

MINUTES OF THE REGULAR MEETING OF THE AMES CITY COUNCIL

AMES, IOWA

OCTOBER 13, 2009

The Regular Meeting of the Ames City Council was called to order by Mayor ProTem Mahayni at 7:00 p.m. on October 13, 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.

PROCLAMATION FOR CHARACTER COUNTS! WEEK: Mayor ProTem Mahayni proclaimed October 18-24, 2009, as Character Counts! Week. Accepting the Proclamation was Mary Jo Mattila, Jim Hallihan, and Chuck Cychosz.

PRESENTATION OF RESIDENT SATISFACTION SURVEY: Public Relations Officer Susan Gwiasda presented the report from the 27th Annual Ames Resident Satisfaction Survey. She stated that the questionnaire had been mailed to 1,350 randomly selected City Utility users and 1,586 Iowa State University students randomly selected from a list generated by the ISU Office of the Registrar. Six hundred fifty-one (651) people completed the survey, an increase of 281 from 2008. The response rate was 13% for the students and 33% for other Ames residents, for a total response rate of 22%.

Ms. Gwiasda explained that 22% of the respondents wanted the City to spend more on recreational opportunities, and 20% wanted more money spent on human service agency funding. Twenty-five percent (25%) would like the City to spend less on art programs. All of the service categories declined in “spending more” except for law enforcement, which increased by 1%. Fifty-one percent (51%) suggested that property tax rates stay the same, 30% suggested a decrease in property tax, and only 19% suggested an increase.

According to Ms. Gwiasda, respondent satisfaction with City departments remained high in 2009, with every department receiving 90% or more “somewhat or very satisfied” responses. The overall satisfaction rating for the quality of City services was 97%.

Ms. Gwiasda said that the only new question on this year’s survey asked specifically about the future of Carr Pool. Thirty-eight percent (38%) of the respondents wanted the Pool leased to a private group that would take over the ongoing expenses. Twenty-one percent (21%) preferred that Carr Pool be closed and the basin demolished.

CONSENT AGENDA: Council Member Mahayni requested that Item No. 12 [Certificate of Consistency with the 2009/14 CDBG Consolidated Plan on behalf of Youth & Shelter Services (YSS)] be pulled for separate discussion. He advised that he was on the Board of Directors for YSS and would be abstaining from the vote due to that conflict of interest.

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

1. Motion approving payment of claims
2. Motion approving minutes of Regular Meeting of September 22, 2009, and Special Meetings of September 29, 2009, and October 1, 2009
3. Motion approving Report of Contract Change Orders for September 15-30, 2009
4. Motion approving renewal of the following beer permits, wine permits and liquor licenses:
 - a. Class C Beer - SnappysDelivers.com, 200 Stanton Avenue, Suite 103
 - b. Class C Liquor - London Underground, 212 Main Street
 - c. Class C Liquor & Outdoor Service Privilege - Element/Chasers, 2401 Chamberlain Street

