

MINUTES OF THE REGULAR MEETING OF THE AMES CITY COUNCIL

AMES, IOWA

SEPTEMBER 28,

2010

The regular meeting of the Ames City Council was called to order by Mayor Campbell at 7:00 p.m. on September 28, 2010, in the City Council Chambers in City Hall, 515 Clark Avenue. Present from the Ames City Council were Davis, Goodman, Larson, Mahayni, Orazem, and Wacha. *Ex officio* Member England was also present.

PROCLAMATION: Mayor Campbell proclaimed October 3 - 9, 2010, as Fire Prevention Week. Accepting the Proclamation were Firefighters Dan Thie, Jeff Westphal, Kory Bleeker, and Troy Buchman, and Lieutenant Thomas Hackett.

UPDATE BY LANE4 ON CAMPUSTOWN REDEVELOPMENT PROJECT: Director of Development Hunter Harris and President Owen Buckley of Lane4 Property Group were present. Mr. Buckley stated that six stakeholders in this Project had been identified: City of Ames, Iowa State University, Iowa State University students, the community, the marketplace, and the developer. He emphasized the importance of the 28,682 Iowa State University students on the marketplace.

Mr. Harris gave the Mid-Term Progress Report on the Project. Lane4 has identified a need for retail in this area as well as office uses and lodging. Strengths and weaknesses of the area were pointed out. Areas for improvement were noted. Mr. Buckley showed a conceptual Master Plan. Lane4, with input from the Project's stakeholders, has identified a need for a drugstore, grocery store, hotel, offices, entertainment venues, retail/services, and restaurants. Mr. Harris noted that there is land depicted on the conceptual plan that is privately owned and emphasized that no negotiations had been initiated at this time to acquire any property. It was reported by Mr. Harris that the lack of parking in Campustown was evident, and possible ways to alleviate that were suggested.

The next steps as listed by Mr. Harris were:

- Community feedback and participation
- Project assemblage
- Leasing and marketing
- Project Master Plan
- Schematic designs
- Project costing
- Gap financing discussions

all with the goal of creating the framework for viable quality development in Campustown.

Mr. Buckley emphasized that this project is in the beginning stages. He reassured the Council that Lane4 remains very sensitive to the desires of the community and stakeholders as well as to the current property owners in Campustown.

Mayor Campbell stated that public input will be accepted at an open meeting to be held on September 29 at the Maintenance Shop in the ISU Memorial Union.

Noting that there will be disruptions in the operations of the current businesses, Council Member Orazem asked how the staging of this project would proceed. Mr. Harris acknowledged a need to accommodate current business owners and tenants. He said that they will be looking at options, and it could be that they would be offering tenant relocation assistance.

Council Member Mahayni noted the mixture of land uses in Campustown. It is his opinion that there is a serious need to change the ambiance in Campustown. He feels it is very important for serious consideration to be given to determining the right mix of land uses for the area.

CONSENT AGENDA: Mayor Campbell noted that staff had pulled Item No. 22 (partial completion of public improvements and lessening security for the Estates of Nature's Crossing Subdivision) from the Agenda.

Council Member Orazem asked to pull Item #16 (a Change Order for Clean Air Act legal and engineering consulting services) for separate discussion.

Council Member Goodman left the meeting at 7:45 p.m.

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

1. Motion approving payment of claims
2. Motion approving minutes of Regular Meeting of September 14, 2010
3. Motion approving Report of Contract Change Orders for September 1 - 15, 2010
4. Motion approving certification of civil service applicants
5. Motion approving renewal of the following beer permits, wine permits, and liquor licenses:
 - a. Class C Beer & B Wine – K Mart #3971, 1405 Buckeye Avenue
 - b. Class C Beer – Doc's Stop No. 5, 2720 East 13th Street
 - c. Class C Liquor – Sips/Paddy's Irish Pub, 124 Welch Avenue
 - d. Class E Liquor, C Beer, & B Wine – Hy-Vee Food Store #1, 3800 W. Lincoln Way
 - e. Class E Liquor, C Beer, & B Wine – Hy-Vee Food & Drugstore #2, 640 Lincoln Way
6. Motion approving request from Story County Prevention Policy Board to use City Hall as drug drop-off site on November 13
7. Motion approving placement of cameras/sensors on City-owned property as part of ISU animal ecology research project on urban deer
8. RESOLUTION NO. 10-458 approving request from AMOS for \$268 to help fund Sustainability workshops
9. RESOLUTION NO. 10-459 approving and adopting Supplement No. 2010-4 to *Municipal Code*
10. RESOLUTION NO. 10-460 approving U.S. Highway 30 Detour Agreements with Iowa Department of Transportation
11. RESOLUTION NO. 10-461 approving Engineering Services Agreement for 2010/11 Downtown Street Pavement Improvements
12. RESOLUTION NO. 10-462 approving preliminary plans and specifications for development of Greenbriar Park; setting October 20, 2010, as bid due date and October 26, 2010, as date of award
13. RESOLUTION NO. 10-463 approving contract and bond for Vet Med Substation Expansion
14. RESOLUTION NO. 10-476 approving contract and bond for Power Plant Unit No. 8 Stack Repair

15. RESOLUTION NO. 10-465 approving Change Order to contract for Wind Storm Debris
 16. RESOLUTION NO. 10-466 awarding contract to Powerhouse Technology, Inc., of Farmington, New York, for Power Plant Dump Grates in the amount of \$136,410, plus applicable sales taxes
 17. RESOLUTION NO. 10-467 renewing contract with LawnPro of Colo, Iowa, in the amount of \$55,000 for 2010/11 Winter & Summer Street Tree Trimming Program
 18. RESOLUTION NO. 10-468 accepting completion of Bloomington Road Elevated Tank Repainting Project
 19. RESOLUTION NO. 10-469 approving Plat of Survey for 1573 Stagecoach Road
- Roll Call Vote: 5-0. Resolutions declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

Council Member Goodman returned to the meeting at 7:47 p.m.

