

MINUTES OF THE REGULAR MEETING OF THE AMES CITY COUNCIL

AMES, IOWA

OCTOBER 26, 2010

The regular meeting of the Ames City Council was called to order by Mayor Campbell at 7:00 p.m. on October 26, 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.

PRESENTATION: Dudley Lockett, President of the Board of Trustees of the Ames Public Library, introduced Trustees Al Campbell and Sherry Bradley; Art Weeks, Library Director; Lynn Carey, Assistant Library Director; and Jane Acker, a member of the Ames Library Foundation Board of Trustees.

Mr. Lockett stated that his purpose at this meeting was to bring the Mayor and City Council members up-to-date with respect to the proposed expansion of the Library. He advised that two surveys of the citizens of Ames had been conducted. The information gleaned from the surveys will be sent to the architect as well as a listing of the deficiencies at the Library and the Board's prioritization of its desired improvements. Mr. Lockett listed the identified needs as: expanding the children's section, increasing energy efficiency, more room for books and materials, increasing computer/technology access, and adding to the teen area.

Mr. Weeks detailed the results of surveying 400 registered Ames voters.. He emphasized that there are approximately 425,000 to 450,000 users of the library annually. The survey revealed potential support by 64% of the respondents for a \$15 million bond vote once issues are known. Sixty-nine percent (69%) indicated potential support after hearing that their personal cost would be \$2.29/\$100,000 assessed property value. Sixty-nine percent (69%) said that commitment of donors was important for their support of the vote. Thirty-eight percent (38%) indicated that they would be willing to donate as well as vote yes for a bond issue. According to Mr. Weeks, the total project cost that appears to have the support of the public is approximately \$20 million. Fifteen million (\$15,000,000) would come from a bond issue, \$4 million would be from private fund-raising, and \$1 million would come from anticipated public/private grants.

Director Weeks emphasized that timeliness is an issue; the vote should be in 2011. He informed the City Council about the next steps to be taken. Mr. Lockett advised that they will be getting feedback from the architect as to what improvements should be done to best address the identified needs.

CONSENT AGENDA: Moved by Mahayni, seconded by Wacha, to approve the following items on the Consent Agenda:

1. Motion approving payment of claims
2. Motion approving minutes of Regular Meeting of October 12, 2010
3. Motion approving Report of Contract Change Orders for October 1-15, 2010
4. Motion approving renewal of the following beer permits, wine permits, and liquor licenses:
 - a. Class C Beer & B Wine – Wheatsfield Grocery, 413 Northwestern Avenue, Ste. 105
 - b. Class C Liquor & Outdoor Service – Thumbs, 2816 West Street
5. RESOLUTION NO. 10-516 approving closure of South 16th Street from Fountain View Drive to Golden Aspen Drive on Wednesday, October 27, from 8:00 to 11:00 p.m. for reality television show
6. RESOLUTION NO. 10-500 approving appointments of Victoria Feilmeyer and Jason Schaben to fill vacancies on Parks and Recreation Commission

7. RESOLUTION NO. 10-501 approving Quarterly Investment Report for period ending September 30, 2010
 8. RESOLUTION NO. 10-502 approving Memorandum and Agreement of Use with Story County and Ames City Assessor for data transmission
 9. RESOLUTION NO. 10-503 awarding Engineering Services Agreement to Veenstra & Kimm, Inc., of West Des Moines, Iowa, in an amount not to exceed \$72,500 for 2010/11 Collector Street Pavement Improvements (Storm Street from Ash Avenue to Hayward Avenue)
 10. RESOLUTION NO. 10-504 awarding Engineering Services Agreement to WHKS & Co., of Mason City, Iowa, in an amount not to exceed \$54,800 for 2010/11 Arterial Street Pavement Improvements (6th Street from Grand Avenue to Northwestern Avenue)
 11. RESOLUTION NO. 10-505 awarding contract to Central States Group of Cedar Rapids, Iowa, for Power Plant High Pressure Sluice Pump in the amount of \$60,015.88
 12. RESOLUTION NO. 10-506 approving amendment of T-Mobile cell tower lease agreement at Homewood Golf Course
 13. RESOLUTION NO. 10-507 accepting completion of Shared-Use Path System Expansion (Christopher Gartner Park to Ames Middle School)
 14. RESOLUTION NO. 10-508 accepting completion of 2009/10 Water Treatment Plant Lime Sludge Disposal Operations
- Roll Call Vote: 6-0. Resolutions declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