- d. Class C Liquor & Outdoor Service Privilege - The Meeting House, 823 Wheeler Street, Suite 4
 - e. Class C Beer - Aldi, Inc. #48, 1301 Buckeye Avenue
 - f. Class C Liquor & Outdoor Service - Thumbs, 2816 West Street
5. Motion directing City Attorney to draft ordinance establishing parking regulations on South Dayton Place
 6. RESOLUTION NO. 09-468 approving appointment of Becky Perkovich to fill vacancy on ASSET
 7. RESOLUTION NO. 09-469 approving reappointment of Neighborhood Representatives Jeri Prescott and Fern Kupfer and appointment of Barry Green of Young Professionals Association to Student Affairs Commission
 8. RESOLUTION NO. 09-470 approving 24-month lease of office space at 428 5th Street for Information Technology Division
 9. RESOLUTION NO. 09-471 providing for issuance of \$11,165,000 General Obligation Corporate Purpose Bonds, Series 2009B, and providing for levy of taxes to pay same
 10. RESOLUTION NO. 09-473 approving preliminary plans and specifications for 2009/10 Arterial Street Pavement Improvements (13th Street from UPRR underpass east to Stange Road); setting November 17, 2009, as bid due date and November 24, 2009, as date of public hearing
 11. RESOLUTION NO. 09-474 approving preliminary plans and specifications for Ames Police Shooting Range; setting November 4, 2009, as bid due date and November 10, 2009, as date of public hearing
 12. RESOLUTION NO. 09-475 awarding contract to Lawn Pro of Polk City, Iowa, in an amount not to exceed \$55,000 for Public Works Winter/Summer Tree Trimming Program
 13. RESOLUTION NO. 09-476 approving contract and bond for Water Pollution Control Facility Raw Water Building HVAC Heat Recovery Unit
 14. RESOLUTION NO. 09-477 accepting final completion of 2006/07 Annual Residential Street Low Point Drainage Improvements (Stanton Avenue and Chamberlain Street)
 15. RESOLUTION NO. 09-478 accepting final completion of 2005/06 Annual Residential Street Low Point Drainage Improvements (Sheldon Avenue, Lincoln Way to West Street)
 16. RESOLUTION NO. 09-479 accepting final completion of 2005/06 Shared Use Path System (Grand Avenue, Murray Drive to 20th Street)
 17. RESOLUTION NO. 09-480 accepting final completion of Water System Improvements (Summit Avenue and Crescent Street)
 18. RESOLUTION NO. 09-481 accepting final completion of 13th Street Water Main Replacement (Crescent Street to the Furman Aquatic Center)
 19. RESOLUTION NO. 09-482 accepting final completion of 2007/08 Clear Water Diversion Program
 20. RESOLUTION NO. 09-483 accepting final completion of 2008/09 Asphalt Resurfacing Program and 2008/09 Seal Coat Removal/Asphalt Reconstruction Program
 21. RESOLUTION NO. 09-484 approving completion of bike path and street lane along Lot 1 in Grand Aspen Subdivision, 3rd Addition, and releasing security
 22. RESOLUTION NO. 09-485 approving Plat of Survey for 4517-4529 Twain Circle
 23. RESOLUTION NO. 09-486 approving Plat of Survey for 127 Broadmoor Circle
 24. RESOLUTION NO. 09-487 approving Plat of Survey for 633-18th Street
 25. RESOLUTION NO. 09-488 approving Plat of Survey for 4114, 4122, and 4128 Cochrane Parkway
 26. RESOLUTION NO. 09-489 approving Plat of Survey for 4211, 4217, 4223, and 4303 Cochrane Parkway

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

CERTIFICATE OF CONSISTENCY WITH 2009/14 CDBG CONSOLIDATED PLAN: Moved by Goodman, seconded by Doll, to adopt RESOLUTION NO. 09-472 authorizing the Mayor to sign

a Certificate of Consistency with the City's 2009/14 CDBG Consolidated Plan on behalf of Youth & Shelter Services.

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

PUBLIC FORUM: Richard Deyo, 505 Eighth Street, Apartment #2, Ames, advised that he had sent a birthday greeting to former President George Bush; however, the Post Office did not forward it. He asked that the City Council write a letter to Mr. Bush in Crawford, Texas.

COMPOSTING REGULATIONS: City Attorney Doug Marek explained the proposed revisions to Section 10.8 of the Municipal Code. The proposed ordinance allows fruit and vegetable trimmings, coffee grounds, and eggshells in addition to yard waste.

Moved by Popken, seconded by Goodman, to direct the City Attorney to draft an ordinance that removes Subsection (3)(b) from Section 10.8 of the Municipal Code and creates a new section in Chapter 10 that allows for composting of fruit and vegetable trimmings, coffee grounds, and eggshells in addition to yard waste and specifically states that animal meat, bone and fat are prohibited from composting as well as feces and diseased plant material.

Council Member Larson noted that neighborhood complaints could be avoided if language would be included in the ordinance to establish setback requirements, size restrictions, container requirements, and requirements for pest abatement. He preferred that those requirements be included. Council Member Popken offered that there had been no problems reported, and he saw no need to include those additional requirements at this time.

Helen Gunderson, 1626 Burnett, Ames, shared her beliefs in urban gardening, local food production, and sustainability and said that she was a strong proponent of composting. Ms. Gunderson advised that she has five chickens on her property and would like to include straw and chicken manure in her compost pile.

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

Moved by Mahayni, seconded by Larson, to direct the City Attorney to include additional language in the new composting section that provides for setback requirements, size restrictions, container requirements, and pest abatement.

Council Member Popken reiterated that he did not want to see more regulations put on the citizenry, as he had heard no complaints about neighborhood composting piles.

City Attorney Marek addressed the proposed size requirement for composting bins. He noted that residents could have more than one bin on their property.

Vote on Motion: 2-4. Voting aye: Larson, Mahayni. Voting nay: Doll, Goodman, Popken, Rice. Motion failed.

DRUG PARAPHERNALIA ORDINANCE: Police Chief Chuck Cychosz reminded the Council that the Story County Prevention Policy Board had made a written request that the City review its ordinance on drug paraphernalia, which was referred to staff by the City Council on July 14, 2009.

