

MINUTES OF THE REGULAR MEETING OF THE AMES CITY COUNCIL

AMES, IOWA

SEPTEMBER 8, 2009

The regular meeting of the Ames City Council was called to order by Mayor Campbell at 7:00 p.m. on September 8, 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.

Mayor Campbell announced that Item No. 22, a new Class C Liquor License & Outdoor Service for Gateway Center & Conference Center at Lot S5 (Tent 43) Hilton Coliseum, had been pulled by the applicant. Also, staff had pulled Item No. 37, an Engineering Services Master Agreement for Pre-Design Services related to a new Water Treatment Plant.

PROCLAMATION FOR 11 DAYS OF GLOBAL UNITY: Mayor Campbell proclaimed September 11 - 21, 2009, as the 11 Days of Global Unity. Accepting the Proclamation were Heather Withers, Joyce Matters, Mary Nakadate, and Lynne Carey. Ms. Withers gave the history of the 11 Days of Global Unity, which began in 2004 as a way to celebrate what is going on in the world to promote peace, justice, and economic and environmental sustainability.

CONSENT AGENDA: Council Member Doll asked to pull the following items: 14 (a contract with The Richmond Center) and 15 (a budget appropriation for the VISTA volunteer and support for the Street 'N Greet and Action Teams).

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

1. Motion approving payment of claims
2. Motion approving minutes of Special Meeting of August 18, 2009, and Regular Meeting of August 25, 2009
3. Motion approving certification of civil service applicants
4. Motion approving Report of Contract Change Orders for August 16-31, 2009
5. Motion approving renewal of the following beer permits, wine permits and liquor licenses:
 - a. Class C Liquor - Corner Pocket/Zone, 125 Main Street
 - b. Class B Liquor w/Catering Privilege & Outdoor Service - Hilton Garden Inn Ames, 1325 Dickinson Avenue
 - c. Class C Liquor - Mandarin Restaurant, 415 Lincoln Way
6. RESOLUTION NO. 09-420 approving appointment of Cathy Brown to Electric Utility Operations Review & Advisory Board
7. RESOLUTION NO. 09-421 approving appointment of Hanna Shiplett to Public Art Commission
8. RESOLUTION NO. 09-422 approving the Preliminary Official Statement for General Obligation Corporate Purpose Bonds, Series 2009B
9. RESOLUTION NO. 09-423 approving Central Iowa Waste Management Association's 2009 Comprehensive Solid Waste Management Plan Update
10. RESOLUTION NO. 09-424 approving 2009/10 Contract for Human Services with Lutheran Services in Iowa
11. RESOLUTION NO. 09-425 approving Contract for Services with Ames Economic Development Commission
12. RESOLUTION NO. 09-426 approving Neighborhood Improvement Project grant for Somerset "Horseshoe Park"
13. RESOLUTION NO. 09-429 awarding contract with IBM Power 6 520 Server for Replacement of IBM ISeries Model 810 to Vertical VAR, LLC, of Chamblee, Georgia, in the amount of \$61,484.00

14. RESOLUTION NO. 09-430 awarding a contract to Flowserve Pump Division of Taneytown, Maryland, to purchase new solids-handling pumps at the Water Pollution Control Plant in the amount of \$219,492
15. RESOLUTION NO. 09-431 approving contract and bond for Resource Recovery Plant Conveyor Belt Replacement Project
16. RESOLUTION NO. 09-432 approving contract and bond for Neighborhood Infrastructure Improvements Program (Curb Replacement)
17. RESOLUTION NO. 09-433 approving Change Orders with Hooper Corporation for construction of 161/69-kV Transmission Line (Stange Road Substation to Ames Power Plant)
Roll Call Vote: 6-0. Resolutions declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

HUMAN SERVICES CONTRACT WITH THE RICHMOND CENTER: Council Member Doll stated that he had requested to pull this item so that he could abstain from the vote due to a conflict of interest.

Moved by Rice, seconded by Popken, adopting RESOLUTION NO. 09-427 amending the contract with The Richmond Center approving carry-over of 2008/09 funding.

Roll Call Vote: 5-0-1. Voting aye: Goodman, Larson, Mahayni, Popken, Rice. Voting nay: None. Abstaining: Doll. Resolution declared adopted, signed by the Mayor, and hereby made a portion of these minutes.

SUPPORT OF VISTA VOLUNTEER, STREET 'N GREET, AND ACTION TEAMS: Mayor Campbell said she had requested that a Council Member pull this item from the Consent Agenda so that a report could be given on the activities that have occurred or will occur concerning diversity awareness. The activities have been made possible through the City's collaboration with the Iowa Civil Rights Commission. The Mayor introduced Adam Cotton and Laura Logsdon, AmeriCorp VISTA volunteers, who have been working on a continuation of the Community Conversation program.

Adam Cotton gave an overview of activities that have occurred to help alleviate racial tensions in Ames. He said that the City and Iowa State University Extension partnered to hold Community Conversations, which provided an opportunity for residents to discuss issues regarding race, inclusiveness, and how to create a more welcoming community.

Mr. Cotton said that the group, now called United Ames, has formed Action Teams devoted to a single area of focus. Those areas of focus are: (1) Strengthening Neighborhoods, (2) One Community, (3) Education First, (4) Welcome Fest, and (5) AmesZone (a new youth.service learning organization).

According to Mr. Cotton, United Ames would use the requested monies for printing materials that support the Action Teams' projects and to fund outreach brochures. Some funds would also be used to match funding from the Iowa Civil Rights Commission for the AmeriCorp VISTA member serving in Ames in the coming year and to provide accommodations, e.g., computer and telephone.

