

MINUTES OF THE SPECIAL MEETING OF THE AMES CITY COUNCIL

AMES, IOWA

SEPTEMBER 29, 2009

The Ames City Council met in special session at 5:00 p.m. on September 29, 2009, in the Council Chambers of City Hall, 515 Clark Avenue, pursuant to law with Mayor Campbell presiding and the following Council members present: Doll, Goodman, Mahayni, Popken, and Rice. Council Member Larson was absent. *Ex officio* Member Keppy was also present.

ROSE PRAIRIE SUBDIVISION ANNEXATION: City Manager Steve Schainker showed a map depicting the exact location of Rose Prairie Subdivision. He reminded that, on June 9, 2009, the City Council had directed City staff to engage in negotiations that might lead to a settlement in the case of *Story County Land, L.C. v. the City of Ames*.

Mr. Schainker advised that discussions between Rose Prairie representatives and City staff had focused on the major issues involving the gap in infrastructure, and specifically, Grant Avenue paving; water main, sanitary sewer, electric distribution line extensions; and other off-site improvements. Because the City's major infrastructure is not immediately adjacent to the proposed Rose Prairie development, Mr. Schainker emphasized the importance of the parties agreeing on how the major-cost items would be handled before a decision could be reached as to whether or not annexation should be pursued.

City Manager Schainker said that the objectives for this special meeting were to: (1) brief the City Council on the conceptual agreements that had been reached between the parties, and (2) obtain an indication from the City Council as to whether the concepts presented were acceptable to warrant further efforts to reach a contractual document.

Specific issues and agreements reached to date were explained by City Manager Schainker, as follows:

1. Sanitary Sewer Trunk Extension. The developer has agreed to up-front the cost of extending the City's sanitary sewer main from the northeastern edge of the Bloomington Heights Subdivision northwest through Ada Hayden Heritage Park and the Rose Prairie Subdivision. In return for up-fronting those costs, the developer has requested that a Sanitary Sewer Utility Connection Fee District be established; Rose Prairie would then be reimbursed proportionately if and when any property owner in the benefitted District hooked-up to the sewer service.

Mr. Schainker emphasized that such an agreement would eliminate the environmental concerns caused by having a privately owned and operated sanitary sewer system in the Ada Hayden Lake Watershed.

2. Water Main Extension. The developer has agreed to up-front the cost of extending the City's water main from Hyde Road north along Grant Avenue and through Rose Prairie Subdivision to West 190th Street. In return, the developer has requested that a Water Utility Connection Fee District be established; Rose Prairie would then be reimbursed proportionately if and when any property owner in the benefitted District hooked-up to the water service.

3. Electric Line Extension. Mr. Schainker reported that Rose Prairie lies within two electric service territories. The City's electric utility will serve only the southwest portion of the Rose Prairie Subdivision, and the line will not have to be extended until land within that service territory is developed. The developer has agreed to extend an electric distribution line from near the Bloomington Road Water Tower north to the southern edge of the Rose Prairie Subdivision. Per City policy, the developer is responsible for the incremental cost of placing the distribution system underground (approximately 500 feet), with the City absorbing the amount equal to providing the service overhead.

Mr. Schainker brought the Council's attention to an issue that will require action by the City Council. It involves the requirement to place underground electric utility lines adjacent to a residential development. He said that, given this unique situation where a small portion of land cannot be served easily from other directions, the City could install an overhead line running north to this area adjacent to the existing railroad track (approximately 1,600 feet).

4. Grant Avenue. City Manager Schainker noted that the Council had directed staff to deal with only the Rose Prairie developers; however, during discussions, the developers indicated a willingness to install one lane along Grant Avenue that abuts their property. He pointed out that 190th Street is a paved County road, and it is believed that the Rose Prairie Subdivision can adequately be served by that road. However, City staff believes that a significant amount of traffic from the residential units will use Grant Avenue, even if a portion of that road is gravel. Based on that belief, City staff initiated discussions with other property owners along Grant Avenue to determine their interest in being included in the annexation. Mr. Schainker reported that if property on both sides of Grant Avenue could be annexed, two lanes of Grant Avenue between Bloomington Heights and W. 190th Street could be paved at the same time.

Mr. Schainker advised that the majority of the private homeowners along Grant Avenue were opposed to annexation of their properties as they perceive that annexation would have a negative impact on their lifestyles. The affected property owners had also voiced their concerns to him about the high costs of infrastructure and commented that the costs were so high that they could be forced out of their homes.

