

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

AMES, IOWA

AUGUST 11, 2009

The regular meeting of the Ames City Council was called to order by Mayor Campbell at 7:00 p.m. on August 11, 2009, in the City Council Chambers in City Hall, 515 Clark Avenue. Council Members present were Doll, Goodman, Larson, Mahayni, Popken, and Rice. *Ex officio* Member Keppy was also present.

### **ANNUAL REPORT FROM AMES ECONOMIC DEVELOPMENT COMMISSION (AEDC):**

Dan Culhane, President and Chief Executive Officer, presented the Ames Economic Development Commission's Annual Report for 2008. He reminded the City Council that this presentation is part of AEDC's contractual obligation with the City. Mr. Culhane highlighted activities in the Existing Industry Program, specifically showcasing the expansion of Ag Leader Technologies and the Renewable Energy Group.

Mr. Culhane described the AEDC as the City's "marketing organization to external markets...for job creation and capital investment." He said that, in spite of a sluggish national economic, the AEDC had been very active in the last 12 months. In 2009, AEDC staff has taken or will take part in 20 marketing trips and trade shows, has increased its presence with the Greater Des Moines Partnership, and has leveraged some additional monies for the state of Iowa through the Iowa Department of Economic Development. According to Mr. Culhane, the AEDC continues to focus on research and development opportunities, plant science, and plant biotechnology, working very closely with the tenants of the Iowa State University Research Park.

Previous to this meeting, a Council member had asked how the AEDC determines whether it will respond to a prospective industry that has expressed interest in the Story County area. Mr. Culhane said its response is usually based on whether there is a need for additional infrastructure. If so, meetings are held with City Manager Steve Schainker and staff from the affected departments before a response is made. He reported that, currently, there is a prospective company needing a 20-acre site in Ames to build a 200,000 square foot building. In addition, contact has been made with a small bio-fuels company that is interested in Ames for the relocation of its corporate office.

Council Member Rice asked Mr. Culhane what the City Council could do to further the work of the AEDC. Mr. Culhane stated that the Council could continue to make the economic development process move quickly. He gave an example of a prospective company's request to be in a new facility within six months.

Council Member Larson questioned Mr. Culhane as to what presently can be shown to the client who wants a 20-acre site or larger. It was stated by Mr. Culhane that the client has expressed interest in Ames -- not the Ames area. There are only two locations available; the options are less than ideal. Mr. Larson said that he believes the City Council needs to help the AEDC find more sites of 20 acres or larger to satisfy the needs of customers. Mr. Culhane said that is the reason why he and the City Manager have spent so much time on the business park east of Interstate 35; its creation would put the AEDC in an exceptionally positive position to be able to respond to requests for 20 to 40 acres. He stated that, if they even had a parcel in a new business park within the next 12 to 18 months, it would put Ames at an advantage.

**CONSENT AGENDA:** Council Member Larson asked to pull Item No.10 (approval of funding for the 2009/10 Community Needs Assessment), and Item No. 14 (setting bid and award dates for Repair of the Squaw Creek Shared-Use Path).

Moved by Mahayni, seconded by Doll, to approve the following items on the Consent Agenda:

