

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

AMES, IOWA

MARCH 4, 2008

The regular meeting of the Ames City Council was called to order by Mayor Campbell at 7:00 p.m. on March 4, 2008, in the City Council Chambers in City Hall, 515 Clark Avenue. Present from the Ames City Council were Doll, Goodman, Larson, Mahayni, Popken, and Rice. *Ex officio* Member Luttrell was absent.

CERTIFICATE OF APPRECIATION FROM METRO WASTE AUTHORITY: Judi Mendenhall and Kyle Fisher from Metro Waste Authority's Regional Collection Center presented John Pohlman, Resource Recovery Plant Superintendent, with a Certificate of Appreciation for participating in the household hazardous materials program for the past ten years.

GOVERNMENT FINANCE OFFICERS ASSOCIATION DISTINGUISHED BUDGET PRESENTATION AWARD: It was announced by Mayor Campbell that the City had received the Distinguished Budget Presentation Award for the 22nd consecutive year from the Government Finance Officers' Association. Accepting the Award were Finance Director Duane Pitcher and Budget Officer Carol Collings.

CONSENT AGENDA: Moved by Rice, seconded by Goodman, to approve the following items on the Consent Agenda:

1. Motion approving payment of claims
 2. Motion approving minutes of the regular meeting of February 26, 2008
 3. Motion approving certification of civil service applicants
 4. Motion approving renewal of the following beer permits and liquor licenses:
 - a. Class C Beer - Almost Always Open, 419 Lincoln Way
 - b. Class C Liquor & Outdoor Service Privilege - Coldwater Golf Links, 615 South 16th Street
 - c. Class C Liquor - Carlos O'Kelly's Mexican Café, 631 Lincoln Way
 - d. Class E Liquor, B Wine, & C Beer - Sam's Club #6568, 305 Airport Road
 - e. Class B Wine - Gateway Expresse, 2400 University Boulevard
 - f. Class B Beer - Old George's Pizza & Steakhouse, 420 South Duff Avenue
 5. Motion approving seasonal Class B Beer Permit & Outdoor Service Privilege for Homewood Golf Course, 401 East 20th Street
 6. RESOLUTION NO. 08-075 approving appointments to City's various boards and commissions
 7. RESOLUTION NO. 08-076 approving Memorandum of Agreement allowing Ames Police Department to participate in 1033 Military Surplus Program
 8. RESOLUTION NO. 08-077 amending IUOE Local 234 Agreement regarding skill-based pay system for Resource Recovery Plant employees
 9. RESOLUTION NO. 08-078 awarding contract for two Dump Bodies and Accessories for Fleet Replacement Program to Eddy-Walker Equipment Company of Des Moines, Iowa, in the amount of \$31,289 each
 10. RESOLUTION NO. 08-079 approving preliminary plans and specifications for construction of parking lot in Charles Calhoun Memorial Park; setting March 27, 2008, as bid due date and April 8, 2008, as the date of public hearing
- Roll Call Vote: 6-0. Resolutions declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

PUBLIC FORUM: No one spoke during this time.

HEARING ON ADOPTION OF 2008/09 BUDGET: Mayor Campbell opened the public hearing.

Merlin Pfannkuch, 1424 Kellogg Avenue, Ames, advised that he had two major budget requests. His first request was for the City Manager not to be given a raise. It was his perception that Mr. Schainker's performance on two particular issues did not warrant any increase, and he questioned the evaluation process. Mr. Pfannkuch expressed his dismay over the way McFarland Clinic's request to expand and the 13th and Grand Intersection Improvements project were handled. His second request was for \$30,000 to be removed from the allocation to the Ames Economic Development Commission (AEDC). Mr. Pfannkuch requested that those monies and the amount of Mr. Schainker's increase (\$6,788) be placed in a fund as seed money to purchase a property on Carroll Avenue that McFarland Clinic currently owns and still hopes to build on. A second use for those funds would be to hire someone from outside the City to negotiate some type of an agreement between the City and McFarland Clinic. He said that there are two houses in the 1200 block of Carroll that are now for sale as the homeowners feel threatened. Mr. Pfannkuch also felt that the 13th and Grand Intersection Improvements project was mishandled. It was his opinion that the project "was doomed from the beginning due to the heavy-handedness in which it was dropped on the public." Mr. Pfannkuch defined the AEDC as an advocacy organization. He cited City Council Minutes wherein, when considering the AMOS and Ames Smart Growth Alliance (Smart Growth) requests for funding, Council Member Mahayni stated that the City did not support advocacy organizations. Mr. Pfannkuch admittedly did not know the merits of the requests by AMOS and Smart Growth, but felt that those organizations were no more advocacy organizations than is the AEDC. He added that, if the Council has funding criteria, it should use it consistently for all groups.