The "80/20 Rule" (a state law that makes it illegal to create "islands" through annexation) was explained by City Manager Schainker. Although that Rule does make it legal to bring in properties involuntarily, he stressed that the City needed to do what it could to make it less objectionable to the property owners. In an attempt to do that, he had discussed, with the three developers who own land along Grant Avenue, the possibility of sharing the costs of bringing the gravel road up to City standards. The following percentages had been suggested to the developers: Rose Prairie, 37%; Hunziker Land Development, 23%; Quarry Estates L.C., 17%; and the City of Ames, 23%. According to Mr. Schainker, staff would also support special assessing those entities so that the costs could be spread over a number of years. The Council was told by Mr. Schainker that the cost to the City for its share of Grant Avenue under this arrangement is currently estimated to be \$474,000. However, he cautioned that the estimated cost is not based on design documents and not adjusted for future costs should the project be delayed.

Mr. Schainker reported that an additional issue that must be addressed by the Council, should the private properties be annexed, is when the City will require the properties to incur the costs of water and sewer hook-ups. He noted that the private property owners would like to maintain the status quo as it relates to septic tanks and connections to Xenia Rural Water until they are ready to hook-up or redevelop their properties. Normally, staff would not support the existence of a rural water utility within the City limits; however, this situation might be unique enough to warrant support for that option.

5. Conservation Subdivision. Mr. Schainker suggested that the Council might want to consider protecting Ada Hayden Watershed by placing a zoning overlay on any property annexed within the Watershed. The overlay would only allow conservation subdivisions to be built. He reported that the developer was in general agreement with that, but had concerns over what the yet-to-be-determined guidelines would be. According to Mr. Schainker, the other developers within the proposed annexation area are also supportive of conservation subdivisions; however, they are not willing to commit until the requirements are clearly articulated.

Council Member Goodman offered that perhaps conservation subdivision requirements were not necessary. He felt that it might be something as simple as having a goal of water quality protection in the Ada Hayden Watershed, which would also allow some flexibility for the developers. Municipal Engineer Tracy Warner explained that conservation subdivision requirements work to preserve the natural ground and terrain. She added that the Department of Natural Resources (DNR) will be requiring the City to enact a Post-Construction Storm Water Ordinance, which would allow for more control over the water quality.

6. Fire Sprinklers in Homes. City Manager Schainker reminded the Council that the current emergency response time goal (established by the City Council) is to be able to respond to 85% of the area within the city limits in five minutes. Consistent with the current Land Use Policy Plan for the Southwest and Northwest Priority Growth Areas, it is anticipated that the City would be able to meet that goal with a three-fire-station scenario (if Station #2 would be moved to North Dakota Avenue). Mr. Schainker stated that the addition of the Rose Prairie Subdivision would necessitate a fourth fire station and accompanying personnel in order to meet the current response goal.

Council Member Popken asked if staff had considered requiring the developers to pay a portion of the costs to construct a fourth fire station. City Manager Schainker said that had not been considered. He added that the costs of the fire station's construction would be paid off in 12 years, but the operating costs would continue.

Mr. Schainker reported that, in an attempt to assist the City with this issue, the developer had agreed to require fire sprinklers in all residential units constructed within the Subdivision. He pointed out that fire sprinklers would help deal with the fire-response issue, but still did not address the medical-assist needs of the area. City Manager Schainker surmised that annexation of the area in question would require a change in the City's response time goal or an acceptance that the City would fall short of its goal in the near future.

7. Off-Site Traffic Improvements. Assistant City Manager Kindred reported that the traffic study previously performed by Rose Prairie's consultant identified the traffic improvements that would be required should the total North Growth Area be developed. He advised that the Rose Prairie developers had agreed to contribute \$185,900 for their pro-rata share of the intersection and signal improvements at Grant Avenue and Bloomington Road and at Bloomington Road and Hyde Avenue.
8. Sidewalks on both sides of streets and along Grant Avenue. Mr. Kindred said that the proposed development did not include sidewalks on both sides of the street, which is currently required in the City's Subdivision Ordinance. He noted, however, that in some existing City subdivisions, the Council had allowed walkways along the rear of properties to replace one of the street-side sidewalks. Mr. Kindred stated that, as the City considers conservation subdivisions, there might also be reasons to modify the traditional location of pedestrian walkways.

