

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

AMES, IOWA

JULY 15, 2008

The regular meeting of the Ames City Council was called to order by Mayor Campbell at 7:00 p.m. on July 15, 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 Beals was absent.

CONSENT AGENDA: Moved by Mahayni, 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 July 8, 2008
3. Motion approving renewal of the following beer permits and liquor licenses:
 - a. Class C Liquor - Welch Avenue Station, 207 Welch Avenue
 - b. Class C Liquor - Capone's, 2518 Lincoln Way
 - c. Class C Liquor - Applebee's Neighborhood Grill, 105 Chestnut Street
 - d. Class C Liquor - Sportsman's Lounge, 123 Main Street
 - e. Class B Beer - Pizza Ranch of Ames, 1404 Boston Avenue
4. RESOLUTION NO. 08-310 approving Investment Report for fiscal year ending June 30, 2008
5. RESOLUTION NO. 08-311 approving temporary increase in Fire Department personnel
6. RESOLUTION NO. 08-312 approving Agreement with William C. Page to conduct College Heights Survey
7. RESOLUTION NO. 08-313 approving Funding Agreement with Iowa State Extension Service for Community Conversations on Diversity
8. RESOLUTION NO. 08-314 approving Fall 2008 Commission On The Arts (COTA) Mini-Grants
9. RESOLUTION NO. 08-315 approving FY 2008/09 Human Service Contract with Boys and Girls Club of Story County
10. RESOLUTION NO. 08-316 approving Foster Grandparents program participation in 2009/10 ASSET process
11. RESOLUTION NO. 08-317 approving preliminary plans and specifications for City Hall Doors Replacement Project; setting August 5, 2008, as bid due date and August 12, 2008, as date of public hearing
12. RESOLUTION NO. 08-318 approving preliminary plans and specifications for Installation of Footbridge at Brookside Park; setting August 14, 2008, as bid due date and August 26, 2008, as date of public hearing
13. RESOLUTION NO. 08-319 approving contract and bond for Water Treatment Plant Five-Year Well Rehabilitation Project
14. RESOLUTION NO. 08-320 accepting completion of WPC Plant Sanitary Sewer and Sump Pump Replacement
15. RESOLUTION NO. 08-321 approving Major Final Plat for Sunset Ridge Subdivision, 3rd Addition
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.

FIREWORKS PERMIT FOR RAGBRAI CYCLING COUNTRY FESTIVAL: Moved by Goodman, seconded by Mahayni, to approve a permit to display fireworks during RAGBRAI CYcling Country Festival at approximately 9:45 p.m. on July 22, 2008, at Stewart Smith Park, pending approval of ISU.

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

EXPANDED OUTDOOR SERVICE AREA AT WEST TOWNE PUB: Moved by Goodman, seconded by Rice, to approve an expanded outdoor service area at West Towne Pub, 4518 Mortensen Parkway on July 22, 2008,
Vote on Motion: 6-0. Motion declared carried unanimously.

NEW CLASS B BEER PERMIT FOR CHICHA SHACK: Moved by Goodman, seconded by Rice, to approve a new Class B Beer Permit for Chicha Shack, 2418 Lincoln Way.
Vote on Motion: 6-0. Motion declared carried unanimously.

TARGETED GROWTH AREAS: Mayor Campbell recalled that this item originally came before the City Council on May 13, 2008. After staff presentation and debate, the vote on a motion to direct staff to come back with proposed changes to the LUPP regarding the Targeted Growth Areas ended in a tie (3-3). Subsequently, the Mayor was allowed to vote, and she voted aye to break the tie. Mayor Campbell gave the following explanation for her vote. She advised that she initially did not support growth to the north, having been involved in the creation of the Land Use Policy Plan (LUPP). However, as the Mayor pointed out, when the LUPP was adopted in 1997, Ada Hayden had not been annexed and no referendum had been held to create the Ada Hayden Watershed. It was her feeling, then and now, that the City Council owes it to the voters of that referendum and to future generations to help ensure a quality water supply. Also it is well known that those living close to the City's boundaries use the City's services, and it is only reasonable to have them annexed into the City and pay taxes to support those services. Also, she said that, although there have been several divisive issues in the City recently, there was overwhelming support of the annexation of the land including the now Ada Hayden Heritage Lake and Park.

Planning and Housing Director Steve Osguthorpe gave a brief summary of the past actions taken regarding the Targeted Growth Areas in Ames. He reminded City Council members that they had set a goal in January 2008 to define desired growth for the community. That goal was prompted in part by increased interest in residential development in the rural perimeter of the City, especially the Northwest and North, and a decreasing supply of buildable lots within the City. Staff was then directed to update the Annexation Study; said update was presented at a Council workshop on April 1, 2008. At its May 13, 2008, meeting, the City Council directed staff to bring back language that was consistent with Scenario 4, which included Subareas Southwest B, Northwest A, and North B.