1. Motion approving payment of claims
  2. Motion approving minutes of Regular Meeting of July 28, 2009
  3. Motion approving Contract Change Orders for July 15-31, 2009
  4. Motion approving renewal of the following beer permits, wine permits and liquor licenses:
    - a. Class C Liquor w/Catering Privilege - Olde Main Brewing Company, 316 Main Street
    - b. Class C Liquor - El Azteca, 1520 S. Dayton Avenue
    - c. Class C Liquor w/Catering Privilege - Es Tas Stanton, 216 Stanton Avenue
    - d. Class C Liquor - Okoboji Grill, 118 S. Duff Avenue
    - e. Class B Beer - Flame-N-Skewer, 2801 N. Grand Avenue
    - f. Class C Liquor - Deano's, 119 Main Street
    - g. Class C Liquor - Chicha Shack, 2418 Lincoln Way
    - h. Class B Native Wine - Iowa's Wine Cellar, 2010 Philadelphia Street, Ste. 5
  5. RESOLUTION NO. 09-363 setting August 25, 2009, as date of public hearing for issuance of General Obligation Bonds in an amount not to exceed \$170,000
  6. RESOLUTION NO. 09-364 approving Investment Report for fiscal year ending June 30, 2009
  7. RESOLUTION NO. 09-365 approving 28E Agreement with DNR for Sport Fishing Recreation Project at Ada Hayden Heritage Park
  8. RESOLUTION NO. 09-366 approving Underage Tobacco Enforcement Agreement between Ames Police Department and Iowa Alcoholic Beverages Division
  9. RESOLUTION NO. 09-368 approving Neighborhood Improvement Project grants for 2009/10
  10. RESOLUTION NO. 09-369 approving Fall 2009 Commission On The Arts Mini-Grant Contract with the Octagon Center for the Arts
  11. VISTA Program:
    - a. RESOLUTION NO. 09-370 approving amendment to City Manager's Office budget for 2009/10 in the amount of \$2,000 and approving payment to the Iowa Civil Rights Commission for services by VISTA workers
  12. RESOLUTION NO. 09-372 awarding contract to Independent Salt Co., of Kanopolis, KS, in the amount of \$66.65/ton for Rock Salt for 2009/10 Ice Control Program
  13. RESOLUTION NO. 09-373 accepting partial completion of public improvements and reducing security for Estates West Subdivision, 1<sup>st</sup> Addition
  14. RESOLUTION NO. 09-374 accepting partial completion of public improvements and reducing security for Estates West Subdivision, 2<sup>nd</sup> Addition
- Roll Call Vote: 6-0. Resolutions declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

**2009/10 COMMUNITY NEEDS ASSESSMENT:** Council Member Larson stated that he had pulled this item from the Consent Agenda to ensure that the Council members are in agreement on the source of funding.

Moved by Larson, seconded by Rice, to adopt RESOLUTION NO. 09-367 approving funding for the 2009/10 Community Needs Assessment with the funding source being the Local Option Sales Tax Fund.

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

**REPAIR OF SQUAW CREEK SHARED-USE PATH BRIDGE:** Council Member Larson pointed out that significant funding is involved to repair the Bridge, and he would like to have discussion on whether the repairs should be undertaken. City Manager Schainker elaborated, stating that if the extension of Grand Avenue to S. 16<sup>th</sup> Street moves forward, this Bridge will ultimately be destroyed.

He noted, however, that this pedestrian and bicycle bridge is now closed due to unsafe conditions, and it is a major transportation link, particularly for people in the southeast part of the City.

Mr. Schainker stated that it was difficult for him to make a recommendation on this issue because the Bridge will probably be destroyed in approximately three years. The reconstruction of the Bridge will cost approximately \$74,000, not including design (\$11,000) or administration fees (\$5,000). It was reiterated by Mr. Schainker that the Bridge is out and is a major link in the City's transportation system. He presented options to the Council, as follows:

1. Approve the project. Public Works Director John Joiner advised that, if the project is approved at this meeting, the completion date for the contract would be November 30, 2009.
2. Postpone the project on the possibility that there will be Federal Stimulus monies available. This will cause a delay of approximately nine months. Public Works Director Joiner explained that the plans would need to be redesigned to meet Iowa Department of Transportation specifications. It would require further review by the Department of Natural Resources and possibly the Corps of Engineers. During the interim, the Bridge would be subject to further ice flow damage during the winter. Construction could not begin until next spring.

Mr. Schainker also stated that it would difficult for staff to recommend the use of Stimulus funding for the project knowing that the Bridge would be destroyed within three years. He added that Council would need to postpone this project until it is known whether the City has Stimulus funding and if further funding for the Grand Avenue Extension is going to be received.

3. Do not repair the Bridge. Mr. Schainker stated that, without the repairs, the Bridge would be kept closed. He pointed out, however, that further funding for the extension of Grand Avenue is not guaranteed

Council Member Popken pointed out that the City recently invested in the repair of another bridge (on SE 16<sup>th</sup> Street), which would not be useful if this bridge was not repaired. Mr. Joiner concurred, stating that the other bridge would not be usable until the Grand Avenue Extension was completed; there would be a missing link in the system. According to Mr. Joiner, the City has asked the design consultants to create a five- to ten-year "fix" of this Bridge.