Mr. Cotton told the Council that, since November 2008, VISTA workers in Ames have coordinated the Action Teams and formed and maintained relationships with community non-profit organizations, faith groups, the City, and ISU Extension. This year, United Ames will be dependent on the full-time support of the VISTA member, which will include grant-writing and initiating the application process for non-profit status.

Moved by Rice, seconded by Popken, to adopt RESOLUTION NO. 09-428 approving an allocation of \$5,000 from the 2009/10 FY Contingency Fund for the City's portion of the VISTA salary and support for the Street 'N Greet and Action Teams.

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

PUBLIC FORUM: Olivia Smith, 3214 Merle Hay Road, Des Moines, Iowa, introduced herself as a Co-Coordinator for the first annual Cyclone Cultural Festival. The Festival will be held on ISU Central Campus on September 19, 2009, from 11 AM to 5 PM.

Ms. Smith asked the City Council to reallocate some of the funding from the FACES Festival to be used for the Cultural Festival. She said that Iowa State University College of Business and Cargill have committed to help sponsor this event. Ms. Smith advised that she is requesting back-up funding in case expenses exceed the sponsorship amount. Their expenses will include rental of tables, chairs, tents, stage, sound system as well as entertainment.

Mayor Campbell advised Ms. Smith that, due to the Open Meetings Law, action by the City Council on her request is not permitted at this meeting. Ms. Smith acknowledged that the Festival will have occurred prior to the Council's next meeting, and she will report back to the Council on the amount of funding shortfall, if any, and what the funds were spent on.

BEER PERMIT FOR CHAR'S: Moved by Mahayni, seconded by Popken, to approve a new Class C Beer Permit for Char's, 3100 S. Duff Avenue.

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

5-DAY LIQUOR LICENSE FOR GATEWAY HOTEL & CONFERENCE CENTER: Mayor Campbell again noted that Item No. 22, a request for a 5-Day Class C Liquor License/Outdoor Service Area for Gateway Hotel at Hilton Lot S5, had been pulled by the applicant.

Moved by Doll, seconded by Mahayni, to approve a new 5-Day Class C Liquor License and Outdoor Service Area for Gateway Hotel & Conference Center at Reiman Gardens, 1407 University Drive, from September 20 - 24, 2009.

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

REQUEST OF GK DEVELOPMENT FOR TIME EXTENSION ON FIRE-RATED DOOR INSTALLATION AT NORTH GRAND MALL: Moved by Popken, seconded by Rice, to adopt RESOLUTION NO. 09-443 approving extension of time for installation of a fire-rated door at the former Sears store in North Grand Mall to October 30, 2009.

Jack Fahler stated that he was the new Manager at North Grand Mall and was at this meeting representing GK Development. Mr. Fahler requested the extension of time for installation of a fire-rated door at the vacant Sears building in North Grand Mall. He advised that Mall Management took longer than anticipated to make a decision as to whether to install a fire-rated door or a wall. Because there is a tenant currently occupying that space, the decision was made to install a door. The Council was told by Mr. Fahler that he has a signed contract with Ames Door & Fence Store for installation of the door. It was initially believed that it would take four to six weeks for the door to be manufactured and installed; however, that time frame might be shortened to approximately two

to three weeks. Mr. Fahler said he would prefer that the extension be granted to October 30, 2009, in case the door does not come in as expected.

Regarding concerns expressed by some of the Council members about the exterior of the Mall property, Mr. Fahler said that he is working with a local landscaper for additional landscaping.

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

AMES HIGH HOMECOMING ACTIVITIES: Annie Block, Co-Chair of the Ames High School Homecoming Committee, defined the parade route and explained plans for a pep rally at Bandshell Park following the parade. Noting that there were concerns over clean-up after this event last year, Ms. Block announced that parent volunteers would be staying after the parade to ensure adequate clean-up. In addition, students and parents will be walking the parade route to make sure that trash is picked up. Ms. Block informed the Council that students will not be allowed to throw candy from the floats; they will be allowed to distribute candy as they walk along the floats.

Moved by Mahayni, seconded by Rice, to adopt RESOLUTION NO. 09-434 approving closure of portions of Main Street, Douglas Avenue, Fifth Street, Burnett Avenue, Kellogg Avenue, Clark Avenue, and Pearle Avenue from 5:00 p.m. to approximately 7:00 p.m. for parade scheduled at 6:00 p.m. on September 21, 2009.

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 Rice, to adopt RESOLUTION NO. 09-435 approving closure of portions of Main Street, Douglas Avenue, Fifth Street, Burnett Avenue, Kellogg Avenue, Clark Avenue, and Pearle Avenue from 5:00 p.m. to approximately 7:00 p.m. for parade scheduled at 6:30 p.m. on September 21, 2009.

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 Rice, to adopt RESOLUTION NO. 09-436 approving suspension of parking meter fees in Main Street Cultural District from 5:00 p.m. to 6:30 p.m. on September 21, 2009.

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 Rice, to approve a Fireworks Permit for display after the football game (approximately 9:15 p.m.) on September 25, 2009.

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

Moved by Mahayni, seconded by Rice, to adopt RESOLUTION NO. 09-437 approving a waiver of the fee for a Fireworks Permit.

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

REPORT ON COST FOR INSTALLATION OF DECORATIVE FEATURES ON KELLOGG AVENUE: City Manager Schainker noted that, on August 25, 2009, the Main Street Cultural District (MSCD) requested that the City Council extend the decorative street lighting south of the railroad

tracks and extend the decorative sidewalk design from Main Street to Lincoln Way. The Council had directed staff to provide cost estimates to add those features.