According to Mr. Kindred, the responsibility to determine subdivision requirements can not be handled in a developer agreement. He explained that subdivision responsibilities must occur at the time that the developer seeks platting approval; therefore, it would not be possible for the City Council to ensure that any request for waiver of the sidewalk requirements would be approved prior to annexation.

9. Shared-Use Paths. Assistant City Manager Kindred reminded that the City's Long-Range Transportation Plan calls for a shared-use path to be extended along the west side of Rose Prairie. He advised that the location of that path might need to be adjusted to better fit into the conservation subdivision concept.

Council Member Popken asked if any assurances had been received from the developer that rights-of-way would be dedicated somewhere for both the shared-use paths and sidewalks. City Manager Schainker said that staff had pointed out to the developer that it was their obligation to give the rights-of-way and to build the mainline bicycle path.

10. Street Lengths. According to Mr. Kindred, it appeared that there is one street being proposed in the Subdivision that would exceed the maximum street length allowed by the Subdivision Ordinance. He said that a waiver of that requirement could be requested by the developer at the time of platting.

City Attorney Marek advised that waivers could not be part of a developer's agreement because in order for a waiver to be approved, there has to be findings that are based on the specific plat. He added that the City Council may not take action promising to approve a waiver at a future date; however, if plat approval went before the Council at the same time as the developer's agreement, they could be done simultaneously. City Manager Schainker noted that a Land Use Policy Plan change would come first, followed by the annexation and rezoning, and platting would follow.

11. Exclusion of Sturges Property. Mr. Kindred advised that, if the City Council agrees to annex the Rose Prairie property, Story County Land L.C., desires to first divide off a 100' by 1320' strip of land along its southern edge. That strip of land would not be annexed at this time and would maintain the Sturges property outside the city limits.

Council Member Rice recalled that an important aspect of protecting the Ada Hayden Watershed had to do with a large lake or modern wetland detention basin that is located on the Sturges property. He pointed out that, if the Sturges property is not annexed, that lake would no longer be part of the plan.

Options. City Manager Schainker described the options available to the City Council, as follows:

1. The Council could decide that the tentative agreements reached by the City staff and the Rose Prairie developer are unacceptable and, therefore, determine a satisfactory settlement of the lawsuit is not possible.
2. The Council could consider the annexation of only the proposed Rose Prairie Subdivision.

According to City Manager Schainker, pursuing that option would make it difficult to ensure timely completion of the total roadway segment between Bloomington Heights and W. 190th Street at a reasonable cost to the City.

3. The Council could consider annexing the properties on both sides of Grant Avenue from Bloomington Heights to W. 190th Street.

Mr. Schainker stated that would provide assurances to the City that Grant Avenue would be improved to City standards at some point in the near future. He noted, however, that the other two developers were not willing to commit to sharing the costs until the Subdivision standards had been established. Therefore, this is not a viable option at this time, but the Council could direct staff to continue negotiating with those developers with the intent of having one combined annexation.

Council Member Doll asked to know the length of Grant Avenue from the Sturges Farm to where it connects with Hyde Avenue. The length was determined to be one-quarter mile. City Manager Schainker noted that staff had only been able to negotiate for the paving of one lane, even through Rose Prairie.

City Manager Schainker asked for action to be taken by the City Council in support of or modification of one of the above options.

City Attorney Marek summarized the procedural time line pertaining to this issue, as follows:

February 10, 2009: The Council considered Rose Prairie's request for Preliminary Plat approval in the two-mile fringe. The application for Preliminary Plat approval was denied.

Rose Prairie filed a Statutory Appeal of the Council's decision to District Court.

June 9, 2009: The City Council directed staff to engage in negotiations towards resolution of the Appeal. Counsel for Rose Prairie and City Attorney Marek approached the Court with that information. A trial date in District Court was set for February 23, 2010.

Mr. Marek said that the City is now running up against deadlines for giving notices of witnesses, witnesses getting discovery requests, filing pre-trial motions, etc. If the Council indicated tonight that the City should continue to work towards a negotiated settlement, both counsels would work to attempt to get those deadlines relaxed; a Continuance might be possible. When the City Council takes final action on the annexation or rezoning, counsel for Rose Prairie will need to decide whether to request dismissal of the court action or go forward with the Appeal.

