

## REGULAR MEETING OF THE AMES CITY COUNCIL

AMES, IOWA

SEPTEMBER 23, 2008

The regular meeting of the Ames City Council was called to order by Mayor Campbell at 7:00 p.m. on September 23, 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.

**PROCLAMATION FOR PUBLIC POWER WEEK:** Mayor Campbell proclaimed October 5 - 11, 2008, as Public Power Week. Accepting the Proclamation was Electric Services Director Donald Kom.

**PROCLAMATION FOR FIRE PREVENTION WEEK:** October 5 - 11, 2008, was proclaimed as Fire Prevention Week by Mayor Campbell. The Proclamation was accepted by Ames Fire Department Lieutenant Rich Higgins and Fire Fighters Troy Buchman, Chris Osborn, Michael Caldenburg, and Adam Wuebker.

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

1. Motion approving payment of claims
2. Motion approving minutes of the regular meeting of September 9, 2008
3. Motion accepting Report of Contract Change Orders for August 16-31 and September 1-15, 2008
4. Motion setting November 6, 2008, at 7:00 p.m. as City Council Meeting Date
5. Motion approving renewal of the following beer permits and liquor licenses:
  - a. Class C Liquor & Outdoor Service Privilege - Brewer's, 2704 Stange Road
  - b. Class C Liquor - Wallaby's Grill, 3720 W. Lincoln Way
  - c. Class C Beer - Elmquist/Decker's BP, 821 Lincoln Way
  - d. Class C Liquor - La Fuente Mexican Restaurant, 217 S. Duff Avenue
  - e. Class B Beer - Ames Happy Joe's, 551 S. Duff Avenue
  - f. Class C Liquor - Hickory's Hall, 300 S. 17<sup>th</sup> Street
  - g. Class C Beer & B Wine - Kmart #3971, 1405 Buckeye Avenue
  - h. Class C Liquor - Sips/Paddy's Irish Pub, 124 Welch Avenue
  - i. Class C Beer - Doc's Stop, 2720 E. 13<sup>th</sup> Street
  - j. Class E Liquor, C Beer, B Wine - Hy-Vee Food Store #1, 3800 Lincoln Way
  - k. Class E Liquor, C Beer, B Wine - Hy-Vee Food & Drug Store #2, 640 Lincoln Way
  - l. Class E Liquor, C Beer & B Wine - Target Store T-1170, 320 S. Duff Avenue
6. Motion approving encroachment permit for retaining wall partially located on City right-of-way at 4510 Mortensen Road
7. Motion approving encroachment permit for retaining wall partially located on City right-of-way at 1510 Curtiss Avenue
8. RESOLUTION NO. 08-411 approving and adopting Supplement No. 2008-4 to Municipal Code
9. RESOLUTION NO. 08-412 approving amendment to Agreement with Will Page for Comprehensive Historic Preservation Plan
10. RESOLUTION NO. 08-413 approving contract and bond for Furman Aquatic Center Traffic Signal Project

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

**PUBLIC FORUM:** Roy Cakerice, 2911 Duff Avenue, Ames, expressed frustration concerning his requests to get Carr Pool listed as a topic on a City government's agenda. According to Mr.

Cakerice, he has requested time on both the Parks & Recreation Commission and City Council Agendas; however, his efforts have been in vain. Mr. Cakerice said that he is simply asking for dialogue with the City Council during a public meeting. He has only been allowed to speak about saving Carr Pool under the *Public Forum* portion of the Agenda, a time when no communication occurs because there is no verbal response from the Council. Quoting Harry Green of Pool Tech of Cedar Rapids, Mr. Cakerice said, "Carr Pool is still a good pool structurally...has life left in it." Mr. Cakerice indicated that the supporters of Carr Pool will continue to work on their mission and will raise the issue again during budget time.

Daniel Brown, 1305 Crescent Street, Ames, founder of the non-profit organization called "Endeavor Peace," reminded the City Council that he had presented a Petition to the City signed by 320 Ames citizens requesting that: (1) a relationship be established with a city in Darfur, and (2) \$3,000 be allocated to a 501(c)(3) non-profit corporation, such as the Red Cross, to be used directly to help the victims of the genocide in Darfur. The funds would be used to provide such things as medicine, classrooms, and baby delivery assistance kits. Mr. Brown spoke of the causes of genocide and the dire need for assistance in the Darfur Region. He feels that it is the moral obligation and duty of citizens in a free society with extraordinary resources to do everything they can to help.

**CLASS C LIQUOR LICENSE RENEWAL FOR WHISKEY RIVER:** Dirk Rozeboom advised that he is the owner of Whiskey River Bar & Grill, which occupies leased space at 132 Main Street. He acknowledged that the City has declared the building at 132 Main Street as a Dangerous Building. Mr. Rozeboom alleged that he has done everything that the City has asked him to; however, the owner of the building has not done his part. Mr. Rozeboom explained that he would be the one who would be penalized if the liquor license is denied; he will lose his job and his employees will lose their jobs. He has tried to get in touch with the owner; however, all attempts have met with negative results.