Jim Gunning, 119 Hickory Drive, Ames, expressed his concerns over increases in the City budget and City staff. He referenced the crisis in the housing market, pointing out that revenues to the City are based primarily on property taxes, and when property values decrease, the millage rate will need to increase to maintain current services. It appears to Mr. Gunning that the budget contains increases way above the inflation rate. He also noted that he doesn't understand the logic behind adding City staff. Mr. Gunning said that there is public concern over property taxes increasing when people are having trouble making their mortgage payments. He asked the Council to be aware of what's going on in the community, specifically alluding to the number of homes for sale and the foreclosures occurring. Mr. Gunning also expressed his dismay about the Council's decision to allocate \$600,000 to a human services campus before the fund-raising feasibility study was complete.

There being no one else who wished to speak, the hearing was closed.

Moved by Goodman, seconded by Mahayni, to adopt RESOLUTION NO. 08-080 approving the 2008/09 budget.

Council Member Goodman expressed his respect for Mr. Pfannkuch's work as a citizen advocate, but expressed frustration over the comments that he made regarding the performance of the City Manager. Mr. Goodman emphasized that the position of City Manager in the City of Ames is a very difficult role. He feels that Steve Schainker does a great job in attempting to respond to many, many different interests, and that is why he supported the proposed salary increase for him. Mr. Goodman pointed out that the McFarland Clinic expansion request was a very complicated issue; there were difficult decisions to be made. He said that he trusts the City Manager's desire to try to make Ames a better community.

Roll Call Vote: 6-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

HEARING ON AMENDMENTS TO FISCAL YEAR 2007/08 BUDGET: The public hearing was opened by the Mayor. No one asked to speak, and Mayor Campbell closed the hearing.

Moved by Popken, seconded by Goodman, to adopt RESOLUTION NO. 08-081 amending the budget for the current fiscal year ending June 30, 2008.

Roll Call Vote: 6-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

HEARING ON ZONING TEXT AMENDMENT PERTAINING TO THE COMMUNITY COMMERCIAL/RESIDENTIAL NODE, CAMPUSTOWN SERVICE CENTER, AND DOWNTOWN SERVICE CENTER DISTRICTS: The Mayor opened the hearing.

Planning & Housing Director Steve Osguthorpe advised that there are seven zoning districts that allow some combination of household living and trade uses, and most of those districts are within commercial zones. In the Community Commercial/Residential Node (CCR), Campustown Service Center (CSC), and Downtown Service Center (DSC) Districts, household living is not permitted except where the household living use is located above the first floor in a commercial building. In each of those three zoning districts, short-term lodging is also a permitted use. Mr. Osguthorpe defined short-term lodging as “facilities offering transient lodging accommodations to the general public where the average length of stay is fewer than 60 days,” e.g., bed and breakfasts, hotels, motels, recreational vehicle parks, boarding, rooming or lodging houses, and single-room occupancy hotels.

Mr. Osguthorpe further explained that Table 29.501(4)-1 lists short-term lodging as a subcategory under the Residential Use Categories, so even though it typically occurs in a commercial building, it is, by definition, a residential use. It was further explained by Mr. Osguthorpe that, because short-term lodging is a residential use, buildings wholly occupied with residential uses are allowed in those three zones even though the policy of the City is that those be commercial zoning districts.

Mr. Osguthorpe gave the history behind the proposed staff-initiated zoning text amendment. He told the Council that the Planning & Housing staff had been working with the new owner of West Towne Development with his plans to convert the commercial area on the first floor of three of his buildings to short-term lodging units, and in consultation with the Legal Department, it was determined that the proposed residential use on the first floor for short-term lodging was allowable under the current ordinance. At that time, Inspections staff was reviewing the plans to renovate the first floors of buildings into what they believed looked like apartments, and the Manager’s Office was alerted about the proposed change in use. City Council members were informed of this in the event that they would want to adopt a legislative change to prevent the conversion of commercial (office/retail/entertainment) space to residential units. The Council then directed staff to prepare a revision to the Code that would prohibit household living in the CCR, CSC, and DSC Districts, except in combination with permitted non-residential uses; in which case, household living shall be located above the first floor, and to refer the issue back to the Planning & Zoning Commission.