Planner Charlie Kuester reviewed the five goals of the LUPP on which directional growth choices would have an impact. He advised that Ames' population estimate as of 2006 was 51,557, which moves the City towards its 2030 targeted population of 60,000 to 62,000. There might be room within the existing city limits to accommodate, at most, approximately 2,277 more people. Mr. Kuester said that to reach the 2030 target, the City would need to annex land to accommodate development of housing for about 6,200 to 8,200 people, which means that, at an average density of 2.3 persons/household and five dwellings/acre, an additional 539 to 713 net developable acres would be needed.

The City's Capital Investment Strategy calls for City participation in the costs of development toward the Southwest and the Northwest. The City would invest in the oversize costs of the infrastructure installed within those two areas at an estimated cost of \$6.3 million. Fire Station 2 would need to be relocated at a cost of approximately \$2.34 million for a total capital investment of an estimated \$8.64 million.

Mr. Kuester described how Scenario 4 advances the policies and goals of the Land Use Policy Plan (LUPP) and described how the proposed changes would implement Growth Priority Areas

Southwest B, Northwest A, and North B. He said that these Subareas were chosen because they were immediately adjacent to the current city limits; have an identified, willing property owner; and/or were a prerequisite for further development in those study areas.

It was noted that the difference with the current policy is that rather than the entire Southwest and Northwest Areas, the Targeted Growth Areas are just one subarea within each of those two greater areas (Southwest B and Northwest A) plus the inclusion of Subarea B of the North. The three Subareas would accommodate a population of 11,546, raising the City's population to 65,380, which is slightly more than the targeted 2030 population, but much less than under the current priorities. Also, if the Capital Investment Strategy were revised to reflect the City assisting in oversize costs for only Southwest B and Northwest A, with development in North B paying all the costs, oversize costs would then be \$2.9 million. That is less than half of the oversize costs for the entire Southwest (A, B, C, and D) and Northwest (A and B) Areas of \$6.3 million. With the relocation of Fire Station 2 and the possible addition of a new Fire Station 4, total capital costs for this scenario could be approximately \$8.58 million, which is similar to the \$8.65 million required by the current strategy. If needed to meet the Council's goal of a five-minute-or-less fire response time, it would also require approximately \$868,000 in annual operating costs. According to Mr. Kuester, the result of Scenario 4 is that the City does not overshoot its population targets by encouraging the overbuilding of infrastructure to the Southwest and Northwest.

Mr. Kuester advised that the overpass over the Union Pacific railroad at North Dakota Avenue was taken out of the scenario costs. The need for that overpass was identified as part of the Long-Range Transportation Plan. The costs of the improvement were not assigned to any particular development for the 2008 Study because the costs are part of the broader transportation system serving the entire community. City Manager Steve Schainker pointed out that the need for an overpass is not solely driven by traffic; it could be driven by residents of the impacted area so that the City's emergency vehicles can access the area within an acceptable response time. It was pointed out by Mr. Kuester that the City has made past investments in the Southwest as a result of the current Priority Growth Area policy, including the South Dakota Avenue Interchange with U.S. 30, the widening of South Dakota Avenue, the extension of Mortensen Road, the creation of a separate water pressure zone, and the installation of a new water tower. Mr. Kuester said that development has occurred within the existing City limits served by these improvements to the north line of U. S. 30, yet development has not occurred south of the Highway. Scenario 4 would continue to take advantage of this infrastructure by continuing growth into the Southwest B Sub-Area as landowners are willing to allow development. It was noted that as the City moves toward an update of the Long-Range Transportation Plan, any changes made now in the Priority Growth Areas of the City can be reflected in revisions to the traffic model.

Impacts on school enrollment for the different scenarios were presented by Planner Kuester. He indicated that further expansion of the Ames School District could come from development elsewhere in the Southwest; however, the extent to which the increases in dwelling units reflect increased enrollment in the respective school districts is unknown.

Planner Jeff Benson explained that the LUPP addresses growth of the community with three different policy tools: (1) Unique Development Area Classifications, (2) Priority Areas for Growth, and (3) Capital Investment Strategy. According to Mr. Benson, when the Ames Urban Fringe (AUF) Plan was approved and incorporated into the Ames LUPP, none of those categories changed.

Council Member Goodman stated that the City incentivizes development to deliver City services for the lowest possible cost. Mr. Schainker recalled that Scenario 4 results in the City most closely

meeting its population goal, without overshooting it.