Mayor Campbell said that the City Council appreciates the predicament that Mr. Rozeboom is in; however, it has the duty to take action to abate a dangerous structure. Mr. Rozeboom agreed, but felt that the building's owner should be the one penalized for not maintaining the property. He asked the Council not to penalize him, as the building's tenant, by denying his liquor license.

Council Member Mahayni told Mr. Rozeboom that, as a renter, he has the option of moving his business to a sound building; however, the City has the obligation to protect the health and provide for the safety of its people. Mr. Rozeboom advised that the building has not changed in 11 years; it has been inspected many times by the City during that time period. He feels that the condition of the building is an issue between the City and the owner of the building.

Council Member Goodman said that he believes Mr. Rozeboom should be able to run a profitable business and pay his employees; however, the City cannot risk people being injured or dying as a result of that business. He suggested that Mr. Rozeboom try to move the business to another location on Main Street. Mr. Rozeboom advised that there are no places on Main Street to rent; the rentable buildings are in the same shape as the one at 132 Main Street. He asked for an extension of time to allow him to continue his efforts to find the building owner. Mr. Rozeboom said that if he could get the deed to the property, he would have contractors there immediately. Because he cannot contact the owner, he has no options.

Assistant City Attorney Judy Parks advised that when an application is made to obtain or renew a liquor license, there are two general sets of qualifications: one is in respect to the person and

the other is in respect to the location. The City, as the local licensing authority, has to certify on that

application that the premises meet the statutory requirement. Among those are that the building conforms to health and fire regulations and is in good repair.

The three options available to the City Council were outlined by Ms. Parks, as follows:

1. Approve the renewal. In the event that the Building Code Board of Appeals upholds the Dangerous Building determination, City staff would then seek suspension of the liquor license, and the City Council would have to hear that case and take further action.
2. Deny the renewal. The applicant could appeal to the State Alcoholic Beverages Division, and the case would be heard before an Administrative Law Judge. Pending appeal, the licensee would be allowed to operate under the present license. This process could take approximately three to six months.
3. Delay action. Since an appeal pertaining to the Dangerous Building designation has been filed, the Council might want to have the Board's Decision prior to acting on the liquor license renewal request. If action is delayed, the licensee would be allowed to operate under the present license because they have timely filed for renewal.

According to Ms. Parks, the City's Inspections Division has withheld its endorsement of the premises based on the building's failure to meet the requirements. Ms. Parks confirmed that the City Building Official has declared 132 Main Street as a Dangerous Building and the building's owner was sent notice of that designation. The building owner has since appealed the Dangerous Building Declaration to the Building Code Board of Appeals. The date for the Board to hear the appeal has tentatively been scheduled for October 2, 2008. According to Ms. Parks, evidence will be presented at the hearing from which the Board can decide what remedies should be taken and under what time line. If the City Council were to delay action on the liquor license until after October 2, it would have the information from the appeal hearing to assist them in making its decision. The building owner would also have the right to appeal the Decision of the Building Code Board of Appeals to District Court; that could take up to a year.

Council Member Mahayni asked who would be liable if something were to happen as a result of the condition of the building at 132 Main Street. Ms. Parks said that whoever is injured would attempt to put liability on as many parties as possible, including the City for failure to take action knowing the condition of the building. If the City Council approved the renewal, thus endorsing the use to continue in the building in its present state, the level of liability would increase.

It was pointed out by Council Member Doll that the City only has the option to shut the business down at this time because the business occupying the building in question is seeking liquor license approval.

Council Member Goodman asked the City's Building Official to comment on the extent of the repairs needed to the building. David Brown emphasized that improvements would be extensive. It is his opinion that the cost of repairs would exceed the value of the building. Mr. Brown said that repairs are always possible, but there is a point when they are not financially practical; that is a decision that the owner of the building would have to make. According to Mr. Brown, the City does not know what the owner's position is because the owner has refused to

respond.

Council Member Popken asked Mr. Brown if there was a higher level above “Dangerous Building,” such that it would be so dangerous that it could not be occupied. Mr. Brown indicated that there is a higher level, i.e., “imminent danger,” which means it is believed that the building or parts thereof will collapse. He noted that three structural engineers had inspected 132 Main Street and all reported that the building is hazardous, but nowhere in the reports are the words “imminently hazardous” used. According to Mr. Brown, two of the structural engineers were hired by the building’s owner and one was hired by the City.

Council Member Goodman asked Mr. Brown if there were any other buildings on Main Street that are in the same condition as 132 Main and have been deemed to be a dangerous building. Mr. Brown said that there were none that he is aware of in this extreme condition.

Moved by Rice, seconded by Popken, to deny the renewal of the Class C Liquor License for Whiskey River, 132 Main Street.

