

## REGULAR MEETING OF THE AMES CITY COUNCIL

AMES, IOWA

DECEMBER 9, 2008

The regular meeting of the Ames City Council was called to order by Mayor Campbell at 7:00 p.m. on December 9, 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 Tracy was also present.

**CONSENT AGENDA:** Mayor Campbell announced that the Agreement pertaining to funding of the Ames Southeast Entryway Project had not been returned by the Iowa Department of Transportation; that item has been pulled from the Consent Agenda.

Council Member Popken asked to pull Item No. 10, which pertained to Home School, Inc., from the Consent Agenda for separate discussion.

Moved by Popken, seconded by Rice, to approve the following items on the Consent Agenda:

1. Motion approving payment of claims
  2. Motion approving minutes of Special Meeting of November 18, 2008, and Regular Meeting of November 25, 2008
  3. Motion approving Report of Contract Change Orders for November 16-30, 2008
  4. Motion approving renewal of the following liquor licenses, beer permits & wine permits:
    - a. Class C Liquor & Outdoor Service Privilege - Cazador Mexican Restaurant, 3605 Lincoln Way
    - b. Class C Liquor & Outdoor Service Privilege - The Café, 2616 Northridge Parkway
    - c. Class E Liquor, B Wine, C Beer - Cub Foods, 3121 Grand Avenue
  5. RESOLUTION NO. 08-502 approving reappointment of Jami Larson to Ames Convention & Visitors Bureau Board of Directors
  6. RESOLUTION NO. 08-503 approving amendment to Flexible Spending Plan to allow for grace period in which to incur claims
  7. RESOLUTION NO. 08-505 approving On-Call Architectural, Engineering, and Related Technical Services Contract with Shive Hattery, Inc., for CyRide facilities in an amount not to exceed \$250,000
  8. RESOLUTION NO. 08-506 approving amendment to Engineering Services Contract with DGR & Associates for additional construction inspection services for Elevated Water Storage Tank
  9. RESOLUTION NO. 08-508 approving revision to Purchasing Agreement with Habitat for Humanity of Central Iowa for property located at 608 Durrell Circle
- Roll Call Vote: 6-0. Resolutions declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

**HOME SCHOOL, INC.:** Dan Culhane, Executive Director of the Ames Economic Development Commission (AEDC), explained that Home School, Inc. (HSI), is a Chicago-area-based company that provides Internet-based products, services, and support for families that are home-schooling children. The company is expecting rapid growth in sales of curriculum and home school support service. The AEDC began working with HSI about four months ago. Representatives of HSI toured Ames extensively, and their site selection came down to Ames or Richmond, Indiana. Early in November, the AEDC was notified that Ames had been chosen as the desired site for HSI's new location of headquarters and operations, subject to certain financial assistance packages coming together. Mr. Culhane reported that the company plans to build a 25,000-square-foot building with space for future expansion. The company currently has 11 employees and is expected to create 41 new jobs in the first year and 54 additional jobs over the following two years. HSI's five-year goal is to create 300 positions in the Ames community. According to Mr. Culhane, nearly 90% of the planned jobs will have an average salary of \$90,000. He said that this company has been in existence for approximately three years and is very stable.

City Manager Steve Schainker explained that the local match will be in the form of a no-interest loan in the amount of \$125,000; the City's commitment will be \$75,000. The state will be contributing approximately \$2 million. Mr. Schainker told the City Council members that they did not have to approve the contracts or the local share at this time; however, their authorization was needed to submit the application to CEBA with the commitment to provide the local match. Mr. Schainker stated that if the building were not to be built, no tax abatement would go into effect.

Moved by Popken, seconded by Rice, to direct the City Manager to begin negotiations pertaining to the loan agreement and establishment of an Urban Revitalization Tax Abatement Program.

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

Moved by Popken, seconded by Rice, to adopt RESOLUTION NO. 08-507 approving submittal of an application to the Iowa Department of Economic Development for CEBA funds for economic development assistance.

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

**PUBLIC FORUM:** No one spoke during this time.

**CLASS C LIQUOR LICENSE FOR WHISKEY RIVER:** Moved by Mahayni, seconded by Rice, to approve a Class C Liquor License for Whiskey River, 132-136 Main Street.