PUBLIC FORUM: Susie Petra, 2011 Duff Avenue, Ames, spoke about payday lending institutions. She believes those institutions use “predatory lending” practices. Ms. Petra noted that Ames has seven payday loan establishments all located within a few blocks of the Human Services Building. According to Ms. Petra, in Iowa, the average Annual Percentage Rate (APR) for a payday loan is approximately 400%. She stated that payday lending is a debt trap and perpetuates desperation. Often, in order to pay off the loan, an additional payday loan is necessary; 90 to 98% of all payday loans are for repeat borrowers. Ms. Petra reported that a \$300 payday loan will cost “a desperate Ames resident” \$800. She said other cities have taken steps to address payday lending institutions and asked the City to take similar action. According to Ms. Petra, payday lending impacts the stability of families, neighborhoods, and businesses.

Matthew Covington, Iowa Citizens for Community Improvement (ICCI), 2005 Forest Avenue, Des Moines, Iowa, distributed information on what has been done in the Des Moines Metro area and what can be done at the city level to address payday lending. He advised that Des Moines approached the issue by instituting zoning regulations.

Jan Flora, 1902 George Allen Avenue, Ames, Co-Chair of A Mid-Iowa Organizing Strategy (AMOS) Economic Justice Team, also indicated his concern over payday lenders. He said that AMOS representatives have lobbied legislators for the last three years in an attempt to get a reduction in the amount of interest that can be charged; however, they have been unsuccessful, Mr. Flora urged the Council to look for local solutions. He noted that there were only seven such institutions in the entire state of Iowa in 1995; there were 204 in 2005, and he suspects that there are many more at this time.

Sue Ravenscroft, 455 Westwood, Ames, thanked Director Weeks and the Library Board of Trustees for coming up with a new proposal for the library expansion. She requested that the bond referendum be held when the majority of Ames residents are in town; specifically, not in August.

Jean Prestemon, 4606 Dover Drive, Ames, also speaking about payday lending, stated that Iowa legislature, over the past three years, has failed to place reasonable limits on the interest rate for such loans. According to Ms. Prestemon, payday loans trap consumers in a cycle of debt. There are now more payday lending establishments than McDonald's in the United States. Ms. Prestemon advised that 15 states and Washington, D.C., have banned payday loans.

CLASS C BEER & B WINE PERMIT FOR HY-VEE GAS, #5018: Moved by Mahayni, seconded by Davis, to approve a new Class C Beer & B Wine Permit for Hy-Vee Gas #5018, 636 Lincoln Way.

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

5-DAY LIQUOR LICENSES FOR OLDE MAIN BREWING CO.: Moved by Larson, seconded by Davis, to approve a 5-Day (November 6 - 10) 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 (November 20 - 24) 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.

PETITION FOR ANNEXATION BY CITY OF NEVADA WITHIN AMES' URBANIZED AREA: City Manager Steve Schainker stated that on October 14, 2010, the City received notice of a public hearing for a voluntary annexation of property into the City of Nevada immediately west of the ethanol plant along the north side of Lincoln Way. He said it has been learned that there is an industrial company that has approached the City of Nevada seeking annexation and incentives to locate there. Mr. Schainker emphasized that Ames and Nevada have not reached an agreement on how the two cities will physically develop together.

Mr. Schainker noted that the City of Nevada has utilized an innovative technique to expand its industrial land area to the west towards Ames. A "flag lot" was created using Lincoln Way right-of-way to extend the Nevada city limits west to the ethanol plant. He noted that what makes this latest annexation so unique is that it represents the first time that Nevada has attempted to annex property within the City of Ames "urbanized area" (two-mile urban fringe). Mr. Schainker cautioned that continued annexation of land west of the current Nevada city boundaries will limit Ames' ability in the future to create more developable industrial land and accompanying jobs. In addition, as the Nevada city limits move farther to the west, Nevada's control over subdivisions within Ames' Fringe Area increases.