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

**CLASS C LIQUOR LICENSE RENEWAL FOR BALI SATAY HOUSE:** Police Chief Chuck Cychosz and Lieutenant Geoff Huff were present. Chief Cychosz explained the procedures followed by the Ames Police Department to partner with liquor license-holders. The elements of that partnership include server training, focusing on how to handle intoxicated patrons and identifying fake IDs; quarterly bar meetings that focus on legal updates, problem-solving, and other issues; and frequent compliance checks and walk-throughs. Feedback is also provided to the manager/owner when there is a pattern of problems to help them make improvements. Annual reports are provided to the City Council when licenses are up for renewal.

Pertaining to Bali Satay, Chief Cychosz said there is a pattern of problems that needs to be addressed by the license-holder, specifically under-age citations and fights occurring in the bar. The Police Department will not recommend renewal of this Liquor License without a plan for dealing with both of those problems.

It was noted that the owner had prepared a plan for improvement. Lieutenant Huff commented on the plan, stating that the Police Department has additional recommendations, as follows:

1. Every employee should attend the server/ID training.

Lieutenant Huff reported that three of the eight employees of Bali Satay attended the training held approximately three weeks ago; however, up to that point, none of them had attended the training; that had been discussed with the owner at every quarterly meeting.

2. If under-age people are allowed in the establishment under the “restaurant” classification, other options need to be pursued.

It was stated by Lieutenant Huff that Bali Satay currently uses wrist bands and “Xing” the hand of minors, but under-age people are still found in possession of alcohol in the bar. Since that is not very effective -- in addition to that -- they should ID at the bar as well as at the door. They should also limit the number of drinks that are allowed to be purchased and taken to tables.

3. Bar management and employees need to call the Police Department immediately when they think that there might be problems.

It was reported by Lieutenant Huff that there have been a lot of fights in this establishment, which have resulted in property damage and personal injuries. He said that, most-recently, a very large fight occurred in this establishment that then spilled-out onto Lincoln Way.

4. The bar owner/manager needs to take an active role in managing the entertainment.

According to Lieutenant Huff, on occasion, outside people are brought in to run events, and in the past, the responsibility for the bar has been turned over to them. Those people do not have any training, and it has been explained to the bar manager that the responsibility is his at all times.

Council Member Popken asked if other establishments in Ames host events that allow mixed-age groups. Lieutenant Huff advised that there were other establishments operating under the “50/50 Rule,” which means that 50% of the business is other than alcohol. Minors are allowed on the premises of those establishments; however, it is the license-holder’s responsibility to ensure that the under-age persons are not in possession of or drinking alcohol. Lieutenant Huff said that most of the similar establishments have a “cut-off point,” e.g., 10 or 11 PM, when they become a bar only, and people 21 years of age and older are allowed to remain in the bar. According to Lieutenant Huff, they have suggested that Bali Satay have that same policy. It was noted by Council Member Larson that that policy had been suggested to the owner/manager several times, but not followed. Council Member Mahayni noticed that the plan submitted by the owner stated that he will continue to have an “all-ages establishment.” Council Member Larson stated that it appeared to him, by reading the plan, that the bar owner was not willing to have a “cut-off point.” He also asked if receipts had been checked to ensure that this establishment complies with the 50/50 Rule. Lieutenant Huff stated that the status of the “restaurant” designation will be verified; the manager has been asked to put that information together and present it to the Police Department.

Council Member Doll recalled that the City had denied liquor license renewals for other establishments due to the numbers of violations. The license-holders had appealed the Council’s decisions, and in some cases, the state had granted the license anyway. It was noted by Lieutenant Huff that only one of the persons cited for under-age possession had a fake ID, so it is apparent that there is not a lot of self-regulating occurring in the bar to make sure under-age persons are not possessing or drinking alcohol. Chief Cychosz indicated that the difference here is the number of large serious fights that are occurring in the establishment in question. Mayor Campbell elaborated that, on September 7, a very large fight started in the bar and moved out into the street, which necessitated the utilization of every officer available to restore order, including every on-duty Ames Police Officer (8 or 9) and every ISU officer working that night (4). This left the rest of the City without police presence.

Council Member Goodman pointed out that Bali Satay formerly was able to operate without any citations being issued. He asked what had changed. It was noted by Lieutenant Huff that last year, renewal was recommended for this establishment; it had only four violations during that time period and large fights were not happening.

Attorney Shawn Smith, 4144 Eisenhower, #7, Ames, representing the owner of the establishment Iwan Muljadi; and Campbell DeSousa, manager of the establishment, were present. Mr. Smith advised that a new plan to address the violations had been prepared; however, had not yet been distributed to the City. Mr. Smith reviewed the new implementation plan.

Mr. Muljadi promised the City Council to improve the security, improve on controlling the crowd, and improve the identification of minors who enter Bali Satay. He alleged that more than 70% of his business results from the sale of food. The restaurant has been in Ames since 1992.