CHANGE ORDER FOR CLEAN AIR ACT LEGAL AND ENGINEERING CONSULTING SERVICES WITH RITTS LAW GROUP:

At the request of Council Member Orazem, City Attorney Doug Marek explained that the legal services are related to regulatory compliance issues under the Clean Air Act. He said that the Ritts Law Group had worked closely with the City's Electric and Legal Departments to evaluate the projects scheduled at the Power Plant to determine the applicability of the Clean Air Act regulatory requirements. A request to the Iowa Department of Natural Resources for non-applicability determination was submitted and is now pending. Mr. Marek advised that the total amount paid to date under the retainer agreement with the Ritts Law Group is \$90,000, and it is anticipated that the need for consulting assistance will continue until the pending regulatory issues are clarified and resolved. Therefore, additional funding will be required to extend the engagement of the Ritts Law Group.

Moved by Orazem, seconded by Wacha, to adopt RESOLUTION NO. 10-464 approving a Change Order for Clean Air Act legal and engineering consulting services to continue with Ritts Law Group of Alexandria, Virginia, in an amount not to exceed \$50,000, to be paid from the balance in the Electric Fund.

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

PUBLIC FORUM: Kurt Friedrich, Friedrich Companies, 619 E. Lincoln Way, Ames, distributed to the Mayor and City Council a letter dated September 28, 2010, from Attorney Franklin J. Feilmeyer asking that the "non-buildable" restriction placed on the 35.31-acre tract of land along Onion Creek and near North Dakota Avenue be removed. Mr. Friedrich stated that he has a customer interested in building a home, hopefully yet this year, on that tract of land. He requested that the issue be referred to staff for consideration and recommendation of an option as to how that could move forward. Mr. Friedrich showed a map of the Fieldstone land and of the land in question, stating that the specific parcel (Outlot B), which is located in the northeastern-most corner, is approximately 35 acres in size. The parcel is located almost entirely within a 200-foot radius of the Natural Area. According to Mr. Friedrich, the significance of that fact is that, at the City Council meeting held August 10, 2010, the Council directed staff to work on a plan for creating larger lots within this area that are within 200 feet of the Natural Area. Mr. Friedrich specifically asked that the City Council remove the building restriction that currently exists on the 35-acre parcel and allow a home to be constructed. Although not a part of this request, Mr. Friedrich noted that he would hope that one or two other homes might also be

constructed in this area.

In the opinion of Mr. Friedrich, the reason why the 35-acre parcel has a building restriction on it is now a moot point; however, it wasn't in April 2010 when the parcel was created. It was created as a result of a split-off of a 40-acre parcel. Five acres were split off for the existing homestead, which created a 35-acre outlot. The 35-acre piece was created so that it would still be technically a buildable parcel per the County's requirement. According to Mr. Friedrich, the only reason the City required that a building restriction be placed on this parcel at that time was because of the three or four acres in the southwest corner of the parcel, which is outside of the Natural Area, but still in the Urban Services area; that would require a density of 3.75 units/acre.

Mr. Friedrich reiterated that, based on the discussion at the August 10 Council meeting concerning creating larger lots in this area adjacent to the Natural Area, the 3.75 unit/acre requirement for the lot in question is moot. He said that, from a practical standpoint, based on the Council's actions taken on August 10, the result would be a lot that is approximately 200' deep and 400-450' wide; however, in reality, as far as density for this area, one lot would be able to be achieved on the parcel. Mr. Friedrich showed a map of what could be achieved if the Natural Area boundary were slightly redrawn to reflect the actual vegetative edge of the timber; a few more acres would be added that would potentially allow for three more home sites. He said that he had met with City staff, who suggested one option would be to designate the 35-acre tract as Rural Residential, which would allow for the type of lots being requested just on that parcel.

No one else asked to speak, and the Mayor closed Public Forum.

NATIVE WINE PRIVILEGE FOR TOBACCO OUTLET PLUS #550: Moved by Mahayni, seconded by Davis, to approve a Carry-out Native Wine Privilege for Tobacco Outlet Plus #550, 205 South Duff Avenue.

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

CLASS C LIQUOR LICENSE FOR EL PATRON AUTHENTIC MEXICAN RESTAURANT: Moved by Mahayni, seconded by Davis, to approve a new Class C Liquor License for El Patron Authentic Mexican Restaurant, 120 Welch Avenue.

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

5- DAY LIQUOR LICENSES FOR OLDE MAIN BREWING CO.: Moved by Davis, seconded by Mahayni, to approve a 5-Day (October 2 - 6) Special Class C Liquor License for Olde Main Brewing Co. at the ISU Alumni Center, 420 Beach Avenue.

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

Moved by Davis, seconded by Mahayni, to approve a 5-Day (October 9 - 13) Special Class C Liquor License for Olde Main Brewing Co. at the ISU Alumni Center, 420 Beach Avenue.

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

Moved by Mahayni, seconded by Davis, to approve a 5-Day (October 16 - 20) Class C Liquor License for Olde Main Brewing Co. at the CPMI Event Center, 2321 North Loop Drive.

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

Moved by Davis, seconded by Mahayni, to approve a 5-Day (October 30 - Nov 3) Special Class C Liquor License for Olde Main Brewing Co at the ISU Alumni Center, 420 Beach Avenue.

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

“SANDWICH BOARD” SIGNS: City Manager Schainker reported that the City’s Neighborhood Inspector Natalie Herrington had been working on this issue after the City Council had, on March 2, 2010, directed staff to explore a possible permitting process to allow temporary sidewalk signs in the Main Street Cultural District (MSCD). It was believed that rather than to immediately allow these signs in all commercial areas, it was advisable to first try one area as an experiment. According to Mr. Schainker, the *Ames Municipal Code* currently prohibits the placement of signs on any City property, including sidewalks and other rights-of-way. However, recently, there has been an outbreak of sidewalk signs being placed in the public rights-of-way.