Planner Kuester informed the Council that at its meeting of July 2, 2008, the Planning & Zoning Commission unanimously voted to recommend that the City Council adopt the proposed amendment to the Ames LUPP as a means to implement Scenario 4, designating Southwest B, Northwest A, and North B as Priority Growth Areas.

Options that could be taken by the City Council were reviewed by Planner Kuester. He also explained that Manager's recommended action.

Erv Klaas, 1405 Grand Avenue, Ames, a biologist, talked about the detriments of excess phosphorus in lakes. He recalled that Dr. John Downing monitored phosphorus in Ada Hayden Lake from 2001 to 2006, and in 2006, Dr. Bill Simpkins began monitoring water quality in Ada Hayden. Data indicate that the City must take immediate action to reduce the phosphorus in Ada Hayden Lake to preserve its quality. Mr. Klaas again referenced the remedies he initially provided to the City Council on May 13, one of which was to annex the land around the Lake. He advised that, on July 14, 2008, he spoke to the Stone Brooke Homeowners Association, and after his presentation, they asked Mr. Klaas to convey their wholehearted support of Scenario 4.

Mr. Klaas also indicated that his first choice would be for the City to purchase the land around Ada Hayden and allow it to be preserved as native prairie. Taxpayers of Ames have made a major investment in the Ada Hayden Watershed, and state law will not allow local governments to put a ban on the use of fertilizers. According to Mr. Klaas, zero-phosphorus fertilizer is available in Ames. He thinks that the City Council members should ask themselves what Ada Hayden is worth to the Ames community.

Catherine Scott, 1510 Roosevelt, Ames, pointed out that communities cannot ignore water quality and water quantity. Everyone who owns property in the Watershed needs to take responsibility for its water quality. She recommended that the City work with the County and State to ensure the good water quality of Ada Hayden; however, annexation is not a prerequisite to protecting its water quality. Ms. Scott does not support adding North B as a Targeted Priority Growth Area.

Jim Murdock, 1510 Roosevelt, Ames, reminded the City Council of two principles of the AEDC and Chamber of Commerce: (1) free enterprise allows the right to fail; and, (2) the City Council will become a laughing stock if it continues to reverse its positions taken on certain issues. It should not be necessary to force farmers to use conservation practices. Eventually, it will become socially unacceptable to not use conservation practices. Mr. Murdock urged the Council to retain its current Priority Growth Areas.

Robert Anderson, 4038 Stone Brooke Road, Ames, advised that he lived on Kingman Road when the vote on Ada Hayden came before Ames citizens. He reminded the City Council that over \$7,000,000 has been invested in the facility. It is now at risk, and it seems prudent to take measures to protect it.

Cindy Hildebrand, 57439 - 250th Street, Ames, advised that she supports the North B Growth Area to protect the Ada Hayden Watershed. She pointed out that the City cannot mandate conservation practices to farmers of the land adjacent to Ada Hayden. According to Ms. Hildebrand, the sewage line may be run to the north without controversy; however, there would be serious damage to woodlands in the Northwest Priority Growth Area if a sewer truck line were run there, and as soon as the sewer lines are drawn, much controversy would result. Ms. Hildebrand believes that the costs

of the damage to the woodlands after running a sewer truck line through should be added to the cost calculations.

Reiny Friedrich, 1300 Kingman Circle, Ames, pointed out that statistics presented at an earlier meeting by Chuck Winkleblack indicated that 70% of the new homes built in Ames have been in the north area. It was stated by Mr. Friedrich that annexation would allow the City to have control of the area around Ada Hayden, and he encouraged the Council to take this opportunity to move forward with annexation. Mr. Friedrich acknowledged that some of the land in North B is not in the Ames School District; however, open enrollment would make it possible for students living in that area to attend Ames Schools. He emphasized that no growth is not smart growth and that growth is necessary in this community.

Dick Johnson, 3315 Ridgetop, Ames, identified himself as a long-time resident and a member of the Responsible Growth group. He indicated his support for Scenario 4 as it would give the City control over the Lake's destiny. In Mr. Johnson's opinion, growth in some shape or form will occur in the North Area. By including North B at this time, the runoff into Ada Hayden Lake can be controlled by the City. Mr. Johnson noted that the Park represents a multi-million-dollar investment by the Ames community, not only in dollars, but also in time. It has the potential to be an even greater treasure for future generations if it is preserved. According to Mr. Johnson, there is a very small window of time to act to preserve the Ada Hayden Watershed. He also believes that development will occur much faster in the North B Area, thus giving a more rapid payback for the City. Market analyses indicate the desire of people to locate in the North Area. Annexing the land around the Watershed would show good stewardship of Ames' resources. Mr. Johnson believes that the City Council could be harshly criticized if it did not take measures to protect Ada Hayden Watershed. Also, it would be difficult to get voter support on other issues if the City Council did not take care of present resources. Mr. Johnson personally believes that annexing land in the North B Area would also help the development of Somerset Village as people in that area would use the services provided in the Village. He urged the City Council to rely on staff to do the due diligence: It is the City Manager's recommendation, as well as that of staff and the Planning & Zoning Commission, that Scenario 4 be approved. Mr. Johnson encouraged the Council to also approve Scenario 4.