Council Member Goodman asked when the anticipated construction would occur to complete the Grand Avenue Extension. Director Joiner advised that the City has asked for a Congressional Appropriation for planning and land acquisition. If passed this fall, the planning phase will begin next year, with construction slated to begin in 2012.

Moved by Popken, seconded by Goodman, to adopt RESOLUTION NO. 09-371 approving plans and specifications for Repair of the Squaw Creek Shared-Use Path Bridge; setting September 2, 2009, as bid due date and September 8, 2009, as date of public hearing, with funding from Local Option Sales Tax Available Balance.

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

**PUBLIC FORUM:** Catherine Scott, 1510 Roosevelt, Ames, thanked the City for providing an extra spring yard waste day. She asked that the City continue to offer an additional day next spring .

**BEER PERMIT FOR QDOBA:** Moved by Doll, seconded by Goodman, to approve a new Class B Beer Permit with Outdoor Service Area for QDOBA, 806 S. Duff.  
Vote on Motion: 6-0. Motion declared carried unanimously.

**LIQUOR LICENSE FOR GATEWAY HOTEL & CONFERENCE CENTER:** Moved by Popken, seconded by Mahayni, to approve a new 5-Day Special Class C Liquor License for Gateway Hotel & Conference Center at the ISU Alumni Center, 420 Beach Avenue.  
Vote on Motion: 6-0. Motion declared carried unanimously.

**ALL-AMERICAN WEEKEND ON SEPTEMBER 5, 2009:** Moved by Mahayni, seconded by Doll, to adopt RESOLUTION NO. 09-375 approving closure of portions of Main Street, Kellogg Avenue, and Burnett Avenue.  
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 Doll, to adopt RESOLUTION NO. 09-376 approving a waiver of fees for electricity usage.  
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 Doll, to approve a Blanket Temporary Obstruction Permit.  
Vote on Motion: 6-0. Motion declared carried unanimously.

Moved by Mahayni, seconded by Doll, to adopt RESOLUTION NO. 09-377 approving a waiver of parking meter fees and enforcement.  
Vote on Motion: 6-0. Motion declared carried unanimously.

Moved by Mahayni, seconded by Doll, to approve a Blanket Vending License.  
Vote on Motion: 6-0. Motion declared carried unanimously.

Moved by Mahayni, seconded by Doll, to adopt RESOLUTION NO.09-378 approving a waiver of the fee for Blanket Vending License.  
Roll Call Vote: 6-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

**“WELCOME TO AMES” EVENT ON AUGUST 28, 2009:** Moved by Mahayni, seconded by Goodman, to adopt RESOLUTION NO. 09-379 approving closure of street and metered parking spaces on Chamberlain Street between Welch and Stanton Avenues from Noon to 9:00 p.m.  
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. 09-380 approving closure of Parking Lot Y.  
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. 09-381 approving a waiver of fees for electricity usage.  
Roll Call Vote: 6-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

**MUSIC WALK ON SEPTEMBER 17, 2009:** Moved by Mahayni, seconded by Doll, to adopt RESOLUTION NO. 09-382 approving a waiver of parking meter fees and enforcement for the Main Street Cultural District from 3:00 p.m. to 6:00 p.m.

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 Doll, to adopt RESOLUTION NO. 09-383 approving a waiver of fees for electricity usage along Main Street.

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 approve a blanket Temporary Obstruction Permit for MSCD from 8:00 a.m. to 8:00 p.m.

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

Moved by Mahayni, seconded by Goodman, to approve a Blanket Vending License for the Central Business District from 4:00 p.m. to 8:00 p.m.

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

Moved by Mahayni, seconded by Doll, to adopt RESOLUTION NO. 09-384 approving a waiver of the fee for a Blanket Vending License.