Ms. Herrington advised that a meeting had been held with the Main Street Cultural District representatives; recommendations were made by its members, and those recommendations were incorporated into the proposed policy. It was noted by Ms. Herrington that the boundaries initially were going to match those of the MSCD; however, staff is recommending that the boundaries be consistent with those of the DSC (Downtown Service Center) Zoning District. Those boundaries are very similar to those of the MSCD, but would be easier to enforce by the staff since they are created by ordinance and don’t change without Council action.

City Manager Schainker reviewed the proposal drafted by staff that would allow the placement of temporary sidewalk signs in the public right-of-way with the following conditions:

1. Temporary sidewalk signs would be allowed in the “DSC” Zoning District (Downtown Service Center).
2. A Temporary Sidewalk Sign Permit Application would be required to be completed and submitted to the City Manager’s Office (also forwarded to Inspections office for review and approval).
3. The Temporary Sidewalk Sign Application will require the following to be provided:
 - Diagram (Site Plan)
 - Description of the sign
 - Proof of Control of the Establishment
 - Indemnification Agreement
 - General Liability Insurance (naming the City of Ames as an additional insured)
 - Permit Fee of \$35
4. A minimum of four feet of unobstructed public sidewalk between the building face and sign or between the sign and parking meters will be required.
5. A minimum distance of two feet from the curb to the sign will be required.
6. A Temporary Sidewalk Sign will not be allowed to be attached to any public sidewalk or public fixture.
7. A Temporary Sidewalk Sign shall not exceed 2.5 feet in width and 4 feet in height.

8. No Temporary Sidewalk Sign may be internally or externally illuminated.
9. A Temporary Sidewalk Sign Permit will be valid for one year and may be renewed by the expiration date.
10. The General Liability Insurance amount required shall be \$500,000.
11. The City retains the right to terminate any approved Permit upon seven days written notice to the property owner should removal of the obstruction be necessary to preserve public safety.
12. A Temporary Sidewalk Sign must be removed from the public right-of-way each day at:
 - closing of the business
 - 10:00 p.m.
 - or at some other time of the City Council's choosing
13. No more than one Temporary Sidewalk Sign may be placed:
 - in front of any single storefront
 - in front of any single building
 - within 50 feet of any other Temporary Sidewalk Sign or ground sign

According to City Manager Schainker, there has been concern expressed by staff regarding the possibility of too many signs cluttering the sidewalks. In order to prevent this from occurring, he said that it might be necessary to limit the number of signs allowed within a certain radius of one another or to a building or storefront. Mr. Schainker asked that Council provide direction as to its preference regarding that issue.

Mr. Schainker said consideration should also be given to exactly who should have the ability to have these signs on the sidewalk. This could be an issue when there are several businesses occupying one building. One option would be that the City regulate the location only and allow the property owners and landlords to decide which businesses on the property may apply for the sign as long as the City's requirements for placement are met.

Council Member Mahayni emphasized that the City Council should remember that the location, time allowed in the right-of-way, and size of the signs may be regulated, but content may not.

Tim Coble, Past-President of the MSCD and co-owner of Temptations on Main, said that the MSCD business owners are generally in support of the proposed process. He noted that there are not a lot of businesses who currently use sandwich board signs and believes that it will be self-regulating.

Moved by Orazem, seconded by Mahayni, to direct that the policy state that the sign must be taken in at the close of business each day or no later than 10 PM.

Council Member Goodman said that he believes the business owner should make the decision as to what time the sign is taken inside. He noted that businesses close at a variety of times.

Police Chief Cychosz said that the Police Department would like to see all the signs taken inside by 10:00 or 11:00 PM. Unlit signs can be impediments to pedestrian traffic, and there is increased risk of theft, damage, and defacement related to signs being in the rights-of-way after Midnight.

Council Member Goodman asked for clarification of a requirement on Page 3 of the staff report, i.e., that a minimum of four feet of unobstructed public sidewalk between the sign and parking meters is required. He noted that there are sometimes obstructions on the sidewalk other than parking meters, e.g., planters. Mr. Goodman asked if the main reason for the requirement was to ensure that there be four feet of unobstructed sidewalk. City Manager Schainker responded that was the reason for the requirement.

Council Member Orazem recommended that each business be allowed one sign. Council Member Davis suggested that a Federal Tax ID Number be required from anyone applying for a sign; that would ensure that the applicant truly represents that business. City Attorney Marek recommended that the City's Sidewalk Sign Permit number be listed on the sidewalk sign; that would make it easier for those charged with enforcement.

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

Moved by Goodman, seconded by Larson, to add to the policy that the signs can be in front of any building by any business tenant of that building.

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

PROGRESS REPORT ON CITY ORGANIZATION GOAL OF SUSTAINABILITY (postponed from 9/14/10): Fleet Services Director Paul Hinderaker and City Manager Intern Brian Phillips presented the Progress Report on the City organization's goal to reduce its carbon footprint 15% by 2014.

The meeting recessed at 9:15 p.m. and reconvened at 9:22 p.m.

CITY WEBSITE REDESIGN: Public Relations Officer Susan Gwiasda and Information Technology Manager Stan Davis showed the most-recent options for the new City of Ames website. Ms. Gwiasda said that the 35-member City web master group ("Websters") continues to work with Vision Internet and is on schedule to launch the new website in January 2011.

Ex officio Member Matt England asked for the "Go Green" tab to be green and the "ISU Students" tab be a different color.