According to Mr. Osguthorpe, several years ago, a new Community Commercial/Residential Node commercial zoning designation was created to facilitate “mixed-use development.” Staff’s recollection was that the City Council decided to apply the CCR Zone on Mortensen Road in order

to ensure the availability of commercial uses to serve the growing westerly portion of the City, and at the same time, allow for residential use above the commercial development.

It was noted by Mr. Osguthorpe that the Planning & Zoning Commission, at its meeting of February 20, 2008, unanimously voted not to amend the LUPP, as proposed. The Commission suggested, instead, that the 60-day average length of stay provisions be looked at due to the difficulty in determining and enforcing an average. They also suggested that it might be prudent to list hotels and motels in a category separate from the residential category where short-term lodging is defined. Mr. Osguthorpe said that it appeared, from the meeting minutes, that the Commission members were unclear as to what problem the City Council was attempting to correct with the text amendment. They were also concerned about the negative impact that the proposed change would have on the new owner of the buildings specifically in question since the converted buildings would become non-conforming.

Director Osguthorpe explained that the effect of the proposed change would be that household living units, including apartments and condominiums, would not be allowed if they were located above short-term lodging on the first floor. Household living units would be allowed above the first floor as long as the first floor use consisted of offices or trade uses, such as retail sales and services. He said that staff believes that this mixture of first-floor commercial with upper-floor residential uses would be more consistent with the original commercial intent of the affected zoning districts.

Council Member Larson stated that he would be abstaining from voting on this issue because Mr. Haverkamp, the owner of the buildings in question, and he, as majority owner of another company, are subject to a contract for purchase of an apartment complex located on the east side of town.

Brent Haverkamp, 4915 Timber Creek Lane, Ames, said that he was the new owner of West Towne Development; he purchased it approximately three months ago. He told the Council that he did not design the development or construct the buildings, and it is his opinion that it was poorly designed for commercial development. When he purchased the development, it had 95,000 square feet of commercial space, and 75,000 of that was vacant. Mr. Haverkamp advised that he was approached by both of the banks that had financed the project as well as the developer who asked him if he were interested in taking over the project and attempting to make it viable. He said that he realized that the development, in its state at that time, was going to fail. According to Mr. Haverkamp, he looked at the Zoning Code to ascertain what uses would be allowed and then talked to City staff about the possibilities. Mr. Haverkamp said that, as an apartment owner, he knows that there is an unmet need for short-term lodging, which would allow persons to stay for a week, month, or sometimes up to three months. He said that he met several times with the Planning staff and was told that the use of the first floors of his buildings for short-term lodging was legal. As a result, he designed some units that would be rented out by the week or by the month. Mr. Haverkamp said that he also worked with the Inspections Division to receive the necessary permits to make modifications to three of his buildings. Once he had the approval, he got the financing to purchase the total development, which is now a multi-million dollar project. He advised that he made that investment knowing that there was approximately 75,000 square feet of vacant commercial space on the first floors of all seven buildings, but had plans to convert that space to short-term lodging. Currently, about half of the units are being built-out according to what the current Zoning Code allows.

According to Mr. Haverkamp, he has made a substantial financial investment without being told that the Ordinance would be altered. He said that he relied on the Code requirements and the expertise of the City staff. It is also his concern that the three buildings that have received approval for short-

term lodging on the first floors would become non-conforming and the rest of this project could not be built-out if the Council approves the proposed text amendment. Mr. Haverkamp reiterated that this particular project was failing in terms of commercial on the first floors, and he is trying to make it into something that is economically viable. He urged the City Council to not pass the text amendment.

Jim Gunning, 119 Hickory Drive, Ames, recalled that the property in question was always intended to be commercial. He thought that it was a loophole or an oversight that allowed apartments to be built above commercial. Mayor Campbell clarified that it was very intentional to make the area mixed-use. Its purpose was to have commercial on the first floor with the other floors being residential; it was not an oversight or a loophole. In Mr. Gunning's opinion, the City does not need more apartment units; the vacancy rate is high and the present market will accommodate short-term leases. He said that there was apparently no need for commercial in that particular location because it has not been successful.