Mr. Schainker said that the Public Works Department has indicated that the cost to extend decorative concrete (not pavers) from Main Street to Lincoln Way along Kellogg would be approximately \$2,000. In terms of the decorative lighting, the Electric Services Director has reported that the incremental cost would be approximately \$7,600 plus \$1,500 for conduit work.

City Manager Schainker said that the magnitude of the additional decorative features is such that the \$2,000 for colored concrete could possibly be worked into the budget for the Kellogg Avenue Rehabilitation project now in progress. Mr. Schainker pointed out that, in the past, the Electric Fund has contributed to the Downtown renovation project along Main Street. If the Council chooses to continue that policy, it could direct that the additional costs for lighting (\$7,600 and \$1,500) come from the available balance in the Electric Fund.

Council Member Popken asked if there were plans to renovate other streets adjacent to the MSCD. Mr. Schainker said that if the Council agrees to add the decorative features on Kellogg Avenue, it would be locking itself into a similar commitment for colored concrete and decorative lighting on Clark and Burnett Avenues. He emphasized that this commitment would not only be for lighting, but also for the design of the concrete.

Mr. Popken also asked if there were coordination efforts being made between the City and the MSCD. Mr. Schainker advised that is the reason that he recommended, at the last Council meeting, that the MSCD come to the City with a conceptual plan for the entire area.

Jane McGuire, Director of the MSCD, stated that the District was pleased that the conduit had been approved by the City Council on August 25, 2009, so that additional lights could be installed at a later time. She said that the District recognizes Kellogg Avenue as a main entrance off of Lincoln Way to the Downtown, and it had included this information in its Main Street Iowa application. The District would like all the street lights to match in the core area of the MSCD.

City Manager Schainker advised that the City had planned to upgrade the street lighting during the rehabilitation of Kellogg Avenue; that amount was budgeted into the project. The lights planned for the project do not cost as much as the decorative ones being requested. Electric Services Director Kom said the original plan for Kellogg Avenue Rehabilitation was to install four steel poles with lights (250 Watts); however, with the change to ornamental lighting, which has lower lumens, five lights would be needed. Ornamental lighting would have to be ordered; it would take approximately eight weeks to get the lights.

Council Member Goodman voiced his concern over the durability of the colored concrete. Public Works Director Joiner defined "colored concrete" as a two-foot-wide band on the street that would go from Lincoln Way across the railroad tracks to Main Street. It would be similar to what currently exists on Fifth Street, except that Fifth Street has pavers. Council Member Doll asked to know how long the colored concrete would last. Mr. Joiner said that the color is mixed in the concrete; however, it does fade a little. Council Member Rice said that he would want to ensure that, if the concrete is removed due to utility work, it would get reinstalled in colored form.

Moved by Popken, seconded by Goodman, to adopt RESOLUTION NO. 09-449 approving the additional expenditure for colored concrete and ornamental lighting.

Council Member Larson clarified that it would actually be the Electric Utility ratepayers who would be assuming the extra expense; it is not a property tax or Local Option Tax issue.

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

Council Member Popken raised awareness of the importance of Main Street Cultural District representatives meeting with City staff in order to budget for similar improvements on the other adjacent streets. City Manager Schainker again recommended that the MSCD representatives bring a complete conceptual plan to City staff, which shows their vision for Downtown.

Mr. Popken asked to know the timeline for rehabilitation of the other affected streets. Public Works Director Joiner advised that Burnett Avenue will be done in 2010, and he believes Clark and Douglas would follow. Mr. Schainker noted that the Capital Improvements Plan (CIP) includes monies for the rehabilitation; streets and colored concrete could be built into the project. However, he added there is nothing else programmed in the CIP. The CIP is being put together at this time; if additional improvements will be requested, the requests should be made now. Ms. McGuire said that the MSCD is working on a new street design plan for adjacent streets that do not already have the colored concrete and decorative lights.

PURCHASE POWER AGREEMENT WITH GARDEN WIND, LLC: Council Member Popken asked for an explanation of the credits that would be given to the City. Director Kom stated that the City is not entitled to Production Tax Credits; those go directly from the federal government to the for-profit wind developers for construction and financing. Renewable Energy Credits are the environmental credits (not in monetary form) that would be given to the City. City Attorney Marek elaborated that those credits are reported quarterly and go to the municipality. They will extend through the life of the contract.

Moved by Rice, seconded by Mahayni, to adopt RESOLUTION NO. 09-437 approving the Purchase Power Agreement with Garden Wind, LLC.

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

NEW SOURCE REVIEW: City Attorney Doug Marek recommended that outside legal counsel with expertise in the Federal Clean Air Act and other environmental regulatory issues be retained for advice on several projects scheduled to be undertaken in the next five years by the Electric Utility. Many of those projects will likely require submission of New Source Review (NSR) and Prevention of Significant Deterioration (PSD) applications to the Iowa Department of Natural Resources (IDNR) before proceeding. Mr. Marek further explained the NSR and PSD permitting processes. He said that many of the planned projects will require careful evaluation; a law firm specializing in federal environmental regulatory compliance issues would be able to advise the City on those projects in a cost-effective and timely manner.

Mr. Marek described staff's search for qualified counsel. He and Assistant Electric Services Director Brian Trower interviewed Leslie Ritts of the Ritts Law Group of Alexandria, Virginia, and determined that Mr. Ritts had superb qualifications.

Council Member Larson asked if City staff would be working in tandem with the outside counsel. He noted Mr. Ritts' hourly rate of \$350 and said he hoped that the City would provide as much expertise as possible on the issues and bring in Mr. Ritts only when absolutely needed. Mr. Marek

advised that there are three parts to the proposed process: (1) Electric Services staff will work on plans and specifications for specific projects, (2) an outside specialist in engineering will evaluate the regulatory climate, and (3) the City Attorney will analyze to see what type of license is needed and whether the services of the outside counsel are needed.