Ev Cochrane, 52339 Zumwalt Station, Ames, advised that there are landowners and developers who have invested millions of dollars in the Southwest Area under the auspices that the City wanted growth to occur there. It is not fair to them to now change the Priority Growth Areas.

Matt Eller, 200 Timbercreek, Ames, voiced his support for Scenario No. 4. Alluding to the Council's adopted goals, he pointed out that there are willing developers and land owners in the North Area that are willing to "go green" with low-impact developments. He thinks that approving Scenario 4 would help brand Ames as a green community and would also strengthen neighborhoods when more and more people visit and enjoy Ada Hayden Park and Lake. Mr. Eller urged the City Council to listen to the Planning & Zoning Commission and City staff and designate Southwest B, Northwest A, and North B as the new Priority Growth Areas.

Kurt Friedrich, 100 Sixth Street, Ames, indicated his support of Alternative 1, which is to designate Southwest B, Northwest A, and North B as the new Priority Growth Areas. He endorses the process of meeting with neighborhood groups to find mutually beneficial solutions and believes that the City

has done that on this issue. Mr. Friedrich appealed to the members of the City Council to find a way to reach consensus among themselves to support Alternative No. 1.

Council Member Mahayni reminded the City Council that Ada Hayden is a water reservoir to be used if needed; the quality of water is very important. Mr. Mahayni also advised that Ames had been named by Money Magazine as the 53rd Most-Livable City in the nation and the only city in Iowa that was included in the top 100. He said it also had included a picture of Ada Hayden Park. Mr. Mahayni reminded all that Land Use Plans are not cast in stone; they do change, and those changes are often premised on new information. New facts are emerging: Developments are being planned outside the City where there would be little incentive to annex to the Ames city limits. He supports the staff's recommendation and urged his colleagues to do the same.

Council Member Doll said that he does not see the City growing too rapidly. The addition of a fourth fire station may be needed now since the goal of reaching 85% in less than five minutes means that 15% of the population is not reached in under five minutes. Mr. Doll also believes that affordable housing would be created if the North B Area were developed as some current residents would be purchasing new homes in that area and their older, more affordable homes would be opening up for others to purchase.

Council Member Larson indicated that this issue seems to have captured the positive interest of many groups. It has resulted in the support of normally diverse groups for developing in the North B Area in order to protect an asset. Mr. Larson referenced an editorial in the Ames Tribune entitled "Growth to the North is Best for All." Its message was that the vote should not be about what individual Council members want, but should be about what the community wants. Council Member Larson also referenced a *Letter to the Editor* written by Council Member Popken on the same issue, stating that he gives a lot of weight to the recommendation of the Planning and Zoning Commission.

Council Member Popken said that he believes that the current LUPP had support from a broad community base. It is unknown whether certain public improvements would be pushed up if Alternative 1 were adopted. There is also concern about enrollment in the Ames School District, and growing to the north would yield virtually no growth to the Ames District. Council Member Popken acknowledged that there had been an increase in nutrient pollution in Ada Hayden Lake. There is a correlation between development and the water quality, but some of those high phosphorous numbers are coming from the City of Ames. He does not believe that development of this area would improve or maintain water quality, and for that reason, will not be supportive of including North Area B as a Priority Growth Area.

Council Member Rice said that he does not see great benefits to changing the Priority Growth Areas. He does not believe that this is an environmental issue.

Council Member Goodman addressed the process that occurred on May 13, 2008. He indicated that many people had spoken to him since that vote attempting to convince him to change his mind and include North Area B as a Priority Growth Area. However, after further analysis, he has come to the same conclusion and will not support growth in the North B Area.

Council Member Larson described Ames as a transient community; things change, and a long-range land use plan should also change. To him, to think that the City should live exactly as it did 15 years ago is unreasonable.

Council Member Rice said that he continues to support the principles of the current LUPP and that is why he sees no reason to change it.

Council Member Goodman said to suggest that certain Council members think the LUPP should never change would be disingenuous.