Matt Eller, 200 Thundercreek Drive, Ames, advised that he was the original builder of the West Towne Development. Mr. Eller stated that the Development was intended to provide retail or commercial space in that location. The residential portion was built to subsidize the commercial space; it would allow the rent for the commercial space to be at a rate that would attract retailers, but it didn't work. It was Mr. Eller's opinion that anything that the City Council can do to make the Development viable would help. He thinks that the concept is a good one, and if this Development becomes successful, it will make the entire area stronger. Mr. Eller reminded the Council that the City's targeted growth area is to the Southwest.

Council Member Popken recalled that the original request was to rezone the area in question to High-Density Residential; that request was denied by the City Council. Following that, the mixed-use (commercial/residential) request was made. It was his recollection that there was much concern about that mixed-use development, and later, the zoning district was changed to allow what had been built to be conforming, but the remainder of the district would not allow apartments above commercial in that node.

Council Member Rice asked how many buildings had been approved for household living on the first floor. Director Osguthorpe advised that three buildings have received approval for short-term lodging on the first floors.

Council Member Doll asked if the residency occupancy rates were known for the upper floors of the three buildings. Mr. Haverkamp stated that the upper floors are 90% occupied.

Council Member Goodman asked if there was anticipated commercial development for the area south of Highway 30 prior to the zoning overlay, which allowed the development in question. Director Osguthorpe advised that the LUPP does anticipate some commercial land on the other side of Highway 30. Council Member Goodman rephrased his question to ask if a commercial area south of Highway 30 was anticipated previous to the overlay designation. Mr. Osguthorpe said that he did not know the history behind that; however, commercial is anticipated at the intersection of 30 and I-35. The land would need to be annexed and rezoned, however.

Council Member Rice expressed concern over the 60-day "average" length of stay provision. Mr. Osguthorpe agreed that an "average" would cause difficulty in determining, as well as enforcing, the length of stay.

Council Member Popken suggested that Alternative No. 1 could be approved to stop further building of short-term lodging units in the three zones affected and then later an amendment be made through the zoning process to grandfather in what was already approved.

City Attorney Doug Marek stated that the Iowa Administrative Code has two definitions for short-term lodging, and neither coincides with the City's Code definition. He clarified that the zoning text amendment would require three readings, and until the ordinance becomes effective, other applications for short-term lodging could be considered. Those applications would need to be analyzed based on the regulations in place at the time of their filing. After the passage of this text amendment, the three buildings would become legal non-conforming uses.

Mr. Haverkamp clarified that there are seven buildings in this Development. Out of the three buildings where short-term lodging is currently allowed, there are 28 residential units per building. Of the remaining four buildings, two buildings are completely vacant.

Council Goodman pointed out that the Code had been followed and the units were legally converted to short-term lodging. Now the City does not like the results of its regulations, so it is suggesting to change them, but millions of dollars has been invested believing in the regulations that were in place at the time of purchase.

Council Member Doll said that it was his recollection that the mixed-use was to provide commercial shops to be utilized by the residents living in the upper floors of the building. If the buildings are allowed to be wholly residential, the intent of the development has changed. He is concerned that there would not be constant demand for 200 short-term lodging units. Council Member Doll also pointed out that the area in question has not been completely built-out yet, and he doesn't want this to be a bail-out to arrive at a short-term fix. He thinks that there might be a need in the future for the commercial uses originally envisioned. Another concern expressed by Mr. Doll would be that people would enter into a 60-day agreement, but then constantly renew it. He thinks that there is potential for the units to become just renewable two-month "apartments," not short-term lodging.

Council Member Popken said that he sees this now as a procedural question as to whether the Council is willing to pass the ordinance on all three readings at this meeting.

Moved by Popken, seconded by Doll, to pass on first reading an ordinance modifying the exception allowing Household Living in the Community Commercial/Residential Node, Campustown Service Center, and Downtown Service Center Districts to only allow household living above the first floor if in combination with a non-residential use.

Roll Call Vote: 5-0-1. Voting aye: Doll, Goodman, Mahayni, Popken, Rice. Voting nay: None. Abstaining: Larson. Motion declared carried.

Moved by Mahayni, seconded by Rice, to suspend the rules necessary for adoption of an ordinance.

City Attorney Marek advised that when a Council member abstains from voting by reason of a conflict of interest, the number of votes needed for suspension of the rules would be based on the total number of Council members minus those who have a conflict of interest. In this case, four votes would be required to suspend the rules.

