

City of Grimes Park Board Agenda

Grimes City Hall
101 NE Harvey St.
Grimes, Iowa 50111
Phone | 515.986.3036
www.grimesiowa.gov

Mission Statement

The mission of Grimes City Government is to provide Excellent/exceptional city services and facilities in a Financially responsible and community-friendly manner through a high performing city team that results in adding value to resident's lives.

President | James Abens
Park Board | April Heitland, Ross Junge
Council Liaison | Ryan Burger

MEETING RULES:

Every member of the public and every Board member desiring to speak shall address the presiding officer, and upon recognition by the presiding offices, shall confine comments to the question under debate, avoiding all indecorous language and references to personalities and abiding by the following rules of civil debate.

The public is welcome and encouraged to attend and participate in this meeting by either internet or phone as follows:

1. Internet-Meeting attendance may be obtained by "Join Zoom Meeting". Simply enter the following internet address and ID:
Join Zoom Meeting: <https://zoom.us/j/6763362907> Meeting ID: 6763362907
2. By Phone Please Call:-877 853 5257 US Toll-free Meeting ID: 676 336 2907

Hearing Assistance: If you are hearing impaired, Grimes will provide a sign language communicator on the internet Zoom meeting video presentation upon request. Please contact the Grimes City Clerk Rochelle Williams by email at rwilliams@grimesiowa.gov to request this service.

For any additional assistance or questions in attending the meeting, please call 515-986-3036 from 8 a.m. to 5 p.m. Monday-Friday.

AGENDA ITEMS FOR NOVEMBER 17, 2021 at 5:30 PM VIRTUAL ONLY

1. Call to Order
2. Roll Call
3. Approval of the Agenda Minutes from October 27th

PUBLIC FORUM

"People wishing to address the Council need to sign up on the sheet which has been provided on the table near the door. Each person will be allowed three minutes from the podium and may address with no more than two issues per Grimes Rules of Procedure for Conduct of City Business – May 2005"

PUBLIC AND PARK BOARD AGENDA ITEMS

- A. Tennis Court Update
- B. North Complex Parking Lot Update
- C. Jazzercise Lease Agreement
- D. Wallace Farm Discussion

BOARD DISCUSSION

1. Presidents Report
2. City Staff Report
3. Council Liaison Report

ADJOURNMENT



A. Tennis Court Update



B. North Complex Parking Lot Update



C. Jazzercise Lease Agreement

AGENDA MEMO

Item No. X

For Meeting of 11/17/2021

AGENDA HEADING: Approve Jazzercise Lease Agreement

FISCAL IMPACT: \$8,165.50

PREVIOUS COUNCIL ACTION(S):

BOARD/COMMISSION ACTION(S):

STAFF/COMMITTEE RECOMMENDATION: Staff recommends approval of the Jazzercise Lease Agreement. This is a new lease agreement and is based off the same fee structure as other partial use lease tenets in the Grimes Community Complex.

Lease agreement terms for partial and sole use per square feet

- Partial lease fee (set times up to 30 hours per week) \$5.50 per square feet
- Sole use fee \$11.00 per square feet

LEASE AGREEMENT

BY and BETWEEN THE CITY OF GRIMES, IOWA
and CHERYL LOUNSBERRY – JAZZERCISE GRIMES OWNER

GRIMES COMMUNITY COMPLEX

This Lease Agreement ("AGREEMENT") is entered into this ____ day of _____, 2021, by and between the CITY OF GRIMES IOWA ("CITY" or "PARTY") and CHERYL LOUNSBERRY, A PRIVATE OPERATER OF JAZZERCISE ("JAZZERCISE" or "PARTY") (collectively "PARTIES").

RECITALS

- A. The CITY is the owner of the real property and improvements encompassing and known as the Grimes Community Complex, Grimes 401 SE. Main Street, Grimes, Iowa 50111 (the "CENTER")
- B. The CITY desires to offer the programs and services associated with a COMMUNITY FITNESS at the CENTER; and
- C. The JAZZERCISE, possesses the personnel and support services so as to provide the programs and services associated with JAZZERCISE; and
- D. The CITY AND JAZZERCISE, and their respective citizens, will mutually benefit from the provision of programs and services associated with a JAZZERCISE program at the CENTER; and
- E. The CITY and JAZZERCISE desire to enter into an agreement for the use of the CENTER as the site for the provision of the programs and services associated with JAZZERCISE.