Input from Owners of Rose Prairie. Bob Gibson, Civil Design Advantage, advised that he represented Story County Land, L.C. Addressing a concern voiced by Council Member Rice that a lake on the Sturges property would not be included in the Subdivision, Mr. Gibson said that, although it would be a huge amenity to the Subdivision, its omission did not compromise the conservation subdivision. He stated that storm water, and its conservation treatment, is handled outside of that lake; it is captured in the wetlands prior to reaching the lake.

Council Member Doll said that he found it hard to believe (as stated in the traffic study) that all 290 families were going to drive to the north and loop around, rather than take a quarter mile of gravel. He noted that there were three exits onto Grant Avenue versus one exit that would take motorists to 190th and then cause them to have a two-mile loop around. Mr. Gibson said that the development would not happen all at once; it would take years.

Input from Other Affected Developers. Chuck Winkleblack, 105 S. 16th Street, Ames, stated that Hunziker & Associates was in general agreement with the annexation of the two parcels it owns: one on the west side of the road and a smaller one on the east side of the road. Mr. Winkleblack pointed out that some of the pieces or details were still missing, so it was difficult to know what they would be agreeing to; carte blanche approval was not possible at this time.

Mr. Winkleblack noted that the City's electric service area had been in existence for a long time. He suggested that the City sell that service area to Midland so that it could serve it.

According to Mr. Winkleblack, the issue of the public improvements (road, sewer, etc.) is complex. Hunziker & Associates is interested in cooperating; however, it would be a couple of years before they would want to incur those costs. City Manager Schainker concurred that it could be several years before any costs would be incurred. Mr. Winkleblack reported that most of the developers are supportive of the concept of a conservation subdivision, but need to have the requirements defined. He pointed out that it would not be orderly annexation if the piece of Hunziker land adjacent to the current city limits were be left out.

Kurt Friedrich, 3414 Honeysuckle Road, Ames, an owner of Quarry Estates, voiced his general agreement of the annexation concept, but also noted the need for final details before a firm commitment could be made.

Input from Affected Property Owners. Mark Taylor, 4366 Grant Avenue, Ames, advised that he was one of the affected property owners of the "island." He said that he and his wife recognize that there is a certain "manifest destiny" to urban spread; living that close to the city limits in a semi-rural environment subjects them to possible annexation. Although they would like to maintain their rural guidelines, they understand that those may not be forever. Mr. Taylor indicated that the biggest issue for him was the estimated cost to each owner along that "island" on Grant north of Hyde. The estimates given him, as high as \$80,000, included the road and sewer and water hook-ups. Mr. Taylor noted that some of the estimates exceeded the value of

the affected owners' homes. He did not believe that it would be fair for them to have to pay for a paved road required because developers wanted their land annexed. According to Mr. Taylor, in some cases, assessing those costs to the homeowners would run some of them off their land.

Mayor Campbell pointed out that the proposal being made by the City would not require the property owners to pay for the road. Mr. Taylor said that he detected a certain vagueness as to whether agreement had been reached in that regard. Noting that approval of any agreement would be at the Council's discretion, City Manager Schainker advised that his recommended strategy would be that the developers and the City share the cost of the road. Mr. Taylor noted that he could not speak for other property owners, but to him, the hook-up costs would be a tolerable part of living in the area and being part of the progress of Ames.

Julie Schwery, 4196 Grant Avenue, Ames, said that she was speaking for herself as well as for the Hamblins. She noted that the estimate for the Hamblins for the paving of the road would be over \$100,000, and that would not be affordable for them. Although Ms. Schwery did not know the exact dollar figures, she advised that water and sewer hook-ups fees for the Hamblins would also be several thousand dollars. She indicated that her family's sewer and water hook-up fees would equate to \$4,200 and noted that they had already paid \$2,000 to Xenia Water for a hook-up fee. Ms. Schwery stated that they also have maintenance costs associated with their septic system. According to Ms. Schwery, the road is the biggest obstacle; the estimated share for her family's one-acre frontage is \$25,000. Her family bought their property to live in a rural setting with farm animals, and they are concerned that their life style would have to change.

