoning is also zoned ID-RS except the area to the south and southwest where there is an existing single-family neighborhood that is zoned RS-5. In addition to the proposed rezoning, the applicant has also submitted an application for a preliminary plat for this area which will be discussed at a future Planning & Zoning meeting. The applicant also held a good neighbor meeting in June, the meeting was well attended as the applicant sent out invitations beyond the required distance in the good neighbor policy. All the neighbors along Hickory Trail and Tamarack Trail were invited.

Russett next showed the preliminary plat and sensitive area map to show the general layout of the proposed lots as well as the sensitive areas. She noted there are two areas staff analyzes for rezonings, the first is compliance with the Comprehensive Plan. The Comprehensive Plan has designated this area for Conservation Design due to the areas containing steep slopes, woodlands, or other sensitive features. The Northeast District Plan identifies this area for single-family residential development. The RS-5 zone is consistent with the general intended land uses and vision identified in the comprehensive plan and the Northeast District Plan. The second criteria staff looks at is compatibility with the existing neighborhood. Most of the area around the proposed rezoning is undeveloped, however to the south is an existing single-family residential neighborhood so this project would extend that single-family residential neighborhood further north to Scott Boulevard.

Russett noted there are some environmentally sensitive features on the site which include critical and protected slopes. Based on the preliminary sensitive area plan the proposed development would disturb around 12% of the critical slopes and the Code allows for disturbance of critical slopes up to 35%. The project is also showing no protective slopes being impacted. With regards to the woodlands on the site, 18.5 acres, and the Code has a retention requirement of 50% of woodlands to be preserved and remained. The proposed preliminary plat shows that 52% of the woodlands would be preserved with the development. Russett added there is also the potential for archaeological resources and the applicant is working with a consultant on an archaeological study.

In terms of traffic implications and access Russett stated the preliminary plat identifies 60 single-family lots as well as the extension of Tamarack Trail to Scott Boulevard. Staff estimates the extension of Tamarack Trail and the additional access point to Scott Boulevard could reduce total trips accessing North 1st Avenue to the west. Scott Boulevard and North 1st Avenue are both arterials and have the capacity to accommodate the additional traffic generated by the

proposed development. During peak hours there is congestion at North 1st Avenue and Scott Boulevard and the City is proposing improvements at that intersection, which is budgeted in the 2020 Capital Improvements Program to address the congestion issues. The preliminary plat does show Tamarack Trail extending to Scott Boulevard, due to the topography and heavy terrains street extensions to the west and east of this development are not feasible which will result in a longer block length. With those longer block lengths staff has concerns with traffic travel speed and therefore the preliminary plat does incorporate components to help reduce those speeds. One is reduced curb to curb paving of the roadway to 26 feet which is the minimum allowed by the Code and the other is the incorporation of traffic circles to reduce speed. To further address concerns to speeding staff proposes two conditions:

1. At the time of final platting, payment of a tree planting fee at a cost of \$500 per tree for the plantings of street trees within the public right-of-way. The Parks and Recreation Department will be responsible for identifying the appropriate locations for the trees and planting of the trees. Parks and Recreation Department will not be responsible for watering or upkeep on the trees. Staff is proposing 90 trees along the public right-of-way.
2. General compliance with the preliminary plat in that traffic calming measures, like the traffic circles, are incorporated into the final design of the extension of Tamarack Trail.

Russett noted the benefits of street trees as it relates to traffic calming, the National Association of City Transportation Officials (NACTO) identify street trees as a speed reduction mechanism. Street trees can create vertical walls within a roadway creating a physical and psychological barrier for drivers that result in lower speeds compared to non-treed streets. Adding these street trees will also help achieve the vision in the North District Plan to create a pleasant streetscape to slow down traffic and encourage bicycle and pedestrian traffic.

Russett acknowledged staff has received several calls and correspondence related to this proposed rezoning, she handed out three emails to the Commission that she received after the publication of the agenda packet. The concerns in the emails are primarily related to the preliminary plat and the extension of Tamarack Trail as well as width of the proposed lots.

In terms of next steps, upon recommendation of approval from the Planning and Zoning Commission, a public hearing will be scheduled for consideration of the application by the City Council. The Planning and Zoning Commission will also review the preliminary plat at an upcoming meeting.

Staff recommends approval of REZ19-08, a proposal to rezone approximately 36.81 acres of property located south of Scott Boulevard and north of Tamarack Trail from Interim Development Single-Family Residential (ID-RS) to Low Density Single-Family Residential (RS-5), subject to the following conditions:

1. At the time of final platting, payment of a tree planting fee at a cost of \$500 per tree for the plantings of street trees within the public right-of-way. Trees will generally be located every 30' with modifications allowed due to drive-way distances. The Parks and Recreation Department will be responsible for identifying the appropriate locations for the trees and planting of the trees.
2. General compliance with the preliminary plat in that traffic calming measures, like the traffic circles, are incorporated into the final design of the extension of Tamarack Trail.