Moved by Larson, seconded by Popken, to adopt RESOLUTION O. 09-438 authorizing staff to enter into a retainer agreement with Ritts Law Group for legal services pertaining to New Source Review in an initial amount not to exceed \$100,000.

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

ELECTRIC REBATE CHECK: Director Don Kom announced that a new commercial customer recently participated in the *Smart Energy* program. Perfect Games, located at 3120 Dickinson Avenue, installed a geothermal heating and cooling system. It is estimated that the system will save 115,000 kWh of energy and 50 KW of demand. This will save the customer approximately \$9,000 annually. Future avoided cost savings for the City is estimated to be \$61,500. Carbon emissions will be reduced by 188,600 pounds (94 tons) annually.

Moved by Popken, seconded by Goodman, to adopt RESOLUTION NO. 09-439 authorizing payment of a *SmartEnergy* Rebate Check to Perfect Games.

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

URBAN FRINGE IMPLEMENTATION AGREEMENT: Planner Charlie Kuester noted that, in April, 2008, the Ames City Council hosted a joint meeting with the Gilbert City Council and the Story County Board of Supervisors. The meeting was to update the three bodies on the status of the 28E intergovernmental agreement that would implement the Ames Urban Fringe Plan and to discuss points of disagreement on that agreement. Two issues that were left unresolved from that meeting were (1) the effects of denying annexation in the Urban Services Area and (2) unanimous approval for amendments to the Fringe Area Plan. The staffs of the three entities were directed to resolve those issues. Mr. Kuester reported that agreement among the staff members has been reached, and each jurisdiction is now seeking concurrence from their governing bodies.

The Council was informed by Mr. Kuester that during the discussion among joint staff members, a third issue was brought to the forefront; i.e., County waiver of jurisdictional review of subdivisions within the Urban Services Area. According to Mr. Kuester, this issue needs to be resolved for an agreement to be reached.

The three issues were further described by Mr. Kuester, as follows:

1. Annexation. Mr. Kuester reported that the County wanted it resolved that if the City of Ames denied a property annexation within the Urban Services Area or failed to approve it within two years, the County could approve it. He stated that new language being proposed calls for a two-step process that would allow the City to first determine whether land is “eligible” for annexation before having to decide on the merits of annexation. The eligibility criteria were reviewed by Mr. Kuester. This would allow the City to determine whether an annexation best meets the needs of the Ames community. If the City finds that the costs of the annexation are appropriate, that the owner will pay his or her fair share of the costs, that there are no long-term burdens expected of the general taxpayers of the City, and that the development needs of the City area served by the annexation, then the City Council would find that the land “is

ripe” and is eligible for annexation. If it is not eligible for City annexation, the County could approve an agricultural subdivision, but the land would remain in the Urban Services Area in reserve for possible future annexation. If eligibility is confirmed, the second step would be for the City to act on the annexation petition. Mr. Kuester stated that the proposed agreement allows the City to take up to two years to approve annexation after eligibility has been confirmed. If the Council determines the property is eligible for annexation, but denies it for other reasons, the County would then have the authority to approve a subdivision in the Urban Services Area. For those areas in the County (Agricultural and Farm Services Area) where the City has no reasonable expectation that it will grow in that direction for 30+ years, the City would cede review and approval strictly to the County. For the Rural Urban Transitional Area (where growth is not anticipated in the immediate future, but the City wants to preserve its rights), the City would allow development, but only a type that would allow for future seamless integration into the urban environment.

City Manager Schainker said that it was believed by the City that it would have sole authority for the Urban Services Area. He questioned whether the City would be giving up part of its authority if the proposed terms were to be approved. Mr. Kuester acknowledged that the County has given up some of its authority by allowing the City to decide if an area is eligible for annexation. The County still wants authority, if the City were to deny an eligible annexation, to approve a subdivision in the Urban Services Area. Under the proposed terms, the City would have 30 to 60 days to determine eligibility; however, staff is requesting that time frame be lengthened. The initial intent with the Urban Services Area was that the County would waive its subdivision authority and defer to the process and improvement standards developed and implemented by the City. According to Mr. Kuester, the County is hesitant to do that.

According to City Manager Schainker, the key item is whether the agreement would include that the determination of the “ripeness” of the annexation would be at the sole discretion of the Ames City Council. Mr. Kuester said that if the City Council determines that it is not ripe, the annexation would not move forward.

Council Member Popken pointed out that it was the goal of the City Council to simplify the process and to make the process more clear to the public. He does not feel that the proposed process does that. Mr. Popken explained that, especially from the public’s point of view, annexation is the step when the City commits to bring land into its boundaries. However, under the proposed agreement, there would be a process before annexation and that is when the City makes the commitment. Council Member Larson pointed out that, equally important, is that if the City makes that commitment by saying it is an eligible annexation, but does not act on it within two years, the City loses its control. He also pointed out that, under those circumstances, the County could then allow that land to be subdivided according to yet-to-be-determined standards. Mr. Kuester noted that there is a failsafe provision in the proposed agreement if the City fails to act within two years, the land could be developed under the Rural Urban Transitional Area regulations; that Area requires joint approval by the City and the County.

Council Member Goodman said that the simplicity that was initially sought was to hone the expectations for the lands in a way that the City and County could agree on; that was the increase in efficiency that was desired. It was not his expectation that all parts of the process would be made less complicated.