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 Doll, to adopt RESOLUTION NO. 09-385 approving closure of three parking spaces on the east side of Kellogg at the northeast intersection of Kellogg and Main, from Noon to 8:00 p.m. for a food vendor.

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

**STATUS REPORT ON WI-FI SERVICES (TABLED FROM 7/14/09):** Finance Director Duane noted that Stan Davis, the City's Information Technology (I.T.) Division Manager, was not present. Mr. Pitcher advised that he may have to defer technical questions to Mr. Davis, who would respond to the City Council when he returns.

Director Pitcher gave the history behind the Wi-Fi hotspots. He said that this project was the result of a City Council goal to facilitate "One Community through physical and relationship connections." One of the objectives to achieve that goal was for staff to conduct a study on the feasibility of city-wide Wi-Fi. The study was conducted, and as a result, the City Council directed that, although a city-wide Wi-Fi would not be feasible, staff should implement a pilot project that would include a series of Wi-Fi "hotspots" that would be offered free-of-charge at locations throughout the community. Mr. Pitcher named the outdoor locations, which are all functioning at this point, as follows: Tom Evans Plaza, Brookside Park, Campustown Court, and the Hunziker Youth Sports Complex. There are other locations where infrastructure is already in place or will be installed. Those include: Furman Aquatic Center, City Hall, Ice Arena, City Hall Community Center, and the Municipal Pool. An RFP was issued for those areas that did not already have infrastructure. Mr. Pitcher advised that staff was looking for "a result" – not specifications. He described the process used for determining the vendor and noted that the chosen vendor (ICS Technologies) is located in

Ames. According to Mr. Pitcher, ICS was able to provide the requested services at a reasonable price.

User agreements were explained by Mr. Pitcher. It was noted by Mr. Pitcher that the contract allows ICS to place advertisements on the sign-in page only. In addition, the contract indemnifies the City for all possible liability from the use of the system. In turn, ICS is allowed to protect itself by requiring users to agree to the Terms of Service and provide an e-mail address. The City believes this arrangement is working well; however, according to Mr. Pitcher, there has been one complaint over the requirements for Wi-Fi usage.

Council Member Goodman asked if the City's Request for Proposal identified devices that would need to be enabled. Mr. Pitcher stated that the RFP was to provide a certain signal, but did not identify particular devices. Mr. Goodman noted that certain devices are not compatible with the City's network, and he asked that Information Technology staff work to identify those issues as soon as possible. According to Mr. Goodman, access to the services needs to be easier. He would like this to be without user names or passwords. Director Pitcher explained those requirements were part of the contract with the service provider.

Lauris Olsen, 120 Kellogg, Ames, gave a presentation outlining her concerns with the City's contract with ICS. She emphasized that her comments at this meeting were not intended to question the soundness or business expertise of ICS. Ms. Olsen detailed the following issues with the contract:

1. Offers the possibility that users' personal information could be used for future advertising and survey campaigns.
2. Creates an open-ended revenue stream for the providing business and preferential consideration in the bidding process.
3. Puts the City in competition with private businesses selling Internet-based advertising and gives the vendor an unfair competitive advantage.

Ms. Olsen noted that the contract with ICS is now up for renewal and asked that the City look at these issues before renewing it. She also asked the City to think about these issues when contemplating future public/private partnerships.

Matt Buehtel, Vice-President and Chief Financial Officer, and Matt Pinkston, Head Network Engineer, for ICS Advance Technologies, were present. Mr. Buehtel stated that they are working with the City's I.T. Division to make the log-on process much easier. He also advised that the system was not designed as a revenue-generating venture; it was done to provide a service to the community, and the advertising is a way to offset some of their overhead costs. According to Mr. Buehtel, requiring the log-in is a security measure. The user only "gets slow speeds" until he or she verifies an e-mail address. He further advised that requiring an e-mail address is wholly for the purpose of assisting ICS in contacting users if there are any problems. Mr. Buehtel also noted that ICS bears all costs of providing the bandwidth to the locations and technical support to the end-users. It was his understanding that the RFP was sent out to any bidder who expressed interest in bidding on the project. He thought that one other company had submitted a bid; ICS was awarded the bid, and it implemented the system.

