

REGULAR MEETING OF THE AMES CITY COUNCIL

AMES, IOWA

JANUARY 13, 2009

The regular meeting of the Ames City Council was called to order by Mayor Campbell at 7:00 p.m. on January 13, 2009, 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: Council Member Doll asked to pull the Minutes of the Special Meeting of January 6, 2009, for separate discussion.

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

1. Motion approving payment of claims
 2. Motion approving renewal of the following liquor licenses, beer permits & wine permits:
 - a. Class C Liquor - Sgt. Pepper's, 116 Welch Avenue
 - b. Class B Liquor - Quality Inn & Suites Starlite Village Conference Center, 2601 E. 13th Street
 - c. Class C Liquor - Café Beau, 2504 Lincoln Way
 - d. Class C Beer - Casey's General Store #2560, 3020 S. Duff Avenue
 3. RESOLUTION NO. 09-010 approving appointment of Jeri Prescott to fill vacancy as neighborhood representative on Student Affairs Commission
 4. RESOLUTION NO. 09-011 approving designation of City representatives to Central Iowa Regional Transportation Planning Alliance (CIRTPA)
 5. RESOLUTION NO. 09-012 authorizing Mayor to sign loan agreements with Renewable Energy Group, Inc., for \$25,000 Community Investment Fund forgivable loan and \$50,000 Revolving Loan Fund loan
 6. RESOLUTION NO. 09-013 approving reduction of retainage for 2007/08 Clearwater Diversion Program
 7. RESOLUTION NO. 09-014 approving contract and bond for Stange Road Substation to Ames Power Plant (161/69-kV Transmission Line Construction)
 8. RESOLUTION NO. 09-015 approving contract and bond for Grand Avenue/13th Street Traffic Signal Improvements Project
- Roll Call Vote: 6-0. Resolutions declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

MINUTES OF SPECIAL MEETING OF JANUARY 6, 2009: Council Member Doll advised that he had, on January 6, 2009, voted aye on the motion to refer to staff the letter from Chuck Winkleblack pertaining to tax abatement in Somerset Town Center. He asked that the Minutes be amended to reflect the vote being 3-3, not 2-4.

Moved by Doll, seconded by Goodman, to approve the Minutes of the Special Meeting of January 6, 2009, as amended.

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

PUBLIC FORUM: No one spoke during this time.

ENCROACHMENT PERMIT FOR LUCULLAN'S ITALIAN GRILL: Moved by Mahayni, seconded by Goodman, to approve an Encroachment Permit for a new sign and light fixtures at Lucullan's Italian Grill, 400 Main Street.

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

717 ONYX STREET: John Dunn, Director of Water and Pollution Control, explained that 717 Onyx Street was vacant when the plug on its water heater broke. Water usage during that time equated to 121,220 cubic feet of water, costing \$2,043.05 for sanitary sewer charges. Mr. Dunn said typically a residential account would use between 600 and 1,000 cubic feet of water. The owner of the home, Roger Swenson, has requested an exception from the 5,000 cubic foot exemption allowed on the sewer charges and that the water charges be calculated on the non-peak (winter) rate rather than the peak (summer) rate.

Mr. Dunn recalled that, when the City Council was considering the new rate structure, staff placed considerable emphasis on the importance of not making value judgments about whether water uses were “good” or “bad.” The focus of the seasonal rate structure was solely on the pattern of usage. Utility Accounts Supervisor Mike Wheelock advised that the water usage occurred in September, which is still considered part of the summer peak period.

Council Member Larson pointed out that the customer was not asking for the “usage” to be waived; he is asking that the rate be calculated on the non-peak (winter) rate rather than the peak (summer) rate. He noted that the type of incident that occurred at 717 Onyx is rare, and he suggested that requests for waivers for one-time events be decided on a case-by-case basis by the City Council.