Roll Call Vote: 4-1-1. Voting aye: Doll, Mahayni, Popken, Rice. Voting nay: Goodman. Abstaining: Larson.

Moved by Mahayni, seconded by Rice, to pass on second and third readings and adopt ORDINANCE NO. 3949 approving the amendment to Table 29.806(2), Table 29.808(2), and Table 29.809-R(2) modifying the exception pertaining to Household Living in the Community Commercial/Residential Node, Campustown Service Center, and Downtown Service Center (CCR, CSC, DSC) Districts to only allow household living above the first floor if in combination with a non-residential use.

Roll Call Vote: 5-0-1. Voting aye: Doll, Goodman, Mahayni, Popken, Rice. Voting nay: None. Abstaining: Larson. Ordinance declared adopted, signed by the Mayor, and hereby made a portion of these minutes.

Moved by Mahayni, seconded by Doll, to refer to staff, and subsequently, to the Planning & Zoning Commission, a change to the ordinance that would allow the three buildings already approved for short-term lodging to be considered legally conforming, and directing the staff to investigate the issue of the 60-day length of stay and other needed adjustments.

Council Member Mahayni clarified that he was asking staff to explore all the possible options for dealing with the conflicts and report back to the City Council for additional direction.

Vote on Motion: 5-0-1. Voting aye: Doll, Goodman, Mahayni, Popken, Rice. Voting nay: None. Abstaining: Larson. Motion declared carried.

POWER PLANT SCADA SYSTEM UPGRADE: Electric Services Director Donald Kom and Brian Trower, Assistant Electric Services Director, were present. Mr. Kom advised that the City's Power Plant has a Supervisory Control and Data Acquisition (SCADA) system to monitor and control electric generation, distribution, and transmission from the Plant to critical power substations throughout the City and interconnection points with neighboring electric utility systems. The existing system was installed in 2001, and has not had any software updates since 2003 due to hardware and operating system constraints.

Director Kom advised that upgrading the SCADA system is now necessary to comply with interconnection requirements of the Midwest Independent System Operation (MISO), which is the organization that manages the high-voltage electric transmission system in the upper Midwest and oversees the importation of power into Ames. The Power Plant will be required to use an Inter-Control Center Communication Protocol (ICCP) by Fall 2008 to be able to exchange real time information between Ames and the MISO; the City's current SCADA system will not support the required ICCP functionality. According to Mr. Kom, upgrading the SCADA system is more cost-effective than replacing the entire system.

The Council was also informed that Electric Utility staff researched equipment from six suppliers, including OSI, for possible System replacement. Costs estimated from suppliers, other than OSI, were estimated at between \$205,000 and \$770,000. Mr. Kom again pointed out that upgrading the existing SCADA system is the most practical and cost-effective solution to meeting the new MISO requirements while gaining more functionality.

It was noted by Mr. Kom that, because software design and operation, as well as security concerns, might be proprietary, the supplier, OSI, has obtained an Injunction, which prevents the City from making the information contained in the contract documents public information. After considering the impacts of complying with the terms of the Injunction, staff feels that compliance remains the most cost-effective option for the City, but it does prevent all of the information from being shared with the general public.

Council Member Popken asked if yearly upgrades would continue to be provided if this major upgrade were approved. Mr. Kom advised that annual upgrades would be made. The last compatible upgrade provided by OSI was in 2003.

Harold Ault, 57154 - 245th Street, Ames, said that he agreed that an upgrade from OSI was the only logical action to be taken; it is the most economical. He expressed his concerns over the confidentiality aspect of the contract and said that he could only guess as to what the price might be for the items being furnished. Mr. Ault said that he believes the equipment costs \$60,000; the software, \$30,000; and installation and training, \$34,674, which totals \$124,674. He also noted that the Council Action Form listed the amount of \$126,674.

Mr. Ault believes that the City has already paid \$25,000 to \$35,000 for annual upgrades, and he questioned the need to pay for them again even though the upgrades have not been installed for the past five years. He thought a credit from OSI was due the City, but because the documents are confidential (due to the injunction), he cannot tell if a credit has been received. According to Mr. Ault, support of the upgrades was never given, but that money can't be recovered.