Chief Cychosz noted that the types of drug paraphernalia had evolved considerably since the City's initial ordinance on this topic was developed, and updating the Ordinance would provide much clearer direction on what constitutes prohibited drug paraphernalia. According to Chief Cychosz, the proposed ordinance provides a much more comprehensive list of potential paraphernalia than the current ordinance or the Iowa Code. He stated that his intent in recommending the enactment of the proposed ordinance was to discourage the sale of certain devices.

Addressing penalties for violation, Chief Cychosz advised that the proposed ordinance would increase the minimum civil penalty to \$500, which is considerably higher than other items in Chapter 17 of the Municipal Code. Chief Cychosz cited his disagreement with that penalty, recommending that the penalty structure be consistent with other offenses in Chapter 17 with escalating penalties for repeat offenses.

Chief Cychosz stated that implementing the proposed ordinance would have an effect on: (1) sales of new items determined to be drug paraphernalia and (2) those involved directly in drug use or drug transactions. He said that he anticipates most vendors would voluntarily remove those types of items from sale.

Discussion ensued on the proposed penalty structure for violation of the ordinance. City Attorney Marek described the current penalties contained in Chapter 17. He noted that the minimum and maximum range of fines must be addressed in the ordinance. The current fine structure is \$50 for first offense and \$100 for second offense, with escalating penalties for repeat offenses. Chief Cychosz said that he sees the proposed ordinance as an educational tool; he believes that the goal of discouraging the sale of drug paraphernalia will be realized with the current fine structure.

Council Member Goodman asked if the City had statistics on this type of ordinance providing an effective deterrent. Chief Cychosz said that he did not have that data. Mr. Goodman advised that he would not be supporting the proposed ordinance because he does not perceive it as being effective.

Chief Cychosz acknowledged concerns about whether there are items with legitimate uses that might somehow lead to charges. He advised that that was being addressed in the proposed ordinance by specifically enumerating the factors to be considered. According to Chief Cychosz, the specificity of those factors mitigates against arbitrary or unfair application of the ordinance. He also noted that the level of penalty typically follows the perceived severity of the violation and escalates with repeated offenses.

Erin Kennedy, 717 Sixth Street, Nevada, Iowa, representing the Story County Prevention Policy Board, gave the history behind its request that the City revise its "Dope Paraphernalia Ordinance." She made a point of clarification that this is an environmental issue and pertained to items specifically created for the intent to use illegal drugs. Ms. Kennedy noted that there was a store in North Grand Mall that openly sold drug paraphernalia.

The proposed ordinance includes more of the items associated with illicit drug use while also being more consistent with the State Code.

Moved by Doll, seconded by Larson, to direct the City Attorney to draft a Drug Paraphernalia Ordinance to replace Ordinance 17.23, including a penalty structure consistent with other offenses in this section with escalating penalties for repeat offenses.

Council Member Rice cited his concern that the new ordinance fit within the structure of the Ames Municipal Code. City Attorney Marek said that staff would work with the Police Department to ensure that the ordinance meets its needs.

Council Member Popken advised that he is concerned that the ordinance is too broad. He noted that many of the items being targeted could be used for other uses.

Council Member Larson noted that the Police Department is going to have to prove the connection between the item and its usage for illegal drug activity.

Vote on Motion: 4-2. Voting aye: Doll, Larson, Mahayni, Rice. Voting nay: Goodman, Popken. Motion declared carried.

NEWLINK GENETICS: Finance Director Duane Pitcher informed the Council that, in September 2005, the City approved a \$200,000 forgivable loan to NewLink Genetics Corporation. At that time, the company was in the research phase of developing pharmaceutical products with a primary focus on cancer. The funding was to enable a move to a larger space to accommodate increased production for large-scale product testing. The company had not drawn down the funding because the additional space was not yet needed. It has now reached the stage of clinical trials requiring additional production and has asked to make some modifications to the original proposal.

According to Mr. Pitcher, the primary differences between the original terms and the proposed changes are (1) NewLink will move into an existing building at the ISU Research Park, rather than a newly constructed building; and (2) the lease will be for a term of five years with an option to extend, rather than a lease term of ten years. With those changes, NewLink would not receive the tax abatement benefit offered for construction of a new building. However, Mr. Pitcher noted that there is still industrial tax abatement available, and it is his understanding that the owners of the ISU Research Park do plan to offer that abatement to NewLink Genetics through its lease.

Jim Campney, 1444 NW 144th Court, Clive, Iowa, stated that he was present on behalf of NewLink Genetics.

Council Member Doll asked how many persons were currently employed by NewLink Genetics. Mr. Campney indicated that they currently have 60 employees; it is their intention to add ten more jobs if the loan is approved.