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

**PROPOSED RESIDENTIAL PROPERTY MAINTENANCE CODE:** Assistant City Manager Bob Kindred recalled the 78 recommendations presented by the ad-hoc Rental Housing Advisory Committee (RHAC) to the City Council on November 18, 2008. A key part of the Committee's recommendation was that certain elements be applied not only to rental properties, but to owner-occupied residential properties as well. After that roundtable discussion, Council directed staff to proceed with rental housing changes and a Residential Property Maintenance Ordinance simultaneously by modifying Chapter 13 and adding an additional chapter to the Municipal Code. The Council gave that direction with a caveat that public input would be received and education be provided to the community on the application of the Property Maintenance Code to owner-occupied homes.

Mr. Kindred stated that staff met last week to ascertain the best way to get information on this subject out to the community. The group arrived at two important goals: (1) making people aware of the need and (2) seeking input on the solutions. The steps to educate and receive input from the community regarding adoption of Property Maintenance Code items that would be applied to all residential properties, including owner-occupied homes, were outlined by Mr. Kindred. He emphasized that the proposed schedule towards adoption of the Rental Housing Code and Property Maintenance Code is very aggressive. If the schedule is followed, first reading on both ordinances would occur on March 24, 2009. Mr. Kindred stressed that it is very important for the City not to rush through a major change without allowing the community to give input. He informed the Council of a public awareness and education program that will be kicked-off as soon as the City Council directs. Following closely behind that will be a public input process. It is key that citizens understand why the City is considering placing requirements on homeowners and the impact this will have on neighborhoods. Per Mr. Kindred, two new innovative features of the outreach efforts will be (1) the utilization of a focus group to evaluate awareness, support of, or opposition to, property maintenance codes and (2) the development of a Web-based survey.

Council Member Goodman pointed out that in mid- to late-January, information will be mailed to all Ames property owners. Specifically questioning the appropriateness of the nine issues pertaining to interior maintenance, he asked what document would be forwarded to the property owners. City Manager Schainker advised that, at this time, all items included in the document presented to the Council on November 18 pertaining to interior maintenance will be included. Chief Clint Petersen advised that RHAC met one time after November 18, and it focused on language for Rental Housing Code changes. He stated that there is proposed language in Chapter 13 (the Rental Housing Code) pertaining to certain requirements, e.g., electrical, etc., inside the residence. Those interior requirements already exist in the International Residential Code and International Building Code. According to Chief Petersen, it is not necessary to include it again unless it is to clarify it for the readers; that is what the RHAC had intended. He said that taking out the nine interior items (lessening the list of 32 to 23) is not problematic for staff in an enforcement sense. Mr. Schainker advised that he did not want to send out information including items with which the Council did not feel comfortable. He said that staff could bring the issue back to the Council on December 16 for further direction.

Council Member Goodman expressed his preference for the City Council to discuss the interior items again. He perceives two sets of requirements: one that contains items that are essential to the creation of strong neighborhoods, which should be adhered to by all residences and another that should be involved in the business of rental housing. It needs to be decided which rules are for rental and which apply also to private residences.

Council Member Popken recalled actions taken by the City Council in the past where they have had a pre-set agenda telling the public that there are existing problems and giving them the solutions. Specifically addressing owner-occupied dwellings, Council Member Popken stated that he does not feel comfortable presenting a set of solutions to health, safety, and aesthetic problems regarding property maintenance to citizens at this time because citizens might not perceive them as being problems. He would prefer a more open process to allow the public a chance to provide input as to what problems exist and how best to solve them.

City Manager Schainker asked what would happen to the rental housing component. Mr. Popken expressed his opinion that the process to adopt the changes pertaining to only rental housing could continue.

City Manager Schainker again stated that it would be possible for staff to come back on December 16 with the 38 items divided into columns based on whether they pertained to rental properties and/or owner-occupied properties. He stressed that only the items that are supported by the City Council should be taken out to the public. Public Relations Officer Susan Gwiasda advised that *City Side* has a deadline of Friday, December 12 to go to print; however, she could only introduce the topic and advise that more information would be forthcoming. It would be stressed that the City is seeking public input on the best way to solve the issues.

Chief Petersen said that the focus group will be key in addressing frequently asked questions of the public. The first component of the process must be public education. He agreed that solutions should not be presented first and questions about the problems asked later.

Council Member Larson commented that he did not want the hard work of the Rental Housing Advisory Committee to be diminished; he was impressed by the presentation and the report.

Council Member Rice also indicated that he was very pleased with the work of the RHAC and the process laid out for educating and receiving input from the public.