City Manager Schainker noted that Ames' current Land Use Policy Plan reflects an Industrial Reserve for property to the east of its current city limits. However, the amount of land envisioned for industrial purposes was based on past absorption rates and a 25-year planning horizon. It was never contemplated that the City of Nevada would extend its city limits to the very edge of that reserve area. Since that is now a possibility, Mr. Schainker believes it is critical that Ames expand its reserve farther to the east, to at least to 590th Street. He noted that Ames has no guarantee that no further expansion of the Nevada city limits will occur west of the proposed annexed property, so the City of Ames must become more assertive in order to protect the availability of industrial land to the east beyond a 25-year planning horizon. This proactive approach is critical to preserve land for the future economic viability of the City of Ames. Mr.

Schainker urged the Council members to focus their attention on this annexation request, as it will impact the City of Ames for perhaps as long as the City is in existence.

Mr. Schainker offered two options, as follows:

1. The City Council can decide to take action to prevent this annexation to occur. This action could include objecting to the proposed annexation at the November 8th public hearing before the Nevada City Council and at the subsequent hearing before the State's City Development Board. Or, the City Council could decide to initiate involuntary annexation of this same property through a "flag lot" strategy.

The City of Ames could challenge the use of a right-of-way "flag lot" to extend Nevada's industrial area to the west rather than expanding into land currently adjacent to its city limits before the City Development Board and in the courts, if necessary. While there is no assurance that Ames would prevail in its efforts to prevent this annexation, its actions would certainly delay any final action on the annexation request.

2. The City Council can decide to refrain from more aggressive tactics outlined in Option 1 and choose to not object to this first intrusion into Ames' two-mile fringe area. This option might be advisable if the Nevada City Council takes action to establish an "annexing moratorium" as provided for in Chapter 368.4 of the *Iowa Code*.
3. The City Council can decide to not object to this first intrusion into its two-mile fringe area and hope that the Nevada City Council will not implement a growth strategy that would further extend its city limits west into the area currently designated as the City of Ames' Industrial Reserve.

City Manager Schainker advised that, in recent conversations with the Mayor and City Manager from Nevada, it appears that they are sincerely interested in resolving this issue in a cooperative manner. However, a request from an interested industrial prospect has forced them to consider annexation further to the west prior to a time when the two cities could resolve this issue through mutually acceptable planning efforts. According to Mr. Schainker, Nevada's engineering consultants have explored the feasibility of annexing up to the City of Ames' current Industrial Reserve; however, those two officials have indicated that they would be willing to support a commitment by the City of Nevada not to annex west of 590th Street. The obvious questions arising out of these discussions would be: (1) how can this commitment be formalized and 2) when should this commitment be finalized.

Mr. Schainker stated that the City Attorney had found a section in the *Iowa Code* that provides the type of legal remedy needed to protect the interests of the Ames community. He noted that Section 368.4 outlines a procedure that would result in an annexation moratorium in an area defined and mutually agreed upon by two cities. According to the *Iowa Code*, this moratorium would initially be for a period of not more than ten years, but could be renewed for subsequent ten-year terms. Mr. Schainker believes that, because of the ten-year limit in enforceability, that arrangement would not provide the City of Ames with continuing protection from intrusion into its urban service area. The moratorium would need to be renewed every ten years or more aggressive means will need to be adopted to protect Ames' ability to expand its industrial growth area in the future. City Manager Schainker reported that, assuming that officials from both cities would prefer to work cooperatively to address Ames' concern for Nevada's westward expansion

to accommodate a new industry in their community, Option 2 appears to be the best alternative. However, in order to avoid the less desirable approach suggested in Option 1, it is important that the Nevada City Council pass an annexation moratorium for the area prior to the public hearing before the City Development Board. Mr. Schainker explained that, if the City Council chooses to support this approach, staff would share that with Nevada city officials to determine their willingness to pass an annexation moratorium. Their willingness to cooperate with such a moratorium would influence the City of Ames' position at the various public hearings.

It was reported by City Attorney Marek that a public hearing would be held before the Nevada City Council on November 8. Since Nevada would be encroaching into Ames' urban service territory, a hearing before the City Development Board must also be held. City officials may provide input at those hearings. If the moratorium was approved by the City of Nevada prior to the hearing before the City Development Board, Mr. Schainker said he did not see any reason for Ames representatives to appear at the hearing.