Margot Eness stated that she and her husband Paul own ten acres currently zoned as farmland. She said that she trusts the City to find a way to get the costs reduced for the affected property owners. Ms. Eness advised that when Ada Hayden Park was developed, City representatives verbally promised them and the Jensens, whom the City brought property from, that the area would not further develop around the Park. However, under pressure from developers, that has all changed. Ms. Eness pointed out that a quarter mile of their property directly abuts Ada Hayden Park. They plan to keep their land as farmland; however, she asked that the City consider carefully what would happen if additional development occurred on those ten acres that close to Ada Hayden. Ms. Eness also noted that if they did not farm the ground, they could not afford to keep it as park land. She indicated that they have no interest in developing it, but foresees that occurring after she and her husband are no longer living; their heirs are not going to farm the land.

Jamie Frame said that the land where she and her in-laws live is surrounding by land now owned by developers. Ms. Frame agreed that the cost of the road would be problematic for them; however, noted that it appeared City staff had recommended a solution. Between her and her in-laws, Ms. Frame said it would cost \$27,000 for water and sewer hook-ups. They are not interested in hooking-up, but if they decided to sell their properties, it would make it more difficult because any buyers would have to incur hook-up expenses. Ms. Frame indicated that she was opposed to the annexation as she likes the peacefulness and quietness of the area, but understood that it might be inevitable due to her property's proximity to Ames.

Harold Frame advised that his family had lived at 5442 Grant Avenue for over 35 years. He was very concerned about having to pay a road assessment. Mr. Frame said that he will be retiring next year, and a road assessment of close to \$50,000 could force his family to sell their property. Mr. Frame said that he would not mind being brought into the city limits, if he did not have to pay for the road, because he believes it will happen eventually.

Julie Freed, 4321 Stone Brooke Road, Ames, said that she was moved by Ms. Eness's testimony that she and others had assumed that the City had meant what it said. Referencing the developments north of Bloomington Road, she expressed her disapproval of the developers' convictions that they could determine the direction and pattern of growth for Ames. It was Ms. Freed's opinion that developers had chosen to ignore the Land Use Plan, buy property, and then sue the City to make sure that they get their way. Ms. Freed believed that the public should condemn the developers' actions in trying to circumvent the rightful role of the City Council in determining the City's pattern of growth. She agreed that zoning should never be inflexible, but didn't believe that the growth of the community should be determined by developers' coercive methods. Ms. Freed urged the City not to make Rose Prairie the standard for a conservation subdivision because there are many more issues other than the pattern of water run-off to be considered, e.g., the orientation of the houses on the lots, density, building materials, etc.

City Council Discussion. Council Member Popken pointed out that focusing on growth to the north would be a significant change to the City's Land Use Plan. He indicated great concern over the City growing in multiple directions and asked his colleagues to look at the northwest and decide whether the City should revise its Plan so that it is not growing to the north as well as the northwest.

Council Member Rice asked City Attorney Marek to comment on the implications of the Judge possible ruling in favor of Story County Land. Mr. Marek said that the issue that is on appeal to the District Court is the City's decision to disallow the Preliminary Plat. If the District Court were to overrule the decision of the City Council (find that the proposal did meet the City of Ames subdivision standards), the developer would have the right to move forward with the rural subdivision. It would be outside the city limits and would be under the jurisdiction of the County. Mr. Marek recalled that, subsequent to the Council's action on the Preliminary Plat, the developer filed for horizontal property regime covering the same site and that would be another option available to the developer. According to Mr. Marek, if the judge were to uphold the decision of the City Council, it would still be appealable to the Supreme Court. If the Council's decision were to stand, the original rural subdivision proposal would be disallowed, but the owners still could proceed with the horizontal property regime within the County.

Mr. Rice asked City Manager Schainker what costs would be incurred by the City if the Judge were to rule in favor of the City and the subdivision were processed by Story County as a rural subdivision. Mr. Schainker answered that the same number of units would be built; traffic costs will still be there, but the City would not have any ability to recoup any costs for road construction or reconstruction from the developers. Council Member Rice asked what costs would be incurred if the Judge were to rule in favor of Story County Land. According to Mr. Schainker, the bigger issue would be that there would not be a sanitary sewer system in that area under City of Ames control. Mr. Schainker relayed that it was his understanding that was a major issue for the City Council. If annexed, a gravity-flow system meeting City standards would be required. If that is not required, the owners would build a system that would be financed by a home owners' association and managed by Xenia Water. Mr. Schainker said that the costs of allowing a rural subdivision could have immense negative effects on the City. Those cannot be quantified at this point; however, ten years from now, it could be a very serious environmental concern to the citizens of Ames who are living next to the proposed development. Council Member Goodman interpreted it as meaning that there could be potential negative environmental effects from the decision of the property owners, which could result in the City incurring immense costs. In his opinion, that could be solved by a more responsible decision on the part of the home owners with

which the City of Ames would have no concern. City Manager Schainker said the question could be that if the development is going to happen anyway, is it better to be in the city limits under the control of the City of Ames. He noted that there would be costs to the City; however, revenue would also be received through property taxes. Council Member Goodman pointed out that it would be a tough role for Ames in the future if property owners in the two-mile fringe were able to make decisions that the City might feel could risk the health of the entire community; therefore, obligating the City to annex all of those lands to protect its citizens.