Moved by Goodman, seconded by Rice, to support a \$200,000 forgivable loan to New Link Genetics Corporation in accordance with the requested revisions and direct staff to draft a Forgivable Loan Agreement for City Council approval.

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

INTERNET SERVICE AGREEMENT WITH QWEST COMMUNICATIONS: Stan Davis recalled that the City Council, on January 27, 2009, had approved a three-year agreement with Qwest Communications in order to obtain a T1 Internet line and equipment necessary to provide reliable Internet capacity to the Electric Department. A second T1 Internet line is now required in order to segregate public WiFi Internet traffic from City staff Internet traffic at City locations. According to Mr. Davis, it is more economical to bond the second line to the Electric T1 Internet line, rather than purchase the line separately. The additional three-year total cost of the second T1 Internet line would be \$12,060 versus \$17,820 for a separate line.

Moved by Goodman, seconded by Doll, to adopt RESOLUTION NO. 09-490 approving an amendment to the Internet Service Agreement with Qwest Communications to add a second T1 Internet line at an additional three-year cost of \$12,060.

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

NORTHWOOD HEIGHTS, 4TH ADDITION: City Planner Jeff Benson told the Council that Hunziker Land Development had sought approval of a Preliminary Plat for Northwood Heights, 4th Addition. The property in question is 19.2 acres in size and located in an unincorporated area of Story County within two miles of the City (off of North Dakota). Four lots are proposed for single-family residences and six outlots would be set aside for open space.

Mr. Benson read the requirements for Preliminary Plat approval and the criteria that must be met to grant a waiver of subdivision standards. He noted that City staff was recommending approval of the Preliminary Plat and the waiver of subdivision requirements and that Council direct staff to review the definition of *open space*.

According to Mr. Benson, the proposed Subdivision is located within an exiting rural residential area and outside the Southwest and Northwest expansion areas. It is outside the Priority Transitional Residential area, and it is not likely to affect community growth in a manner inconsistent with City policies and plans. He addressed possible future annexation concerns, stating that agreements had been signed to bind current and future land owners to voluntary annexation should the City request it.

Density standards were addressed by Mr. Benson. He noted that the residential land use proposed was consistent with the City's land use policies if the density standards would be met. Mr. Benson indicated that staff had found the Preliminary Plat to be consistent with the Ames Land Use Policy Plan and other City plans, provided that the proposed open space was designated and maintained in such a manner that would facilitate its use as open space to all owners. According to Mr. Benson, open space easements on Outlots A - D would be granted to the Northwood Heights II Homeowners Association. The remaining two outlots would be owned by the Northwood Heights II Homeowners Association. The proposal puts four of the outlots into individual ownership and requires each owner to be responsible for the maintenance of their own outlot.

City Attorney Marek gave the current definition of *open space*. Council Member Popken expressed concern about reducing the City's legal leverage over its policy on open space. Even if the issue of defining open space is directed to staff, there would be a lapse of time before any revisions would be adopted, and he is concerned about similar requests being received in the interim.

Planner Benson noted that the majority of the comments received in opposition to approval of this Subdivision referenced the condition of the road and concerns over stormwater runoff. He advised that the charge of City staff is to look at how the proposed subdivision would impact the surrounding area. According to Mr. Benson, Public Works Engineering staff had reviewed the impacts of adding the requested two lots to the Subdivision and found the impacts to be negligible.

The Council's attention was directed to a letter from the Story County Planning and Zoning Department dated October 13, 2009. The letter stated that the Story County Board of Supervisors had approved the Northwood Heights 4th Addition Major Subdivision Preliminary Plat with four conditions.

Council Member Rice noted that one of the conditions placed on the approval by the County was a restriction that the owners of Lots 1-4 and Outlots A-F would be prohibited from any future subdivision of the lots. He pointed out that the same stipulation had been placed on the Northwood Heights 3rd Addition Final Plat; however, further subdivision is now being requested. Planner Benson stated that the City Attorney had determined that, in order to approve a plat that did not comply with that restriction, the owners of lots within Northwood Heights 3rd Addition had to consent to lifting the restriction. City Attorney Marek advised that a letter had been submitted from the owners (Northwood Heights II Homeowners Association) agreeing to the proposed division into four developable lots.

C. Stassis, 3970 North Dakota Avenue, Ames, urged the City Council to reject any further development on the land in question until the developer improves the road to at least the County minimum requirements and addresses the discharge of contaminated water onto adjacent properties.