Mr. Wheelock advised that the reason for the 5,000 cubic foot total exemption allowed on sewer charges was for water usage that does not reach the sanitary sewer system. He referenced another incident that had occurred with a sprinkler system that was running twice as often as it should have been. In that case, Customer Service referred that customer to his or her lawn care service. Excessive water usage is detected by City staff by comparing meter readings; those are read on a monthly basis.

Moved by Popken, seconded by Rice, to adopt RESOLUTION NO. 08-018 approving a one-time exception specifically for this request and directing staff to adjust the sewer charges on the October 21, 2008, statement to reflect the charges on the estimated amount of water that reached the sanitary sewer system; thus, reducing the bill to a total of \$1,364.33.

Council Member Goodman said that he would not be able to support the motion because homeowners need to be responsible for checking on unoccupied residences. Council Member Rice clarified that the action being voted on would merely adjust the charges based on the actual quantity of water that reached the sanitary sewer system. He pointed out that the issue at hand pertained to the sanitary sewer charges, not the quantity of water that was used.

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

Moved by Rice, seconded by Larson, to adopt RESOLUTION NO. 09-016 approving a one-time waiver of the peak (summer) water rate for this specific request and directing staff to recalculate the October 21, 2008, bill based on the non-peak (winter) rate; thus reducing the bill from \$6,050.44 to \$1,810.73.

Roll Call Vote: 4-2. Voting aye: Larson, Mahayni, Popken, Rice. Voting nay: Doll, Goodman. Resolution declared adopted, signed by the Mayor, and hereby made a portion of these minutes.

COMPREHENSIVE ANNUAL FINANCIAL REPORT: Finance Director Duane Pitcher explained the Report. He also explained the audit findings and the measures taken to correct them.

Moved by Mahayni, seconded by Goodman, to adopt RESOLUTION NO. 09-017 approving the Comprehensive Annual Financial Report for Fiscal Year Ended June 30, 2008.

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

COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM: Housing Coordinator Vanessa Baker-Latimer stated that the City of Ames will complete the administration of its first Five-Year Consolidated Plan on June 30, 2009. CDBG regulations require that the City submit an updated Five-Year Plan Consolidated Plan for the period from July 1, 2009, through June 30, 2014, along with an Annual Plan for the fiscal period of July 1, 2009, through June 30, 2010. Ms. Baker-Latimer described what types of activities would be considered eligible and those that would be ineligible under the federal regulations.

Ms. Baker-Latimer reminded the Council members of their goals and priorities for the past five years to address the needs for low- and moderate-income persons as well as the needs of non-low- and moderate-income persons in Ames. She pointed out that, when those were created, no specific priority ranking was given; however, when comparing them with the projects implemented during the five-year period, it showed that 100% of the funding had been expended within the first three priority areas. Ms. Baker-Latimer noted that during the first five-year Plan period, staff worked very closely with the Department of Housing and Urban Development (HUD) administration on identifying program activities that not only met the National Objectives for funding, but were also activities that could be successfully administered by the City from year to year.

Housing Coordinator Baker-Latimer summarized the 2004-2009 Program Projects:

1. Renter Affordability Programs, which benefited 100% low- and moderate-income persons. A total of \$220,884 was spent on these Programs.
2. Curb Accessibility Program, Minor Repair Program for Non-Profits, and Curb Replacement Program, also benefited 100% low- and moderate-income persons. A total of \$262,154 was spent on these Programs.
3. Homebuyer Assistance Program and Neighborhood Sustainability Programs benefited 96% low- and moderate-income persons. Fifty-three percent of the CDBG funds (\$1,103,066) was expended on these Programs.

Ms. Baker-Latimer reviewed CDBG Program Funding received by the City for the past five years, how much of that amount was available for programming, and how much was allocated to administrative costs. Although the amount of federal funding received by the City has decreased each year, staff implemented projects that brought revenue back into the Program, resulting in \$378,000 of Program income being generated. Therefore, the City actually had a net gain. She advised that the 2009/10 federal allocation had not yet been determined. City Manager Steve Schainker advised that the City's challenge is that more and more staff time is necessary to administer the Programs.