Hensch asked if something is found on the archeological survey what happens to the project.

Russett said it depends on the result, it is possible to require a planned development overlay rezoning and need to come back for a new approval.

Hensch is concerned about the traffic calming condition and feels it is very vague and wondered if there was a way to make sure whatever recommendation the City has about traffic calming must be adopted. Hektoen stated staff has reviewed the preliminary plat and it reflects the recommendation regarding traffic calming, but they could change the language to drop general compliance and specifically state inclusion of traffic circles.

Baker asked about road width on Tamarack Trail, if the proposed curb to curb distance is 26 feet for the new road. Russett said it is 28 feet, so it will narrow just a bit. Baker also commented on the estimated number of trips per day and asked if there were any traffic studies that could anticipate north/south traffic. Russett said that is usually done through an estimate traffic engineers and transportation planners would come up with, it may be 50/50 but would be an estimate. Finally Baker asked about the trees as a traffic slowing device and how trees would slow down traffic. Russett stated if trees are planted in the right-of-way and closer to the roadway they can create a canopy and a visual wall for the driver. There are studies that demonstrate drivers do slow down and drive slower on tree-lined streets as it creates a sense of the driver being enclosed and not so open. Baker asked if there would be on street parking allowed. Russett said parking would be allowed on one side of the street.

Dyer questioned whether the outlots are suitable to have trails in them and access from the road. Russett stated that Outlot A shown on the preliminary plat is very steep but she can't answer for certain if it would be appropriate. Dyer noted some developments the Commission has approved has had a walkway between the houses so people could get to the wild areas and wondered if that was possible in this development.

Hensch asked what the percent of grade was on the protected slopes. Russett replied 40% or greater.

Parsons asked when Tamarack Trail was constructed. Russett is unsure, Dyer believes maybe five years ago.

Hensch opened the public hearing.

Mike Welch (Axiom Consultants) is representing the applicant. Generally speaking they agree with staff's findings, and when they look at what was available from a practicality standpoint for the preliminary plat compared to the North District Plan they feel they are putting a lot less density in the development than what was shown in the North District Plan. He noted that Tamarack Trail is stubbed to the north, the water main and sanitary sewer are all set to extend so it seems as this development is consistent with the intentions of the previous development and the overall North District Plan.

Hensch thanked the applicant for inviting neighbors from the surrounding area, more than just the 300 feet, to the good neighbor meeting. He added the report of the meeting was also very

well written and appreciated by the Commission. Hensch noted on the Comprehensive Plan it notes multifamily on the north side but this proposal is only single-family. Welch confirmed that is correct. Welch also noted the concept plan they presented at the good neighbor meeting did show 61 lots but after the feedback from neighbors on lot widths they did reevaluate and changed it to 60 lots.

Dyer asked about the access to the undeveloped land and if any of it was suitable for trails. Welch replied that most of the area is very steep but on the east side, there are some woods in the southeast corner in a conservation easement and the lots extend back into that easement. On the west side the lots all back up to Outlot A which will be owned by the subdivision so depending on how the covenants is written there could be access granted to that area. Dyer reiterated that in some developments there is access between a couple lots to get back to the undeveloped area.

Hensch asked if the stormwater management basins will be dry most of the time. Welch confirmed those are designed as dry bottom basins. Hensch asked if they do fill will they have controlled drainage off or just stay full and evaporate out. Welch said it is restricted drainage out, they will meet City Code on the release. Welch acknowledged there was concerns it would drain out to the backyards on Tamarack Trail but the way the grades are it will go further west into the ravines and cross Hickory Trail by 1st Avenue. Hensch asked if the City Engineer has signed off on all the stormwater plans. Welch said they have submitted preliminary plans and tomorrow they will submit a response to the preliminary plat and will include responses to the stormwater plans.

Parsons asked since Scott Boulevard is an arterial street had they considered a variety of housing, especially close to Scott Boulevard, such as townhouses or duplexes or any of that mixture. Welch said it was considered briefly, but right now there is a demand for single family lots, especially in this part of town, so the developer chose to go that direction.

Joe Clark (359 Green Mountain Drive) is one of the developers of this land, he wanted to talk about the condition regarding the trees. It is a new concept for everyone, but he has no problem with the condition, neither of the conditions, he wants it to be safe and for traffic to go slow. He would like to set it up the trees in the covenants rather than paying a fee upfront, so he wondering if they could work through that. If not, then he understands but was just alerted today they would have to put in 90 trees at \$500 apiece and it was unexpected. He isn't sure it will calm people, the trees will take years to grow up to a point where they will actually calm. He is asking today for an opportunity to put it into a covenant and have the homeowners association pay for them at the end of the 10 year period it takes to build out this subdivision or to have each lot owner responsible for putting two trees on each lot as they finish their homes.