NOW, THEREFORE, in consideration of the promises and mutual agreements set forth herein, and other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, the CITY and JAZZERCISE agree as follows:

1. LEASE SPACE

In consideration of the rents, covenants, and agreement to be performed by JAZZERCISE, the CITY hereby leases to the JAZZERCISE, and JAZZERCISE rents from the CITY, Room #200 (LEASE SPACE) during the hours and days mutually agreed upon with up to 30 hours of use per week. The LEASE SPACE consists of approximately 1,485 square feet, as highlight in green on the floor plan attached hereto as **APPENDIX A.**

Included in the rent, the JAZZERCISE shall further have the right to use, in common with others, the parking areas, restrooms, driveways, sidewalks, and other landscaped

areas of the CENTER, subject to the terms of this Agreement and any reasonable rules or regulations adopted by the CITY.

2. TERM

The term of this AGREEMENT shall be two years, commencing the date the, 2021 continuing in effect and expiring on November 13th, 2023, unless otherwise extended or amended by agreement of the parties. Tenant shall not occupy any portion of the LEASE SPACE beyond the termination or expiration of this AGREEMENT, and any holdover by the JAZZERCISE shall not cause the AGREEMENT to automatically renew or be evidence of a lease extension.

If the JAZZERCISE wishes to extend this AGREEMENT, it shall give the CITY written notice no later than 120 days prior to the expiration of the lease term.

Notwithstanding, the terms and provisions of this AGREEMENT may be amended from time to time as mutually agreed by the parties, subject to approval by resolution or motion of the City Council and Jazzercise owner authorizing the execution of such amendment.

3. RENTAL PAYMENTS AND DEPOSITS

Rent shall be charged at an annual rate of \$5.50 per square foot. The Jazzercise room is 1485 square feet, for a total of \$8,165.50 per year. Rent shall be payable to the CITY by delivery of the monthly rent amount of \$680.45 to the Grimes Park and Recreation Department at the start of the lease term on November 24th, 2021 and each month thereafter on or before the 2nd Wednesday of each until the end of the lease agreement.

JAZZERCISE will also pay a damage deposit of \$500 to be held by CITY until the conclusion of the lease to pay for any actual damage to the LEASE SPACE or the CENTER, and an accounting of damages and any unused damage deposit will be presented to JAZZERCISE within 30 days of the end of the tenancy.

4. GOVERNANCE

No separate governmental entity is created by this AGREEMENT.

5. ADMINISTRATION

This AGREEMENT will be administered by the CITY'S Parks and Recreation Director or designee and Cheryle Lounsberry the JAZZERCISE Owner or designee.

6. ALTERATIONS AND CONDITION

The JAZZERCISE accepts the LEASE SPACE in as-is- condition, and the parties agree that the CITY is not required to make any improvements thereto. Except as provided elsewhere in this AGREEMENT, the JAZZERCISE shall not make any alterations or improvements, or install any equipment or fixtures in the LEASE SPACE or CENTER without the prior consent of the CITY. JAZZERCISE has total control over the lease space and is responsible for all aspects of the LEASE SPACE including clean-up, safety, and security.

7. OWNERSHIP

The CENTER is and will at all times be owned by the CITY. The JAZZERCISE owns and will at all times own the items listed in **APPENDIX B.**

8. USE OF CENTER

- a. The CITY shall provide the JAZZERCISE exclusive use of the LEASE SPACE for JAZZERCISE classes to serve significant health and recreational purposes within the Grimes area, for up to 30 hours per week including set up and tear functions. JAZZERCISE will submit a class schedule on July 1st each year. If the class schedule changes a 30-day notices is required. The LEASE SPACE shall be available to the CITY for its exclusive use at all other times.
- b. The JAZZERCISE shall have the right to staff the LEASE SPACE to provide exercise programs and activities that are traditionally associated with JAZZERCISE.
- c. Subject to CITY approval, the JAZZERCISE shall have the right to use appropriate signs bearing JAZZERCISE identification and other appropriate logos on the exterior of and within the CENTER.
- d. The JAZZERCISE shall not use the LEASE SPACE or CENTER in any way which would adversely affect the value or character of the CENTER, or otherwise violate the ordinances, rules or regulations of the CITY.
- e. The use of the CENTER by the CITY shall not unreasonably interfere with the ability of the JAZZERCISE to use the LEASE SPACE to provide exercise classes sufficient to meet its obligations under this AGREEMENT.

9. DUTIES OF THE CITY

- a. The CITY shall be responsible for providing all utilities at its sole expense.