Moved by Rice, seconded by Larson, to adopt RESOLUTION NO. 08-509 approving the public education and input-gathering process and funding in an amount not to exceed \$5,000 for a public information campaign.

Council Member Goodman pointed out that it is very important to know exactly what document is being provided to the public. He recalled that this issue began only to address rental property issues, not owner-occupied.

Council Member Mahayni said that the issues are those of health and safety, and staff is working under the direction of the City Council. He recalled that the City Council has been talking about property maintenance requirements for some time. It seems only natural to him that there could be interior maintenance issues as well as exterior maintenance issues.

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

Chief Petersen advised that there had never been an advocate on the RHAC for interior inspections of privately owned property. The interior items on the list would generally come to the Inspections Division on a complaint-only basis; they would not be proactively enforced as part of an inspections program. He concurred that a report on the interior maintenance issues could be provided to the City Council on December 16.

Council Member Doll said that if the City is going to move forward with a Property Maintenance Code, it needs to look at just the exterior items.

Moved by Doll, seconded by Goodman, to direct staff to look at only the exterior items for the Property Maintenance Code.

Council Member Mahayni said that in order to do justice during an investigation, it might be necessary to pursue the interior as well as the exterior of the property; it is possible that the issues are inside. Council Member Doll said that he is not comfortable with the City, while investigating an exterior issue, going inside someone's home "to see if there are batteries in a smoke detector."

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

**3634 WEST 190<sup>TH</sup> STREET:** Planning & Housing Director Steve Osguthorpe advised that the subject property is located one mile from the Ames city limits, north and east of the Squaw Valley Subdivision. The property owner's purpose is to sell an existing home and maintain ownership of the cropland. Mr. Osguthorpe clarified that the property owners are requesting a waiver of the infrastructure requirements and waiver of the requirement for submission of a Preliminary Plat. He advised that requiring the applicant to meet City standards for subdividing the subject property when only one new buildable lot is created is not consistent with the City's Land Use Policy Plan at this time for this area. Requiring public improvements and a Major Subdivision meeting City standards would also create an extraordinary hardship on the applicant.

Moved by Goodman, seconded by Doll, to adopt RESOLUTION NO. 08-510 approving a waiver of public improvement requirements as allowed in Chapter 23 of the Ames Municipal Code for property at 3634 W. 190<sup>th</sup> Street subject to the following note being placed on the Plat: "Outlot A is reserved for agricultural use only or for future platting," and subject to the following covenants being signed by the applicant:

1. An agreement waiving the property owner's rights to object to future assessments for public improvements
2. An agreement that the property owners are responsible for the costs associated with buying-out the rural water and sewer systems at the time of any future annexation
3. An agreement to annex the property to the City of Ames in the future under certain circumstances

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

**SOUTH BELL AVENUE URBAN RENEWAL AREA AND TAX INCREMENT FINANCING DISTRICT:** City Manager Schainker recalled that Chuck Winkleblack had requested that the City provide a tax-increment financing incentive for infrastructure improvements to develop 37 acres of industrial land along South Bell Avenue. The proposed Tax-Increment Financing District is zoned General Industrial and is located between the two dead-end portions of South Bell Avenue. According to Mr. Schainker, the proposed project installs the necessary infrastructure to allow for the development of an industrial park. It includes the completion of the South Bell Avenue corridor, providing a connection from Southeast 16<sup>th</sup> Street to Lincoln Way, parallel to South Dayton Avenue. Mr. Schainker recalled that Mr. Winkleblack had stated that there is currently no large area of land that has infrastructure available for prospective industrial companies. In order to accomplish the City's strategy for economic development, the inventory of developed land needs to be increased. This will also connect South Bell industrial property to the DMAACC property and over to Dayton Road.

According to Mr. Schainker, on August 26, 2008, the City Council directed staff to initiate steps to provide tax-increment financing for the land in question along South Bell Avenue. The first step in that process is to finalize an agreement outlining the responsibilities and requirements of both the City and the developer. Mr. Schainker advised that numerous negotiating sessions have been held, and agreement had been reached on most of the major issues. In an effort to keep the project moving forward so that public improvement contracts may be approved in March, staff is seeking input from the City Council regarding further negotiations. Mr. Schainker reported that the agreed-upon issues included:

1. The sale price would be in an amount no greater than \$55,000/acre through June 30, 2011. That price may be increased by as much as five percent (5%) per acre on each July 1 thereafter.
2. Fifty percent (50%) of the lots would be made available for sale to other interested developers.