Council Member Popken asked if ICS would be willing to bid on the project if it were revised (in the sense of a blanket connection). Mr. Buehtel said that they would be willing to entertain any other business models the City wished to pursue.

Mr. Pinkston advised that ICS is currently providing Internet service to a large number of properties in and around Ames. He stated that many of the users have similar concerns about the Wi-Fi access points, with the No. 1 concern being access by non-traditional devices (PlayStations®, mobile devices, I-Phones®, I-Pod Touch®, etc.). Mr. Pinkston stated that they are working with new technology that will allow access by non-traditional devices; they are “about two months out of having a workable page that will allow that access.” In addition, they are also working with new technology that will allow authentication through Mac addresses.

Council Member Popken specifically asked ICS representatives present if they would be willing to bid on a project that would be similar to that currently up and running at the Public Library. Mr. Buehtel stated that they would if that was the City’s desire.

Council Member Larson asked if ICS had the ability to offer similar services to private property management owners for offering to their tenants. Mr. Pinkston acknowledged that was true. Mr. Larson pointed out that was essentially what the City had done: They had provided Ames’ residents with a platform for them to have Wi-Fi services in as many places as possible. Mr. Pinkston said that one feature of the system that has not been clearly understood is that the City actually has full control over the content of “the page,” and an interface is provided to allow the City to provide its own information to the public. This feature would not be available if the City decided to go to a straight log-in system (where users would go right on through to the Internet).

Council Member Popken pointed out that the City entered into a contract for certain services and is now looking at refining the system. He asked to know how the City could develop an “open” network. Director Pitcher stated that the current contract would need to be canceled, and negotiations for a new contract would occur. If the Council truly wants an “open” network, the City would bear all liability for any activity that occurred. City Attorney Marek concurred that, with the current contract, the vendor agrees to indemnify the City of all liability. Director Pitcher pointed out that the City is not in the business of running an open Wi-Fi service; that is why a third-party has been hired to manage it.

Council Member Goodman summarized his preference for a service that provides easy access to the network without the requirement of providing a user name and password.

Council Member Popken stated that his vision was to provide a free Wi-Fi service without providing personal information. He does not understand why the City cannot provide “open access.” Mr. Pitcher stated that it is possible; it just depends on how much the City is willing to take on as a policy.

Council Member Goodman said that he believes that it is possible to provide safe, yet easier, access for users. He pointed out that at the beginning of the process, the City asked for a “creative model.” Mr. Goodman agrees that what they got provides Internet access in public spaces, but he thinks that the City should look at the services to see if they can be made even more accessible and effective.

Moved by Goodman, seconded by Larson, to direct staff to make contact with ICS to explore an easier access point (without providing a user name or password) to the “hotspots” in the community.

Council Member Rice said that he has concerns over the advertising. He got the impression from the ICS representatives speaking at this meeting that it would not be a problem to not include advertising if the City could match some of their costs for providing the services. If the cost is nominal, Mr. Rice would like the City to pay it and do away with the advertising. He would like to know how much it would cost the City. Council Member Larson pointed out that there had only been one complaint. He indicated that he did not have any issues with advertising being allowed. Mr. Larson also does not have any problem with the service-provider making money; he wants them to be successful. Council Member Goodman noted that he worded his motion to be conspicuously absent of conversation on the advertising issue.

Council Member Popken asked if the City needed to find a bandwidth provider. Mr. Pitcher pointed out that the City did not design the bandwidth coming into this building to provide Wi-Fi services.

Council Member Goodman asked about the bidding process and how bidders were notified of the RFP. Mr. Pitcher described the process of information dissemination about this project; 14 vendors attended a proposal meeting prior to the RFP being issued.

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

**LIQUOR LICENSE FOR MICKEY’S IRISH PUB, 109 WELCH AVENUE:** Police Chief Chuck Cychosz noted that the City relies on good management in bars to keep their environments safe, which ultimately helps to keep the community safe. He reminded the Council that when there is a pattern of violations in a bar, the City Council is informed of that at the time of the bar’s renewal. Chief Cychosz introduced Lieutenant Jeff Brinkley, who supervises the Night Shift, holds the bar meetings, and has been the “liaison relationship” with the bars.