Attorney Smith stated that the minors in possession of alcohol violations occurred due to patrons providing alcohol to minors, not employees of Bali Satay (aka Bali) providing the alcohol; Bali did not receive any citations for Providing Alcohol to Minors. He also alleged that the majority of the fights did not start in the Bali Satay House. Speaking specifically about the large fight that occurred on September 7, Mr. Smith said that it started out as four people fighting. Those involved were pushed out of the establishment into the street, and it escalated from there. According to Mr. Smith, one fight noted on the information provided to the Council occurred during VEISHEA and had nothing to do with Bali. He also advised that the Bali Satay hosts "Hip Hop Night." During those events, primarily ISU minority students party, and sometimes a fight will occur. Bali employees do what they can to control the situation, which sometimes means pushing it outside.

It was noted by Council Member Larson that the owner, on one of his plans for improvement, stated that he would cease all "Hip Hop Nights" at the Bali Satay House, effective September 18, 2008. Also, Council Member Larson asked if the bar could clear the establishment of minors when it stops serving food. Mr. Smith indicated that the owner is reluctant to give up the sale of food at a certain hour because it does bring in a substantial amount of revenue.

Mr. DeSousa pointed out that, since February, there had been two violations. He felt that the establishment had improved its enforcement efforts considerably. Mr. DeSousa advised that they have also hired new people in an effort to improve compliance.

Council Member Rice recognized that the Bali Satay House provides a multi-cultural environment intended to promote the "One Community" concept. He believes that it is a valuable addition to the community and thinks that the owner is willing to work with the City to improve compliance with regulations.

Discussion ensued as to whether it was possible to limit admittance to "Hip Hop Night" to only those with Student IDs. Mr. Muljadi explained that on "Hip Hop Night," patrons are coming from Des Moines who are not associated with Iowa State and starting fights. Attorney Smith said that in order to do that, the function would have to be designated as "private."

Moved by Rice to approve the Class C Liquor License Renewal for Bali Satay House, 2424 Lincoln Way, contingent upon implementation of the plan presented by the owner and working with the Police Department on other improvements.

Motion died for lack of a second.

Chief Cychosz explained that the Police Department is committed to working with bar owners to control the climate and enforce the regulations; however, it is important that that effort be made collectively.

Moved by Goodman, seconded by Popken, to issue a Class C Liquor License to the Bali Satay House, 2424 Lincoln Way, for a period of six months with the stipulation that the owner and management work with the Police Department to come up with a plan that achieves two basic goals: (1) stronger systems to regulate minors on premises and (2) new systems in place to regulate the culture in terms of violence.

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

#### **FIREWORKS DISPLAY ON ISU'S CENTRAL CAMPUS FOR ISU HOMECOMING ON**

**OCTOBER 24, 2008:** Kaitlyn Wiener and Abby Mollenhauer, General Co-Chairs for ISU Homecoming 2008, asked the City Council to approve the request for a fireworks display to occur at 11:55 p.m. on October 24, 2008, on ISU's Central Campus. Kurt Beyer, ISU Student Alumni Leadership Council Adviser, 420 Beach Avenue, Ames, was also in attendance. Ms. Wiener emphasized that they are working with pyrotechnician Kelm Brueschke and clarified that no shells will be shot into the air for the homecoming show. Ms. Mollenhauer advised that they expect over 1,000 spectators for this event.

Moved by Popken, seconded by Goodman, to approve a fireworks permit for display on ISU's Central Campus at 11:55 p.m. on October 24, 2008, pending ISU approval.

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

#### **MAIN STREET CULTURAL DISTRICT'S REQUESTS FOR HOLIDAY LIGHTING AND OPEN HOUSE ACTIVITIES:** Moved by Mahayni, seconded by Goodman, to adopt

**RESOLUTION NO. 08-414** approving suspension of parking enforcement for the Central Business District on weekdays from 5-6:00 p.m. beginning November 24, all day on November 21, and all Saturdays beginning November 22 through December 27, 2008.

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. 08-415 approving waiver of fees for electricity for holiday activities from November 21 through December 31, 2008.

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. 08-416 approving closure of Burnett Avenue, from Main Street to 5<sup>th</sup> Street, from 3:30-7:00 p.m. on November 21, 2008, for a stationary parade.

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

#### **REPORT ON FINAL PHASE OF FEASIBILITY STUDY FOR HUMAN SERVICES**

**CAMPUS:** Assistant City Manager Sheila Lundt introduced Bill Dreyer from RDG Rudi Lee Dreyer, 2712 Stange Road, Ames.

Mr. Dreyer gave a summary of the Study performed to evaluate the feasibility of converting the existing First Evangelical Free Church located at 2008 - 24<sup>th</sup> Street for the purpose of housing several human services agencies on a common campus.

Mr. Dreyer advised that the Study concluded the following:

1. The site and building are in good to very good condition and suitable for occupancy by a Human Services Campus with appropriate remodeling.
2. Adequate utilities are available to the site. It is anticipated that an upgrade to the HVAC system, water service, and electrical service will be needed.
3. Under the requirements for a Special Use Permit, a Human Services Campus is an acceptable use on the site.
4. There is a limited amount of area within the existing building that is suitable for occupancy without some degree of remodeling.
5. It appears that the maximum of building area on the site is approximately 58,000 gross square feet with approximately 10,000 of that on a second level.
6. With appropriate remodeling, the facility is capable of meeting applicable Code requirements and accessibility standards.
7. Based on the Study and input from current participating agencies, an addition to the existing building will be required to meet agency needs.
8. Concepts are available to allow for phased or sequenced construction.