Hensch said he has seen data on trees as traffic calmers and is a believer, how to go about this is likely a legal question. Parsons asked if \$500 is what each tree is anticipated to cost. Russett said the \$500 amount was given by the Parks and Recreation Department, based on what they are generally charged for trees from other contractors, but it does not include maintenance and watering of the trees. Hensch stated it is best to put in a variety of good trees and not scrub

trees to enhance the neighborhood. He also is an advocate of getting those trees in as soon as they can so they can start growing, and not happen over a 10 year period.

Clark said the trees will not be able to be put in early because there will be construction going on. The quickest way to do it would be to put it onto the lot owner, the trees would be put in at different times and the size of the trees may grow differently. As a lot gets a certificate of occupancy it should be the owner's responsibility to put in the trees within six months or a year. It would be a requirement and enforced by the HOA. Clark said he is willing to put down some earnest money to make sure this happens.

Dyer asked if the developer could just put the trees in as the houses are finished so there would be some control over what the trees would be. Clark said they can control all that through the covenants, what types of trees, how many, where they are placed, etc. Dyer responded they don't have good experience with developers putting in the trees that were required to be put in. Clark is willing to take the guidance of the Commission on what types of trees they want to see on the sites. Hensch said they usually defer to whatever the City Forester recommends.

Baker asked if this particular issue had to be settled tonight or can it be resolved at the platting process. Russett said staff is proposing this as a condition of the rezoning.

Townsend asked if this had to be a through street and can't just have a hub at the end. Russett said it wouldn't meet the City's Subdivision Code regulations if it were a cul-de-sac. There are restrictions on the locations of cul-de-sacs, the applicant would need to demonstrate it is impossible to put the street through, there is clearly a stub there so we know it can go through, there is also a maximum length on cul-de-sacs which this would exceed and finally from a planning perspective the City wants interconnected neighborhoods to allow emergency access and also give people the options to access to places from different ways.

Hektoen noted as far as the administration of the trees and fees they could craft something, it doesn't have to be decided tonight, it would have to be decided before the rezoning is approved but if that is something the Commission wants to give staff and the applicant discretion to continue discussing further they can craft the recommendation that way.

Baker noted the goal is to get the trees in within a timely manner, the applicant is suggesting the owner be responsible within six months or a year and Baker feels that is too late and the occupancy certificate should be contingent on the trees immediately being planted. He states that is just one way to approach it but doesn't feel it has to be resolved tonight.

Clark noted he would be totally fine with the trees having to be planted at the time of occupancy. There will be times in the year when it may not be possible which is why he suggested six months or so.

Townsend asked if the same result could be accomplished with speed bumps instead of trees. Russett acknowledged speed bumps are a traffic calming measure but they also create issues for snow plows, when staff reviewed this area they felt the best options were the traffic circles

and the trees.

Terry Protector (1007 Tamarack Trail) came forward to speak against the proposed application if the new subdivision connects to Tamarack Trail. They are against Tamarack Trail being extended north into a new subdivision. Protector stated he has lived in the Bluffwood Addition for over 23 years, they lived on Bluffwood Drive for 10 and then built their home on Tamarack Trail 13 years ago. When Tamarack was developed, around 2004, they were told it would not be extended, the harvest preserve was to the east and ACT owned to the north and it was their decision to build their home on Tamarack because it was not a through street, it was a quiet neighborhood. Protector said he has spoken to a number of the neighbors and everyone is concerned about the traffic issue going through. The proposed development does create problems. They have a petition signed by 74 people (that were actually available for signature in the last two days) out of the 120 homes to show the message that they are concerned. The new development has proposed 60 homes which will result in approximately 120 cars transporting that street on any given date, to the south, maybe to the north. Protector noted there has been no true traffic study of the Hickory Trail connection to 1st Avenue, nor has there been a traffic study to connect Tamarack Trail north to Scott Boulevard. Therefore we are dealing with algorithms or formulas to determine traffic flow where they really need to do a traffic study or live in the community for which this is happening to. Protector stated there will be bottlenecks, as stated he has lived there for 23 years and there has always been traffic issues on 1st Avenue, particular to get off Hickory Trail to go south on 1st Avenue. Protector stated if the development goes through it has been suggested in the report earlier that traffic may choose to go north and dilute out the traffic coming south through Tamarack Trail, but that is not logical because it is anywhere from a half mile to a mile and a quarter longer to go up Scott Boulevard and around to 1st Avenue or to the east. People will travel the shortest distance to get from point A to point B. This is a common sense issue, not even a traffic study issue, the new subdivision will travel down Tamarack Trail to Hickory Trail out to 1st Avenue. The only ones that will go north to Scott Boulevard will be the ones going out for supper or to go to a few businesses that are that way or east onto Dodge Street to get to the interstate. Protector stated this additional access, which will be at least 60-80 cars per day going through a quiet neighborhood with a lot of children (kids on bicycles all the time) is seen as a major safety issue. The distance from the fire station on Dodge Street and Scott Boulevard to the last house on Tamarack Trail is 1.5 miles. If you go north on the new street it will be 1.3 miles, 783 feet difference, a five second difference. To say they need additional access doesn't make any sense, that subdivision has been around for over 40 years and no one seemed to be interested until now. Protector stated their recommendation is basically to keep the existing cul-de-sac at the north end of Tamarack Trail and put a cul-de-sac at the south end of this new street and not cutting it through. They can put sidewalks through for pedestrians and bicycles. He also wanted to note there is concern about the stormwater basins, there are developers in this community and city engineers who have made major mistakes in some of their development of drainage systems. Churchill Meadows has a major issues that is affecting a home to the south of that development. In closing Protector stated this should be a citizen friendly community, or neighborhood friendly community, not a development only friendly community.