Lieutenant Brinkley stated that the Police Department has been pleased with Mickey’s Irish Pub (Mickey’s) in its attempts to eliminate under-age drinking and providing a fairly safe environment in an entertainment venue. He reported, however, that the issue that the Police Department is most concerned about is its level of compliance with regulations, mandates, and Code requirements of the City, Alcoholic Beverages Division, and the state, via the Iowa Code. Lieutenant Brinkley reported that during the past year, there have been five incidents of non-compliance: Three were for over-occupancy. Lieutenant Brinkley added that he had met with Steve McFadden, the owner of Mickey’s, to inform him that the occupancy level had not been altered since it had been a former restaurant (approximately 11 years ago). Mr. McFadden was told to meet with the City’s Inspections Division to see if occupancy could be increased since the kitchen was no longer staffed. That what not done right away, and violations occurred. Mr. McFadden then initiated a change in occupancy; it was increased by 41 people.

According to Lieutenant Brinkley, an autonomous phone call was received in early April 2009 that, at 3:30 a.m., there was loud music and people still in the bar. Police responded and found the owner, Steve McFadden; two of the current managers, and an underage employee in the establishment drinking. There is a 2 - 6 AM prohibition that limits sales and dispensing of alcohol after 2 AM.

Lieutenant Brinkley highlighted four points that must be adhered to by licensees: (1) Maintain staffing levels appropriate to be able to verify that people are providing a legitimate ID evidencing that the patron is 21 years or older. (2) Deny sales of alcoholic beverages to intoxicated persons. (3) Comply with occupancy limits as established by the Fire Department Inspection Division. (4) Maintain very strict compliance with restrictions and regulations in place by the Alcoholic Beverages Division and the Iowa Code as they relate to the dispensing of alcoholic beverages.

It was pointed out by Lieutenant Brinkley that no representatives of Mickey's were present at this meeting even though they had been notified. Therefore, no one would be responding to the City Council with a plan on how to alleviate the issues.

Lieutenant Brinkley expressed his concern that one of the owners of this establishment, Steve McFadden, has been a liquor-license-holder in the state of Iowa for years and owns similar establishments in other Iowa cities. It is Mr. Brinkley's belief that Mr. McFadden knows and understands the requirements of a bar owner. Mr. McFadden has had no other violations that affected his liquor license status anywhere else, yet it appears to Lieutenant Brinkley that compliance with the requirements of the regulating authorities has not been a priority for Mr. McFadden for his Ames establishment.

Council Member Mahayni asked for more information about other violations occurring at Mickey's. It was noted by Lieutenant Brinkley that fake or altered IDs had not been turned in regularly by Mickey's. The IDs were only submitted to the Police Department after it notified management that a recommendation would be made for approval of a 6-month license, instead of a 12-month one. Lieutenant Brinkley also told the Council that interest in complying with requirements by the management of Mickey's was renewed in April, but was starting to wane already.

Moved by Popken, seconded by Mahayni, to deny the application for a 12-month Class C Liquor License with Outdoor Service Area for Mickey's Irish Pub, 109 Welch Avenue.

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

**DEVELOPMENT AGREEMENT FOR RINGGENBERG PARK SUBDIVISION:** City Attorney

Marek explained that the developer of this Subdivision had requested that a restriction be removed to allow Lot 9 to have driveway access on Cedar Lane. He noted that City Traffic Engineer Damion Pregitzer reviewed the request and believes that the driveway access can be changed without any adverse effects on traffic flows or safety.

Moved by Popken, seconded by Doll, to adopt RESOLUTION NO. 09-386 approving an amendment to the Development Agreement for Ringgenberg Park Subdivision, allowing driveway access for Lot 9 onto Cedar Lane.