Three options were explained by Mr. Dreyer:

1. Option One includes the largest addition of approximately 14,000 gross square feet, but provides the best functional relationship among agencies. It includes approximately 2,500 square feet of area available for future internal expansion. The expansion could be phased to meet variations in occupancy or funding. The cost of this Option would range between \$6.5 and \$7.5 million.
2. Option Two includes a smaller addition of approximately 10,000 gross square feet, but compromises the functional relationships for Heartland Senior Services by locating the day-care program across the existing exit corridor and behind the existing public toilets. It provides only adequate area for the agencies with little or no opportunity for internal future expansion and does not lend itself as well to a phasing strategy. The cost of this Option would range between \$5.9 and \$6.9 million.
3. Option Three includes the smallest addition of approximately 7,000 gross square feet, which maximizes the use of existing floor area by locating a portion of Heartland Senior Services in the existing sanctuary. In addition to creating functional problems, it does not present a good fit for the quality of space for Heartland. It also has an approximately 10% shortfall for agency area needs and no opportunity for internal future expansion. The option does not lend itself well to a phasing strategy. The cost of this Option would range between \$5.4 and \$6.2 million.

Council Member Popken recalled that the City had committed \$600,000 to this project. He clarified that what option is accepted is not a decision to be made by the City Council. Ms. Lundt concurred. She advised that major fund-raising efforts will be needed and noted that Rick Hugdahl, who is in charge of the fund-raising campaign on behalf of United Way, was present..

Ms. Lundt stated that, should the project be deemed feasible, the City's funds would be used for acquisition of the property by April 2009. Mr. Hugdahl advised that there is a pending Option to Purchase the property, which expires in May 2009; however, in order for the project to utilize City funding, it will be necessary to act on that Option by April 2009.

The meeting recessed at 8:55 p.m. and reconvened at 9:00 p.m.

**HOUSING CODE ADVISORY COMMITTEE UPDATE:** Fire Chief Clint Petersen asked Building Official David Brown to give the background behind the creation of the Rental Housing Advisory Committee (RHAC).

Mr. Brown advised that City staff not only has the responsibility to enforce regulations, but also to be able to explain the regulations to the public. It became evident after the formation of the RHAC that there were various interpretations of the existing Rental Housing Code, which have caused confusion and misunderstanding. He named one issue, in particular, i.e., "grand-fathering," that needs to be resolved. Mr. Brown expressed his opinion that the effectiveness of government reveals itself in the best possible light when citizen committees are formed to work with staff, and the work of this Committee is very important. He said that several process improvement ideas have already been brought forward by RHAC members.

Chief Petersen updated the Council on the progress of the Rental Housing Advisory Committee's (RHAC) deliberations. He reported that the RHAC had been in operation for five months. During that time period, 17 meetings had been held, and significant progress had been made in formulating alternatives to updating the existing Rental Housing Code. Chief Petersen advised that 84 issues had been identified for review, and 57 had been completed by July 17, 2008. He noted that unanimous decisions were reached on 47 of those issues.

According to Chief Petersen, after the first 12 weeks, it became apparent that the Committee was routinely choosing to follow the standards outlined in the International Property Maintenance Code (IPMC). As a result, staff now provides the existing City Ordinance and the IPMC as a starting point in the RHAC's deliberations. This has significantly sped up the process.

Chief Petersen also advised that the RHAC has developed a category for issues where the developed alternatives should apply equally to rental housing units and owner-occupied housing units. There is significant consensus that many of the property maintenance alternatives can and should apply to all housing units.

The next steps in this process were outlined by Chief Petersen, as follows:

1. Staff will prepare a final report highlighting the Committee's recommended changes to the Rental Housing Code.
2. Staff will distribute the report to interested parties (direct mailing/web site).
3. The staff and Committee will conduct a public input session regarding recommended changes to the Rental Housing Code.
4. The City Council and Committee will participate in a Round Table discussion to review proposed recommendations.

5. The recommended changes to the Rental Housing Code will be referred to the City Attorney to draft the appropriate language.
6. The Council will vote on the recommended changes.

Chief Petersen said that, before moving forward with any future work by the RHAC, staff wanted to make sure that the City Council was in support of the direction that they were currently heading.

Council Member Goodman asked if the recommended changes would pertain to the Rental Housing Code only. Chief Petersen answered that the changes will be directed to the Rental Housing Code; however, it has been recommended that the maintenance alternatives can and should apply to all housing units (not just rental units). The decision to expand the Property Maintenance Ordinance to all properties will be made by the City Council.

Council Member Larson asked if the communities surveyed had adopted the International Property Maintenance Code only for rental properties. Chief Petersen indicated that staff would research that and include the information in the final report to the City Council.