It was also stated by Mr. Ault that there are presently three servers, which includes a web server. The purpose of the web server was to make SCADA historical data available to Ames Electric employees over the Internet without having a SCADA terminal. During the process of doing some programming, the vendor kept changing IP addresses so the City's firewall was opened up to give additional access and not closed. That meant that anyone could access the web server. Mr. Ault estimated that \$5,000 was spent on that initial reprogramming. The web server has now been disconnected from the internet. If that is not going to be used, the web server could be disconnected and the City would save \$20,000. Mr. Ault also alleged that no one seems to be able to retrieve the historical data from the server.

It was noted by Mr. Ault that he had witnessed an event of a severe fault while he was at the Ames Public Library. In checking, he learned that two kV breakers on the line from Stange Road to Haber Road had tripped two seconds apart. In Fall 2007, Mr. Ault attended a conference where close-in faults to 161/69 kV auto transformers were discussed, and he passed on the information to the Electric Utility Director, who said they were working on the incident. It is Mr. Ault's believe that details of what had occurred are still unknown to the Electric Department.

Alluding to security measures, it was suggested by Mr. Ault that the upgraded master station servers not be placed side-by-side; they should be in different locations.

Mr. Ault asked that this issue be remanded back to staff for consideration of his comments.

Moved by Mahayni, seconded by Goodman, to adopt RESOLUTION NO. 08-082 waiving Purchasing Policies and awarding a contract to Open Systems International, Inc., of Minneapolis, Minnesota, in the amount of \$124,674 for the Power Plant SCADA System Upgrade.

Council Member Rice asked that the Electric Services Director receive a copy of Mr. Ault's comments.

Roll Call Vote: 6-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

PRELIMINARY PLAT FOR WEST TOWNE SUBDIVISION: Planning & Housing Director Osguthorpe explained that the proposal is to subdivide one property, Parcel B of Lot 2 of the 7th Addition of Dauntless Subdivision into three lots for commercial development. It contains approximately 5.22 acres. According to Mr. Osguthorpe, all infrastructure is in place except for public sidewalk along the west edge of the street right-of-way for Dickinson Avenue.

Mr. Osguthorpe detailed the options available to the City Council. He advised that it is staff's recommendation that the Preliminary Plat be approved with stipulations.

Moved by Popken, seconded by Goodman, to adopt RESOLUTION NO. 08-083 approving the Preliminary Plat for West Towne Subdivision, located at 4610 Mortensen Road, subject to the following conditions:

1. Civil drawings of all public improvements shall be submitted to the Public Works Department for review and approval prior to installation and prior to Final Plat approval.
2. All public improvements shall be installed prior to Final Plat approval unless deferment of installation is approved by the City Council, in which case the Council shall require the applicant to execute an Improvement Agreement and provide security in the form of an Improvement Guarantee as set forth in Section 23.409 of the Ames Municipal Code.
3. Prior to final Plat approval, the applicant shall submit for City staff review and approval, a revised Minor Site Development Plan for the Hilton Garden Inn, to be constructed on proposed Lot 1. The revised Minor Site Development Plan shall include property boundaries and all site improvements consistent with the preliminary Plat and the Final plat for West Towne Subdivision. After the recording of the Final Plat by the Story County Recorder's Office, the revised Minor Site Development Plan will be approved with the boundaries for Lot 1.

Roll Call Vote: 6-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

The meeting recessed at 8:30 p.m. and reconvened at 8:35 p.m.

WATER RATE STRUCTURE MODIFICATIONS: John Dunn, Water & Pollution Control Director, gave a presentation on seasonal water rate structures. He presented statistics on the average monthly demand for water and the growth in peak demand, which is pushing the City toward an expansion of the Plant. According to Mr. Dunn, expansion planning is triggered at 85% capacity, and the City is now at 82%.

Mr. Dunn wanted it understood that Ames is not any different than any other Iowa city and its citizens are not more wasteful than others. He advised that Ames' Smart Water campaign, which has as its focus public education, has been very successful. However, in order to get the most benefit, it is best to have an educational campaign combined with a conservation-oriented rate structure.

Mr. Dunn recalled that a Council workshop was held on August 21, 2007, when two rate structures were identified: seasonal and inclining block. He defined "ccf" as an abbreviation for hundred cubic feet, which is how water usage is measured.

The Council was advised by Mr. Dunn that the objectives of seasonal rates are to: better match price and cost recovery to demand patterns and provide a price incentive to customers to reduce their consumption during peak-use periods. The positives of a seasonal rate are that it encourages seasonal conservation, people are familiar with it as it is common among electric and gas utilities, and it can reduce costs to all customers. The negatives would be that customers see large seasonal swings in their bills and there is risk of revenue instability due to the weather.