City Manager Schainker said that in other TIF projects, the City received complaints from other developers that they did not have access to the lower-cost land. This provision will ensure that they may also take advantage of this incentive.

3. Property owners will have 18 months to complete building improvements.

Mr. Schainker said that the City's debt will be paid off from improvements made on the land, so it is important that buildings be constructed as soon as possible in the TIF District.

4. The developer will construct a spec building with a taxable value of not less than \$350,000.

Mr. Schainker stated that this requirement will ensure that some incremental value is added to the TIF District to help pay off the debt. He emphasized that the City will incur debt to pay for the infrastructure.

5. The developer, or the ultimate owners of the property, will not be allowed to apply for any tax abatement program.
6. The developer is responsible for the costs associated with designing, platting, and grading the subdivision.
7. The developer, or ultimate owner of the property, will enter into a minimum assessment agreement for lots over 1.5 acres to ensure that the taxable value of the building improvements on each lot is at least \$266,000.
8. If the bids for the storm sewers, sanitary sewers, streets, and water mains come in above \$875,000, the City will have the option to repeal the TIF District and not be obligated to provide funding for the subdivision.

Moved by Larson, seconded by Rice, to direct City staff to continue efforts to finalize the Developer's Agreement regarding the development of industrial land along South Bell Avenue.

Council Member Goodman asked if shadow platting would be used on this project. Director Osguthorpe advised that the concept of shadow platting will not be implemented on this project.

Mr. Goodman also asked how a decision is made on what type of spec building will be constructed when you do not know whom the occupant will be upon its completion. Chuck Winkleblack, 105 S. 16<sup>th</sup> Street, Ames, stated that it is a guess. Mr. Goodman indicated that he does not want a spec building (that is being subsidized) to be leased instead of a building that is vacant and not being subsidized. Mr. Winkleblack indicated that adverse competition is not being created; there are very few industrial buildings available.

City Manager Schainker advised that the City's portion of this project will be approximately \$960,000. He pointed out that the first two TIF Districts created by the City were very successful and were paid-off in seven years.

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

The steps and time line for creating the TIF District were outlined by Planner Charlie Kuester. It was noted that the Plan provided to the City Council was still in draft form. Mr. Kuester advised that the first step is to establish tax-increment financing districts through the creation of an urban renewal area, which first requires the adoption of an urban renewal plan. The first step in the adoption of a plan is to forward it to the Planning & Zoning Commission for recommendation as to whether it conforms to the intent and purposes of the Land Use Policy Plan. A consultation is also necessary with the other taxing entities that would be affected by the establishment of a tax-increment financing district, which in this case, are the Ames Community School District, Des Moines Area Community College, and Story County. Mr. Kuester also noted that the Iowa Code

allows for appointment of a representative to the required consultation. It was suggested by Mr.

Kuester that the consultation be scheduled for December 16, 2008, at 6:30 p.m.

Moved by Mahayni, seconded by Goodman, to refer the Urban Renewal Plan to the Planning & Zoning Commission.

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

Moved by Mahayni, seconded by Goodman, to appoint the City Manager as the City's representative.

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

**HEARING ON REZONING PROPERTY LOCATED AT 4098 EAST 12<sup>TH</sup> STREET (EAST BARILLA SITE):** Director Osguthorpe explained that Wolford Development Options, LLC, in a letter dated August 14, 2006, had expressed its willingness to rezone the "East Barilla" portion of its Regional Commercial Center site from Planned Regional Commercial to Planned Industrial. That proposal was accepted by the City Council on August 22, 2006, by Resolution 06-344, and Wolford Development has now submitted its application for rezoning the 55.18 acres located at 4098 East 13<sup>th</sup> Street. Although the applicant did not request it, City staff is suggesting that the Council also consider whether to remove or retain the Northeast Gateway Overlay District (O-GNE) designation. Mr. Osguthorpe clarified that the O-GNE requires higher design standards. It was noted that the Planning and Zoning Commission, at its meeting of November 19, 2008, recommended that the subject property be rezoned to PI, but retained the O-GNE designation.

Mr. Osguthorpe commented that the property in question would be served by infrastructure that would be installed as part of the Regional Commercial Development Agreement with Wolford Development.