Council Member Rice asked staff when an owner-occupied home would be inspected and why. Mr. Brown clarified that the City is not contemplating the start-up of an owner-occupied home inspection program. It would be done on a complaint basis only and only for health and safety reasons. Mr. Brown added that concerns about allowing reasonable time to bring a property into compliance have been heard and will be addressed. He feels that the time allowed should be proportionate to the expense involved in making the repairs.

Council Member Goodman noted that the overall goal was clarification, and that is happening; however, there are still some general comments and ambiguities that lend to different interpretations being made.

**161 K-V TRANSMISSION LINE MATERIALS:** Electric Services Director Donald Kom reminded the Council that the City had entered into a contract with Laminated Wood Systems, Inc., to furnish materials for the 161-kV Transmission Line project. He recalled that, on November 20, 2007, the City had accepted partial completion of the contract for the materials already delivered, and Laminated Wood Systems, Inc., had agreed to delay the remainder of the wood structures since the installation of the structure had been delayed.

Since the Decision of the Iowa Utilities Board concerning the route and the City now looking at a new Route Study, Laminated Wood Systems, Inc., has agreed to cancel the remainder of the contract without penalty upon payment for miscellaneous hardware already delivered in the amount of \$66,580.75 (including sales taxes). The balance of the materials to cancel is \$1,356,891.97 and that amount is shown as a contract decrease on Change Order No. 3. Approximately 50% of the \$66,580.75 that is still owed under the contract is for miscellaneous hardware that is specifically designed to follow the previously proposed route. Staff is recommending that those materials be retained until the new route study is complete in the hopes that the City will be able to use them. If it is found that the City will not be able to use the hardware, it is possible that they could be returned, subject only to a restocking fee.

Director Kom noted that all of the poles purchased under this contract can be used for the

planned upgrade of the City's transmission line through the city limits that will benefit the Electric Utility even if the connection to the Ankeny substation is delayed indefinitely.

Moved by Goodman, seconded by Doll, to adopt RESOLUTION NO. 08-417 approving Change Order No. 3 canceling the remainder of the contract with Laminated Wood Systems, Inc., for 161-kV Transmission Line Materials, accepting completion of the contract, and approving final payment.

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

## **TEXT AMENDMENT PERTAINING TO ROW HOUSES IN THE VILLAGE**

**RESIDENTIAL FLOATING ZONE:** Planning and Housing Director Steve Osguthorpe described "row houses" as

single-family attached dwellings in the Village Residential Zone. He stated that, according to zoning regulations for a Village Residential Floating Zone, each residential land use type is to represent not less than five percent (5%) of the total number of dwelling units in the Village. The number of row houses that has been constructed (9) and those that are planned to be constructed equates to 21; however, that represents two percent of the total number of dwelling units planned for Somerset.

Mr. Osguthorpe advised that the owner of the 12 remaining lots in Somerset, originally planned for row houses, has now requested that a Major Site Development Plan (MSDP) to allow village houses to be constructed on those lots be approved. If approved, that would further reduce the number of row houses from two percent to one percent. The Planning & Zoning Commission, on October 1, 2008, tabled the MSDP to allow the consideration of a text amendment that addresses the reduction in the number of required row houses. To allow that, a Zoning Ordinance text amendment would be necessary.

Director Osguthorpe said that Somerset was never intended as a village development that would contain five percent of its dwelling units as row houses. Somerset was approved as a village development through designation as a Planned Unit Development prior to the adoption of the Village Residential Floating Zone regulations in May 2000. The Zoning Ordinance text amendment would add a provision on residential land use allocation to allow the combination of side-yard houses (commonly referred to as townhomes) and row houses into one land use type for the purpose of calculating the minimum requirement of 5%. It was emphasized by Mr. Osguthorpe that this change would be effective for all villages.

Moved by Larson, seconded by Mahayni, to refer to the Planning & Zoning Commission a proposed text amendment to change the residential land use allocation [at Table 29.1201(6)] for row houses in the Village Residential Floating Zone.

Council Member Rice asked staff to provide pictures showing the differences between row houses and village houses when this issue comes back before the City Council.

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

## **REVIEW OF STORY COUNTY LINCOLN HIGHWAY CORRIDOR STUDY**

**RECOMMENDATIONS:** Director Osguthorpe advised that RDG had prepared the Story County Lincoln Highway Corridor Study, and it is now available for public comment. He said that City staff had presented several questions to the Story County Planning & Zoning Commission and

the County Planning staff in regards to the Study. Mr. Osguthorpe commented that Ames staff clearly believes that the implementation of this Special Corridor Study will have an impact on the entry routes into Ames and on the success of the joint City/County policies for development. He noted that the Development Concept for the areas between Ames and Nevada includes development along three corridors: (1) the railroad corridor, (2) the Lincoln Highway, and (3) the U. S. Highway 30 corridor.