- b. The CITY shall be responsible for the maintenance and upkeep of the building envelope and mechanical, electrical and plumbing systems.
- c. The CITY shall be responsible for the maintenance and upkeep of the grounds surrounding the CENTER.
- d. The CITY shall be responsible for snow removal.
- e. The CITY shall be responsible for contracting for garbage removal from the CENTER.
- f. The CITY shall be responsible for cleaning the CENTER hallway floors, cleaning and stocking all restrooms.
- g. The CITY shall be responsible for the repair or replacement of equipment, except equipment that the JAZZERCISE owns.
- h. The CITY shall, to the extent reasonably practicable, perform any repairs or maintenance in the LEASE SPACE as required under this AGREEMENT.

10. DUTIES OF THE JAZZERCISE

- a. The JAZZERCISE shall be responsible for providing the necessary staff and support services to accommodate a JAZZERCISE class at its sole expense.
- b. The JAZZERCISE shall be responsible for providing and equipment and supplies listed in **APPENDIX B**. The JAZZERCISE shall be responsible for all damages caused by or arising from the JAZZERCISE'S use of the LEASE SPACE.
- c. The JAZZERCISE shall be responsible for daily sweeping, mopping floors, and removal of garbage for all JAZZERCISE activities within the CENTER.
- d. The JAZZERCISE shall promptly notify the CITY of any maintenance concerns regarding the LEASE SPACE or CENTER.

11. COMPLIANCE WITH THE LAW

The CITY and the JAZZERCISE shall comply with all ordinances of the CITY and obtain all licenses or permits which may be required for the conduct of business within the terms of this AGREEMENT, or which may be required for the making of repairs or improvements to the CENTER for its specific operations.

12. INSURANCE

- a. Pursuant to Chapter 670 of the Code of Iowa, the CITY and JAZZERCISE shall each be responsible for the cost of their own liability insurance associated with the operation of the CENTER. Each PARTY shall carry insurance for the coverage as specified in **APPENDIX C**. Any liability policy shall be endorsed to preserve governmental immunities afforded by Iowa Code Chapter 670 to CITY. Nothing in this agreement shall be considered a waiver of the governmental immunities possessed by the CITY under Iowa law.
- b. Mutual Waiver of Subrogation: To the extent covered by liability insurance and permitted by law, the CITY and JAZZERCISE hereby waive claims against the other, including its elected and appointed officials, its employees, agents and volunteers and others working on its behalf, from and against any and all liability or responsibility to the other or anyone claiming through or under the other by way of subrogation or otherwise, for any loss or damage to property, bodily injury or occupational injury, caused by fire or any other casualty.

13. TERMINATION OF AGREEMENT

This AGREEMENT shall terminate upon expiration of the AGREEMENT term. This AGREEMENT may also be terminated prior to expiration of the AGREEMENT term, as follows:

- a. By mutual AGREEMENT of the PARTIES.
- b. By convenience by either PARTY with thirty (30) written notice of termination served on the other PARTY pursuant to the requirements of section 16 of the AGREEMENT.
- c. If either PARTY determines the other is in default, it shall mail a notice to the other party stating the particulars of the default and offering a reasonable opportunity to cure of at least 15 days. Each PARTY agrees make a good faith effort to resolve the matter informally prior to the end of the termination notice period. If, after receipt of notice of default pursuant to this subsection (c), the JAZZERCISE fails to cure the default during the period specified in the notice, the CITY may elect to terminate this AGREEMENT, and may immediately upon termination repossess the LEASE SPACE, and shall not be required to return, refund or otherwise pay the JAZZERCISE any amounts previously paid to the CITY pursuant to this agreement, which shall be retained by the CITY as liquidated damages and not as a penalty.

In the event of termination pursuant to subsections (a) or (b) of this Section 13, the annual rent shall be prorated on a monthly basis, and the JAZZERCISE shall be entitled to a refund of any rental amounts paid in advance based on the number of whole months remaining in the then current lease year.

14. OWNERSHIP/DISPOSITION AT TERMINATION

Upon expiration or termination of this AGREEMENT, the CITY will retain sole ownership of the Center. Upon termination of this AGREEMENT, JAZZERCISE shall retain sole ownership of all items listed on APPENDIX B.

15. ASSIGNMENT

Neither the CITY nor JAZZERCISE shall assign its interest or obligations under this AGREEMENT without the prior written consent of the other PARTY.

16. NOTICES

Notices as provided for in this AGREEMENT to the CITY shall be deemed sufficient if sent by certified mail with return receipt requested to the City of Grimes, Attention: Grimes City Administrator, Grimes City Hall, 401 SE. Main Street, Grimes, Iowa, 50111.

Notices as provided for in this AGREEMENT to the JAZZERCISE shall be deemed sufficient if sent by certified mail with return receipt requested to JAZZERCISE GRIMES, Attention: Cheryl Lounsberry, Jazzercise Owner, 64151 250th Street, Nevada, Iowa 50201. All notices shall be deemed given on the day of receipt.