Mr. Goodman noted that Ames tries to be efficient with its land use and annex adjacent lands to save taxpayers long-term costs, instead of leap-frogging. He expressed his opinion that a moratorium of ten years was not a long enough commitment. Mr. Goodman asked for more information on the hearing process. City Attorney Doug Marek advised that City of Ames' officials would have the opportunity to object at the hearing before the Nevada City Council. Assuming that the voluntary annexation is approved by the Nevada City Council, it would then have to go before the City Development Board. Mr. Marek listed potential criteria that would have to be met before it would be approved by the state and described actions that could be taken by the City of Ames.

Council Member Mahayni said he did not want the City of Ames to fight with Nevada. He noted that the decision will be made by the City Development Board and possibly the court system; it could go either way. If a moratorium could be agreed to, it would be a strategy to buy some time to finalize Ames industrial park. He emphasized that governments have to start acting and working together.

City Attorney Marek described the notification process necessary to institute the annexation moratorium. He said that it is entirely possible that the annexation will go before the City Development Board prior to the establishment of the moratorium and suggested that the City of Ames also ask the City of Nevada to slow down the annexation process so that the moratorium can be enacted and in effect before it goes before the City Development Board.

Moved by Larson, seconded by Mahayni, to direct staff to refrain from aggressive tactics and choose not to object to the proposed annexation in question, but request that the Nevada City Council take action to establish an "annexing moratorium" as provided for in Chapter 368.4 of the *Iowa Code* prior to the City Development hearing; and that staff also ask the City of Nevada to slow down the annexation process so that the moratorium can be enacted and in effect before it goes before the City Development Board.

Council Member Wacha stated his preference that Ames extend its industrial reserve area up to the moratorium boundary (to 590th). Planning and Housing Director Osguthorpe suggested that staff study that possibility further to see if there were implications to extending it at this time.

Council Member Orazem said that it doesn't have to be an "us versus them" proposition. He emphasized that the area is all part of the same labor market, and current employment levels are below where they were in 2000. Opportunities in Story County are opportunities for everyone in Story County. Mr. Orazem said that it was absolutely crucial that Ames plan for industrial expansion if it is going to maintain the incomes that are needed for the population that it has. He believed that will require that Ames have cooperative ventures with all of its neighboring cities and said that he is not as concerned about the particular enterprise in question as he is that there have been so few enterprises brought forth during the past few years.

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

GRAND ASPEN SUBDIVISION, 4TH ADDITION: City Manager Schainker stated that the Randall Corporation has made application to further subdivide the Grand Aspen Subdivision. The Subdivision relies on access to an existing private driveway that serves the Coldwater Golf Course, which does not satisfy the City subdivision requirement as a public right-of-way. According to Mr. Schainker, the Developer's Agreement between the City and Randall Corporation has been negotiated many times in order to facilitate the development of property on both sides of the private driveway; however, through the many revisions, the ultimate cost to each party has remained as originally proposed. Mr. Schainker noted that the City Council, at its September 14, 2010, meeting, had directed staff to work with the Randall Corporation to develop an agreement that would facilitate their request.

Mr. Schainker noted that there currently is a provision in the existing Developer's Agreement that does not require the City to accept ownership of the right-of-way for the proposed extension of Grand Avenue south through Coldwater Golf Course and Grand Aspen Subdivision on S. 16th Street until the City has secured federal financing to build the project. Until that occurs, a "negative easement" exists whereby the developer cannot construct any building or improvement on the easement area and no public road will be built. The developer is requesting that the City consider accepting the road right-of-way and paving the section of the proposed Grand Avenue extension adjacent to Grand Aspen and the Aspen Ridge Subdivisions as soon as possible. In order to facilitate that, a new Developer's Agreement has been created; it has been signed by the developers.