The conclusions made by City staff were listed by Mr. Osguthorpe, as follows:

1. The proposed establishment of the PI zone on the subject site is consistent with the Land Use Policy Plan.
2. The proposed designation of the subject site as Planned Industrial is consistent with the intent of that zoning district in that it will accommodate large-scale industrial users near limited-access highways.
3. Rezoning of the subject site is consistent with the City's flood protection policies.
4. The public infrastructure that the developer of the Planned Regional Commercial property to the west is required to install will be adequate for industrial development on the subject property. Provisions have been made to provide infrastructure at some future time that will be adequate to serve the uses allowed by the proposed zoning designation for the subject site.
5. All rezoning application and processing requirements, as specified by state and local codes, have been met.

Mayor Campbell opened the public hearing.

Bill Bartine, Belin Law Firm, 2000 Financial Center, Des Moines, Iowa, advised that a thorough review of the original Development Agreement had been made, and no changes to that document are being requested. He also advised that the rezoning application had been left silent on the O-GNE

overlay, however, the applicant has no objections to it being retained.

No one else wished to speak, and the hearing was closed.

Moved by Goodman, seconded by Popken, to pass on first reading an ordinance rezoning property located at 4098 East 13<sup>th</sup> Street (East Barilla Site) from Planned Regional Commercial (PRC) to Planned Industrial (P-I).

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

**HEARING ON PROCUREMENT AND INSTALLATION OF NON-FERROUS METALS RECOVERY SYSTEM FOR RESOURCE RECOVERY PLANT:** The Mayor opened the public hearing. She closed same after no one came forward to speak.

Moved by Doll, seconded by Popken, to adopt RESOLUTION NO. 08-511 approving final plans and specifications and awarding a contract to A-Lert Construction Services of Fredonia, Kansas, in the amount of \$1,141,577.

Council Member Larson asked if there was any type of contingency fund for this project. Public Works Director John Joiner advised that any amount over the bid amount would have to be paid for out of the Resource Recovery fund.

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

**HEARING ON 2006/07 ANNUAL STREET LOW-POINT DRAINAGE IMPROVEMENTS (STANTON AVENUE/CHAMBERLAIN STREET):** The public hearing was opened by Mayor Campbell. There was no one wishing to speak, and the Mayor closed the hearing.

Moved by Goodman, seconded by Doll, to adopt RESOLUTION NO. 08-512 approving final plans and specifications and awarding a contract to Con-Struct, Inc., of Ames, Iowa, in the amount of \$221,643.

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

**HEARING ON VACATING SURFACE WATER FLOWAGE EASEMENT ON LOT 4 IN DAYTON PARK SUBDIVISION, 5<sup>TH</sup> ADDITION:** Mayor Campbell opened the public hearing and closed same after no one requested to speak.

Moved by Larson, seconded by Popken, to adopt RESOLUTION NO. 08-513 approving the vacation of a Surface Water Flowage Easement on Lot 4 in Dayton Park Subdivision, 5<sup>th</sup> Addition. Roll Call Vote: 6-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

**ORDINANCE AMENDING DOWNTOWN URBAN REVITALIZATION AREA:** Moved by Goodman, seconded by Doll, to pass on second reading an ordinance amending the Downtown Urban Revitalization Area.

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

**ORDINANCE PROVIDING FOR OPERATION OF THE AMES MUNICIPAL CEMETERY:** Moved by Goodman, seconded by Rice, to pass on second reading an ordinance providing for operation of the Ames Municipal Cemetery as a Perpetual Care Cemetery, as specified by Iowa



Code.

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

**COMMENTS:** City Manager Steve Schainker clarified that the City Council will also be present at the TIF District consultation, which will occur on December 16. The designated representative is responsible to respond to written comments submitted by the other taxing entities.

Moved by Popken, seconded by Doll, to direct the City Manager to provide information to the City Council on Section 8 Housing, e.g., does the City comply with HUD standards, what do other communities do, what the HUD requirements are, and cost information (if the City needs to allocate additional funds to receive additional information).

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

**CLOSED SESSION:** Moved by Rice, seconded by Doll, to hold a closed session as provided by Section 20.17(3), Code of Iowa, to discuss collective bargaining strategy.

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

Moved by Popken, seconded by Doll, to return to Regular Session.

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

**ADJOURNMENT:** Moved by Doll, seconded by Goodman, to adjourn the meeting at 8:46 p.m.

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Diane R. Voss, City Clerk

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Ann H. Campbell, Mayor