Baker asked who told them at the time they built their house that Tamarack would never be

extended. Protector believes it was their builder and other people in the neighborhood. Baker asked if anyone from the City told them that and Protector said no.

Steven Polyak (950 Evergreen Court) said on the west side of the proposed development there is a dense wooded area with a significant slope that goes down into an environmentally sensitive area. The area from Scott Boulevard north all the way down to the creek below Hickory Trail is a significant elevation difference. All the water goes from the high elevation to the creek through the sensitive areas and he is concerned as an Evergreen Court resident that water drainage will increase into his property. He feels there is no way the water flow will be unchanged, it may be handled in a different way through the development but doesn't feel enough study has been done to see how it will affect the Evergreen Court neighborhood. Polyak said having all that water flow into their area would affect their property values, affect mosquitoes, wildlife, it could significantly affect the natural areas there not built upon. His biggest concern is when all those lots get built the water has to flow somewhere, and it will flow down, and the first house to be affected will be his. He is in the northwest corner and the lowest lot in the area. Polyak plans to hire a civil engineering firm to come out and do a study to see how the area could be affected by the water flow. And then he may hire counsel to advise him on what to do about it because if something does happen in the future, he wants to have addressed it in advance. He wants to make sure his property is protected, but also wants to note the possible significant environmental impact as the water flows down on the east side between Evergreen Court and Tamarack Trail. He has already seen a bit of change in that area due to all the rains, so as the environment continues to change it may be affected more. Polyak reiterates to make sure the water drainage issues are addressed before moving forward with this proposal.

Baker asked if Polyak has spoken with the City Engineer who studied this issue for the staff report. Polyak said he got a letter in the mail about this meeting and that is the only way he knew about the proposed development so he hasn't had a chance to evaluate the situation, he just knows how the water flows and wanted to address the issue at this meeting but why he will be hiring a civil engineer to address any possible issues.

Russett stated the stormwater management will be reviewed at the platting stage, when staff reviews the preliminary plat the Public Works department will be looking at the stormwater management basins shown on the plat.

Mary Ann Berg (2775 Hickory Trail) stated she has lived in the neighborhood for 24 years and saw a large increase in traffic when Tamarack Trail was built and her experience in the neighborhood when she goes somewhere it is usually south and east so her feeling is many people from the new neighborhood would be going on her street. Hickory Trail is a straight street and speeds get pretty fast in front of her house. She is concerned about the increase of traffic. She said in the report staff states they think traffic on Hickory Trail will be reduced and she doesn't agree with that with most houses being built and most people going in the direction of south and east. Berg added she also lives on a creek which is at the bottom of the area Polyak was just speaking about and she wanted to clarify that Axiom Consultants said these basins would be draining into the ravines that go into further west and ends behind Cyprus Court. Where will the three basins empty. Additionally, can the outlots that will be behind these lots

only be used by people in that neighborhood, or can people in the area go in there. She also wanted to know how wide the street wide easements would be where the trees will be, because she has had people plant crabapple trees in their easements and then one cannot walk on the sidewalks and the cars hit them on the streets. She is also curious about a home owners association, she doesn't believe she has one in her neighborhood and wonders if that would just be a private club up in that area.

Knute Carter (922 Tamarack Trail) has a process question regarding the recommendations, Hensch asked about the language on the second point and when reading it just says these things need to be incorporated into the final design. So Carter asks what the lengths are between the final design and final product. What are the ramifications for if the final product is not done.

Hensch stated tonight the Commission may or may not vote on the rezoning and these are conditions of the rezoning and the details will be worked out in the plat. Parsons added this will not be the last time this application will be before the Commission.

Carter asked when does what is on the plat have to be realized. Russett said the condition is recommending the traffic circles that are shown on the preliminary are then shown on the final plat and then on the construction drawings of that roadway that are approved by Public Works and then that is what is required to be built.