Noting that half of Ames' population and 25% of its jobs are the result of Iowa State University being located here, Council Member Orazem asked that "cardinal and gold" be used as much as possible. He also felt that there should be links to Iowa State University. Council Member Larson also asked that links to the Ames Chamber, Convention & Visitors Bureau, and Economic Development Commission be added.

MINOR FINAL PLAT FOR ROSE PRAIRIE SUBDIVISION: Planning and Housing Director Steve Osguthorpe advised that Story County Land, LC, is requesting approval of a Final Plat within the two-mile fringe area for the Rose Prairie property. The developer's intent is to annex the property without the inclusion of the Canterbrooke site. In order to accomplish that, approval

of the Final Plat is required. After annexation into the City, the developer will be required to submit a new Final Plat for Council approval reflecting the desired ultimate build-out of the site.

Mr. Osguthorpe revealed three issues for Council members' consideration:

1. Outlot Designation. In anticipation of the current plat proposal, the City Council approved a waiver of subdivision improvements on May 11, 2010. That waiver allowed the division of the property without requiring the installation of City infrastructure and utilities. The resolution anticipated that the horse stables at Canterbrooke would be within a newly-created lot; it stated that "The remainder of the Story County Land property would become an outlot precluding any development until further subdivision..." Mr. Osguthorpe advised that outlots, by definition, are not developable lots. The designation of an outlot as previously reviewed by the Council is not included on the proposed plat; it is designated as Lot 2, a buildable lot.

According to Mr. Osguthorpe, changing the labeling of the large lot to "Lot 2" rather than an outlot is inconsistent with the waiver that was requested and granted in May. The implication of this change is that the property could be developed without further review and without annexation in any manner allowed under County standards. Per Mr. Osguthorpe, more importantly, the property would then be platted in a manner that does not meet the City's Urban Fringe Plan density requirement. Mr. Osguthorpe advised that, within the Urban Residential area of the Fringe Plan, development shall be at urban densities, i.e., a minimum of 3.75 units per acre. The proposed Lot 2 would have a density of 0.0059 units/acre. Under current County zoning, no new home could be built on the lot as it already has an existing home. In addition, approving the plat with Lot 2 as a buildable lot, rather than an outlot, preserves the possibility of developing the lot in accordance with the previously recorded horizontal property regime should the property not be annexed into the City. It was stated by Director Osguthorpe, that, while the horizontal property regime would technically meet density requirements, the Council might not want to facilitate this type of development with the approval of this plat. It was emphasized that there is no indication that the developer does not intend to request annexation into the City and forgo the horizontal property regime. The developer has signed the Pre-Annexation Agreement, which states that it is his intent to "apply to the City for voluntary annexation and rezoning of [Rose Prairie]."

Mr. Osguthorpe advised that approving the plat without the outlot designation would not be consistent with adopted policy and would not be consistent with how the same issue was addressed on recent plat approvals. Specifically, the outlot designation was required on the Fieldstone plat to allow the splitting off of the farmstead while ensuring compliance with adopted density requirements.

Mr. Osguthorpe advised that a means for addressing the density issue under this current proposal would be to include a notation of the plat stating that Lot 2 must be developed according to City density standards. According to Mr. Osguthorpe, the developer has indicated a willingness to include such a notation.

2. Major Subdivision Requirements. Another change to the proposed subdivision that makes the plat non-compliant with adopted standards is the number of proposed lots. The proposed plat would create five new lots, as follows:

- a. Proposed Lot 1 represents and separates off the Canterbrooke horse stable so that it can avoid annexation along with Rose Prairie. This division was anticipated when the City Council amended the Urban Fringe Plan map to designate Canterbrooke as Priority Transitional Residential last spring.
- b. Proposed Lot 2 is the largest of the lots, comprising the bulk of the Story County Land, LC, property. It is the lot that will support the actual site development, but is also the lot that the resolution approving the waiver stated would become an outlot, precluding any development until further subdivision. The outlot designation is not included in the proposed plat.
- c. Proposed Outlot X is a narrow strip abutting the south side of the Sturges property. This division was anticipated in the pre-annexation agreement signed by the developer and the City this past summer.
- d. Proposed Street Lots A and B were required as a condition of approval by the County. These lots were not anticipated by the City for this current platting process, but will eventually be required when the Rose Prairie development is further platted.

Director Osguthorpe stated that when this proposal was reviewed by staff during sketch plan review, and also when it was reviewed by Council during the request for waiver of infrastructure requirements, the plat included only two lots. It now includes five lots, as described above. The application is for a minor subdivision, but a minor subdivision process is for divisions creating no more than three lots. Accordingly, the five-lot subdivision should be reviewed as a major subdivision.

Reviewing this as a minor subdivision would require that the City Council approve a waiver of major subdivision requirements for this proposal. To grant a waiver, the Council would have to find that the requirement for a major subdivision would result in extraordinary hardship to the applicant or prove inconsistent with the purpose of the regulations because of unusual topography or other conditions. In this case, the unusual condition may be that the County has imposed a requirement for platted lots for the road, which is something that has not previously been required. This creates a hardship for the applicant because of the lateness of this requirement in the process and the fact that there was no precedent by previous County actions to make the applicant aware that this might be required in this instance. In this case, a waiver may be prudent because the two street lots (which trigger major subdivision review) were something that Story County required for purposes of right-of-way designation.

3. Easement Documents. A final issue is that public utility easements are being noted on the plat only; they are not accompanied by the typical grant of easement documents. The bike path/pedestrian easements and utility easements are only being shown for reference only. They will be formally created with all legal documents at the time the Rose Prairie development is platted. The City Attorney has advised that this may be preferable in this case because the easement documents would place some responsibilities on the City, which would not be advisable while the property is outside City limits.