According to Ms. Baker-Latimer, staff is recommending that three categories of projects be included in the 2009-2014 Annual Action Plan. She reported that, whenever feasible, all the goals and priorities will include eco-smart initiatives, products, and services, which is in support of the City Council's "Go-Green" goals and objectives. Ms. Baker-Latimer reviewed the proposed 2009-2014 goals and priorities as well as the three categories of projects being proposed for the 2009-2010

Action Plan Program, i.e.: (1) Renter Affordability Program; (2) Neighborhood Sustainability Program, and (3) Public Facilities Improvement Programs.

Council Member Larson pointed out that staff is stating that one of the listed activities, the Neighborhood Sustainability Program, could be expanded to include owners of rental properties who currently rent to and/or seek to rent to persons of low- and moderate-income. He noted, and Ms. Baker-Latimer concurred, that that concept could help address Property Maintenance Code concerns in various neighborhoods.

Moved by Doll, seconded by Rice, to approve the proposed 2009-2014 Consolidated Plan goals and priorities for low- and moderate-income persons and for non-low and moderate-income persons, as presented by staff, and authorize staff to proceed with conducting public forums prior to completing the Plan.

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

Moved by Doll, seconded by Rice, to approve the proposed 2009-2010 Annual Action Plan Program activities, as presented by City staff, and authorize staff to proceed with conducting public forums prior to completing the Plan.

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

Ms. Baker-Latimer advised that the deadline for submittal of the City's Five-Year Consolidated and Annual Action Plans to HUD is May 17, 2009; that deadline is crucial to the City's ability to receive future CDBG funding. She detailed what each Plan must contain. Ms. Baker-Latimer explained that, due to factors beyond the City's control, there has been a delay in completing the acquisition of the property to be used as the Human Services Campus. That delay has created a need to shift priorities for 2008/09 to ensure that the City meets the requirements of the City's current grant agreement with HUD. Ms. Baker-Latimer asked that an extension of the submittal date to July 31, 2009, for next year's Plan be approved.

Moved by Rice, seconded by Mahayni, to approve the request for extension to on or before July 31, 2009, for submittal of the CDBG Consolidated Plan and Annual Action Plan to HUD.

Ms. Baker-Latimer commented that if the Plans were completed prior to the July 31, 2009, submittal date, staff would bring them back to Council sooner.

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

DEVELOPER'S AGREEMENT WITH DAYTON PARK, LLC, FOR AMES COMMUNITY DEVELOPMENT PARK (SOUTH BELL AVENUE): Moved by Mahayni, seconded by Larson, to adopt a resolution approving the Developer's Agreement with Dayton Park, LLC, for Ames Community Development Park (South Bell Avenue).

City Manager Schainker reminded the City Council members that they had directed staff to initiate steps to provide tax-increment financing for the construction of the public infrastructure to serve approximately 37 acres of industrial land along South Bell Avenue. It was indicated at that time that the first step in the approval process would be to finalize a Developer's Agreement outlining the responsibilities of the City and the developer. Mr. Schainker stated that numerous negotiating sessions were held, and City staff and the developer were now in support of the proposed Agreement. He highlighted the following components of the Agreement:

1. Sale Price. The developer guarantees a selling price for land in the subdivision through June 30, 2011. After that date, the price may be increased by as much as 5% on each July 1 thereafter.
2. Allowing Others to Take Advantage of this Incentive. The developer will make at least 50% of the lots in the subdivision available for sale to other interested developers for one year after the completion of the public improvements.
3. Time Frame to Build. Once a lot is purchased from the developer, the property owner will have 18 months to complete building improvements. If the construction of all building improvements does not begin within one year of taking title to the lot, the purchaser may be obligated to sell the property back to the developer at an amount 90% of the sale price.

Discussion ensued on Items 5 (second paragraph), 13, 14, 15, and 16, which, according to Mr. Schainker, had not been included in former Agreements.

Council Members Goodman and Popken indicated disfavor with Item 13 of the Agreement, which pertained to the developer making only 50% of the lots available to other persons or entities.