Mr. Stassis also alleged that the requested subdivision was in violation of the restrictions on the recorded replat on the 3rd Addition, which prohibited the further subdivision of Lots 1 and 2. He also stated his belief that the determination regarding the legality of the application for Preliminary Plat approval was not based on actual facts. He elaborated that in 2005, when the 3rd Addition was platted, all three lots were owned by Mr. and Mrs. Gelina. On July 21, 2006, Hunziker Land Development bought all three lots and deeded Outlot A to the Northwood Heights Subdivision, 2nd Addition, on October 2, 2006.

Tom Theilen, 3974 North Dakota Avenue, Ames, said that he was not concerned about additional persons moving into the area; two additional families was not the issue. He voiced concerns about the City waiving subdivision requirements. Mr. Theilen explained that he owns 13-1/2 acres and had inquired of City staff in 2005 as to what it would take to add additional dwellings on his property. He was informed of the subdivision requirements that he would have to meet, which proved to be cost-prohibitive mainly because the road in front of the property would have needed to be paved.

Mr. Theilen also advised that he had appeared before the Story County Board of Supervisors over his concerns that North Dakota Avenue was not a safe street; 90% of it does not have shoulders, and the ditches are fairly deep. He indicated that he did not believe the road was the City's responsibility, but he asked that the City request Story County to address improvements to North Dakota Avenue for safety reasons. It was emphasized by Mr. Theilen that he did not believe two additional dwellings would make any difference to the usage of the road; it is already used extensively.

According to Mr. Theilen, subdivision requirements should not be waived because there is surface water and storm water runoff going into the lake near Mr. Stassis' property. The water then flows into a creek on Mr. Theilen's property, and ultimately, into Squaw Creek. It is unknown what contaminants are flowing into the waterways, and he would like to see it prevented for health reasons.

Tom Davenport, 4539 - 513th Street, Ames, Past-President of Northwood Heights II Homeowners Association, voiced the support of the Association for the requested Subdivision. He made two points: (1) The *open space* requirement was being enforced by the City to meet the requirements of its Urban Fringe Plan. The Association only asked for approval of four lots and to be allowed to plant trees and grasses to stop the water runoff; it did not ask for rights to the open space. The 15-foot pedestrian easement was requested because there are no shoulders on North Dakota. (2) The Association does want to have a say on any future splitting of lots.

Marcia Prior-Miller, 4038 North Dakota Avenue, Ames, stated that she owns three acres in the area, which are bounded on the west by North Dakota Avenue and on the south by Theilen and Deer Run Roads. There is one house that separates her property from the Northwood Heights Addition. She urged the City Council not to waive infrastructure requirements for 199th and 200th Streets. Ms. Prior-Miller noted that she had been impressed by the efforts of the Northwood Heights Homeowners Association to find balance between the developer's desire to plat the land and the need to retain the area's natural habitat and environment. She indicated her agreement with the Homeowners Association's request that the growth be restricted to the plan for outlots that will not be developed in the future.

Ms. Prior-Miller voiced her concerns over the proposed waiver of infrastructure requirements. She justified her beliefs by pointing out safety concerns over the stretch of North Dakota that lies to the west of her home, as it is becoming an increasingly traveled road. According to Ms. Prior-Miller, North Dakota Avenue is a very dangerous road: it has no shoulders, both sides of the road between the "s-curve" and Cameron School Road drop immediately into three- to five-foot-deep ditches. It is also her belief that 199th and 200th Streets are inadequate now and will be even more inadequate with further development. She alleged that the horseshoe roads do not meet Code requirements for a two-lane road; it is nearly impossible if not totally impossible for vehicles to pass each other. Emergency response to this area was also listed as a concern by Ms. Prior-Miller. She agreed that four more houses was not a great number; however, all of the housing currently lies to the outside of the horseshoe roads. In her opinion, the proposed additional development will not only increase traffic, but will also change its flow. Ms. Prior-Miller proposed that the developer be required to bring North Dakota Avenue up to Code, and any expense to do so not be borne by the current property owners.

Rebecca Shivvers, 2380 - 220th Street, Ames, distributed pictures of her traffic experience on the 199th/200th Streets horseshoe: There was a school bus on the curve, which left no room for her to go around. She had to back up until she reached a driveway to pull into in order to let the bus pass. Ms. Shivvers said that she disagreed with comments made by representatives of the Gilbert Fire Department who said the area was accessible by emergency vehicles.

Tom Davenport noted that the road was not being discussed at this meeting. He indicated that 513th Avenue is 11-foot-wide and can be used for emergency vehicle access. According to Mr. Davenport, 199th and 200th Streets are 17-foot-wide.