Also explained was the Inclining Block Rate Structure. Mr. Dunn said that it should be considered when the utility: (1) is able to distinguish separate customer classes for billing, (2) has the analytical data and ability to design block rate structures, including the ability to define the amount of water sold by block; (3) is confronting system capacity constraints or potential system expansion; and, (4) would like to send a strong price signal. The positives were listed as encouraging conservation, there is flexibility in rate design, and it is the strongest demand-side management rate structure. The negatives are that it can cause potential revenue volatility, can discourage new water-intensive businesses, and complicated structures can be confusing to customers.

Mr. Dunn advised that staff is recommending a blended approach of seasonal rate and inclining block rate structures.

It was noted that the debt service due to “new” capacity (=20% of anticipated project) will cost approximately \$569,000. Mr. Dunn suggested that it would be reasonable to use the cost of the estimated annual debt service to set the rates.

It was stated by Mr. Dunn that there are four existing rate classes: (1) Residential, (2) Small Commercial, (3) Large Commercial, and (4) Industrial. It is also being proposed that a new class, Irrigation and Yard Water Services, be created. The seasonal demand patterns for each class were described by Mr. Dunn.

Residential block sizes were then explained. Mr. Dunn said that he is recommending that Residential be broken into two classes: Small Residential, which would include single-family dwellings, and Large Residential, which would include some apartments, multi-plexes, etc.

Irrigation (IR) block sizes were then explained as being based on an average residential lot of approximately 10,000 square feet. It was noted that, again based on Summer 2007 consumption, the debt service allocated to IR was \$252,100, and the revenue recovered was \$248,200. Mr. Dunn suggested rates to be charged based on the block size. Director Dunn advised that non-discretionary water use varies widely, and the development of block sizes is more arbitrary. The solution being recommended for Non-Residential Rates is a flat summer rate, and he explained how he calculated that flat rate.

Mr. Dunn gave conceptual seasonal rates for Small Residential, Large Residential, Small Commercial, Large Commercial, Industrial, and Irrigation customers. He explained how that structure would match up with the Rationing Ordinance should a water emergency occur. Customer bills under the existing rate structure were compared to bills under the conceptual rate structure for residential and large commercial customers.

Council Member Larson pointed out that there are some customers whose consistent water use is a benefit to Ames. Mr. Dunn said that the ideal would be to calculate each customer’s usage, but that is not possible. It would be possible, however, to break out certain customers whose patterns of usage are unique as long as it is very clear in the ordinance which customers qualify for those

exemptions.

Comparisons to other Iowa water rates were also given by Mr. Dunn.

The steps to be taken next were described by Mr. Dunn as:

1. Redefine customer classes
2. Revise block sizes based on new customer class definitions
3. Draft an ordinance to be taken to the March 25 Council meeting with the first reading occurring on April 8 and ultimately becoming effective on June 1
4. Public education would begin March 25

According to Mr. Dunn, related issues are: revising the Rationing Ordinance to be consistent with the new definitions, limiting the sewer exemption [per Municipal Code Section 28.304(9)], and the implementation of a voluntary or mandatory “even/odd” day watering provision.

Council Member Larson asked how apartment buildings and condos would be handled regarding classifications. Mr. Dunn said that those are classified as residential, but they would be further broken down to either small or large residential. It typically seems that the dividing line between small and large residential has been at a three-plex. If there is a single meter serving three units or fewer, it is considered a small residential. In addition, there are a number of apartment buildings where each dwelling unit has its own meter; those would each be considered small residential.

City Manager Schainker cautioned that customers might perceive this type of rate structure as penalizing residents who beautify their landscaping. Customers might perceive the peak as the differentiation between the winter and the summer months, and many will allege that they are not contributing to the peak and should not be charged a higher rate. Mr. Schainker pointed out that the overall growth in demand is only .5%, and that would not indicate that Ames has a problem with water capacity; however, it is very important to get the customers’ attention to lower the peak so as not to push a plant expansion. He emphasized that the rate structure is being adjusted; it is not intended to generate any new revenue, but is just reallocating it based on usage. City Manager Schainker reminded the City Council that there will be rate increases coming for the next couple of years on top of the seasonal rate increase.