17. ENTIRE AGREEMENT

This AGREEMENT, including attachments hereto and by this reference incorporated herein, constitutes the entire understanding between the PARTIES and cannot be modified or terminated orally, but only by agreement in writing signed by both PARTIES.

18. OTHER

If any provision of this AGREEMENT be declared invalid or unenforceable, the remainder of the AGREEMENT shall continue in full force and effect. This AGREEMENT shall be governed by, construed and enforced in accordance with the laws of the State of Iowa.

IN WITNESS WHEREOF, the PARTIES to this AGREEMENT have hereunto set their hands on this day and year as first above written.

STATE OF IOWA)
) ss:
JAZZERCISE OF GRIMES)

On this _____ day of _____, 2021, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared _____, to me personally known, as owner of JAZZERCISE Grimes and that the instrument was signed on behalf of the corporation, and that _____ acknowledged the execution of the instrument to be the voluntary act and deed of JAZZERCISE, Iowa, by it and by them voluntarily executed.

Notary Public in the State of Iowa

JAZZERCISE

CITY OF GRIMES, IOWA

Cheryl Lounsberry
Owner

Scott Mikkelsen
Mayor

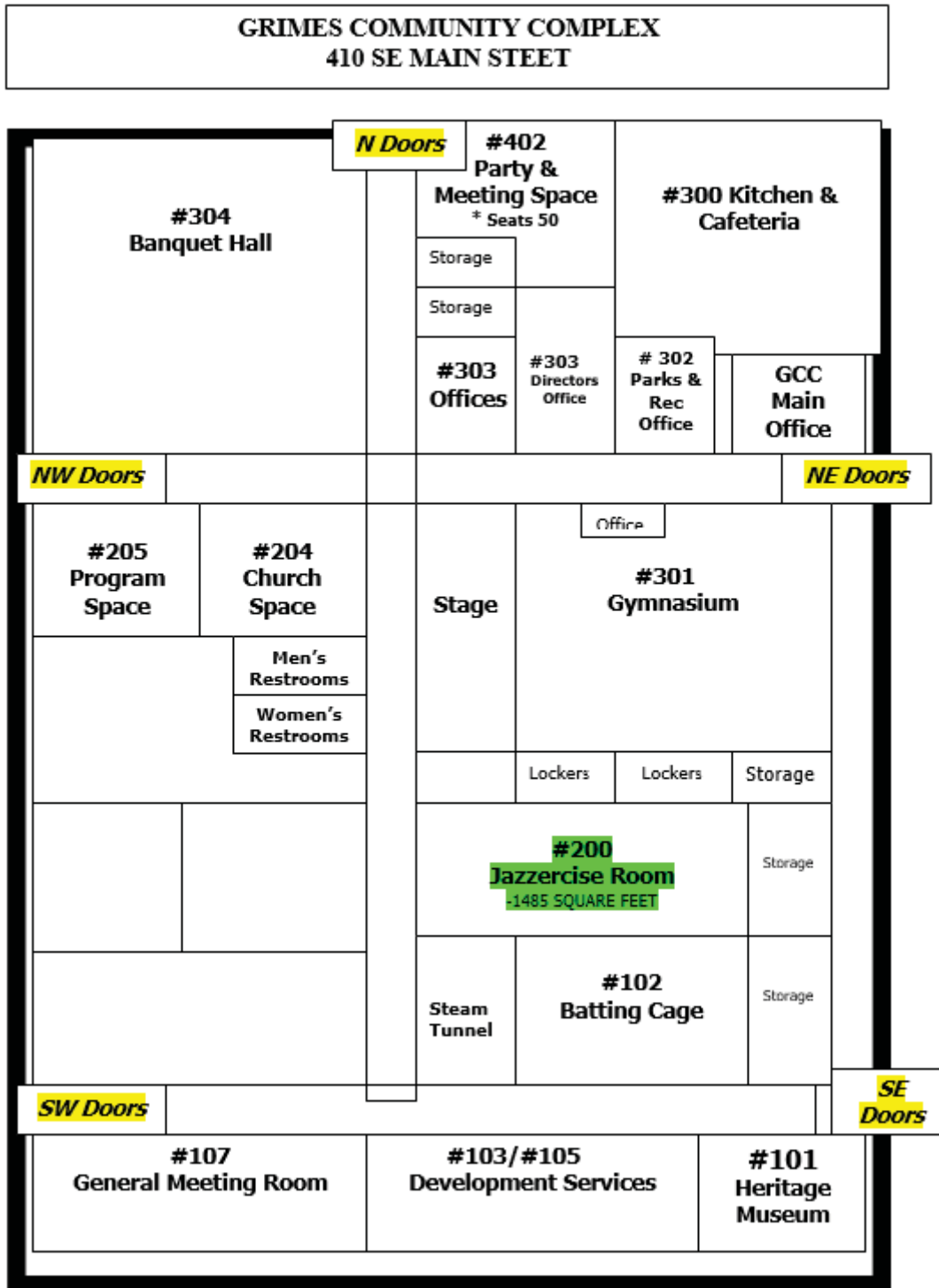
ATTEST:
Grimes City Clerk

By: _____
Rochelle Williams

Date _____

APPENDIX A

IDENTIFICATION OF LEASE SPACE



APPENDIX B

Jazzercise Assets **Grimes Community Center**

- Standing Podium-inside door
- HP Chrome Notebook in computer bag with a scanner for badge scanning
- I-Pad and Case
- General Office Supplies - pens, paper, tape, scissors, paper clips, push pins, post-it notes, clipboards - 4
- First Aid Kit
- Peavey Sound System with a built stand
- Stage
- Jazzercise signage - 2 Jazzercise, 2 Perceived Exertion Charts, 5 Jazzercise Branded pictures hanging
- 1 i-pod camera holder
- Equipment—8 mats, 20 Balls, Green, Red, Tubes - 14, Hand Weights - 25 sets of Jazzercise Grimes owned hand weights,
- Black wire stand, Coat hangers
- PVC Pipe holder for the balls
- Step ladder, vacuum, cleaning mops (2)
- Dorm room refrigerator - 1
- 5 Jazzercise instructor microphones and receivers
- Customer weights, shoes and mats - in room and lockers - 35 customer assorted
- Cleaning supplies to include - wipes, sanitizer and floor cleaner
- Jazzercise branded shirts - 35
- Jazzercise Bands - 15 sets and Jazzercise Happy Mats - 28

APPENDIX C

INSURANCE REQUIREMENTS FOR CENTER