Chuck Winkleblack, 105 S. 16th Street, Ames, summarized actions taken to date pertaining to the proposed Subdivision: (1) The City Attorney and County Attorney have found the Subdivision to be legal. (2) The City Planning & Zoning Commission and Story County Planning and Zoning Department have approved it. (3) The County Board of Supervisors approved the Plat. (4) Ames City staff is recommending approval of the Subdivision. (5) The utility companies that serve the area in question provided input and they can serve it. (6) The County Sanitarian has approved it. (7) The County Engineer has approved it, stating that going from two lots to four lots is so negligible that it cannot be measured. (8) The Fire Department (Westory) said that they have no problems serving this rural subdivision.

Mr. Winkleblack stated that the developers have had many meetings with the members of the Neighborhood Association. Mr. Stassis was not included in those meetings because, several years ago, he entered into an agreement to opt out of the Neighborhood Association. Addressing the ownership controversy alleged by Mr. Stassis, Mr. Winkleblack stated that the City's open space

standard in the Code does not preclude private ownership, and the application meets the guidelines. It was also noted by Mr. Winkleblack that annexing this property is not contemplated by the City of Ames for 30 to 50 years; that is the reason for the request for a waiver of the subdivision requirements.

In Council Member Goodman's opinion, if Outlots A, B, C, and D were owned by someone, this conversation would not be necessary. Mr. Winkleblack advised that he had tried to give the lots to the Homeowners Association; however, it does not want them.

Tom Thielen asked to know the process to be followed if those who are not part of the Homeowners Association wanted to make changes. Specifically, he inquired if City of Ames requirements would have to be followed or would they be granted a waiver as well. Planner Benson said that those property owners would need to request approval of a plat, and that would start the process.

Council Member Larson applauded the efforts of the developer and City staff to find a way to provide the required density. In his opinion, this furthers the argument that there is a need for larger lots, both outside and inside the city limits.

Moved by Larson, seconded by Mahayni, to adopt RESOLUTION NO. 09-501 approving waiver of all standards of Chapter 23, Division IV, of the Ames Municipal Code and also approve the Preliminary Plat for Northwood Heights, 4th Addition, with the following conditions being met prior to Final Plat approval by the City Council:

1. An agreement shall be provided whereby the property owner waives his or her right to protest a future annexation.
2. An agreement shall be provided for any future assessment for the costs of City subdivision improvements should they be required in the future.
3. An agreement shall be provided whereby the landowner shall be responsible for the full cost of abandoning any rural water and sewer systems and connecting to urban infrastructure.
4. These agreements shall bind all future owners of all property being platted.

Council Member Popken cited his concern about the new method being used to arrive at the required density. He felt that puts the City in a more difficult position to later deny approval of similar cases. In Council Member Doll's opinion, it puts the City in a more difficult position because the outlots are not tied to any particular owner. Council Member Rice said that he had a problem with a developer finding a novel approach to get around the intent of the City's density policy. Council Member Goodman asked if there was a simple way to change the language of the ordinance to fix the definition of *open space*. Municipal Engineer Tracy Warner pointed out that density would not be the only issue if a text amendment were proposed; stormwater discharge issues would also need to be reviewed.

City Attorney Marek noted that the City Council is not being asked to waive the density requirement. It is being asked to make a determination that the intent of the Land Use Policy Plan (LUPP) is being met. Council Member Larson noted that staff had concluded that the request is consistent with the LUPP.

Moved by Larson, seconded by Mahayni, to amend the motion to direct staff and the Planning and Zoning Commission to consider an amendment to the definition of *open space* used for determining compliance with the City's minimum density policies.

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

Roll Call Vote on Motion, as Amended: 5-1. Voting aye: Doll, Goodman, Larson, Mahayni, Rice. Voting nay: Popken. Resolution declared adopted, signed by the Mayor, and hereby made a portion of these minutes.

Moved by Goodman, seconded by Popken, to direct staff to make the amendment a priority, specifically taking the issue to the Planning & Zoning Commission at its next meeting.

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

The meeting recessed at 10:05 p.m. and reconvened at 10:12 p.m.

DOWNTOWN FACADE GRANT FOR 426 5TH STREET: Planner Benson explained that the owner of 426 Fifth Street, Chuck Winkleblack, had requested a \$15,000 Downtown Facade Grant (for \$53,000 of facade improvements) and \$1,000 toward professional fees. Mr. Benson noted that the request is not being reviewed for historic integrity because the building does not have those characteristics.

Moved by Rice, seconded by Popken, to adopt RESOLUTION NO. 09-491 approving a Downtown Facade Grant in the amount of \$15,000 and \$1,000 for professional fees for property located at 426 Fifth Street.

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: Mayor ProTem Mahayni opened the public hearing. There being no one requesting to speak, the Mayor ProTem closed the hearing.