Michelle Edwards (2745 Hickory Trail) lives on the same side of the street on Hickory Trail as Mary Ann Berg, her house is also by the creek. She wants to speak to the traffic problem she is sure will happen with this development. She stated they already have a problem with speeding on their street, which by the way is tree lined, so she doesn't have much confidence trees are a preventative measure. In addition, these are family housing, most of the people will be going to Regina, Hoover, City High, HyVee places that will be the shortest way via Tamarack Trail and Hickory Trail so she does not believe it will be less traffic. Also the kind of traffic developing on Scott Boulevard is already quite a bit with the new addition by Blackstone and the new Oaknoll development.

Claude Laroche (931 Tamarack Trail) and wanted to bring up the topic of speed bumps or humps on Tamarack Trail and possibility Hickory Trail. Russett brought up a point he hadn't considered about the interference with snow plows which is a good point. He has however seen a number of streets in Iowa City that have speed humps already. Laroche stated their neighborhood has a number of small children, he counted 24 in just his little area on Tamarack Trail, and so there is a concern about the safety with the increased number of traffic. He agrees with the other commenters regarding the increase in traffic and people taking the shortest route. Laroche questions what is the threshold for putting in a speed bump since there are some in Iowa City, is it a population density issues or subjective up to the discretion of the staff.

Hensch replied he is unsure the process but assumes it is based on demonstrated problems and could be discussed with City staff. Laroche asked then at the present time there are no plans to put in any type of speed bumps or humps. Hensch replied not in this particular condition, the

Commission usually follows what the City staff recommends. Laroche feels speed humps or bumps would be far more effective than planting trees. He had read up on traffic calming methods, a lot of them started over in Europe and are being adopted in cities around here now and it may possibly make sense but he is still in favor of speed bumps. Russett acknowledged she can talk with Laroche after the meeting about the speed hump process for their street.

Mike Welch (Axiom Consultants) wanted to comment on the wooded area and where the drainage will go. The three basins will discharge into the ravine that starts near Cyprus Court and go towards Tamarack Trail. Even the south basin will discharge out of the north side of the basin. The discharge will avoid completely the people on Evergreen Court. Welch noted as part of their stormwater plans they do look beyond their property and see where the stormwater will go and the downstream area. Another comment about stormwater basins is they do reduce that stormwater flow that is seen, it will hold the water back. He does acknowledge with development there is more runoff but the purpose of the basins is to control the runoff.

Baker asked about Outlot A and how will have access. Welch said that is up to the developer, typically they see it as private, if it were to be public access then it would be a park and the City is not interested in taking this on as a park. Since it will be private property owned by the association access would be limited to association members. Russett added it would be owned and maintained by the homeowner's association.

Debra Brandt (973 Tamarack Trail) stated she is a researcher by training and when she hears someone has a study the first thing she does is pull out Google Scholar and look. In reference to the tree lining she looked at a literature review from a transportation company and tree lined streets had little effect on speed limits, leading at less than a one mile per hour reduction of speed. Therefore Brandt would like to read the study the City has that states it will benefit. Secondly, she lives on Tamarack Trail and if anyone has been at the corner by ACT at 5pm, when you say streets can handle traffic, what does that mean, does it mean they are deep enough to handle the wait of traffic, or that there some formula they use to measure the amount of time to get through an intersection.

Russett stated that both Scott Boulevard and 1st Avenue are arterial streets and based on them being arterials, and the widths and the lanes, there is an average capacity of average vehicle trips per day. Not wait times, number of vehicles. Brandt asked then when there is traffic backed up from the corner of ACT backed up to almost the intersection of Hickory Heights that is permissible. Russett acknowledged there are peak periods where there is congestion but the number of vehicles on those streets is not greater than the number of vehicles the arterial streets can accommodate. Brandt stated then getting through intersections or time waiting is not a factor. She added Rochester and 1st Avenues have the same issue at peak times. Hensch noted that intersection at 1st Avenue and Scott Boulevard is on the 2020 Capital Improvements Projects to mitigate the congestion issues. Brandt feels more thought needs to be given and challenges the traffic planners to think about those intersections and how an additional 60 houses averaging 2.5 cars per house will dump 120 more cars into these intersections and forecast what that will do to these traffic patterns.

Brandt added that when planting trees on the side of the roads is not only trees that provide the canopy and psychological barrier to driving fast, the thought is if you can't see very well you will slow down but as it has been pointed out if there are children in the neighborhood, those trees can also hide children and going one mile per hour slower down the street, as the article indicates, that is a bad combination. Brandt is not opposed to progress, she loves this City and knows this area is going to be developed, but she feels they need to think about how to make it neighborhood friendly, builder friendly and combining those.

Jan Kardos (956 Tamarack Trail) and wanted to pursue why does the road have to be connected. She also would like to add what others have said, all this traffic is going toward Regina and toward downtown Iowa City, and it will also come back and it definitely is the shortest way for that subdivision to cut through. She is very concerned about traffic. She also questions where the construction equipment will go, will it come down Tamarack Trail as well, and will they have to suffer all that. It seems like it is possible to make a restriction that all construction equipment come from Scott Boulevard. Finally the intersection of 1st Avenue and Scott Boulevard is problematic and people do try to avoid it. She feels this development could go on without the connection to Tamarack Trail.

