

## MINUTES OF THE SPECIAL MEETING OF THE AMES CITY COUNCIL

AMES, IOWA

APRIL 20, 2010

The Ames City Council met in special session at 7:00 p.m. on the 20th day of April, 2010, in the City Council Chambers in City Hall, 515 Clark Avenue, pursuant to law with Mayor Campbell presiding and the following Council members present: Davis, Goodman, Larson, Mahayni, Orazem, and Wacha. The following persons were in attendance:

Matt Randall, Randall Corporation, 4125 S. 17<sup>th</sup> Street, Ames  
Dan Nutini, RMH Architects, 3614 Farnham Drive, Ames  
Jeff Harris, RMH Architects, 3614 Farnham Drive, Ames  
Nathan Easter, HWS, 223 S. Walnut, Ste. D, Ames  
Randy Rathert, Rathert Construction, P. O. Box 842, Ames  
Rich Johansen, Tasteful Homes, 2128 Quail Ridge Road, Ames  
Chuck Winkleblack, Hunziker & Associates, 105 S. 16<sup>th</sup> Street, Ames  
Neal Dietz, U. S. Bank, 2920 Wessex Drive, #282, Ames  
Bob Gibson, Civil Design Advantages, 3405 SE Crossroads, Grimes  
Frank Feilmeyer, Pasley & Singer Law Firm, 323 Sixth Street, Ames  
Roger Kluesner, McFarland Clinic, 1215 Duff, Ames  
Ron Frantzen, McFarland Clinic, 1215 Duff, Ames  
Tobit Bowles, Campustown Property Management, 200 Stanton, Suite 101, Ames  
Marvin J. Walter, Dayton Road Development Corp., 413 Kellogg, Ames  
Cathy Brown, Iowa State University, 2309 Hayes Avenue, Ames  
Reiny Friedrich, Friedrich Companies, 1200 Kinyon Circle, Ames  
Kurt Friedrich, Friedrich Companies, 3414 Honeysuckle Road, Ames  
Brian Birkland, WHKS & Co., 2914 White Oak Drive, Ames  
Brad Lenz, Manatt's, Inc., 4112 Hastings, Ames  
Karin Sevde, Sevde Self Storage, 2417 Worle Lane, Ames  
Jolene Randall, Ames Chamber of Commerce, 496 W. Riverside Road, Ames  
Dave Benson, Nyemaster Law Firm, 1416 Buckeye, Ames  
A. J. Spiker, Friedrich Real Estate, 6<sup>th</sup> and Duff, Ames  
Mark Hanson, Hanson Homes, Inc., 2615 Northridge Parkway, Ames  
Karen Paxton, Triplett Property Management, 410 Fifth Street, Ames  
Kelli Excell, Triplett Property Management, 410 Fifth Street, Ames

Mayor Campbell read the goals set by the City Council at its goal-setting session held in January 2010. This meeting was scheduled particularly to begin addressing Goal No. 6, which is to further streamline and improve government practices. She stated that tonight's meeting will serve as a fact-finding workshop with members of the business community to identify codes, policies, and procedural requirements that are impediments to development. The focus should be on items in which the City Council plays a part.

Assistant City Manager Bob Kindred advised that late last year, City staff put together a process improvement team to work on development-related issues and how the staff impacts the growth that

occurs in the community. He has been meeting with an internal process improvement team, which is comprised of 18 staff members, to identify ways to improve its development review processes. The team members asked that he meet with customers to receive feedback on certain issues. That has been done, the results have been reviewed with the Development Review Committee Process Improvement Team, and the Team is determining what improvements can be made. A report will be provided to the City Council some time after July 2010. Mr. Kindred said that if there are policy-related issues, it would be appropriate to raise those at this meeting.

Mayor Campbell advised that there was a sheet being passed around the room so that attendees could list their names, addresses, and company, if applicable. Speakers are not going to be required to give their names.

Chuck Winkleblack, 105 S. 16<sup>th</sup> Street, Ames, alleged that there are too many different zoning classifications; there could be a base zone, a floating zone on top of that, and then an overlay zone on top of those. A way to simplify, streamline, or eliminate zoning classifications needs to be found, particularly with commercial designations. It is currently very confusing, not only to local developers, but to prospective clients who are not familiar with the process.

A speaker believes that development in Ames is not very diverse. He thinks that if the City wants to be “green,” the planning process needs to be a little more “organic.” Neighborhoods need to contain a variety of amenities so people do not need to drive to get certain services.