Moved by Larson, seconded by Goodman, to adopt RESOLUTION NO. 09-492 approving vacating a Public Access Easement on the east eight feet of Lot 4, and Public Utility Easements on Lots, 5, 6, 7, and 8 of The Estates of Nature's Crossing Subdivision.

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

ORDINANCE PERTAINING TO SOLAR ENERGY SYSTEMS: The hearing was opened by Mayor ProTem Mahayni. No one came forward to speak, and the hearing was closed.

Planner Sam Perry advised that the current City Code only allows solar energy systems in the industrial zoning district. After its workshop on August 18, 2009, the City Council had directed staff to develop Code provisions that more fully addressed solar energy in all zones.

Council Member Popken said that he had received an inquiry from a constituent concerning the requirement for flush mounting of roof panels; that person thought that it might cause a lack of efficiency of the panel. Mr. Perry stated that the panel would not have to be mounted directly to the roof surface in all cases. There would be cases where it would be allowed to be tilted-up if it wasn't visible from the front of the house, e.g., on the back of the house or free-standing. Mr. Popken also

asked what would constitute “free-standing,” asking specifically if a gazebo could be constructed. According to Mr. Perry, the “free-standing” regulations were intended to accommodate systems that were designed and built specifically as a solar energy system and nothing else. If there was an existing gazebo or garage, panels would be allowed to be placed on it; its height would not be regulated. Mr. Perry also cited some of the circumstances when a Special Use Permit could be applied for in order to place solar energy systems.

Mr. Perry brought the Council’s attention to a scrivener’s error in the ordinance under the definition of *solar energy system*. On the first page of the ordinance, under (213) after “...provide for the collection, inversion,” it should state “storage and distribution of solar energy for electricity generation, space heating, space cooling or water heating, primarily for on-site use.”

Moved by Popken, seconded by Goodman, to pass on first reading an ordinance (after correction of the scrivener’s error) pertaining to solar energy systems and allowing such systems as accessory uses in all zones.

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

CHANGE ORDERS FOR CONSTRUCTION OF THE FURMAN AQUATIC CENTER: Moved by Goodman, seconded by Rice, to adopt RESOLUTION NO. 09-493 confirming previous Change Order Nos. 1-7 and authorizing Change Order No. 8 in the amount of \$26,747.76 to Sande Construction for construction of the Furman Aquatic Center.

Council Member Goodman asked if any of the additional costs were the result of the errors that caused the Center not to open. Ms. Carroll stated that they were not.

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

2008/09 ARTERIAL STREET PAVEMENT IMPROVEMENTS (NORTH DAKOTA AVENUE - 600' SOUTH OF DELAWARE AVENUE TO ONTARIO STREET): Council Member Rice noted that North Dakota Avenue is going to be closed on two different occasions and one detour will be to County Line Road. He asked if there was any way to avoid that detour. Municipal Engineer Warner said that alternatives were explored. It is planned for the detour to run from April to September, but it is anticipated that the project will be finished sooner.

Moved by Goodman, seconded by Doll, to adopt RESOLUTION NO. 09-494 accepting public utility easements from the owners of properties at 1231 North Dakota Avenue, 1218 Delaware Avenue, and 1103/1201 North Dakota Avenue.

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

Moved by Goodman, seconded by Doll, to adopt RESOLUTION NO. 09-495 accepting transfer of land from Robert Lee Humprey and Lois Jean Humprey via Warranty Deed for the pedestrian walkway program project for the amount of \$3,000.

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

Moved by Goodman, seconded by Doll, to adopt RESOLUTION NO. 09-496 approving preliminary plans and specifications, setting November 17, 2009, as bid due date and November 24, 2009, as the date of public hearing.

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

NEW WATER TREATMENT PLANT PROJECT: Representatives of the Water and Pollution Control Plant, Phil Propes, Superintendent, and Lyle Hammes, Environmental Engineer, were present.

Moved by Doll, seconded by Goodman, to adopt RESOLUTION NO. 09-497 setting date of public hearing for October 27, 2009, regarding Planning and Design Loan Application to Drinking Water State Revolving Fund.

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

Moved by Doll, seconded by Goodman, to adopt RESOLUTION NO. 09-498 approving Master Agreement with FOX Engineering to provide design-related assistance for Water Treatment Plant Project.

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

Moved by Doll, seconded by Goodman, to adopt RESOLUTION NO. 09-499 approving Task Order #1 in an amount not to exceed \$358,500 without prior approval .

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

CAMPUSTOWN REDEVELOPMENT: City Manager Steve Schainker noted that one of the top goals of the City Council is to redevelop Campustown. He noted that President Geoffroy and other Iowa State University officials had stepped up to assume leadership for this project. According to Mr. Schainker, the next step is to solicit developers to determine if there is any interest from firms to engage in a private development project. He emphasized that consulting services are not being sought.