Attorney Chuck Becker, Belin Law Firm, advised that the language pertaining to density requirements had been approved by his client, Story County Land, L.C.. The reason for requesting this Final Plat approval is to ensure that the Canterbrooke property is not included.

Mr. Becker stated that the next step would be voluntary annexation, and the final step will be the rezoning request that will come in after the annexation is final.

Moved by Mahayni, seconded by Davis, to adopt RESOLUTION NO. 10-471 granting a waiver of the Major Subdivision requirements of Section 23.302, thereby allowing the proposed plat to be processed as a minor subdivision, and approve the Final Plat for Rose Prairie subject to the condition that a note be placed on the plat that read, "Lot 2 may only be developed according to the City of Ames density requirements of the Ames Urban Fringe Plan".

Council Member Larson asked if the horizontal property regime would still be allowed if the property were annexed. Mr. Osguthorpe said that the property owners could still move forward with that. City Attorney Marek advised that the horizontal property regime, once filed, is still buildable.

Roll Call Vote: 5-1. Voting aye: Davis, Larson, Mahayni, Orazem, Wacha. Voting nay: Goodman. Resolution declared adopted, signed by the Mayor, and hereby made a portion of these minutes.

HAZARD MITIGATION GRANT FUNDS: Housing Coordinator Vanessa Baker-Latimer said that, as part of the Flood Mitigation Overview report presented to City Council at its September 21 meeting, staff provided information about applying for buy-out funds through the Iowa Homeland Security & Emergency Management Division under its Hazard Mitigation Grant Program (HMGP). At the meeting, Council had directed staff to prepare the Notice of Interest (NOI) for submittal to the State. After additional review of this process, it was determined that further Council direction was needed before the NOI could be submitted. It appears that approximately \$30 million dollars remain available in this program to meet the needs of all cities in the State. HMGP funds will be available for those eligible hazard mitigation project types that will reduce or eliminate losses from future natural disasters.

Ms. Baker-Latimer stated that the inspected commercial properties that received damage from flooding had a value of \$37,795,700; damaged owner-occupied properties equated to \$1,238,600, and damaged rental properties had a value of \$17,461,100. That did not include damaged mobile homes, to which the City assigned a value of \$500,000. The total estimate is \$56,995,400. A listing of damaged properties located inside and outside of the flood plain boundaries was also provided to the City Council.

Ms. Baker-Latimer stated that HUD has informed the City that entitlement monies could be used for the 15% match requirement. She noted that to buy-out all properties, the City would need a match of approximately \$2.1 million. City Manager Schainker noted that if a property is bought-out, it has to be designated and maintained by the City as green space. He emphasized that the buy-outs are completely voluntary; not all property owners will want to participate. Mr. Schainker said that the City Council will need to make decisions on a case-by-case basis.

According to Ms. Baker-Latimer, the state will continue to accept all eligible applications as long as funding is available; however, the City has been encouraged to get its Notice of Interest (NOI) submitted as soon as possible. She noted that there is a limited amount of funding available, and it is very likely that the City will receive less than reflected in its NOI. Another option would be to limit the NOI to only those damaged properties that are situated within the flood plain

boundaries.

Ms. Baker-Latimer advised that owners/renters of mobile homes would be eligible for assistance under this Hazard Mitigation Grant funds.

Council Member Larson pointed out that criteria for evaluation will have to be determined. Council Member Davis asked Housing Coordinator Baker-Latimer to obtain a copy of the criteria used by the City of Cedar Rapids after the Flood of 2008.

Assistant City Manager Bob Kindred noted that the City stands in jeopardy of losing out on the funding if the NOI is not filed in the near future.

Council Member Goodman believes that commercial property on South Duff can be redeveloped and should not be included in this program. He feels it is too valuable to the City's tax base to be turned into green space if it is bought-out. Mr. Goodman recommended that the residential properties be included; that number would total \$17,461,100.

Moved by Wacha, seconded by Mahayni, to direct staff to submit in the NOI a list of the damaged targeted properties in the floodplain boundaries with the addition of demolition costs (estimated at \$800,000).

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

SOUTH FORK SUBDIVISION, 3RD ADDITION: Public Works Director John Joiner stated that the developers of the South Fork Subdivision had contacted staff to discuss a possible modification to a Developer's Agreement that was executed in August 2001. He said that the current Developer's Agreement establishes "triggers" for off-site intersection improvements at two locations along Lincoln Way; (1) left-turn lanes at Franklin Avenue and (2) left-turn lanes and a traffic signal at Dotson Drive. At each location, the developer is ultimately responsible for 50% of the actual cost of construction only. The developer has been required to provide security to the City for the completion of the intersection work at Franklin and Lincoln Way as a condition of approval of the Final Plat for Phase 2. Since the Final Plat was approved by the City, the developer has been required to provide a Letter of Credit securing its promise to complete the intersection improvements.

City Manager Schainker stated that the existing Letter of Credit (LOC) in the amount of \$350,000 is due to expire early in October 2010, and neither the bank nor the developers wish to renew it. The developers are proposing an amendment to the Developer's Agreement that would not require the security to be required until any development occurs east of Dotson Drive. Since the developer has no intention to build in this area in the foreseeable future, a modification of the agreement would save the developer the additional cost of providing a Letter of Credit.

Director Joiner advised that an updated traffic study was conducted by Bolton & Mark, Inc., to assess the current state of traffic operations in and around the Subdivision. The study confirmed that the current Level of Service (LOS) at the Lincoln Way and Franklin Avenue intersection is C or better for all periods of the day. The study did indicate that it is possible within the next 25 years (by 2034) that a reduced level of service will require the construction of intersection improvements even if there is no further development east of Dotson.