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

**ACTS SUBDIVISION:** Planning and Housing Director Steve Osguthorpe explained that Habitat for

Humanity was seeking approval of a Minor Subdivision Plat for a parcel at 4001 Lincoln Way. The parcel would be split into two lots to allow construction of two single-family homes. After review, City staff noted that the existing 25 feet of McDonald Drive right-of-way should be widened to 55 feet, which is the minimum width necessary for new streets created as part of subdivisions. Street trees, street lights, and sidewalks also need to be installed to be consistent with the requirements of the City's Subdivision Ordinance. The applicant has requested waivers of those four requirements.

Mr. Osguthorpe advised that the Municipal Code allows modification of the requirements for subdivision improvements at Section 23.103(1) if either of two criteria is met:

1. Strict compliance with the requirements of the regulations would result in extraordinary hardship to the applicant.

2. It would prove inconsistent with the purpose of the regulations because of unusual topography or other conditions.

Director Osguthorpe explained each waiver being requested, as follows:

1. Requirement for McDonald Drive to have a Minimum Width of 55 Feet. In 1963, the City acquired, through a Deed of Dedication, a 25-foot strip of land from McDonald, Yoder, and Yoder. The lots currently in place were established prior to that time. In 1994, the City approved a subdivision plat for Westwood Village, on the east side of McDonald Drive, for a 58-unit Westwood Village residential development. At that time, the 25-foot street was already in place, and the City did not require a widening of the street.

Staff has determined that the proposed creation of one additional lot will not create any significant impact on the traffic of the existing street and are not opposed to granting the waiver. Also, because there is no expectation that McDonald Drive will ever be extended or widened, it would actually be detrimental; it would not create any public betterment to requirement the dedication of an additional 30 feet of right-of-way.

2. Requirement for Street Trees. The existing site has several mature trees, although on private property. In order for any newly planted street trees to thrive, the existing trees would need to be thinned, if not outright clear cut. The existing tree canopy meets the intent of the street tree requirement, and little public good would be obtained by requiring new trees to be planted.
3. Requirement for Street Lights. Two street lights exist already – one to the southeast of the subdivision on the frontage road. Because of the existing street lights and the coverage they provide, Electric Services does not require the installation of any additional lights.
4. Requirement for Sidewalks. Waiving the requirement for sidewalks along the west side of McDonald Drive resolves two issues: (1) There is little room within the 25-foot-wide right-of-way for the safe placement of a sidewalk. (2) Existing mature trees would be an impediment for the installation of the sidewalks. The applicant will install the sidewalk along the south side of the Subdivision.

Moved by Mahayni, seconded by Goodman, to adopt RESOLUTION NO. 09-387 approving a waiver of subdivision regulations regarding certain improvements.

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. 09-388 approving the Minor Final Plat.

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

#### **HEARING ON UNIT NOS. 7 & 8 NITROGEN OXIDE REDUCTION PROJECT:**

Mayor Campbell opened the public hearing. No one wished to speak, and she closed the hearing.

Moved by Goodman, seconded by Goodman, to approve the report of bids and delay award of contract.

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

**HEARING ON 2008-09 CYRIDE ROUTE PAVEMENT IMPROVEMENTS (NORTHWESTERN AVENUE, JOHNSON TO 30<sup>TH</sup>):** The hearing was opened by the Mayor. She closed same after no one came forward to speak.

Moved by Mahayni, seconded by Goodman, to adopt RESOLUTION NO. 09-389 approving final plans and specifications and awarding a contract to Manatt's, Inc., of Ames, Iowa, in the amount of \$294,014.65.

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

**HEARING ON 2008/09 ASPHALT PAVEMENT IMPROVEMENTS PROGRAM (ARIZONA AVENUE, PHOENIX TO ROSS ROAD):** The Mayor opened the public hearing. No one asked to speak, and the hearing was closed.

Moved by Larson, seconded by Doll, to adopt RESOLUTION NO. 09-390 approving final plans and specifications and awarding a contract to Manatt's, Inc., of Ames, Iowa, in the amount of \$220,664.87.

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

**HEARING ON 2009/10 DOWNTOWN STREET PAVEMENT IMPROVEMENTS (KELLOGG AVENUE, LINCOLN WAY TO MAIN STREET):** Mayor Campbell opened the hearing. There was no one who came forward to speak, and the Mayor closed the hearing.