City Manager Schainker noted that if the revised Developer's Agreement is approved by the City Council, it would require the City to pave a portion of Grand Avenue adjacent to the Subdivision beginning next May. The developer will be responsible to begin the paving of the fourth lane on the south side of S. 16th Street west of the Golf Course entry road by May 1, 2011. If that is not done, Occupancy Permits will not be issued for any development on the lot. The Agreement does give the developer "an out:" if for some reason the developer is not able to proceed with the project by March 1, 2011, the developer will not be required to construct that portion of the arterial.

City Manager Schainker listed the obligations of the City under the Agreement. If, by March 1, 2011, the project does proceed, the City would be obligated to pave a section of the proposed Grand Avenue extension. As that would be an unbudgeted expense for the City, Mr. Schainker recommended that it be paid for from previously issued bonds.

Planning and Housing Director Osguthorpe explained the request of the developers for a waiver of subdivision requirements for public improvements and for approval of a Minor Final Plat for Grand Aspen Subdivision, 4th Addition, which were being processed concurrently with the revision to the Developer's Agreement. He stated that if the City Council concludes that the requirements for public improvements are adequately addressed in the Developer's Agreement and that the public interest will be secured, the City Council could approve the request for the waiver.

Moved by Mahayni, seconded by Goodman, to adopt RESOLUTION NO. 10-509 approving the Developer's Agreement for Grand Aspen Subdivision, 4th Addition.

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

Moved by Mahayni, seconded by Goodman, to adopt RESOLUTION NO. 10-510 approving the request to waive the requirement for improvements on Grand Avenue.

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

Moved by Mahayni, seconded by Goodman, to adopt RESOLUTION NO. 10-511 approving the Minor Final Plat.

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

FIELDSTONE DEVELOPMENT: Planning and Housing Director Osguthorpe and City Planner Charlie Kuester provided a chronological history behind the Fieldstone Development, specifically detailing what actions had been taken by the City Council to date. Mr. Kuester noted that Kurt Friedrich, developer, was now requesting that the City Council remove the "no build" restriction on the remaining 35-acre parcel that had originally been agreed to in April 2010. He detailed the analysis that had been done by Planning staff pertaining to that request.

Ken Janssen, land surveyor with CGA Consultants, Ames, indicated that he was representing the developers. He showed a map noting the separation between agricultural uses and natural areas that would be preserved in the future. Mr. Janssen suggested that there is approximately eight and one-half acres that could be used for up to three buildable lots. He requested that the City Council direct City staff to re-draw the line to better distinguish the boundaries of the natural areas.

Developer Kurt Friedrich, 100 Sixth Street, Ames, pointed out that the market is much more difficult and developers have to work harder to get sales. He acknowledged that the developers had agreed to the no-build restriction on the 35-acre parcel; however, circumstances have changed significantly since April 2010. The reason that staff recommended that the no-built restriction be placed was because approximately three acres of the 35-acres was located within the Urban Services area.

Mr. Friedrich noted that all owners of the one to three lots would be required to sign covenants as to annexation. Again, he stressed that the developers have an excellent potential buyer, who may want to someday further subdivide the 35-acre parcel for additional homes.

A letter from the prospective buyers, Darren and Marsha Dies, was distributed to the Mayor and City Council.

Mr. Friedrich advised that the developers are working towards the ultimate goal of annexing land to the north. He noted that they are working with another client who owns 80 acres adjacent to the land in question. That owner is discussing future acquisition and subsequent annexation of her property.

Attorney Frank Feilmeyer, 323 Sixth Street, Ames, also representing the developers, refuted staff's allegation that this type of rural, low-density development could lead to a situation where a rural community with substandard urban infrastructure had developed with no interest in annexing into the City. He noted that the potential owners are willing to sign the covenants pertaining to annexation, agreement for infrastructure assessment, and buy-out of rural water. Mr. Feilmeyer said that should not be construed as impediments to approving the developer's request.

Discussion ensued on density requirements and the number of lots that could be achieved. Council Member Larson contended that if this were approved, density would actually increase.

Council Member Larson asked what specific direction was needed to be given to staff by the City Council. Director Osguthorpe explained what options were available.

Director Osguthorpe explained that, if the City Council's desire is to ultimately annex the property in question, it should not be zoned as Rural Residential.

Council Member Mahayni pointed out the importance of knowing the vision for this area. He is concerned about allowing a fragmented approach to development and setting a precedent.