Mr. Schainker brought the Council members' attention to possible incentives and asked for concurrence by the City Council. He noted that the success or failure of this type of project rests with the ability of the developer to have land available for this project; however, eminent domain had not been included in the options for acquisition of land.

City Manager Schainker told the Council that the solicitation process will focus on a limited number of companies who have already expressed some level of interest in the Campustown project.

Mr. Schainker advised that the review committee that will evaluate the interested firms would be comprised of Warren Madden, Cathy Brown, and Dean Morton from Iowa State University; Steve Osguthorpe and Steve Schainker from the City of Ames, and Dan Culhane from the Chamber of Commerce/Economic Development Commission. This committee will be making a recommendation as to the preferred Master Development. Council Member Goodman asked if any thought had been given to including an existing property owner to the selection committee. Mr. Schainker noted that input from property owners would be part of the second phase as part of a local steering committee.

Moved by Goodman, seconded by Larson, to authorize solicitation of the Request For Qualifications from Campustown developers.

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

RENTAL OF AERIAL FIRE APPARATUS: Paul Sandoval, Deputy Fire Chief, was present. Mr. Schainker explained that the Fire Department's ladder truck (Truck 3) will be delivered to Pierce Repair Center in Wisconsin on October 15 for repair of the pinnable water way and the corrosion on the frame. It is estimated that those repairs will take approximately three months to complete, and during that time, the City will be without the use of its only ladder truck.

City Manager Schainker said that one of the main concerns of not having a ladder truck readily available is for a rescue from a mid-rise building; those must be done within a matter of a few minutes to be effective.

Deputy Chief Sandoval said that a vendor had not yet been identified, but the Department is working with two different ones and hopes to have final arrangements made soon.

Moved by Popken, seconded by Rice, to adopt RESOLUTION NO. 09-500 authorizing expenditure in an amount not to exceed \$32,450 to lease a ladder truck for three months.

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

ORDINANCE REVISING ENFORCEMENT PROVISIONS FOR PARKING VIOLATIONS:

Moved by Doll, seconded by Goodman, to adopt on first reading an ordinance revising enforcement provisions for parking violations.

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

ORDINANCE ESTABLISHING SPEED LIMIT REGULATIONS FROM SOUTH DAYTON AVENUE TO SOUTH DAYTON PLACE ON SOUTH 16TH STREET: Moved by Goodman, seconded by Doll, to adopt on first reading an ordinance establishing speed limit regulations from South Dayton Avenue to South Dayton Place on South 16th Street.

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

COMMENTS: Moved by Popken, seconded by Goodman, to refer to staff the letter from Union Pacific Railroad offering to donate the railroad bridge over Squaw Creek and its adjacent land.

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

Moved by Popken, seconded by Goodman, to refer to staff the letter from Main Street Cultural District for a "Snowball Drop" event.

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

Moved by Popken, seconded by Goodman, to request staff to re-distribute the ZBA minutes and staff report pertaining to the variances requested by Casey's General Store.

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

Moved by Goodman, seconded by Mahayni, to direct staff to inform the Westbend Neighborhood of the criteria used to evaluate improvements to streets.

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

Moved by Popken, seconded by Mahayni, to refer to staff the letter from Collegiate United Methodist Church Board of Trustees for an Land Use Policy Plan amendment pertaining to 130 S. Sheldon.

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

Moved by Larson to refer to staff the letters from Casey's General Store, Inc., and Chuck Winkleblack pertaining to the Store's construction in the CVCN Zoning District, specifically requesting a report from staff as to the issues.

Chuck Winkleblack, 105 S. 16th Street, Ames, noted that some of the Zoning Board of Adjustment members agreed with the variances being requested, but the issues did not meet the threshold for the granting of a variance. He added that the outstanding issues pertained to the number of gas pumps to be allowed, the size of the sign, and the canopies.

Motion died for lack of a second.

Ex officio Member Keppy advised that the Government of the Student Body is considering acquiring Varsity Theater and asked the Council members to think about how the building could be used by the community in the summer months.

CLOSED SESSION: Moved by Doll, seconded by Mahayni, to hold a closed session to discuss collective bargaining strategy and pending litigation, as provided by *Code of Iowa* Sections 20.17(3) and by Section 21.5(1)c, respectively.

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

Moved by Doll, seconded by Larson, to reconvene in Regular Session.

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

ADJOURNMENT: Moved by Doll, seconded by Goodman, to adjourn the meeting at 11:20 p.m.

Diane R. Voss, City Clerk

Ann H. Campbell, Mayor