Council Member Goodman suggested that the focus be on those who are contributing to the peak paying for the peak capacity. He recommended that a conversation occur to look at the top three or five top users.

Council Member Goodman also recommended that the first block be changed to possibly go from 1 to 11.3 or 12, instead of 1 to 10. Mr. Dunn explained why 10 was chosen: in part, it was a little above the winter demand so it was catching the majority of customers’ indoor usage, and it was a round number that would make it easier to explain to customers. Mr. Goodman said that he would be more comfortable with the first block being 1 to 12, so the person who is using a little more isn’t being treated like persons who are more than doubling their usage.

Council Member Larson pointed out that using the suggested rate structure would not be fair for renters of duplexes or tri-plexes that might have one meter; individually, the renter might be doing a good job in staying under 10, but when multiplied by two or three, it throws them into a category that doubles what they should be paying. Mr. Dunn acknowledged that there will be some, but it might be offset in that those customers typically do not irrigate those properties. Also, typically, the

per capita use by customers in rental units is not as high as that of a single-family unit. He said that it would be possible to create more classifications. Council Member Larson stated that he liked the simplicity of the proposed rate structure, but perhaps exemption criteria were needed in certain situations.

Moved by Goodman to move the first residential block size to be 0 - 12 and the second size be from 13 - 25.

Council Member Goodman cited his rationale behind making the motion. He is concerned that a person at Level 11.3 would be treated the same as the person who is at Level 25.

Motion died for lack of a second.

Moved by Goodman, seconded by Larson, to look at the possibility of breaking out the large users for the purpose of providing for the payment of the peak.

Finance Director Duane Pitcher listed the largest industrial users, some of which consume large quantities of water on a consistent basis. Council Member Doll asked if the motion included large users that are consistent or large users in general. Council Member Goodman said that it appeared from the largest users, seven of the eight are industries and only one is a residential use.

Council Member Larson said that his intention, when bringing this up, was to not penalize those users who have a consistent usage rate as they have a good flat demand. Mr. Pitcher advised that it would be possible to create a classification of users over a certain amount. Council Member Goodman added that the whole point is to ensure that the City is appropriately allocating costs for the peak use.

Council Member Popken asked why only the large users would be given that benefit; there might be some smaller users that have a flat demand as well. Mr. Goodman said that he felt that by breaking out the large users, it would come closer to allocating the cost accurately to those who are contributing to the peak capacity. Council Member Doll noted that he would be more in favor of allowing a different rate for large users whose demand stays constant year-round. Director Dunn advised that the staff will work out a structure that would not have ambiguity.

Vote on Motion: 5-1. Voting aye: Doll, Goodman, Larson, Mahayni, Rice. Voting nay: Popken. Motion declared carried.

Moved by Popken, seconded by Rice, to direct staff to move forward to revise the Rationing Ordinance to be consistent with new definitions, as they develop, and to limit the sewer exemption. Vote on Motion: 6-0. Motion declared carried unanimously.

COMMENTS: Council Member Goodman advised that he had been having conversations with landlords in the community and has heard many concerns. He suggested that a round-table discussion be scheduled with rental property owners, renters, neighborhood residents, students, City inspectors, and the City Council, to talk about the changes to rental housing, in general, with the City's increased enforcement. City Manager Schainker added that since the City Council approved staff's new proactive approach, there are some perceptions of unfair treatment. He felt that it would be good to review the progress to date with those most closely affected.

Moved by Goodman, seconded by Rice, to direct the City Manager to schedule a round-table meeting with the groups listed above, specifically directing that the meeting not occur over spring break or the summer.

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

Moved by Larson, seconded by Mahayni, to refer to staff the letter from Phyllis Athen and Rick Madson dated March 3, 2008, regarding annexation of their property on the west side of George Washington Carver.

Vote on Motion: 5-1. Voting aye: Doll, Goodman, Larson, Mahayni, Popken. Voting nay: Rice. Motion declared carried.

Discussion ensued as to whether letters should be referred to staff when placed around the dais. City Manager Schainker recalled past direction given by the City Council. It was concurred that attempts will be made to educate the public that items desired to be referred to staff should be received by the City Clerk's Office by Noon on Friday preceding the next Council meeting.

ADJOURNMENT: Moved by Doll, seconded by Goodman, to adjourn the meeting at 10:04 p.m.

Diane R. Voss, City Clerk

Ann H. Campbell, Mayor