Moved by Mahayni, seconded by Larson, to adopt RESOLUTION NO. 08-322 approving changes to the Land Use Policy Plan text that are consistent with the text changes contained in the staff report dated July 15, 2008, and that reflect the designation of Southwest B, Northwest A, and North B as the new Priority Growth Areas along with the modified Capital Investment Strategy.

Roll Call Vote: 3-3. Voting aye: Doll, Larson, Mahayni. Voting nay: Goodman, Popken, Rice. Motion failed.

Moved by Popken, seconded by Rice, to direct staff to create or adapt land use designations that would limit residences to the currently developed study areas: North A, B, or C.

Erv Klaas commented on that motion and to the conclusions formed by some of the Council members. He agreed that traditional development has vastly contributed to the increase of phosphorous in the environment, but noted that storm water management techniques have advanced in the last few years. Mr. Klaas thinks what Mr. Popken is suggesting is to leave the land in agriculture, however, there is no way to require best practices.

Council Member Goodman believes that with government cooperation, other solutions for improving the environmental position of Ada Hayden can be found. Council Member Mahayni pointed out that protecting Ada Hayden would be very difficult, if not impossible, if the land is not in the City's control.

Vote on Motion: 2-4. Voting aye: Popken, Rice. Voting nay: Doll, Goodman, Larson, Mahayni. Motion failed.

Moved by Goodman, seconded by Rice, to direct staff to explore other viable options geared to protecting the water quality of Ada Hayden Lake.

Moved by Mahayni to amend the motion to request Erv Klaas to utilize some of the funds allocated by the City Council for study groups to organize a seminar to educate others on this issue. Motion to amend died for lack of a second.

Council Member Larson indicated that he would not support that motion at this time due to emotions running high on this issue and he does not want staff to go to a lot of work without much direction.

Vote on Motion: 3-3. Voting aye: Goodman, Popken, Rice. Voting nay: Doll, Larson, Mahayni. Mayor Campbell voted nay to break the tie. Motion failed.

The meeting recessed at 9:27 p.m. and reconvened at 9:35 p.m.

DEVELOPER'S AGREEMENT WITH NORTH GRAND MALL PARTNERS, LLC: Director Steve Osguthorpe revisited the conditions placed on approval of the Final Plat for the Streets of North Grand. A Development Agreement was approved along with the Final Plat, which required the developer to reconfigure the parking area on Lot 2 to comply with the minimum off-street parking standards in the Ames Municipal Code in a manner consistent with an approved site plan and with the parking lots on Lots 1 and 3 not later than one year from the recording of the Final Plat, i.e., July 18, 2008. Director Osguthorpe stated that the City had received a letter from the applicants stating that conditions beyond their control precluded them from meeting the requirements of the

Agreement and asking for an extension.

Pat Burke, attorney with the Bradshaw Law Firm, 801 Grand Avenue, Suite 3700, Des Moines, Iowa, representing the applicants, was present. He stated that when the subdivision of the property in question was allowed, imaginary lines were created. One of those lines went through the building that separated the main mall area from Sears to the south. Sears is no longer occupying space, but the lot line is still there. Another lot line separated the southern Lot 1 from Lot 2, creating a nonconforming parking problem; at issue were only seven spaces. Staff, at that time, agreed to allow the developers up to a year to make the improvements if they provided the City with a bond for the amount of the parking lot reconfiguration and the placement of a fire door between the former Sears and the new mall area. The bond was provided. Mr. Burke stated that, due to reasons outside of the control of the developers, a one-year extension is being requested. Staff has asked for more detail as to those reasons, however, according to Mr. Burke, due to the nature of the competitive marketplace, he is not in a position to divulge any information. He stated that the developers fully intend to go forward with development of the site.

Council Member Doll asked when the City could expect to see some action on the site in question. Mr. Burke said that they do not have a particular time frame.

Council Member Larson said that he would not ask for more details on the circumstances that are out of the developers' control if it were not for the pressure that this Council has put on another mall developer. Mr. Burke insisted that he was not at liberty to expound on any specifics. Council Member Goodman asked if there were any pieces of information that could be provided so as to help the Council understand why nothing except statistical dilapidation of the property has occurred. Mr. Burke indicated that nothing has changed from one year ago, and he asked that the City not act on the Performance Bond. He alleged that the Mall stands the same today as it did one year ago, and there would be no detriment to the City to permit the extension. Council Member Doll said that to say nothing has changed is an understatement. He pointed out that much has changed at North Grand; many of the former stores are gone. He asked if it would be right to just issue blanket approval of an extension for this developer, but "grill" the other developer on every extension or missed deadline.

City Manager Schainker indicated that the retail market is very soft right now; perhaps that is the reason, however, he did not think that there would be so much mystery surrounding this request for an extension.