Stephen Locher (839 Bluffwood Drive) has lived in this neighborhood since 1994 and stated the 1st Avenue and Hickory Trail intersection is a tricky intersection to get through, traffic is coming downhill on both sides, Hickory Trail has a stop sign and people on that 25 mph street are going 35 and 40 mph. The problem of speeding on Hickory Trail has been a conversation point for years, there are many children, and there will be even more bottleneck at that intersection if people will be using Tamarack Trail from this new development. He asks for the Commission and staff to think about any way to make that a safer intersection.

Ruth Bradley (2669 Hickory Trail) came tonight because of the concerns about traffic but as she has been sitting and listening to the discussion about the water drainage issues. Her house is on the south side of Hickory Trail and back up to the creek. The creek curves toward their house and then away but often as the creek drains it does not make those curves very well and in the five years they have lived in this house this spring has been the worse and the water had come up four feet into their yard at least four times. She is concerned about the added water to that creek and coming back into their backyard. Fortunately their house is up high enough they don't have flood issues but they spent \$500 on plants and a consultant to fix the bank of the creek from eroding into their yard. She would like the City Engineers to be aware of this potential problem.

Hensch stated that is the advantage of the basins, it will allow all that extra water to stay in the basin and wait for the large volume of water to pass through and a restrictive release will slowing let the water out.

Terry Protector (1007 Tamarack Trail) wanted to follow up on a couple things, first he shared with the Commission the traffic flow options with the distances he was trying to express earlier and reiterated no one is going to go north on Tamarack Trail to Scott Boulevard to get out of this subdivision, they will come through Tamarack Trail. He also wanted to touch on the issues with

water runoff, not through the basins and not through the storm drains, but basically because the houses will be placed so close together in this development water will run down the front yards and there is a slope between the top of Scott Boulevard at the first site to the entrance to Tamarack Trail, it is about 1800 feet, there is a 20 foot drop in that elevation and obviously that is a slope and water doesn't care if it is a slow slope. So now he is concerned there will be water going down everyone's front yards. Additionally with regards to basins draining properly, if one looks at the new development Churchill Downs on Rochester, that basin was constructed incorrectly, the City is aware now, the City Engineers that did the work didn't catch it, the developers engineers didn't catch it and the property to the south has already experienced over \$30,000 worth of runoff damage so he wants everyone to be cautious when they say the three storm basins will take care of it. Hensch noted that is why professional engineers carry professional liability insurance. Protector said so did he when he was in health care but he also didn't try to harm any patients in the process, so please don't harm their property in the process. As far as cul-de-sacs he looked at all the rules and guidelines Russett alluded to and the key word is "guidelines". They are only guidelines and the City staff can interpret those as rules but guidelines is a flexible term and as he looked at the reason for creating additional access points there are five different items and if you look at them carefully none of them apply to the houses on Tamarack Trail. Someone needs to review that, he will go back and look at it from a legal standpoint. Also there is precedent for cul-de-sacs, the Peninsula has one access point, and he could start circling in the city map all the different cul-de-sacs around Iowa City that have only one egress point. So if the citizens of this community, development, say they don't want that access to come through and they want cul-de-sacs then someone needs to listen.

Hensch closed the public hearing.

Parsons moved to recommend approval of REZ19-08, a proposal to rezone approximately 36.81 acres of property located south of Scott Boulevard and north of Tamarack Trail from Interim Development Single-Family Residential (ID-RS) to Low Density Single-Family Residential (RS-5), subject to the following conditions:

- 3. 90 street trees will be installed, either by payment of a tree planting fee at a cost of \$500 per tree for the plantings of street trees within the public right-of-way or through installation prior to certificate of occupancy as determined through staff and developer negotiation. Trees will generally be located every 30' with modifications allowed due to drive-way distances. The Parks and Recreation Department will be responsible for identifying the appropriate locations for the trees and planting of the trees.**
- 4. Compliance with the preliminary plat in that traffic calming measures, like the traffic circles, are required and incorporated into the final design of the extension of Tamarack Trail.**

Dyer seconded the motion.

Baker asked if approving this motion is also approving the extension of Tamarack Trail. Hensch replied no, the preliminary plat will come back before the Commission.

Baker asked if the property to the west and east could be potentially developed. Hensch said the property to the west is protected slopes. Baker asked if there was a development to the east,

there would need to be access off Scott Boulevard because there is no possibility from this development to any other new development. Russett said based on what is on the preliminary plat at this time there is no extension to the east. She added the land on the east side is in a preserve.

Parsons feels RS-5 is appropriate for this area. Hensch agrees and says it is actually less than what is in the Comprehensive Plan.