It was asked by Council Member Rice what the City would be giving up if it approved the proposed agreement. Mr. Kuester said that currently, the City hears annexation requests on a case-by-case basis. Subdivisions would be approved jointly by the City and County; however, there is currently an expectation that no subdivisions in the Urban Services Area would be approved unless the land is first annexed. Mr. Kuester reported that the only subdivisions in the Fringe Area that have been approved have been located in the Rural Transition Area and Agricultural Services Area. The expectation is that subdivisions will be approved to City standards; however, frequently waivers of those standards are requested.

Council Member Popken asked what the proposed agreement gives the City that it doesn't have now. Planner Kuester reported that standards will be identified for areas in the County, so there will not be disagreement about whether a rural subdivision needs to have street trees or a paved road. There will be set standards to make development in rural areas more predictable. The benefit to the City is that less staff time will be required for review. For the Urban Services Area, the City would get the benefit of the timing, i.e., the City may choose where and when it wants land to come into the City.

County Waiver of Jurisdictional Review of Subdivisions within the Urban Services Area. Mr. Kuester said that the initial intent was that the City would relinquish some subdivision control to the outer part of the Urban Services Area and the County would give up some subdivision control over the inner part of the Urban Services Area. However, the County is now reluctant to have language that explicitly says that it waives its subdivision authority. According to Mr. Kuester, the intent of the Urban Services Area is that nothing happens until the land is annexed; the City reserves the land for ultimate urban density development. The proposed language does not directly state that the County waives its right, but states the intent of the Urban Services Area: "that no changes of zone or divisions of land...shall occur unless and until said area is annexed by a City."

Mr. Kuester concluded that the Council's expectation was that the City would give up its extraterritorial jurisdiction in some areas and the County would mirror that in the Urban Services Area. City Manager Schainker said that agreement might not be able to be reached on that; it will then come down to a policy decision to be made by the City Council.

Unanimously Approval of Amendments. City Manager Schainker recalled that some of the Council members did not think all three jurisdictions should have a say if the land in question was not near their boundaries. Mr. Kuester advised that the staffs of the three jurisdictions do not believe that unanimity of action is an essential component of the process as there is every expectation that all three entities would be protected as amendments are brought forward. According to Mr. Kuester, the Urban Fringe Plan was adopted unanimously and will be a part of each jurisdiction's Comprehensive Plan. He noted that the proposed agreement retains the original language, with only slight modification for clarity.

Council Member Popken pointed out that there had been a lot of compromises made by Ames to get this far. Council Member Larson recalled that one of the purposes for the Plan was to make the process for developing in the fringe areas less confusing; however, those whom he has talked to are frustrated that the process has actually been slowed down and has become more confusing. Mr. Larson suggested that input from developers be sought on the process. He also believes that it is a mistake not to include Boone County; it is not a true urban fringe agreement for Ames. Mr. Larson noted that several other City projects have been put aside to get this process completed. He restated

that people are frustrated that it is taking so long to come up with the process, and the standards have not yet been created. City Manager Schainker said that staff needs direction from the City Council.

Council Member Mahayni stated his opinion that the ultimate test is to determine if all entities still agree on the vision for the Urban Fringe Plan. If so, he believes that compromise is the essence of resolving the details. Mr. Mahayni reminded his colleagues that Ames is the largest city in the region and its Land Use Policy Plan addresses Ames serving as the center for the region; as such, he feels that the City should take a leadership role. Several years' work has been invested in the Urban Fringe Plan process, and he, too, is frustrated that it has taken so long. Mr. Mahayni believes that the issues still outstanding can be resolved. He thinks that the yardstick should not be what the City is giving up or gaining, but rather how those items contribute to the implementation of the agreed-upon Fringe Plan. Council Member Popken agreed with that, but said the agreement to abide by the Plan has been wheedled away. He asked to know where the cooperation was among the entities.

Planner Kuester advised that the County is developing a set of zoning regulations distinct for the Urban Fringe Areas. The areas that are zoned Agricultural within the Urban Fringe Area will have County regulations that limit uses and development patterns.

Council Member Doll is concerned that there is a provision in the Agreement that an entity could pull out at any time. Planner Kuester explained the process that an entity would have to go through to withdraw from the Agreement; that process would take approximately five months.

According to Planner Kuester, staff feels that it is critical to the success of the Plan that the City has the final say on subdivision approval in the Urban Services Area. If that is the wish of the Council, he asked for that direction to be given to staff.

City Manager Schainker summarized the options available to the City Council:

1. Direct staff to proceed with the agreement language for the three outstanding issues as presented at this meeting.
2. Direct staff to stay with the original agreement language for the three outstanding issues.
3. Direct staff to come up with different language.
4. Direct staff to cease efforts to finalize an agreement.

Planner Kuester suggested a fifth option: hold a joint meeting with the other entities and discuss the three outstanding issues.

Council Member Rice said that he is not comfortable giving direction to staff tonight.

Council Member Goodman said he believes that what is needed now is a larger conversation among the three involved governmental bodies. It needs to be determined if the three involved entities are willing to make sacrifices for long-term predictability for their residents.

Council Member Rice added that he wants to make sure that all details are worked out before signing an agreement; it is important for the City to be cautious on long-term plans. Those types

of plans often involve issues far into the future that cannot be anticipated. He prefers that a joint meeting be held with the other entities.

Moved by Goodman, seconded by Mahayni, to direct staff to schedule a joint meeting among the City of Ames, Story County Board of Supervisors, and the City of Gilbert to talk about the vision for the agreement and if there is still a desire to move forward.

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

The meeting recessed at 8:44 p.m. and reconvened at 8:50 p.m.