According to Mr. Joiner, the developer has offered to grant the City a security interest in two undeveloped parcels instead of renewing the Letter of Credit. In order to accomplish this, additional time is needed to make sure that there is sufficient unencumbered value in this property to provide sufficient security for the City. Council Member Davis asked to know the value of the parcels. City Attorney Marek advised that the outlot on the west side has an assessed value of approximately \$175,000-180,000. He received the appraisal on the land late today and has not reviewed it in detail, but it does place a much higher value on it.

Council Members Goodman and Larson expressed concern that the City would not have as liquid of security, i.e., LOC versus land, if the level of traffic increased dramatically. Council Member Mahayni said that it is possible to forecast increased traffic flow a couple years before it actually happens. Council Member Larson preferred that there be a way to make the security more liquid prior to starting any street reconstruction.

City Manager Schainker said that it is not advisable to do away with any form of security related to the promise to share in the cost of intersection improvements at Lincoln Way and Franklin. Because the improvements at this intersection are now projected to be required much later than first anticipated, it seems impractical to require the developer to secure a Letter of Credit for the next 25 years. Mr. Schainker noted that this is a unique circumstance. Council Member Orazem noted that the value of the land could exceed the value of the Letter of Credit. City Attorney Marek stated that the anticipated price of the intersection improvements has increased during the time the City has been holding the present security, and it probably will continue to increase. It is unknown if the property value will increase at the same pace.

Moved by Wacha, seconded by Goodman, to direct staff to keep the current Developer's Agreement in place, but to accept security in a form other than the current Letter of Credit; and to require the developer to extend the existing Letter of Credit for an additional one or two months to allow staff time to determine if giving the City a security interest in two undeveloped parcels is viable.

City Manager Schainker pointed out that there was still a lot of work to be done by the staff to get this accomplished: the LOC has to be extended for two months, the value of the land needs to be determined, and then the staff needs to bring it back to Council for approval.

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

EMERGENCY REPAIRS OF FUEL LINE AT ELECTRIC GAS TURBINE SITE ON EDISON STREET: Assistant Electric Services Director Brian Trower advised that a citizen traversing the Skunk River during the weekend of September 18, 2010, had reported to the City that there was oil leaking into the Skunk River. Staff immediately investigated and discovered that the leak was from the fuel line that runs from the pump house to the Gas Turbine #1 (GT-1). The fuel leak poses a significant environment risk to the Skunk River and must be repaired immediately. Mr. Trower explained the remediation efforts being made by the City.

Mr. Trower said that Fox Engineering was asked to evaluate the situation. The site was inspected, and Fox Engineering issued a certificate stating that emergency repairs were necessary and the delay of advertising and public hearing might cause serious loss or injury to the City. Excavation and clean-up contractors have been providing emergency containment and soil clean-up services.

The fuel line from the pump house to the GT-1 needs to be repaired or replaced, and Fox Engineering is preparing specifications for the repair or replacement of the fuel line.

Council Member Davis asked what the informal quotes indicated as far as the cost of the repairs/replacement. Mr. Trower said the estimated cost is approximately \$500,000 (with a 10% contingency). Moving the 14" water main out of the site and rerouting it is approximately \$240,000 of that amount. Donald Kom, Director of Electric Services, said the fuel line has been removed.

Moved by Mahayni, seconded by Wacha, to adopt RESOLUTION NO.10-472 authorizing emergency repairs.

Council Member Orazem asked if the City's insurance covered any of the costs associated with the fuel line. Mr. Kom said it does not. He also noted that the City wants to protect the environment and is doing everything possible to keep the oil out of the Skunk River. Mr. Trower said that the City has been in frequent contact with the Iowa Department of Natural Resource's Field Office Inspector.

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 Wacha, to adopt RESOLUTION NO. 10-473 authorizing staff to solicit informal quotes and enter into contracts as necessary to repair/replace the GT-1 Fuel Line and containment and clean-up services, as required.

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

HEARING ON ZONING TEXT AMENDMENT RELATED TO SCREENING OF MECHANICAL UNITS: Mayor Campbell opened the public hearing. She closed same after no one requested to speak.

Moved by Mahayni, seconded by Wacha, to pass on first reading an ordinance making a text amendment related to screening of mechanical units.

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

HEARING REZONING PROPERTY LOCATED AT 1025 ADAMS STREET: Director Osguthorpe explained that the City received the property at 1013 Adams Street as part of a bequest from the Mary Adams Estate. The total land area is slightly less than five acres. The City intends to retain approximately three acres of the land as a public greenway; it would be rezoned from Residential Low Density to Government/Airport. A Final Plat for the property (Mary Adams Subdivision) is being processed concurrently with this proposed rezoning. Proposed Lot 1 includes approximately two acres and will be addressed as 1013 Adams Street. That parcel, via Council direction, will be sold for use as a private residence. Proposed Lot 2 includes 2.97 acres and will be addressed as 1025 Adams Street; it will remain under City ownership. Along with those items is the adoption of design criteria that would be applicable to the site. Those criteria were prepared by Thomas Leslie and tried to retain the open character of the site.

The Ames Historical Society has separately submitted an application requesting that the City

designate the entire property as a Local Historic Landmark by establishing the Historic Preservation Zoning Overlay on the property.

Council Member Wacha asked for the background as to the agreement that was entered into by the City pertaining to the bequest of the land to the City. City Attorney Marek explained that the property was bequeathed to the City in 2006. It granted the entire five-acre parcel to the City and contained language to the effect that it was the desire of Mary Adams that, because of the unique architectural features and historical background of the residence, it be maintained in its current form. The City accepted the bequest, did a structural engineering study of the home, and found that it would be very difficult to convert it to public use. Council then directed staff to go back to Probate Court and ask for a Changed Condition of the Trust so that it could sever and sell for private use the residence while preserving the appearance of it; that was approved. The City now holds all of the property as Trustee. The terms of the Trust have been modified to allow private ownership of the residence as long as the appearance is maintained. Mr. Marek said that the City could have not accepted the bequest. It also could have razed the residence; it was the desire of Mary Adams that it be preserved, but it was not a condition of acceptance.