According to Planner Jeff Benson, of primary concern is the large amount of commercial/industrial land included in addition to the industrial land provided by the Ames Urban Fringe Plan, especially in comparison to the amount of demand likely to occur. Mr. Benson said that the Study offers a strong vision of industrial development along the south side of the railroad and of commercial/industrial development along the north side of U. S. Highway 30. This area runs a length of approximately 19 miles. City staff is concerned about the large area of land designated and feels that what is likely to happen is scattered development in many locations that looks unplanned a/k/a “sprawl.”

Director Osguthorpe read a list of 14 questions raised by City staff regarding the proposed Corridor Plan that it would like answered by the County.

Planner Benson outlined the following recommendations proposed by City staff:

1. For the U.S. Highway 30 Corridor, staff feels that the implementation of the Plan should begin with the nodes near Ames and Nevada and extend along the Corridor only when the market warrants it.
2. For the industrial land along the south side of the railroad, City staff believes that the implementation section of the Study should clearly state that development will only occur after the railroad has committed to a siding. The proposed backage roads should be built along with the development. The implementation section of the Study should clearly state these policies for the order of development.

It was strongly emphasized by Planner Benson that the Development Concept of the Study is not consistent with the Ames Urban Fringe Plan. Staff recommends that the City Council direct that Story County be asked to seek revisions to the Ames Urban Fringe Plan. With or without such a revision, staff wants the Lincoln Highway Special Corridor Study to state that its recommendations intend to guide how development occurs within the Ames Urban Fringe only when land is needed for industrial expansion.

Council Member Larson asked if the residential land use has been eliminated, and if so, would it revert back to agricultural use. LeAnn Harter, Story County Planning & Zoning Director, 900 Sixth Street, Nevada, advised that Story County Planning & Zoning has recommended approval of the Corridor Study to the Story County Board of Supervisors with the one revision: the residential land use shown along the Lincoln Highway Corridor be eliminated.

Council Member Goodman asked if the County follows a similar process as Ames does with its Land Use Policy Plan, i.e., a determination is made as to how much land is needed to meet the needs for a certain amount of time. Ms. Harter indicated that some forecasting is done, but not to the extent that Ames does.

Ms. Harter emphasized that this is a study and is a starting point. Mr. Osguthorpe stated that it is

at this point, a study; however, once adopted, the Study becomes a Plan and is seen as an expectation for property owners.

Moved by Popken, seconded by Larson, to direct staff to present Questions 1 - 14 regarding the proposed Corridor Study to the Story County Board of Supervisors.

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

**AFFIRMATIVE ACTION REPORTS FOR 2006/07 AND 2007/08:** Human Resources Director Julie Huisman summarized the Affirmative Action Reports for 2006/07 and 2007/08. She advised that the City is working on improving in the areas of gender and minority representation.

Moved by Mahayni, seconded by Doll, to adopt RESOLUTION NO. 08-418 approving the Affirmative Action Reports for 2006/07 and 2007/08.

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

**HEARING ON EDDY CURRENT SYSTEM FOR RESOURCE RECOVERY PLANT:** Mayor Campbell opened the public hearing. There being no one who wished to speak, the Mayor closed the hearing.

Moved by Popken, seconded by Doll, to reject the bid and direct staff to rebid all components under one project that will also include installation.

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

**HEARING ON INDUCTION SORTING SYSTEM FOR RESOURCE RECOVERY PLANT:** The hearing was opened by the Mayor. She closed same after no one requested to speak.

Moved by Goodman, seconded by Mahayni, to accept the report of no responsive bids and direct staff to rebid all components under one project that will also include installation.

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

**HEARING ON COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) 2007/08 CONSOLIDATED ANNUAL PERFORMANCE EVALUATION REPORT (CAPER):** The Mayor opened the public hearing. No one wished to speak, and the Mayor closed the hearing.

Moved by Popken, seconded by Mahayni, to adopt RESOLUTION NO. 08-419 approving submittal of the City's 2007/08 CAPER to the Department of Housing and Urban Development (HUD).

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

**HEARING ON GENERAL OBLIGATION BONDS, SERIES 2008A:** The public hearing was opened by Mayor Campbell and closed after no one came forward to speak.

Finance Director Duane Pitcher introduced Tionna Pooler, representing the City's financial advisor, Public Financial Management. Ms. Pooler announced that bids were opened this morning and evaluated. The City was very successful in this bond sale even in a very volatile market due in part to its AAA rating. It is being recommended that the award go to Piper Jaffray, which came in with an interest rate of 3.75%. That amounts to approximately \$140,000 less in interest than what was anticipated.

Moved by Popken, seconded by Mahayni, to adopt RESOLUTION NO. 08-420 approving the issuance of Bonds in an amount not to exceed \$8,355,000.

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 CAR WASHES IN THE CONVENIENCE COMMERCIAL NODE (CVCN) DISTRICT:** Mayor Campbell opened the hearing. There being no one who asked to speak, the hearing was closed.