Council Member Goodman stated his concern that there are hundreds of acres between City infrastructure and the land in question. Mr. Goodman also noted that there is no land designation for this type of development in the City's Land Use Policy Plan.

Attorney Feilmeyer stated that the developers had never stated that they wanted four-acre lots over this area. He also noted that the developers had repetitively asked that the line for the natural areas be redrawn. Mr. Feilmeyer asked that the developer be allowed to file a new Plat of Survey.

Mr. Janssen noted that there will also be a need for an access road. He is recommending that the road be built to county standards initially, but right-of-way be retained so that it could be widened to City standards if the land were annexed.

Moved by Larson, seconded by Davis, to refer this issue back to staff with the direction to follow the details that were outlined in the motion made on August 10, 2010, pertaining to larger-lot development along the Natural Areas and that they come back with a plan that shows that there is intention in all respects on the part of the developer and the buyer of the land to meet the requirements of the City as it relates to infrastructure when annexation occurs.

Council Member Wacha expressed his concern that there be a firm obligation on the part of the developer pertaining to subdividing the lots. He would like the developer to be required to build to City standards if development were allowed to move forward at this time.

Council Member Goodman feels that it is unrealistic to believe that annexation will not be an issue for the property owners in the future. He views this as a political challenge that will generally be on the “backs of the taxpayers” whereas development adjacent to the City is generally shouldered by the developer in combination with the City.

Vote on Motion: 4-2. Voting aye: Davis, Larson, Orazem, Wacha. Voting nay: Goodman, Mahayni. Motion declared carried.

The meeting recessed at 9:45 p.m.

Mayor Campbell left the meeting, and Mayor ProTem Mahayni reconvened the meeting at 9:50 p.m.

IOWANS HELPING IOWANS DISASTER ASSISTANCE PROGRAM: Housing Coordinator Vanessa Baker Latimer advised that as staff reviewed the Iowa Finance Authority guidelines in comparison with the eight applications that had been received, it was found that they were too broad to be able to consistently treat each application in a fair and equitable manner. City Manager Schainker reviewed the guidelines being recommended by staff.

Moved by Davis, seconded by Mahayni, to adopt RESOLUTION NO. 10-512 approving program guidelines in conjunction with administration of the Iowans Helping Iowans Disaster Assistance Program on behalf of Iowa Finance Authority.

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

WASTE-TO-ENERGY CONVERSION TECHNOLOGY ALTERNATIVES: Assistant City Manager Sheila Lundt explained that this project was to secure a qualified consultant to conduct a feasibility study that identifies alternatives to the current method of direct burning of solid Refuse Derived Fuel (RDF). She said that this is an initial study to determine viable and cost-effective alternatives to current processes; it is not system design, design-build, or construction work. Ms. Lundt said that the objective of the proposed study is to explore newer technology that could reduce or eliminate some of these negative effects while providing a more consistent product. The ultimate goal of the study is to create a more consistent fuel product from the RDF, while still providing a sustainable and economical fuel product to the Power Plant or the open market place.

According to Ms. Lundt, a Request for Qualifications (RFQ) was issued to 34 consulting firms. A total of 65 sets of the RFQ documents were issued. Nine responses were referred to a team. Three firms were asked to provide samples of a final report prepared by the company for a study of similar size, and the presentations were scored by the evaluation team. The evaluation team unanimously determined that URS Corporation was the preferred firm to provide the services.

Assistant Superintendent of the Resource Recovery Plant Gary Freel reiterated that the study would identify viable and cost-effective alternatives to the current method of direct burning of solid RDF. He said that the City has successfully been burning coal for 35 years; this study

would explore newer technology that could reduce or eliminate some of the factors that cause additional wear on the boilers and provide a more consistent product.

Moved by Wacha, seconded by Goodman, to adopt RESOLUTION NO. 10-513 awarding a Professional Services Contract to URS Corporation of Columbus, Ohio, in an amount not to exceed \$89,600 for Feasibility Study, Waste to Energy Conversion Technology Alternatives.