Council Member Orazem asked if all alterations and additions had to adhere to certain requirements or design standards. Mr. Marek advised that the proposed design standards had been submitted to the court as part of the proposal for the way that the property would be preserved. Mr. Orazem asked if the purchaser of the property would be allowed to plant a garden in the back of the property. According to Mr. Marek, they could and could make modifications to the home as long as they conformed to the design guidelines.

Council Member Davis asked if the house had been vacant since 2006. City Manager Schainker said it had, and the City had been minimally maintaining it. Mr. Davis asked if additional work would have to be done on the residence before it could be sold. Parks and Recreation Director Nancy Carroll said that it would be sold as-is. Mr. Schainker said that the City has already incurred expenses; those amounts will be taken off the sale price, and the net proceeds, per Council direction, will be given to the Ames Historical Society. City Attorney Marek noted that the property would be sold with restrictive covenants in place that would provide that it be maintained as a single-family owner-occupied dwelling.

The public hearing was opened by the Mayor. Gloria Betcher, 531 Hayward Avenue, Ames, spoke as the Chairperson of the City's Historic Preservation Commission. She stated that the Historic Preservation Commission supports the division of the property as long as the Historic Overlay is over both lots. No one else came forward to speak, and the Mayor closed the hearing.

Moved by Goodman, seconded by Mahayni, to pass on first reading an ordinance rezoning property located at 1025 Adams Street from Residential Low Density (RL) to Government/Airport (S-GA).

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

HEARING ON REZONING PROPERTY LOCATED AT 1013 AND 1025 ADAMS STREET TO ESTABLISH THE HISTORIC PRESERVATION OVERLAY DISTRICT AND DESIGNATE THE PROPERTY AS A LOCAL HISTORIC LANDMARK: The Mayor opened the public hearing.

Gloria Betcher noted that the Ames Historic Preservation Commission had been involved in this process since 2005. The Ames Historical Society has submitted an application requesting that the City designate the entire property as a Local Historic Landmark by the establishing the O-H (Historic Preservation Zoning Overlay) on the property. If designated as such, the property would not be allowed to be demolished without extreme extenuating circumstances. Ms. Betcher pointed out that, because of the design guidelines, whoever purchases the property will be held to maintaining and making changes according to those standards and the criteria of the Overlay. Again, the Preservation Commission desires that the City place the Overlay designation over both of the sites and the City not build up the greenspace in ways that obstruct the view from the front of the house because that is part of the historic nature of the property on a prairie setting.

No others asked to speak, and the Mayor closed the hearing.

Council Member Wacha asked if there were any other examples of applying an Historic Overlay on just land in Ames or elsewhere. Ms. Betcher advised that there are not very many local landmarks in Ames. Bandshell Park is a National Register District, but not a Local District; there is an overlay on Bandshell, but it is not the same kind that would be on the Adams property. She stated that, in this situation, the land may not be severed from the house in terms of figuring out what the historic property is because when the proposal went to the state, the state looked at the property as a whole. Over the past four years, dividing the property has occurred. The design guidelines, criteria, and original proposal for the landmark were for the entire property, not two parcels.

Planner Anderson said that there are two items in the design criteria that address the landscape: one refers to the open site being essential to the property's landmark status and the other one addresses the shrubs around the house and states that the day lighting of the central rooms is key to the house's aesthetic concept and should be preserved.

Council Member Orazem said it was his interpretation when he reads the criteria that no alterations may be made to the house, including the landscaping. Ms. Betcher said that alterations may only be made that are within the design guidelines. Mr. Orazem said that friends of his were interested in the house, but found that the restrictions were so onerous that they felt they could not live there. Ms. Betcher said that whoever buys the house will be buying a local landmark, and as such, there will be restrictions on any changes on or to the property. Mr. Orazem asked how many people or agencies would have to approve the planting of trees on the property. Ms. Betcher said the purchasers would not be able to plant trees for privacy in the front of the property. They may be able to plant trees on the other side of the house. According to Ms. Betcher, Frank Lloyd Wright is known for the type of integrated design principle present in the Adams house. Mr. Orazem pointed out that Frank Lloyd Wright was not the designer of the house. Ms. Betcher acknowledged that fact; Burt Adams designed the house based on Frank Lloyd Wright's principles. Council Member Davis noted that the trending is there that allows for landscaping to be added. Ms. Betcher said that if the property were to be restored to its original date of significance, i.e., 1948 - 1958, the trees would not have been there. The trees would not have to be cut down, but it is not known if they could be replaced if something happened to them.

Council Member Wacha said he had a philosophical objection to this. Rezoning the property preserves a lot of the request since most of the land will be parkland and won't be built upon. He said he didn't think the City should have accepted the house; he sees it as a liability. Mr. Wacha does not like the City getting into this type of agreement. He noted that the Adams's built a

beautiful home, appreciated nature, and wanted to keep it exactly as it was so they bequeathed it to the City. Council Member Wacha said he did not like using zoning codes to state that the City will not allow a certain parcel to be changed because it was the owners' original wish. Council Member Goodman disagreed and said there were people who chose to value the site as an historic piece of the community. It was the perspective of the Ames Historic Preservation Commission that this site has value to the community, and the City Council, at that time, agreed. Council Member Wacha said that it did not make sense to him to put such restrictions on a home that the City is attempting to sell.

Council Member Orazem does not believe there will be willing buyers to basically be the "caretakers" of the property in question, but not be able to even plant a garden or a tree. Council Member Mahayni expressed his concerns over the design criteria as it is mostly focused on the house and not on the rest of the site. Mr. Orazem also raised the issue of enforcement of the covenants.