City Attorney Marek pointed out that the Development Agreement called for the parking lot to be reconfigured by one year of recording of the Final Plat; however, it also allowed for a one-year extension.

Moved by Rice, seconded by Larson, to adopt RESOLUTION NO. 08-323 granting North Grand Mall Partners, LLC, one year (until July 18, 2009) to reconfigure the parking lot on Lot 2 and install a fire-rated door to comply with the terms of the Development Agreement dated July 10, 2007, with the City continuing to withhold Occupancy Permits, subject to the exceptions in the current Agreement, until the improvements are completed.

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

PRELIMINARY PLAT FOR ESTATES WEST SUBDIVISION, 2ND ADDITION: Director Osguthorpe explained that the applicant is proposing to take Lots 9 and 10 from the Estates West

Subdivision, which was approved in April 2008, and include them with this proposed Subdivision. This is not a phase of a previously approved Subdivision, but a combination of four lots from three different previously recorded plats. Mr. Osguthorpe further stated that a cul-de-sac street is proposed as a 55-foot-wide right-of-way extending from the newly constructed Timber Ridge Drive. The bend in the road as it transitions from Timber Ridge Drive to Arizona Avenue is not considered an intersection because of its continuous movement; therefore, this cul-de-sac is permitted in its proposed location even though it is less than 280 feet from the bend. Additionally, City staff has determined that there is no need for another path in this area because there is already a 350-foot shared-use path constructed in the public right-of-way beyond the dead-end portion of Westbrook Drive, which provides connectivity to the shared-use path that runs the length of North Dakota Avenue.

Council Member Goodman pointed out that there is a trail that follows the Creek; it does not connect with anything. Jesse Tibodeau, engineer with Hunziker & Associates, 223 South Walnut, Suite B, Ames, advised that a trail was not discussed with the City. The topography is very steep heading down into the flood plain, and it would be difficult to install without moving an extensive amount of dirt and trees. City Manager Schainker reminded the City Council that no path may be built through Munn Woods as it is to remain as a natural area.

Moved by Mahayni, seconded by Rice, to adopt RESOLUTION NO. 08-324 approving the Preliminary Plat for Estates West Subdivision, 2nd Addition, with the following stipulations:

1. That the developer construct and dedicate all public improvements within the development to the City of Ames Urban Standards, including: dedication of public right-of-way, street paving, curb, gutter, sidewalks, street lights, water main, sanitary sewer main, and storm sewer improvements prior to approval of the Final Plat, or execute an Improvement Agreement to guarantee the completion of all public improvements and provide security in the form of an improvement guarantee;
2. That civil drawings of all public improvements be submitted to the Public Works Department for review and approval prior to installation and prior to Final Plat approval;
3. That rezoning of Lot 20, Clear Creek II, be completed before the recording of the Plat; and,
4. That a note be placed on the face of the Final Plat referencing required compliance with Municipal Code, Chapter 9, Floodplain Regulations.

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

161-kV TRANSMISSION LINE: City Attorney Marek advised that, last week, the Iowa Utilities Board (IUB) issued an Order denying the franchise petitions of the Ames Municipal Electric System to construct the 161-kV Transmission Line from a substation in Ames to the Northeast Ankeny Substation. In denying the franchise petitions, the IUB affirms in part and modifies in part the Proposed Ruling of the Administrative Law Judge issued last September. The IUB Order finds that the route study conducted by the City, in part, favored the route of an existing transmission line to the same degree that it favored division lines of land, roads, and railroads. The IUB did not approve the four and one-half mile section of the route that is just north and west of Huxley. It did find that the City had demonstrated a need for the Line. It approved the plan for transmission and found that it met construction and safety standards and that the electric line and magnetic fields would not adversely affect public health or safety.

Electric Services Director Donald Kom advised that the first step now would be to correct some issues with the Route Study. The process from there is not confirmed; it might be possible to simply file an amendment or the City might also have to go back to "Square 1." City representatives will meet with IUB staff to determine what the best course of action is to bring this project back on a positive direction.

Mr. Marek advised that, procedurally, the City is not able to substitute double-circuiting in the process. The Route Study will need to be revisited. The IUB Order, unlike the Administrative Law Judge's Proposed Decision, makes it clear that they are not favoring double-circuiting; they are taking no position on that. It might be that double-circuiting would be a viable alternative, but the Route Study will need to be updated first. Even if double-circuiting were done, and the City followed the same route, the Line would still be crossing City of Huxley property.

According to Mr. Marek, staff was merely providing this information to the Council at this time; this issue will be coming back to the Council with a proposal for engaging consultants to review the Route Study. If the City Council wanted an appeal to the IUB's Order filed in District Court, it should provide that direction at this meeting. Mr. Marek advised that he did not see any benefit to the City in appealing the Order.