YOUTH SPORTS FACILITIES IN GENERAL INDUSTRIAL ZONE: Planner Charlie Kuester recalled that the Council had referred a request from Mike Espeset, Story Construction Company, concerning a proposal to build a youth sports facility in the General Industrial Zoning District. The request had been referred to staff to note any possible issues with such a proposal.

Mr. Kuester summarized current Code provisions of the City's two industrial zoning categories. He advised that the Use Table for all commercial zoning districts currently allows for the type of youth sports facility being proposed by Mr. Espeset. That use, however, is currently not allowed in the General Industrial area.

Three points made by Mr. Kuester were:

1. The City has a limited amount of General Industrial land, with the majority of the serviceable land being located along the South Bell corridor.
2. Currently, in the General Industrial area, there are a number of allowed uses that are not industrial, e.g, office uses, automobile sales. However, if the City opens it up to more uses, it will further lessen the amount of land that is available to provide industrial jobs.
3. Most of the City's available industrial land was funded through Tax-Increment Financing (TIF), and the intent of that was to recruit industrial/manufacturing companies that would provide many jobs, and thus, boost the local economy. If other uses are allowed to locate there, it makes those uses eligible for TIF, which was originally intended to be preserved for only industrial uses.

Mike Espeset, President of Story Construction Company, 300 South Bell Avenue, Ames, advised that a client had approached him with a proposal for a youth sports facilities. That client was looking at land located in Ames as well as in the County. At that time, Mr. Espeset said he was unaware of what zoning district would allow such a use. He cited personal experiences where he had witnessed these types of facilities being located in industrial areas in other communities. After investigating what zone in Ames would allow a youth sports facility, he learned that the Commercial District was the only one. He then met with staff, who confirmed his findings and informed him that he could request that the Council consider allowing the use in the General Industrial zone.

Mr. Espeset cited the merits of allowing the use in question in the General Industrial zone. He recognized that this is a land use issue, but believes it is also an economics issue. It is Mr. Espeset's belief that the size and scale of the proposed facility (30,000 to 50,000 square feet) fits better into an industrial area, rather than a commercial zone. The kind of building to be erected for this very specific use does not need to be "flashy;" it would not be for retail trade. If the business would not work out for any reason, the building would be ready-made for industrial use since it would consist

of wide-open space. The times when the facility would be used would be after school and on the weekends.

According to Mr. Espeset, this type of business is very much a regional draw; it would draw youth and their families from ten to fifty (50) miles away from Ames for a number of events. If located in the General Industrial area of Ames, it would provide easy access for people coming off the Interstate. He also believes that the parking ratio required for the General Industrial zone would be more appropriate for this type of facility. According to Mr. Espeset, the General Industrial zone is a more affordable option for this type of use; it might not be affordable in the commercial zone. Mr. Espeset is unsure whether this type of project could occur in Ames if it were made to locate in a commercial zone.

With regard to staff's comments, Mr. Espeset advised that he agrees with all of them. He acknowledged that industrial land is precious and the resources are few; it is a philosophical decision to be made by the City Council whether the proposed use makes sense in the General Industrial zone in Ames.

According to Mr. Espeset, no parcel of land has been decided upon at this time, and there is no purchase agreement pending. It could work in the commercial district, but the economics might not work out for his client. The use probably would not replicate itself in the General Industrial zone even it were added to the table of allowed uses in the Code.

Council Member Rice said that if land in the industrial zone is found to be perfect for this use, there would be the opportunity for the developer to request a zoning change. Mr. Espeset noted that another possibility would be for the developer to request a variance to allow the use to be located in the industrial zone.

Council Member Mahayni asked Mr. Espeset if Ames could support more than one facility of the type he is proposing. Mr. Espeset said that he does not believe it could. Mr. Mahayni noted that the intent of the designations in the Code meant health clubs, not the type of facility that is in question here. Having frequented several of the facilities that Mr. Espeset spoke about, he believes that Mr. Espeset's points are well-taken.

Council Member Larson asked if an overlay would be possible. City Manager Schainker stated that it would be a possibility. He noted that there are no developers requesting to build in the General Industrial zone without tax incentives, but maybe there is an area of existing industrial that is not in the TIF District. Council Member Goodman pointed out that if a use such as what is being proposed did locate in an existing industrial area that is not TIF, it would still take up land and push another development into the TIF area.

Discussion ensued on the possibility of locating the proposed facility in a commercial area, giving the required standards. Council Member Goodman said that it is not known at this time if there is available commercial land that would work for this project.

Council Member Larson acknowledged the points made by staff, but said that the City Council should continue to look at possibilities of creating an overlay in certain areas of the industrial zone.

DRIVEWAY WIDTHS AND MECHANICAL SCREENING REQUIREMENTS: City Manager Schainker asked the Council to refer mechanical screening requirements to staff for analysis and

potential text amendments to address practical differences sometimes encountered by the current language in Municipal Code Sections 29.408(4) and 29.1112(7)(h).

Moved by Doll, seconded by Goodman, to refer the above-stated two issues to staff for preparation of zoning text amendments.

Council Member Larson pointed out that mechanical units should not be singled-out; there are other unsightly utility units. He would like consistent standards to be developed.

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

GEOGRAPHIC INFORMATION SYSTEM (GIS): Ben McConville, GIS Coordinator, gave a presentation highlighting the City's System. He defined GIS as a management tool used to help people make better decisions through modeling and mapping.

Mr. McConville pointed out that the City's current GIS software vendor has offered the City the opportunity to enter into a multi-year Enterprise License Agreement. The proposed agreement would allow the City to leverage currently budgeted software expenditures and acquire unlimited ArcGIS licensing, training, and support for the entire organization. It is a three-year agreement with a cost of \$51,000/year.