Moved by Mahayni, seconded by Goodman, to defer action on the rezoning pertaining to the historic overlay until staff comes back with design criteria for the landmark.

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

HEARING ON AMENDMENT TO SECTION 31.13 OF MUNICIPAL CODE ESTABLISHING DESIGN CRITERIA FOR LOCAL HISTORIC LANDMARK FOR PROPERTY LOCATED AT 113 AND 1025 ADAMS STREET: The hearing was opened by Mayor Campbell. The Mayor closed the hearing as no one else asked to speak on this topic.

Moved by Mahayni, seconded by Goodman, to refer this item back to staff to look at the design criteria for the landmark designation, particularly as it pertains to landscaping of an historic landmark and the site, as a whole.

Council Member Orazem noted that, according to the staff report, no changes may be made to the house or the land. He recommended that "Attachment H" be very specific as to which changes will require approval and who will have to approve of the changes.

Council Member Mahayni suggested that the staff contact Bob Harvey, who is an expert on historic landscaping, to assist them with the design criteria.

Roll Call Vote:5-1. Voting aye: Davis, Goodman, Larson, Mahayni, Orazem. Voting nay: Wacha. Motion declared carried unanimously.

HEARING ON PRECIPITATOR WIRE REPLACEMENT FOR ELECTRIC SERVICES: The public hearing was opened by Mayor Campbell. She closed same after no one came forward to speak.

Moved by Davis, seconded by Mahayni, to adopt RESOLUTION NO. 10-474 approving final plans and specifications and awarding a contract to USCC, Inc., of Elizabethton, Tennessee, in the amount of \$60,000, plus applicable sales taxes.

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

HEARING ON 2010/11 ARTERIAL STREET PAVEMENT IMPROVEMENTS, (DUFF AVENUE FROM LINCOLN WAY TO 7TH STREET): Mayor Campbell opened the public hearing. There was no one who asked to speak, and the Mayor closed the hearing.

Moved by Goodman, seconded by Wacha, to adopt RESOLUTION NO. 10-475 approving final plans and specifications and awarding a contract to Manatt's, Inc., of Ames, Iowa, in the amount of \$601,858.19, subject to IDOT concurrence.

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

ORDINANCE PERTAINING TO MUNICIPAL CODE CHAPTER 5 AND ENACTING SIGN REGULATIONS AS SEPARATE CHAPTER 21: Moved by Goodman, seconded by Mahayni, to pass on third reading and adopt ORDINANCE NO. 4044 pertaining to the 2009 International Building Code with local amendments (*Municipal Code Chapter 5*) and enacting sign regulations as a separate Chapter 21.

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

ORDINANCE PERTAINING TO MUNICIPAL CODE CHAPTER 8: Moved by Goodman, seconded by Mahayni, to pass on third reading and adopt ORDINANCE NO. 4045 adopting the 2009 International Fire Code with local amendments (*Municipal Code Chapter 8*).

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

OUTDOOR LIGHTING ORDINANCE: Moved by Goodman, seconded by Mahayni, to pass on third reading and adopt ORDINANCE NO. 4046 making a text amendment related to the glare zone of outdoor lighting.

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

ORDINANCE CONCERNING GOVERNING OF PUBLIC LIBRARY AND CLARIFYING PROCEDURES FOR REMOVAL OF LIBRARY EMPLOYEES: Moved by Goodman, seconded by Davis, to pass on third reading and adopt ORDINANCE NO. 4047 concerning governing of the public library and clarifying procedures for removal of library employees.

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

COUNCIL COMMENTS: Moved by Orazem, seconded by Mahayni, to direct staff to extend again the offer to the Ames High School to open up the parking lot at the Furman Aquatic Center to alleviate parking congestion around the High School during sporting and other events due to complaints of residents living near there.

City Manager Schainker noted that the City had already made the offer to the Ames High School, and Athletic Department administrators stated that they were not wanting to pursue that option at this time. He believes that staff has done all it can at this point. Parks and Recreation Director Nancy Carroll advised that she had not asked to know the Athletic Department's rationale; they just stated they didn't want to pursue that at this time. Council Member Goodman offered his opinion that the path between the High School and the Aquatics Center is not well lit, the parking

lot is a good distance from the School, and he can see reasons why they might not think it was a good option.

Motion withdrawn.

Moved by Orazem, seconded by Larson, to refer to staff the request of Fieldstone developers for a change in designation pertaining to the 35-acre parcel, directing specifically that staff provide a report back to the Council.

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

Council Member Goodman said that he had forwarded an email to the Mayor and other City Council members earlier this evening from Erv Klaas. Mr. Klaas has been working with the City Attorney on creating a Group 501c3 for the Friends of Ada Hayden. Mr. Goodman said that he would refer this item during Council Comments at tomorrow's meeting, which would give the Mayor and Council members an opportunity to review it and call the City Attorney with any questions.

Moved by Wacha, seconded by Mahayni, to refer to staff the request from the Richmond Center for forgiveness of its \$25,000 forgivable emergency loan..

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

City Attorney Marek noted that the Mayor had distributed a memo from Assistant City Attorney Kristine Stone pertaining to Rental Housing Code inquiries.

Moved by Mahayni, seconded by Davis, to refer to staff the request of Chuck Winkleblack.

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

Moved by Mahayni, seconded by Davis, to refer to staff the request of property owners on Woodview Drive that the City install water and sanitary sewer to serve them; the costs to be paid for through assessments to all benefitted properties.

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

Moved by Mahayni, seconded by Goodman, to refer to staff the letter from Pi Kappa Alpha Union regarding the Hazard Mitigation Grant Program.

Vote on Motion: 6-0. Motion declared

ADJOURNMENT: Moved by Davis to adjourn the meeting at 12:02 a.m. on September 29, 2010.

Diane R. Voss, City Clerk

Ann H. Campbell, Mayor