A vote was taken and the motion passed 5-0.

CONSIDERATION OF MEETING MINUTES: JUNE 20, 2019

Parsons moved to approve the meeting minutes of June 20, 2019 with typographic errors noted.

Baker seconded.

A vote was taken and the motion passed 5-0.

PLANNING AND ZONING INFORMATION:

Russett gave a couple updates, the rezoning at Orchard Court was adopted by the Council at the last meeting. The rezoning on South Gilbert Street near Big Grove was also adopted by Council.

Russett reminded them there is a Planning & Zoning/City Council work session on July 24 at 5pm. There will be a packet sent out prior to the meeting.

Baker asked about current regulations, he recently stopped into the new gas station at 1st Avenue and Muscatine Avenue and 12 gas pumps are blaring music all the time and wondered if that is permitted use. Russett will look into that. Baker said it was extraordinarily irritating and could be heard across the street.

Hensch thanked Russett for giving updates on Council adoptions. He also noted the good neighbor report from Axiom Consultants was well done and extremely helpful.

Adjournment:

Townsend moved to adjourn.

Parsons seconded.

A vote was taken and the motion passed 5-0.

**PLANNING & ZONING COMMISSION
ATTENDANCE RECORD
2018 - 2019**

	3/15	(W.S.) 4/2	4/5	(W.S.) 4/16	4/19	5/3	5/17	6/7	6/21	7/5	8/16	9/6	9/20	10/18	12/20	1/3
BAKER, LARRY	--	--	--	--	--	--	--	--	--	X	X	X	X	O/E	X	X
DYER, CAROLYN	O/E	X	O/E	X	X	X	X	X	O/E	X	O	O/E	O	X	X	X
FREERKS, ANN	X	X	X	X	X	O/E	X	X	X	'---	'---	'---	'---	'---	'---	'---
HENSCH, MIKE	O/E	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
MARTIN, PHOEBE	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	O/E
PARSONS, MAX	X	X	X	X	X	X	X	X	X	X	X	O/E	X	X	X	X
SIGNS, MARK	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
THEOBALD, JODIE	X	X	X	X	X	X	X	X	O/E	'---	'---	'---	'---	'---	'---	'---
TOWNSEND, BILLIE	--	--	--	--	--	--	--	--	--	X	X	X	X	X	O/E	X

	1/17	(W.S.) 2/4	2/21	3/7	3/21	4/4	4/18	5/16	6/6	6/20	7/18					
BAKER, LARRY	X	X	X	X	X	X	X	O/E	X	X	X					
DYER, CAROLYN	O/E	X	X	X	X	X	X	O/E	X	X	X					
FREERKS, ANN	--	--	--	--	--	--	--	--	--	--	--					
HENSCH, MIKE	X	X	X	X	O/E	X	X	X	X	O/E	X					
MARTIN, PHOEBE	X	O/E	X	X	X	O/E	X	X	X	X	O/E					
PARSONS, MAX	X	X	X	X	X	X	X	X	X	X	X					
SIGNS, MARK	X	X	X	X	X	O/E	X	X	X	X	O/E					
THEOBALD, JODIE	--	--	--	--	--	--	--	--	--	--	--					
TOWNSEND, BILLIE	X	X	X	O/E	X	X	X	X	X	X	X					

KEY:
X = Present
O = Absent
O/E = Absent/Excused
--- = Not a Member



August 15, 2019

Telecommunications Commission: July 22

ATTACHMENTS:

Description

Telecommunications Commission: July 22

Minutes

Iowa City Telecommunications Commission

July 22, 2019 – 5:30 P.M.

City of Iowa City Cable TV Office, 10 S. Linn St. - Tower Place, Level 3A

Call to Order: Meeting called to order at 5:35 P.M.

Members Present: Matthew Brenton, Gina Reyes, Adam Stockman, Andrew Austin

Members Absent:

Staff Present: Ty Coleman

Others Present: Gerardo Sandoval

Recommendations to Council: None

Approval of Minutes:

Stockman moved and Reyes seconded a motion to approve the June 24, 2019 minutes as presented. The motion passed unanimously.

Announcements of Commissioners:

Commissioners exchanged introductions with newly-appointed member Andrew Austin. Coleman announced that Commission member James Pierce had recently indicated he would need to step down from his responsibilities with the Commission due to conflicting commitments.

Short Public Announcements:

None.

Election of Officers:

Matt Brenton was elected as Chair and Adam Stockman was elected as Vice Chair by a unanimous vote.

Post-franchise role of the Telecommunications Commission:

Brenton summarized that since the City's franchise agreement with Mediacom had expired, the Telecommunications Commission's authority had been reduced and the group had been asked to consider its role going forward. Brenton said that a proposal to Council had been drafted which recommends that the City should look into the feasibility of municipal broadband.