City Manager Schainker advised that City staff felt that the developer should be given somewhat of an advantage because they own the land and are making it available for an industrial park.

Chuck Winkleblack, 105 S. 16th Street, Ames, representing the owner of the land, stated that the 5% price increase allowed after June 30, 2011, would barely cover the cost of grading. He emphasized that it would not be advantageous to the owner to purposely hold on to lots. Mr. Winkleblack also pointed out that the owner of the land is required to build spec buildings with a value of not less than \$350,000; none of the other developers would be required to do that.

The City Manager indicated that it was evident to him that the Developer's Agreement, as proposed, would not be approved by the City Council. He recommended that the Agreement be referred back to staff for further negotiating with the developer.

Additional discussion ensued on Item 15 regarding restrictive covenants. City Manager Schainker stated that he wanted this Item included in the Agreement to guarantee that the quality of design and construction is the same as the first two additions. Council Member Popken said he understood Mr. Schainker's desire to ensure quality; however, he thought third-party developers would be considered about arbitrary decision-making by the original developer. He would like to see criteria referenced. Mr. Schainker clarified that Mr. Popken was asking to retain the covenants, but strike the requirement for approval by the original developer. Council Member Larson pointed out that it was not unusual to have such a paragraph in the Covenants. He added that the City Council, as lay persons, are trying to negotiate a Developer's Agreement that, in his opinion, they should not be negotiating. Council Member Goodman said that the City Council members were acting as representatives of business persons who had expressed concerns that the document doesn't treat other developers fairly.

Council Member Larson rescinded his second of the motion to approve the Developer's Agreement. The motion then failed for lack of a second.

Moved by Goodman, seconded by Mahayni, to refer the Developer's Agreement back to staff for further negotiating items covered by Items 13, 14, 15, 16, and 19.

City Manager Schainker reviewed the time line for accomplishing this project. He stated that staff has the goal of receiving bids in March. Mr. Schainker noted that the Developer's Agreement will have to be brought back to the City Council for approval prior to the third reading of the ordinance creating the Tax-Increment Financing District. If the details of the Developer's Agreement cannot be worked out and ultimately approved by the City Council by the third reading of the ordinance, staff would recommend that the ordinance not be adopted and the Urban Renewal Area, and thus, the TIF District, not be created.

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

HEARING ON PROPOSED SOUTH BELL AVENUE URBAN RENEWAL AREA AND TAX-INCREMENT FINANCING DISTRICT: Mayor Campbell opened the public hearing. No one wished to speak, and the Mayor closed the hearing.

City Planner Charlie Kuester gave a chronological history of the steps taken to date towards the creation of an Urban Renewal Area and Tax-Increment Financing District on South Bell.

Moved by Larson, seconded by Mahayni, to adopt RESOLUTION NO. 09-019 adopting the Urban Renewal Plan.

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. 09-020 establishing Urban Renewal Area No. 5.

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

Moved by Larson, seconded by Popken, to pass on first reading an ordinance creating the South Bell Avenue Tax-Increment Financing District.

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

HEARING ON ZONING TEXT AMENDMENT TO REMOVE REQUIREMENT FOR THE PLANNING & ZONING COMMISSION TO MAKE RECOMMENDATIONS TO THE ZONING BOARD OF ADJUSTMENT ON SPECIAL USE PERMIT APPLICATIONS: The public hearing was opened by Mayor Campbell. She closed same after no one came forward to speak.

Planning and Housing Director Steve Osguthorpe stated that the City has a long history of requiring both Planning & Zoning Commission and the Zoning Board of Adjustment to review Special Use Permit (SUP) applications. During a review of the new development application processing schedule to local developers, it was suggested to City staff that the two-Board review was redundant and not necessary. Mr. Osguthorpe reviewed applicable laws, By-laws, and other regulations for Special Use Permits, and based on that review stated that City staff believes that the requirement should be removed for the Planning & Zoning Commission. He said that this would also expedite the SUP application process.