Council Member Mahayni pointed out that one way of quantifying those costs is the fact that there will be over 200 residences, with the majority of those residents using Ames streets, library, and parks. Environmental costs would be in addition to those costs. Mr. Mahayni noted that the City's initial concern over the proposed Subdivision was the environmental effects to the Ada Hayden Watershed. Council Member Mahayni said he thinks the ramifications are going to become even more complicated if the City does not move forward with annexation. He recalled that the reason the City Council had directed staff to negotiate with the owners was to minimize the possibilities for future conflicts.

Moved by Mahayni, seconded by Doll, to direct staff to continue discussion and proceed with annexation of the proposed Rose Prairie Subdivision.

Council Member Popken asked what the time line would be for a developer's agreement if the annexation moved forward. City Attorney Marek indicated that he and Mr. Becker, counsel for Story County Land, had been discussing possible procedural time lines. Mr. Marek indicated that one of the reasons that this issue needed to go before the City Council at this point was to allow enough time, if annexation were to be pursued, to get those steps taken by the end of the year. He said that he would envision that a developer's agreement would come before the City simultaneously with an Annexation Petition. According to Mr. Marek, his estimate was that it would take approximately one month to work out those details.

Mr. Popken asked to know the status of the horizontal property regime. City Attorney Marek advised that the Declaration of Horizontal Property Regime had been recorded, which indicates its legal organization and scheme for development. He said that he was unaware of any further action on that issue. Chuck Becker, Belin Law Firm, Des Moines, representing the Rose Prairie developers, confirmed that the Horizontal Property Regime had been filed. It is available to go forward at this time; however, no further discussions with Story County to that effect had occurred.

Pertaining to environmental issues, Council Member Popken noted that previous developments had made similar promises related to prairie and bioswales, but had not kept them up. He asked if the developers would be willing to give the City authority via an agreement to enforce the upkeep of the bioswales, etc. Attorney Becker said that he had worked with a number of other cities in the Des Moines area suburbs on how to enforce the post-construction Storm water ordinances for detention basins on the land, and specifically, how cities ensured that the basins would continue to function indefinitely. Agreements have been drafted in other cities (Storm Water Facility Management Agreements), and something similar to those could be drafted. The Agreement would state that the homeowners' association would have obligations, and if those were not upheld to the City's satisfaction, the City could step in, upfront the costs, and then place a lien on each of the benefitted properties.

Council Member Popken commented that he was generally in favor of annexing the property in question. He noted that the City Council had always looked at costs and that was the reason for establishing the Northwest and the Southwest as its Priority Growth Areas. Mr. Popken stated that his concern is that if direction is now given to grow north, it would be irresponsible not to address a reduction of costs for one of the other Priority Areas. He specifically suggested that the reduction of costs come from the Northwest Area. Mr. Popken stated that he could support growing to the north, but could not support growing to the northwest at the same time. He would like an indication that when the Land Use Policy Plan (LUPP) is changed, northwest growth would be addressed with growth to the north. In his opinion, if the City grows north, it would not be able to incur substantial expenses for an overpass in the Northwest Area. Mr. Popken said that in order for him to support annexation to the north, it would need to be tied with growth to the northwest.

Council Member Mahayni said that the City has to deal with the fact that the Rose Prairie Subdivision is going to happen, either inside or outside the City, and that fact dictates that the direction of growth issue needed to be addressed. He agreed that the total picture needed to be looked at, but did not look favorably on making this decision contingent on another decision. Mr. Mahayni said that he agreed with the premise that there would be no way for development to the northwest to be viewed the same as it was several months ago. Mr. Popken stated that he was bringing this up now because it would be disappointing for this issue to continue for months and then have to vote against it because he saw no progress towards narrowing the Priority Growth Areas. Mr. Popken emphasized that it was not fiscally responsible for the City to support growth in three directions; it must have a focused growth policy.