Roger Kluesner, representing McFarland Clinic, addressed the process for amending the LUPP. In that business’s recent experience in requesting an amendment to the LUPP, so much design detail (e.g., building design, types of doors and windows, vegetation, etc.), was expected that experts (architects/designers/engineers) needed to be hired. Throughout this time, staff was requiring more and more detail. After nearly 15 months of work on the proposed amendment and the expenditure of much time and money, staff indicated that the amendment would not be supported by the City. Staff informed the applicant one day prior to the Planning & Zoning Commission meeting where the Plan amendment was to be presented. It was extremely frustrating due to the expenditure of significant resources. The applicant was not informed of the level of expertise and the scale of detail needed up-front. It was unclear whose requirements had to be met; it appeared that it was individuals who had their own design preferences or vision. A clear-cut procedure and the level of detail required needs to be consistent and apparent up-front. The speaker also spoke of a “brick color debate” after a project was begun. The standards say that it has to be “similar in nature;” however, does “similar” mean “the same” or “similar.” He said he was in a room, with his company paying three paid professionals as well as two other staff members, to debate that question with City staff.

Council Member Goodman stated his preference for speakers to identify themselves.

Bob Gibson indicated that he had tried to develop 200 acres. After going through a long and expensive process, City staff indicated that it was not possible under the current policies. He would like the process to first require a Master Plan so all of the political issues could be worked through before it goes to a Preliminary Plat. For a Preliminary Plat to be the first step requires a lot of engineering expertise, which is very costly. Mr. Gibson noted that his company is an engineering firm; however, this process is costing his clients thousands and thousands of dollars. It makes a lot

more sense to get agreement in principle or be told that there is no way the development can occur before they go through the entire process.

Karen Paxton said that she is a rental property manager. She specifically wanted to address the City's Inspections Department, the new Rental Housing Code and some of its applications, and some of the goals of the Council. She alleged that the City had let some things slip in the rental inspections program. The problem now is how some of the Codes are being interpreted and applied, which is having a negative impact on what the City wanted to accomplish. Pertaining to economic development, there are properties that realtors are trying to sell, but cannot sell because as they go through the inspection process, a City inspector will not pass it, but also won't give a clear statement of what needs to be done. Ms. Paxton said this is happening on perfectly sound buildings that have been in use for 40 years and are structurally in good shape. She gave a specific example where investors spent \$70,000 on a building to completely re-do the plumbing and electrical. The City would not tell them what else needed to be done for it to pass inspection, so it is just going to sit empty – the owner can't sell it and no one can buy it. It will become a "rat trap" and a "magnet for crime." Ms. Paxton said it is frustrating that people in the Inspections Department cannot work with competent business people to come together and find a solution.

Regarding renovating Campustown, Ms. Paxton said that there are rental properties that the owners want to maintain and do their part. However, they are coming up against an arbitrary, very regimented interpretation of the Code, and they will simply leave the buildings vacant. This does nothing to strengthen Campustown. Some of the things that people are being made to do do not make any sense to these business people. The buildings will be abandoned, and affordable and safe housing will be lost.

Ms. Paxton stated that her company manages properties in other communities, and the contractors that they work with much prefer to work with the Inspections Department in Ankeny and other cities because they are very reasonable. The same codes are used, but interpretations are different. It was alleged by Ms. Paxton that if you call for an inspection in Ames, you are told that there is at least a month wait.

Council Member Orazem asked if the main issue was the uncertainty of what was expected. Ms. Paxton answered that an inspector will do a walk-through. It takes a couple of weeks to get an official report. The report lists no remedy if you disagree with the inspector's interpretation. They are not clear as to what must be done to allow the building pass inspection; they say "do this work, then we'll walk through," and see if it's enough. Owners feel that they cannot be reasonably sure what the City is going to approve from one time to the next; they do not have confidence that if they go by the Code, the City will say, "yes, this is fine." An owner can spend \$70,000, yet the City said "no, we didn't want you to do it this way; do it this way," and "you still can't use it." This is the Building Code as applied to rental housing units.

Matt Randall stated that there is a difference between what is required in the Code and what would be considered an interpretation by staff. He has had numerous occasions where he has been provided lists of things that are required prior to being allowed to move forward. He has requested to know the exact code that staff is referencing, and on numerous occasions, he has been told that it's not really in the code, but it's kind of a policy. Mr. Randall said that he is more than willing to follow the

rules, but the problem is when there is a policy that may or may not be enforced every time. It is impossible for people to meet the policy when it is an unpublished policy. He believes that the statement that it is a policy is an excuse for not understanding what the code is.

From a broader perspective, Mr. Randall said a big issue involves the attitude and relationship between the City and those in the private sector; that should be one of trust, cooperation, and collaboration to make great things happen. In his own experience, this has been a relationship where the City acts as a controlling legal authority. Mr. Randall sees this as a reason why the City of Ames has not grown at the rate that it should have grown. A way to rebuild that trust needs to be found. As the controlling legal authority, the City amends the rules as it chooses and change the codes based on what it considers to be policy; that makes it impossible for developers to help the community. Specifically, he has received letters on new or remodeling projects with a list of 15 items to be remedied. After reviewing that list, he requested copies of the Code sections be sent to him. Staff has then admitted that those items are not in the Code, but are just policies. Mr. Randall also alleged that City staff is constantly changing the rules; there is no consistency. He told of an incident where they debated for hours about a type of tree to be planted at a specific location based on how that tree may grow in 30 years. Processes are in place, but at any point if the developer wants to make a change, the likelihood of the process continuing is extremely slim. There have been many times when very late in the game, City staff has made significant requests for changes after significant dollars have been expended by the developer. There is not an understanding by the staff that what the developers do costs money.