Moved by Doll, seconded by Goodman, to adopt RESOLUTION NO. 09-440 approving the Enterprise Licensing Agreement with ESRI pertaining to City-wide GIS software.

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

PAVEMENT MANAGEMENT PROGRAM: Traffic Engineer Damion Pregitzer told the Council that the GIS-based pavement management system facilitates rapid pavement condition analysis over the entire local street network. As a result, Public Works staff is able to run data-driven cost benefit scenarios based on construction practices and underlying pavement conditions.

According to Mr. Pregitzer, the City currently works with the Center for Transportation Research and Education (CTRE), which is now a unit of the Institute for Transportation (inTrans) at Iowa State University. As part of the Iowa Pavement Management Program, CTRE provides automated data collection on the condition of roads, including information on cracks and the quality of the ride. It also includes high resolution video logging of the roadway along driven routes. The video is linked to the pavement condition data and is used to visually assess pavement condition and assets in the City's rights-of-way.

Mr. Pregitzer demonstrated the software that tracks the life of pavement. The data is used to accurately model performance and allows staff to choose the optimal treatment.

Mr. Pregitzer noted that the City also uses mobile GIS to create its Shared-Use Path Network. He showed how staff, through the cooperation of the Police Department, used the police golf cart to transport the interns down the shared-use paths to model performance and check condition. According to Mr. Pregitzer, the City is a pioneer in creating this method to perform condition analyses on its bike paths.

Moved by Mahayni, seconded by Popken, to adopt RESOLUTION NO. 09-441 approving the 2009 Pavement Management Services Contract with CTRE in the amount of \$22,000, using Road Use Tax Fund monies that will be offset with I-JOBS revenue.

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

REPAIR OF FIRE TRUCK NO. 3: Assistant Fire Chief Paul Sandoval told the Council that damage occurred to the water way on the ladder truck during company level training, causing approximately \$12,500 in damage. A second repair came to light in April 2009 when corrosion was noted during a routine inspection of the undercarriage of the apparatus. The corrosion appears to be on the frame rails and has attacked the frame system; repairs will be extensive. Through discussions with vendors Pierce and Clarey, staff was able to negotiate a price of \$40,000, which will include both the corrosion repair and water way repair.

Moved by Larson, seconded by Goodman, to adopt RESOLUTION NO. 09-442 authorizing the repair of Fire Truck No. 3 at a cost of \$40,000.

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

IMPROVEMENTS TO CITY'S WI-FI SERVICES: Finance Director Duane Pitcher recalled that the City Council had directed staff to make contact with its Wi-Fi service provider (ICS) to explore an easier access point (without providing a user name or password) to the hotspots in the community. Mr. Pitcher pointed out that the current agreement with ICS indemnifies the City for activity related to use of the WiFi hotspots. That agreement also allows ICS to establish procedures to protect against misuse of the system. Those procedures require that users accept a Terms of Service agreement and provide certain identifying information; that log-in set-up is required only once.

Mr. Pitcher explained that City staff met with ICS to discuss options related to easier access. He said that ICS was not willing to continue to indemnify the City if the requirements for logging on to the system were reduced. As an alternative, establishing access to the system without the current log-in process is possible if the City is willing to modify the contract to accept all liability for activity on the system. ICS would continue to keep records on activity as required by law and respond to subpoenas for illegal use, but the City would be responsible for responding to any legal action.

Three options were presented by Mr. Pitcher:

1. The City can continue to accept the current log-in procedures with ICS retaining the liability.
2. The City can assume liability for WiFi hotspot activity and allow log-in with terms of service only.
3. The City can assume liability for WiFi hotspot activity and provide completely open access.

City Manager Schainker advised that the City Attorney has reviewed the contract with ICS and has determined that modifications could be made related to assignment of risk and log-in procedures within the basic terms of the existing contract. He said that another option would be for the City to consider canceling the current contract and re-bidding it.

Director Pitcher explained that the service at the Ames Public Library for WiFi hotspots is provided via a Qwest business DSL line connected to wireless access points. Regarding liability, City

Attorney Marek stated that the City of Bettendorf is currently under a cease-and-desist order due to activity related to sharing of copyright protected material on its network.

It was noted that Mary Greeley Medical Center (MGMC) offers public WiFi service. Its system does require its users to agree to the terms of service prior to being granted access to the Internet; there are no other log-in requirements, but access controls are in place to limit uses that might involve sharing copyrighted material.

Council Member Goodman gave his opinion that a user agreement is a reasonable amount of liability to accept. Council Member Doll disagreed, saying that he prefers the current agreement; he does not see it as a big hassle. Council Member Larson noted that the City is operating its Wi-Fi system at several sites.

Moved by Goodman, seconded by Popken, to direct staff to modify its current contract to assume liability for WiFi hotspot activity and allow log-in with terms of service only.

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

PRE-DESIGN SERVICES RELATED TO NEW WATER TREATMENT PLANT: This item was pulled by City staff.

DOWNTOWN PARKING RAMP: City Manager Schainker summarized the financing options for construction of a parking structure to be located in Parking Lots X and Y in the Central Business District (CBD). Those options were as follows:

1. The City Council could issue Revenue Bonds to finance a parking ramp.

Mr. Schainker noted that this did not appear to be a viable option because it would not be possible to prove to prospective purchasers of the bonds that the Parking Fund would generate sufficient revenue to cover the annual parking operational costs nor debt service on the capital improvement.

2. The City Council could accumulate sufficient funds from the available balances in the various funds operated by the City to finance the cost of constructing a parking ramp.

The City Manager strongly emphasized that, although legal, this strategy was inappropriate because the City rightfully earmarked utility fund balances to benefit the users from whom the revenues were generated.