1. **PROPERTY INSURANCE.** JAZZERCISE shall insure or pay for the cost of insuring the LEASE SPACE for the full insurable replacement value, which shall be subject to CITY'S approval. Such insurance shall cover losses included in the Insurance Services Official Broad Form Causes of Loss (formerly fire and extended coverage). The CITY and JAZZERCISE waive all rights of recovery against each other, including any insurance subrogation rights. This policy shall be endorsed to name the CITY as the insured party.
2. **LIABILITY INSURANCE.** JAZZERCISE shall obtain commercial general liability insurance with coverage of at least \$1,000,000 each occurrence and \$5,000,000 annual aggregate. The policy shall include liability arising from LEASE SPACE operations, independent contractors, personal injury, products and completed operations and liability assumed under an insured contract. This policy shall be endorsed to include the CITY an additional insured party, and shall include an endorsement that states that the governmental immunities of Iowa law have not been waived as provided by Section 12(a) of the Lease Agreement.
3. **CERTIFICATE OF INSURANCE.** Prior to the time the Lease takes effect, the JAZZERCISE shall provide the CITY with a certificate of insurance verifying the above-described insurance coverage. The certificate shall include a statement that 30 days prior written notice of cancellation or material change to the policy or insurance shall be given to the JAZZERCISE. A renewal certificate shall be provided prior to expiration of the current policies and in no event less than once each year on the anniversary date of the Commencement Date of this Lease. If requested by CITY's bank or lender, said bank or lender shall be added as an additional named insured party under the insurance required to be furnished by JAZZERCISE under this Lease Agreement.
4. **ACTS BY JAZZERCISE.** JAZZERCISE shall not do or omit doing of any act, which would invalidate any insurance, or increase the insurance rates in force regarding the LEASE SPACE.
5. **RECOMMENDATIONS—IOWA INSURANCE SERVICES OFFICE.** JAZZERCISE further agrees to comply with recommendations of the Iowa Insurance Services Office and to be liable for and to promptly pay, as if current rental, any increase in insurance rates on said LEASE SPACE and on the Building of which said LEASE SPACE are a part, due to increased risks or hazards resulting from JAZZERCISE'S use of the Premises otherwise than as herein contemplated and agreed.
6. **LIABILITY FOR DAMAGE.** Each party shall be liable to the other for all damage to the property of the other negligently, recklessly or intentionally caused by that party

(or their agents, employees or invitees), except to the extent the loss is insured and subrogation is waived as described herein.



D. Wallace Farms Discussion