Easements. It was pointed out by Director Kom that staff was able to negotiate another option on the easement originally due to expire on July 23, 2008. With that, the amount to acquire the easements due to expire on August 2, and August 12, 2008, decreased to \$8,250.

Moved by Mahayni, seconded by Larson, to adopt RESOLUTION NO. 08-325 authorizing staff to exercise options to acquire easements due to expire on August 2 and August 12, 2008, in the total amount of \$8,250.

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

POWER PLANT NITROGEN OXIDE CONTROL PROJECT: Director Kom advised that staff had originally planned to talk to the City Council on NOx control for Units No. 7 and 8 at this meeting; however, a legal case occurred last Friday that changed the direction of this Project.

City Attorney Marek advised that the Federal Circuit Court of Appeals for the District of Columbia issued a Decision in North Carolina v. EPA. North Carolina had sued the EPA over the Clean Air Interstate Rules, specifically over one of the mechanism that the EPA used to enforce the Clean Air Act. The Clean Air Act places requirements on the states to have an Implementation Plan to reduce acid rain. Iowa is one of the upwind states, and the Clean Air Interstate Rules regulate emissions in the upwind states. After North Carolina filed its action against the EPA, many other entities (states and power companies) did the same. North Carolina wanted the EPA to amend its rules to make stricter requirements for the states, and the power companies were challenging, stating that it did not have authority to do that. In the Decision that was issued last Friday, the Court of Appeals concluded that, due to so many things being found wrong with the Rules, they were vacating the entire Act; they could not simply remand it for correction. Therefore, there are no Rules now in effect to inform cities how to reduce acid rain.

Dr. Mark Weldon, City Plant Engineer, advised that the City was in the bidding process for new equipment and systems on two coal-fired boilers to reduce nitrogen oxide; there is approximately \$4.5 to \$5 million in the Capital Improvements Plan for that purpose. The proposed project was to furnish and install nitrogen oxide reduction equipment on both Unit No. 7 and No. 8 at the Power

Plant that would reduce emissions of nitrogen oxides in keeping with the Clean Air Interstate Rule. One bid was received for Unit No. 7 and is currently being evaluated. Two bids were received for Unit No. 8. City staff believes those two bids are insufficient and contain significant errors. A Construction Permit Application had been prepared and staff was ready to submit it to the Iowa DNR to allow the modifications to be made. However, after the Federal Circuit Court Decision was received, it was ascertained that the economic incentives to do the project were no longer there.

Dr. Weldon asked the City Council to reject both bids for Unit No. 8. Staff is also recommending delaying the approval of plans and specifications for the re-bid on Unit No. 8. Since both bids contained errors, staff had planned to go out again with the plans and specifications to give both firms an opportunity to correct the mistakes and propose something that would be viable. According to Dr. Weldon, staff prefers that the Council not take any action on the Unit No. 7 bid either since it is still being evaluated.

Council Member Larson asked how long the bids may be held since the bid for Unit No. 7 appears to be a good bid. City Attorney Marek advised that the City had until August 18 to make a decision or an extension could be requested.

Moved by Mahayni, seconded by Popken, to reject bids for work on Unit No. 8.
Vote on Motion: 6-0. Motion declared carried unanimously.

Dr. Weldon asked the City Council to consider how to most appropriately proceed with this project, if at all, based on the fact that there is no longer an economic incentive to complete it.

City Manager Schainker noted that the Rules that were forcing the City to complete this project by 2009 now do not exist. Some utilities have spent millions of dollars on similar projects and have them currently in operation. Mr. Schainker said that Council might believe in doing this because it is best for the environment, whether it is required or not. Director Kom advised that the City could go ahead with the project because it would reduce NOX, but because there are currently no Rules in place, the City would not know how much of a reduction should be made. Dr. Weldon pointed out that while these systems reduce NOX, they increase carbon monoxide emissions, which is the reason why a Permit Application had to be made to the DNR. Mr. Schainker stated that since there are no Rules in place, the City could invest millions in a system only to be required to do something else later. Director Kom said that potentially it could take years before the EPA re-establishes any Rules.

Mayor Campbell asked for direction from the City Attorney as to the procedure for Item 23b since a Resolution was listed on the Agenda. City Attorney Marek said that the Council should pass a motion rejecting the Resolution.

Moved by Doll, seconded by Goodman, to reject the resolution and not approve preliminary plans and specifications for work on Unit No. 8.
Vote on Motion: 6-0. Motion declared carried unanimously.