Moved by Goodman, seconded by Larson, to pass on first reading an ordinance making a zoning text amendment to remove the requirement for the Planning & Zoning Commission to make recommendations to the Zoning Board of Adjustment on Special Use Permit applications.

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

ORDINANCE AMENDING SECTION 22.4(1) OF MUNICIPAL CODE PERTAINING TO TEMPORARY OBSTRUCTIONS: City Attorney Marek explained that during a previous edit of this Code section, two lines were inadvertently removed that should have remained. The amendment in question merely reinserts that information.

Moved by Larson, seconded by Goodman, to pass on first reading an ordinance amending Section 22.4(1) of the Municipal Code describing the authority of the City Manager with respect to temporary obstructions.

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

The meeting recessed at 9:04 p.m. and reconvened at 9:10 p.m.

ECONOMIC STIMULUS PROJECTS: Assistant City Manager Bob Kindred explained that President-Elect Obama has stated his intention, as soon as possible after the inauguration, to inject hundreds of billions of federal dollars into public infrastructure construction across the nation. His goal is to quickly identify and fund “shovel-ready” construction projects that will bolster the economy. In anticipation of this, Governor Culver has asked the Iowa Department of Economic Development to contact associations such as the Iowa League of Cities to collect lists of potential projects for funding. Mr. Kindred advised that City staff hurriedly compiled a list of potential projects and is seeking the Council’s direction regarding the projects that should be submitted by the City. The list is due to the Iowa League by Thursday, January 15. He noted that federal standards for funding these projects have not yet been announced, and there are no guarantees that any of them will be funded.

According to Mr. Kindred, the definition of “shovel-ready” is “projects must be in the planning and development stages and would need to be under contract and begin within 180 days of the federal appropriation and completed within two years of the start date.” He advised that the list of projects was grouped into four categories:

1. Projects included in previous Capital Improvement Plans (CIPs) that are already funded for construction
2. Projects included in approved CIPs for future years’ funding
3. New projects included in the proposed 2009-14 CIP
4. Projects that have not been included in the City’s CIP

Mr. Kindred pointed out that eligible street projects might be significantly impacted due to the lengthy nature of current IDOT project letting requirements. It might be necessary for the state of Iowa and/or federal government to temporarily modify their normal requirements related to land acquisition and reduce their normal plan review periods; without those modifications, several of the City’s major projects being proposed for the stimulus package might be eliminated from consideration.

Projects included in previous CIPs for future years’ funding, new projects included in the proposed 2009-14 CIP, and projects not included in the City’s CIP were briefly reviewed by Mr. Kindred. City Manager Schinker advised that if federal officials approve any of the new projects, the City’s budget would be greatly impacted because it would not have included any local match for those projects.

Council Member Goodman expressed his opinion that the Council should focus on Ames-taxpayer-

funded projects to be included in the list.

Council Member Doll said that he would like to see the broadest list of projects as possible submitted since the funding criteria are not yet known.

Sheri Kyras, Transit Director, described the Ames Intermodal Facility and the CyRide Satellite Bus Facility projects.

Moved by Goodman, seconded by Doll, to approve the list of projects submitted by staff for submission to the state of Iowa.

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

COMMENTS: Moved by Popken, seconded by Goodman, to refer to staff the letter from the MSCD regarding Dollar Days.

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

Moved by Popken, seconded by Goodman, to refer to staff the letter from the Ames Foundation regarding the interactive fountain.

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

Ex officio Member Molly Tracy advised that, following up on comments made during the Council's December 2008 goal-update session, she will begin working with the Public Relations Committee of GSB to increase students' awareness of the City's recycling programs.

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

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

Moved by Doll, seconded by Goodman, to adopt RESOLUTION NO. 09-021 approving the Agreement between the City of Ames and the International Union of Operating Engineers Local 233 (Blue Collar Unit).

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

ADJOURNMENT: Moved by Doll, seconded by Goodman, to adjourn the meeting at 9:54 p.m.

Diane R. Voss, City Clerk

Ann H. Campbell, Mayor