3. The City Council could issue General Obligation Bonds to finance a parking ramp in conjunction with an Urban Renewal Plan.

Mr. Schainker said that he sees this as the most-viable option should the Council choose to proceed with the construction of a parking ramp.

4. The City Council could establish a Tax-Increment Financing (TIF) District in conjunction with an Urban Renewal Plan.

5. The City Council could proceed with the issuance of General Obligation Bonds; however, in an effort to reduce the amount of debt that must be incurred, the City could use a portion of the available balances in the General, Local Option Sales Tax, and/or the Hotel/Motel Tax Funds.
6. The City Council could hold a referendum because the improvement (parking ramp) would constitute an essential corporate purpose.
7. The City Council could create a Self-Supported Municipal Improvement District.

City Manager Schainker stated that staff was not looking for a decision to be made at this meeting; however, a decision will have to be made at budget discussions.

Council Member Goodman pointed out that the possible Town Center project in the Downtown was the driving force behind a parking ramp. Discussion ensued as to whether any of these options would meet the needs and/or wants regarding the number of parking spaces. Council Member Popken added that the decision on library expansion or construction will be made soon, and it is unknown if a parking ramp will be part of that project.

City Manager Schainker also noted that it would be possible to create a TIF District in a new area and direct that the revenues from that be utilized for another project, i.e., the Downtown parking ramp.

HEARING ON POWER PLANT ROOF REPLACEMENT: Mayor Campbell opened the public hearing. No one wished to speak, and she closed the hearing.

Moved by Doll, seconded by Mahayni, to adopt RESOLUTION NO. 09-444 approving final plans and specifications and awarding a contract to Academy Roofing of Des Moines, Iowa, in the amount of \$223,000.

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

HEARING ON WATER POLLUTION CONTROL FACILITY RAW WATER BUILDING HVAC HEAT RECOVERY UNIT: The hearing was opened by the Mayor and closed after no one came forward to speak.

Moved by Goodman, seconded by Doll, to adopt RESOLUTION NO. 09-445 approving final plans and specifications and awarding contract to Wolin & Associates of Des Moines, Iowa, in the amount of \$98,136.00.

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

HEARING ON REPAIR OF PEDESTRIAN TRAIL BRIDGE OVER SQUAW CREEK: The Mayor opened the hearing and closed same after there was no one who wished to comment.

Moved by Rice, seconded by Popken, to adopt RESOLUTION NO. 09-446 approving final plans and specifications and awarding contract to Peterson Contractors, Inc., of Reinbeck, Iowa, in the amount of \$69,978.25.

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

HEARING ON ABANDONMENT OF PUBLIC UTILITY EASEMENTS: The Mayor opened the public hearing on the request to vacate easements in Dauntless Subdivision, 6th Addition. She closed the hearing after no one wished to speak.

Moved by Mahayni, seconded by Doll, to adopt RESOLUTION NO. 09-447 approving vacating public utility easements in Parcel "A" of Lots 7, 8, 9, and 10 in the Dauntless Subdivision, 6th Addition.

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 continue the hearing on vacating public utility easements in Lots 4, 5, 6, and 7 in Estates of Nature's Crossing.

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

NATURAL GAS FRANCHISE: Moved by Mahayni, seconded by Doll, to pass on second reading an ordinance granting to Interstate Power and Light Company, its successors and assigns, the right to operate a natural gas distribution system in the City under non-exclusive franchise.

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

Moved by Doll, seconded by Goodman, to adopt RESOLUTION NO. 09-448 approving the agreement relating to costs for damages to gas facilities.

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

ORDINANCE PERTAINING TO FLOOD PLAIN ZONING REGULATIONS:

Moved by Goodman, seconded by Popken, to pass on second reading an ordinance making text amendments to the flood plain zoning regulations.

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

ORDINANCE AMENDING SUBDIVISION REGULATIONS PERTAINING TO SOURCE WATER PROTECTION: Moved by Goodman, seconded by Mahayni, to pass on second reading an ordinance amending subdivision regulations pertaining to source water protection.

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

ORDINANCE AMENDING ZONING REGULATIONS PERTAINING TO SOURCE WATER PROTECTION: Moved by Goodman, seconded by Mahayni, to pass on second reading an ordinance amending zoning regulations pertaining to source water protection.

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

COMMENTS: Moved by Popken, seconded by Rice, to refer to staff the letter from Mike Bryant requesting a study to determine costs for certain City services to be provided to the owners of Woodview Drive.

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

Moved by Popken, seconded by Goodman, to direct staff to place on the next agenda the request of Olivia Smith that the City fund any shortfall pertaining to the ISU Culture Festival.

Council Member Larson asked for clarification on the previous motion. Mayor Campbell stated that the item will come to the City Council after-the-fact; the event will have occurred. Council

Member Goodman said it was his intention that staff would come back to the City Council with a recommendation; it might be that staff recommends not to allocate any funding since the event had already occurred.

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

Moved by Larson, seconded by Goodman, to request a report from staff addressing the concerns about increased traffic at Mortensen Road and State Avenue outlined in an email sent recently to the Mayor and Council Members; including a response from Iowa State, if necessary; and directing staff to respond to the sender.

Council Member Doll asked to know the City's responsibility since those are institutional roads. Public Works Director Joiner acknowledged that Mortensen and State are institutional roads; the City has routine maintenance responsibilities for those, but the City would have to go through Iowa State for any major traffic management issues.

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

ADJOURNMENT: Moved by Doll, seconded by Goodman, to adjourn the meeting at 10:55 p.m.

Diane R. Voss, City Clerk

Ann H. Campbell, Mayor