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

SOUTH FORK SUBDIVISION, 3RD ADDITION: City Attorney Marek recalled that the City Council, on September 28, 2010, had considered several alternative responses to the developer's request for relief from the security requirement. The Council had directed staff to evaluate the possible use of a security interest in the developer's real property as an alternative to the Letter of Credit. The developer had offered to provide the City with security interest in two lots, Outlot R in South Fork Subdivision, 1st Addition, and Outlot U in South Fork Subdivision, 2nd Addition.

Mr. Marek stated that he had reviewed abstracts of title to both properties, a January 2010 financing appraisal on Outlot R, and current property transaction information on file in the Office of the City Assessor. Outlot R has an appraised value of \$700,000 and is encumbered by a mortgage in the amount of \$420,000. Outlot U has an assessed value of \$175,100 and is encumbered by the mortgage securing the current Letter of Credit. The current Letter of Credit on file with the City is in the amount of \$350,000. It is due to expire on November 11, 2010, and the bank has indicated an unwillingness to issue a new one. The City's current estimated construction costs for the intersection improvements are \$926,000, so the developer's responsibility under the terms of the Developer's Agreement should be increased to \$463,000.

It was noted by City Attorney Marek that a recent traffic study had concluded that the intersection improvements (Lincoln Way and Franklin Avenue) may not be needed until the year 2035. The developer has indicated an inability to continue to provide a Letter of Credit to secure the obligation.

Mr. Marek emphasized to the City Council that a security interest in real estate is not liquid; it cannot be easily converted to cash. If the intersection improvements were installed as a result of increased traffic in the area, the City would bill the developer for one-half of the actual costs of the improvements. If the developer did not pay, the City would be required to take legal action in order to receive payment. It was also noted by Attorney Marek that there is no guarantee that the land values will keep pace with the increases in construction costs.

Moved by Larson, seconded by Orazem, to adopt RESOLUTION NO. 10-514 approving an alternative form of security from the developers of South Fork Subdivision, 3rd Addition, for intersection improvements at Lincoln Way/Franklin Avenue.

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

PRESENTATION OF RESIDENT SATISFACTION SURVEY RESULTS: Public Relations Officer Susan Gwiasda presented the results from the City's 28th Annual Resident Satisfaction Survey. The City's overall satisfaction rating is 97%.

HEARING ON GREENBRIAR PARK IMPROVEMENTS PROJECT: Mayor ProTem Mahayni opened the public hearing. He closed same after no one came forward to speak.

Moved by Wacha, seconded by Davis, to adopt RESOLUTION NO. 10-515 approving final plans and specifications and awarding a contract to Con-Struct, Inc., of Ames, Iowa, in the amount of \$101,000.

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

EXTENSION OF INDUSTRIAL TAX EXEMPTION AVAILABILITY: Moved by Goodman, seconded by Davis, to pass on first reading an ordinance extending Industrial Tax Exemption availability to 2010.

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

ORDINANCE REPEALING CHAPTER 32 (MECHANICAL CODE) OF THE *MUNICIPAL CODE*: Moved by Goodman, seconded by Davis, to pass on first reading an ordinance repealing Chapter 32 (Mechanical Code) of the *Municipal Code*.

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

ORDINANCE RELATED TO SCREENING OF MECHANICAL UNITS: Moved by Davis, seconded by Orazem, to pass on third reading and adopt ORDINANCE NO. 4048 related to screening of mechanical units.

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

ORDINANCE REZONING PROPERTY AT 1025 ADAMS STREET: Moved by Goodman, seconded by Davis, to pass on third reading and adopt ORDINANCE NO. 4049 rezoning property located at 1025 Adams Street from Residential Low Density (RL) to Government/Airport (S-GA).

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

COUNCIL COMMENTS: Council Member Orazem acknowledged the email message from Michael Burkart pertaining to sewer problems on Ash and Country Club. Council Member Larson requested that staff respond to the citizens who are sending the letters or the emails.

Council Member Goodman asked his colleagues to look at the information provided by ICCI for possible future referral.

Moved by Larson, seconded by Goodman, to refer to staff the letter from Mary Goodwin and John Downing dated October 21, 2010, pertaining to the storm sewer system in the Ringgenberg Subdivision.

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

ADJOURNMENT: Moved by Davis to adjourn the meeting at 10:54 p.m.

Diane R. Voss, City Clerk

Ann H. Campbell, Mayor