Coleman said that the proposal would be included within an upcoming Council information packet. Brenton said City Council members had expressed an interest in the topic in the past. He noted that one issue that had been brought up was that Iowa City does not own its own electric utility and that a lot of communities who had successfully built their own municipal broadband network had done so by "piggy-backing" off of their municipal electric utility's infrastructure.

Brenton referred to the lawsuit that had been filed by Mediacom a few years back in response to the City leasing fiber to ImOn for the provision of Internet and phone services. Coleman explained that companies offering cable television service are required to operate under a franchise agreement and pay franchise fees. He said that ImOn was only intending to provide Internet and phone services and was therefore not required to obtain a franchise and pay franchise fees. Brenton said the courts had sided with the City and ImOn. He said ImOn had recently stated it planned to build out its broadband network and begin offering residential broadband service over the next couple of years. Brenton said he wasn't sure if competitive service providers such as ImOn would affect the Council's interest in looking into municipal broadband.

Stockman said the group wants to first see if there is any interest by Council in municipal broadband. Brenton said that the proposal offers to set up an advisory board to look into the topic, but that if Council does not have an interest in it, then the Telecommunications Commission would plan to disband.

Andrews said the potential for working on a municipal broadband proposal and gathering data for it was one of the things that attracted him to the Commission. Brenton said the proposal does not include that existing Commission members would automatically become municipal broadband advisory board members, but said he'd expect anyone on the Commission interested in becoming a member of the advisory board to have an opportunity to do so.

Coleman said he said he would be including a couple of documents along with the proposal to provide information, including the excerpt from the Iowa Code dealing with municipal broadband and the City's Cable TV Franchise Enabling Ordinance. Coleman said a memo accompanying the proposal would suggest that the Council find a time to meet with the Telecommunications Commission to discuss and ask questions. Brenton noted that the proposal isn't to establish municipal broadband, but rather to make a recommendation. Brenton said it could be possible that the recommendation would be to not pursue it.

Consumer Issues:

Brenton referred to the issue described in the cable complaints report involving a customer who was not getting the speeds he felt he should have been getting. Brenton noted that the speeds are typically listed as being *up to* a certain speed. Coleman said some customers in the past have expressed that there was nothing they could do about receiving service that didn't meet their expectations and said that bringing in competition or discussing municipal broadband would help to address the concern of not having other options.

Mediacom Report:

Coleman reported that he had not received any information from Mediacom other than a notice that a few upper tier channels were being moved.

Local Access Reports:

Sandoval reported that PATV would be changing its hours based on current usage of the facilities. He said the PATV board has been aggressively looking at how PATV can continue its mission and said they had some promising leads. Sandoval said that activity at PATV increases when the school year begins. He said independent filmmakers had been using the facility and the podcast room had seen increased use. Sandoval said an upcoming project would be to provide a way to include video for podcast recordings.

Sandoval said that PATV has been around for 40 years, starting at the City, and operating for 30 years as an independent non-profit organization. He said PATV's building is owned by Public Access, making it community-owned. Sandoval said PATV's funding has always been pass-through money from the cable company, passed through the City. Despite the current lack of a funding stream, he said that the City still contracts with PATV to provide the service so that community members can have a channel on which to put their content.

City Cable TV Office Report:

Coleman referred to the report the Cable TV Office had submitted in the meeting packet. He mentioned that the City's Rummage in the Ramp event would be starting soon and that Cable TV Office staff would be doing a Facebook Live event to highlight the event and to show people what's there as well as to inform the public of the impact the event has, including diverting items from the landfill and distributing the profits to participating non-profit organizations.

Coleman said he had been working with the Johnson County Mobility Coordinator, as well as transit systems from Iowa City, Coralville, the University of Iowa, and Johnson County, to produce a series of

short videos to highlight the public transportation offerings in our area as well as to provide some how-tos on things like planning your route and transferring between buses. Andrews commented that the video series is a good idea for new students coming to town.

Adjournment:

Stockman moved and Reyes seconded a motion to adjourn. The motion passed unanimously. Adjournment was at 6:05 p.m.

	Gowder	Bergus	Brenton	Johnk	Pierce
08/27/2018 Meeting not held due to lack of quorum.		vacant		vacant	
9/24/2018	x	vacant	x	vacant	x
		Paterson			
10/22/2018	x	o	x	vacant	x
11/26/2018 Meeting not held due to lack of quorum.				vacant	
12/17/2018	x	o	x	vacant	x
01/22/2019 Meeting not held due to inclement weather and lack of quorum.				vacant	
		resignation		Stockman	
02/25/2019	x	vacant	x	x	o/c
		Reyes			
03/25/2019	resignation	o/c	x	x	x
04/22/2019	vacant	x	x	x	o/c
06/03/2019 Meeting not held due to lack of quorum.	vacant				
06/24/2019	vacant	x	x	x	o
	Andrews				
07/22/2019	x	x	x	x	resignation

(x) = Present (o) = Absent (o/c) = Absent/Called (Excused)