Mayor Campbell asked the City Attorney if it were appropriate for the annexation issue to be dealt with first and then have a separate motion pertaining to the Northwest Growth Area issue. City Attorney Marek advised that the issue pertaining to Priority Growth Areas was not listed on this meeting's Agenda and could not be discussed. Council Member Popken clarified that he would like the issues to be parallel, so that if and when a change to the LUPP were requested, there would be a distinct correlation between the two. Mayor Campbell recommended that a motion be made during "Council Comments" to that effect that could be placed on a subsequent agenda.

Council Member Goodman commented that he saw the issues interrelated as far as being fiscally responsible with infrastructure in the New Lands area. He saw no reason for the Council to have to make a decision tonight and pointed out that there was one Council member absent and time for discussion was very limited due to another meeting being scheduled in the Council Chambers.

Council Member Rice expressed his concern, not only with land use, but also with how the City uses its LUPP. He read an excerpt from the Plan that alluded to its use to ensure orderly and efficient growth. It was his belief that the annexation in question would not only change the priority growth direction, but would affect all decisions formerly made regarding the City's Capital Improvements Plan, budget, Transportation Plan, fire station locations, etc. Mr. Rice indicated strong disagreement with comments previously made by Council Member Mahayni and stated that he would be voting against the motion.

Council Member Doll pointed out that the motion on the floor did not address including additional property along Grant Avenue. City Manager Schainker advised that, without further

direction from the City Council, staff would not meet with the other two developers for the properties on both sides of Grant Avenue. Council Member Doll said that it would be irresponsible for the City Council not to look at including those properties at this time. He believes that the people living along Grant Avenue are going to be affected. There will be an additional 290 people +/- driving up and down the gravel road.

Council Member Goodman questioned why the City Council needed to make a decision on the issue tonight. City Attorney Marek reiterated that counsel was running up against deadlines pertaining to the lawsuit.

Mr. Goodman indicated that he would not be supporting the motion on the floor. He advised that he was concerned about not having four votes in favor of annexation and a lot of time being wasted on both sides. It was Mr. Goodman's desire to postpone this issue and to first put the Northwest Growth issue on an agenda in the near future.

Moved by Goodman, seconded by Rice, to postpone the issue. Council Member Doll noted that there was already a motion on the floor.

Motion withdrawn by Goodman.

Vote on Motion: 3-2. Voting aye: Doll, Mahayni, Popken. Voting nay: Goodman, Rice.
Motion carried.

Moved by Doll, seconded by Mahayni, to direct staff to include Grant Avenue owners in negotiations.

Vote on Motion: 3-1. Voting aye: Doll, Mahayni, Popken. Voting nay: Goodman. Council Member Rice did not vote. Motion carried.

Moved by Popken, seconded by Mahayni, to direct staff to look at the Northwest Growth Priority Area for modification to reflect a more targeted growth strategy in relation to the proposed annexation to the north.

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

City Manager Schainker asked the City Council to direct staff regarding a definition of either a conservation subdivision or storm water management techniques.

Moved by Rice, seconded by Doll, to direct staff to place the definition of conservation subdivision or other storm water techniques on a future agenda.

Council Member Goodman again expressed his frustration over the lack of time for discussion on the past two motions, which he perceived as being two of the most important decisions facing the community. He said that he was not even sure what was being voted on. City Manager Schainker clarified that the context of the motion was to include broader storm water techniques. Council Member Popken asked if the definition was to be specific to Rose Prairie Subdivision. Mr. Schainker noted that he was the one who introduced the concept of a conservation overlay; however, it was his understanding that the motion on the table would direct staff to come back with a report on different options for protecting not only the Ada Hayden Watershed, but all areas of the City. Council Member Goodman expressed his concern over not knowing whether two-to five-year events were the type of events that would be an issue. It was noted that staff would include that information in its report. Mr. Goodman wanted to make sure that Council did

receive that type of information in the report. He did not want the report to only explain what SUDAS requires pertaining to two- to five-year events; he wants to see options. City Manager Schainker surmised that Council was asking, because the Watershed is so important, if higher standards would be warranted in that particular area.

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

ADJOURNMENT: Moved by Doll, seconded by Mahayni, to adjourn the meeting at 7:07 p.m.

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

Diane Voss, City Clerk

Ann H. Campbell, Mayor