Planning and Housing Director Osguthorpe reminded the City Council that, on August 26, 2008, it had directed staff to amend the Code to eliminate reference to car washes being “in combination with” a convenience store in the CVCN District. The change would allow a car wash separately from a convenience store, but would retain the requirement that gasoline sales only be allowed with a convenience store. The requirement for a Special Use Permit would also be retained. It was noted that the change would be applicable to any Convenience Commercial Node, not just the existing Node at the intersection of Stange and Bloomington Roads.

Moved by Larson, seconded by Rice, to pass on first reading an ordinance making a zoning text amendment to the Municipal Code to remove, from Table 29.807(2), the requirement that car washes and gasoline sales be reviewed “in combination with” convenience stores for issuance of Special Use Permit in Convenience Commercial Node (CVCN) District.

Council Member Mahayni said that he was concerned about the number of car wash bays. Director Osguthorpe said that there would be no limit on the number of bays; that would be controlled through the Special Use Permit process. Mr. Mahayni said that he does not want future expansion to be allowed. In his opinion, that would negatively affect the overall intent of a Convenience Commercial Node.

City Attorney Marek stated that if there are changes wanted to the draft ordinance to specifically limit the number of car wash bays, the approval process should start over.

Council Member Larson pointed out that the City Council directed staff to make a specific zoning text amendment; they did as they were directed.

Chuck Winkleblack, 105 S. 16<sup>th</sup> Street, Ames, advised that the main concern of the prospective owner of the car wash was that it had to be in combination with a convenience store. Mr. Winkleblack said that the site does not lend itself to expansion of bays. In addition, there are requirements that a car wash must be 80' from residential property; that is not possible for this site without a Variance being granted. Council Member Mahayni indicated that the regulations, however, would pertain to all Convenience Commercial Nodes, not just the one at Bloomington and Stange.

Council Member Goodman reiterated that the goal of Convenience Commercial is to provide for a smaller segment of the community. He believes, therefore, that there should be a limit placed on the number of car wash bays.

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

Moved by Mahayni, seconded by Goodman, to refer this issue back to staff for preparation of a

text amendment to eliminate reference to car washes being in combination with a convenience store and to limit the number of car wash bays to five in the CVCN District

Voting aye: Doll, Goodman, Mahayni, Popken, Rice. Voting nay: Larson. Motion declared carried.

## **HEARING ON ZONING TEXT AMENDMENT PERTAINING TO GENERAL**

**INDUSTRIAL (GI) DISTRICT:** The public hearing was opened by Mayor Campbell. She closed the hearing after no one requested to speak.

Moved by Goodman, seconded by Larson, to pass on first reading an ordinance making a zoning text amendment to the Municipal Code to remove, from Table 29.901(3), minimum floor area ratio requirements for office uses in General Industrial (GI) District.

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

**H & B SUBDIVISION, 2<sup>ND</sup> ADDITION:** Mayor Campbell opened the hearing concerning the vacation of easements. No one asked to speak, and the Mayor closed the public hearing.

Moved by Goodman, seconded by Mahayni, to adopt RESOLUTION NO. 08-421 approving vacation of public utility easements, water main easements, and sanitary sewer easements.

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 Mahayni, to adopt RESOLUTION NO. 08-422 approving the Major Final Plat for H & B Subdivision.

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

**COMMENTS:** Moved by Goodman, seconded by Popken, to direct staff to begin exploring improvements to the Southern and Central Wetlands directed to mitigate phosphorus contamination of Ada Hayden Lake, which also considers the control of invasive species, such as carp.

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

Moved by Goodman, seconded by Popken, to direct staff to explore the development of an educational campaign geared at educating citizens and reminding lawn care professionals of the environmental problems associated with phosphorus and to direct staff to explore the establishment of a voluntary vendor program where vendors voluntarily commit to stock only phosphorus-free lawn applications.

Council Member Larson expressed his concerns that the Council would be taking small pieces of information provided at the Council's workshop held September 16 on the ecological health of Ada Hayden Lake. He reminded the Council that there will be an issue before them soon requesting approval of a conservation development near Ada Hayden, and he is not sure how to get people to comply outside of the City, especially if the land is zoned Agricultural. Council Member Doll concurred and asked for more specificity regarding direction to staff.

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

Moved by Goodman, seconded by Rice, to direct staff to return with options for Fringe Area Plan language that incorporates protection of the Ada Hayden Watershed regardless of use.

Council Member Mahayni agreed that all efforts should be made to protect Ada Hayden; however, in order to do so, the City, itself, must control the area around it. Council Member Doll concurred, citing as an example the Ames Urban Fringe Plan. He pointed out that at the same time the County was approving the Ames Urban Fringe Plan, it was creating its own Lincoln Way Corridor Study that was in direct conflict with the Urban Fringe Plan.

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.

Moved by Popken, seconded by Rice, to refer to staff the letter from Innovative Kinetics pertaining to installation of solar panels and wind turbines in Ames.

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

**ADJOURNMENT:** Moved by Doll, seconded by Goodman, to adjourn the meeting at 11:26 p.m.

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Diane R. Voss, City Clerk

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Ann H. Campbell, Mayor