Moved by Goodman, seconded by Mahayni, to adopt RESOLUTION NO. 09-391 approving final plans and specifications and awarding a contract to Con-Struct, Inc., of Ames, Iowa, in the amount of \$715,254.30.

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

**HEARING ON ORDINANCE GRANTING TO INTERSTATE POWER AND LIGHT COMPANY (IPL), ET AL, THE RIGHT TO OPERATE A NATURAL GAS DISTRIBUTION SYSTEM UNDER A NON-EXCLUSIVE FRANCHISE:** Mayor Campbell noted that the hearing had been opened on May 26, 2009, and continued it to June 9, June 23, July 14, July 28, 2009, and now to this meeting.

City Manager Schainker asked the City Council to continue the hearing again. He said that the City is making substantial progress toward creating an agreement that is mutually acceptable to the City as well as IPL. City Attorney Marek said that both the City and the franchisee acknowledge that it would be in both entities' best interests to continue to observe the terms of the original franchise in the interim. He noted that the current franchise will expire on August 23, 2009.

John Ziegenbusch, 2200 Pinehurst Drive, Ames, identified himself as a long-time employee of Alliant Energy. He asked the City Council to adopt the Resolution, which would allow the extension of the terms of the current franchise. By doing so, adequate time would be allowed for the terms of a new franchise agreement to be finalized and implemented in ordinance form.

Moved by Rice, seconded by Goodman, to continue the hearing to August 25, 2009.

Council Member Doll asked to see the details of the progress of the negotiations if staff will be recommending that the hearing be continued past the Council's August 25, 2009, meeting date.

Roll Call Vote: 5-0. Motion declared carried.

Moved by Mahayni, seconded by Larson, to adopt RESOLUTION NO. 09-392 approving an extension of terms of the current Ordinance to September 30, 2009.

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

**HEARING ON AMENDMENT TO MUNICIPAL CODE SECTION 31.13(29) PERTAINING TO DESIGN CRITERIA FOR THE 1915 CITY HALL LANDMARK:**

Planning and Housing Director Steve Osguthorpe recalled that the City Council had referred a letter from Youth & Shelter Services (YSS) pertaining to replacement materials for the front steps on the west side of the building at 420 Kellogg Avenue (the 1915 City Hall).

Moved by Goodman, seconded by Doll, to pass on first reading an ordinance making amendments to Section 31.13(29) pertaining to design criteria for the 1915 City Hall Landmark.

Mayor Campbell noted that a letter had been received today by City staff from George Belitsos, Executive Director of Youth & Shelter Services, requesting suspension of the rules for the passage of an ordinance.

Roll Call Vote: 5-0-1. Mahayni. Motion declared carried unanimously.

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

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

**ORDINANCE REZONING PROPERTY LOCATED AT 601 SOUTH 16<sup>TH</sup> STREET:** Moved by Goodman, seconded by Rice, to pass on second reading an ordinance rezoning property located at 601 South 16<sup>th</sup> Street from Planned Residence District (F-PRD) to Highway-Oriented Commercial (HOC).

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

**ORDINANCE RENAMING SOUTH DAYTON AVENUE TO SOUTH DAYTON PLACE:** Moved by Goodman, seconded by Doll, to pass on third reading and adopt ORDINANCE NO. 4002 revising Appendix K renaming South Dayton Avenue to South Dayton Place.

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

**SEWER UTILITY ORDINANCE:** Moved by Goodman, seconded by Doll, to pass on third reading ORDINANCE NO. 4003 eliminating the 5,000 cubic-foot-per-calendar-year limit on sewer rate exemptions.

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

**COMMENTS:** Moved by Popken, seconded by Rice, to refer to staff the letter from Ames Historical Society.

Vote on Motion: 5-0. Motion declared carried unanimously.

**ADJOURNMENT:** Moved by Doll, seconded by Goodman, to adjourn the meeting at 8:53 p.m.

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Diane R. Voss, City Clerk

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Ann H. Campbell, Mayor