RAGBRAI: Assistant City Manager Sheila Lundt reviewed the RAGBRAI route through Ames. She advised that approximately 3,000 door hangers had been distributed along the in-bound and out-bound routes to notify residents of the event. Ms. Lundt specifically noted that all available police personnel will be utilized on July 22 and 23 as are a number of additional City employees. She said that the public may experience some delays in getting assistance on issues unrelated to RAGBRAI as many employees will be reassigned and working around the clock.

Moved by Larson, seconded by Popken, to adopt RESOLUTION NO. 08-327 approving temporary waiver of enforcement of the Sign Ordinance regulating signs in the rights-of-way.

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

Moved by Goodman, seconded by Rice, to adopt RESOLUTION NO. 08-328 approving lane closures and partial street closures.

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

Moved by Mahayni, seconded by Goodman, to adopt RESOLUTION NO. 08-330 approving closure of three parking stalls on the east side of Kellogg Avenue at the southeast corner of Main Street/Kellogg Avenue intersection for shuttle bus drop-off.

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

HEARING ON 2005/06 ARTERIAL STREET PAVEMENT IMPROVEMENTS - 24TH STREET (STANGE ROAD TO UPRR) AND STANGE ROAD (24TH STREET TO BLANKENBERG

ROAD): Mayor Campbell opened the public hearing. No one requested to speak, and the Mayor closed the hearing.

Moved by Mahayni, seconded by Larson, to adopt RESOLUTION NO. 08-329 approving final plans and specifications and awarding contract to Manatt's, Inc., of Ames, Iowa, in the amount of \$267,697.59.

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 TO MUNICIPAL CODE SECTION 29.307(3)(d) REGARDING NON-CONFORMING STRUCTURES: The hearing was opened by the Mayor. She

closed same after no one requested to speak.

Director Osguthorpe stated that, since January 2008, five variances or exceptions have been approved because of this issue, and one commercial and three residential applications are pending.

Moved by Popken, seconded by Rice, to pass on first reading an ordinance making a zoning text amendment to Municipal Code Section 29.307(3)(d) regarding enlargement and/or expansion of nonconforming structures.

Roll Call Vote: 6-0. Motion declared carried unanimously.

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

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

Moved by Mahayni, seconded by Rice, to pass on second and third readings and adopt ORDINANCE NO. 3961 making a zoning text amendment to Municipal Code Section 29.307(3)(d) regarding enlargement and/or expansion of nonconforming structures.

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

HEARING ON REZONING PROPERTY LOCATED AT 4401 WESTBROOK DRIVE FROM PLANNED RESIDENCE DEVELOPMENT (F-PRD) TO RESIDENTIAL LOW DENSITY (RL):

The Mayor opened the public hearing. No one came forward to speak, and the Mayor closed the hearing.

Moved by Popken, seconded by Larson, to pass on first reading an ordinance rezoning property located at 4401 Westbrook Drive from Planned Residence Development (F-PRD) to Residential Low Density (RL).

Roll Call Vote: 6-0. Motion declared carried unanimously.

ORDINANCE ESTABLISHING PARKING REGULATIONS FOR TIVERTON COURT AND STANGE ROAD:

Moved by Mahayni, seconded by Goodman, to pass on first reading an ordinance establishing parking regulations for Tiverton Court and Stange Road.

Roll Call Vote: 6-0. Motion declared carried unanimously.

ORDINANCE REPEALING CHAPTER 21A - SMOKING IN PUBLIC PLACES:

Moved by Goodman, seconded by Mahayni, to pass on second reading an ordinance repealing Chapter 21A - Smoking in Public Places.

Roll Call Vote: 6-0. Motion declared carried unanimously.

Moved by Larson, seconded by Goodman, to suspend the rules necessary for the adoption of an ordinance.

Roll Call Vote: 6-0. Motion declared carried unanimously.

Moved by Larson, seconded by Mahayni, to pass on third reading and adopt ORDINANCE NO. 3962 repealing Chapter 21A - Smoking in Public Places.

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

ORDINANCE REPEALING URBAN REVITALIZATION AREA NO. 7:

Moved by Larson, seconded by Mahayni, to pass on second reading an ordinance repealing Urban Revitalization Area No. 7.

Roll Call Vote: 6-0. Motion declared carried unanimously.

COMMENTS:

Moved by Popken, seconded by Goodman, to direct staff to contact the Friedrichs regarding bringing back the Fieldstone Development to Council, specifically pertaining to the pending issues of the overpass, the sanitary sewer, and the sewer route.

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

ADJOURNMENT:

Moved by Doll, seconded by Mahayni, to adjourn the meeting at 10:46 p.m.

Diane R. Voss, City Clerk

Ann H. Campbell, Mayor