Frank Feilmeyer advised that he has been a city attorney for 19 years and has represented developers, so he has been on both sides of the table. He appreciates having a good comprehensive plan, a good Zoning Code, a good Subdivision Code. However, part of the problem with development issues is that the City's LUPP is entirely too specific; that level of specificity causes impediments. Large amounts of money are spent on legal and engineering consultants in order to get things done. The LUPP should serve as a guide; it should be able to be changed more easily. The LUPP and the Zoning Code are not 100% linked to each other under Iowa Code, but they are in the City of Ames, and this makes it very difficult for developers to get things done. It becomes especially difficult to develop land located in the two-mile fringe. Mr. Feilmeyer urged that the City and Story County to work on establishing a common process for development of property that is located in the County, but within the two-mile jurisdiction of the City.

Pertaining to the Subdivision Code, Mr. Feilmeyer sees the City's process for approval of a Plat of Survey, albeit legal, as overly burdensome. A Plat of Survey is intended by the legislature to be a very simple process to divide a piece of property. The Minor Subdivision Plat that is required by the City for any division of land is not efficient and doubles the costs due to the abstract, engineering, and legal costs. He contended that not every division of land needs to go through the Minor Subdivision process; however, that is clearly what the staff thinks. According to Mr. Feilmeyer, if he had known months ago that the staff's interpretation of the ordinances was going to be that every division of land would necessitate a Minor Subdivision Plat, he would have spoken against the adoption of the ordinances. He has spoken to the County Recorder who has told him that the County can review a Plat of Survey in four hours; it is a very efficient process

A. J. Spiker, President of the Ames Multiple Listing Service, questioned whether the City's required density (3.75 units/acre) is providing what the people want. It tends to create subdivisions that have apartments mixed with single-family or townhomes mixed with single-family housing in order to achieve the density requirement.

Kurt Friedrich believes that the City's required density is a detriment to development. It requires developers to create very small lots with much unused land. It does not permit for a variety of housing units to be created. He cited the Northridge Subdivision as being highly successful because it was allowed to have a density of a little over 2.00 units/acre; that was pre-1997.

Council Member Orazem asked if rental properties are not selling because of the way Codes are being interpreted. He asked if owners are preferring to build new rather than retrofitting due to inconsistent enforcement. Rental housing managers present concurred that that was exactly what was occurring. They also shared that rental housing owners are trying to sell their properties because they want out of Ames and are choosing to invest in other communities, and in particular, Ankeny. It is also very frustrating that things are sometimes overlooked for "people of influence" in the community. The rental property owners are tired of "fighting with staff" and some are just abandoning their buildings. Some owners believe that they are treated like criminals. City staff has sent letters telling property owners that they must get licensed professionals to inspect; however, that's what owners thought City inspectors were hired to do.

One speaker asked to be informed of the current appeal process to the Rental Housing Code. City Manager Schainker explained that there is an Appeal Board. A rental property manager stated that the appeal process is not included as a part of the letter.

Reiny Friedrich expressed his appreciation to the City Council for its willingness to hear the input of the members of the development and business community. He urged the City to periodically (every few years) review its Land Use Policy Plan; it is not cast in stone. Mr. Friedrich said he sees the importance of a staff review of plans; however, the level of detail currently required is a detriment. He challenged the City Council to be visionaries, to think ahead further out so that there are not so many surprises. Mr. Friedrich said Ames should have had Elwood Drive serve as a major thoroughfare clear to Bloomington Road, as was proposed in the 1960s; it should have a new shopping center by now; and the Hospital/Medical zone is too small and should have been allowed to expand years ago. Those involved in the development process should think what is good for the entire community.

Mark Hanson said it would be very beneficial if City staff and inspectors would work with the developers and owners, instead of against them.

One speaker explained how frustrating it is when City staff tells owners how to run or manage their businesses. He spoke of things that the City made developers do that served no purpose; they don't even look good aesthetically. According to the speaker, the developers are told that they have to do these things or the City staff will not give them permits.

Chuck Winkleblack spoke against mandated densities. Some people believe the developments with the mandated 3.75/units/acre look like barracks. If the mandated density were to be removed, Mr.

Winkleblack believes that there would be very few “mansions” built. Flexibility in lot size is desired. He talked about redevelopment projects that occurred prior to the City’s creating overlay zones and adding more restrictions. Mr. Winkleblack also spoke of the types of buildings that are being built due to the density requirement. Regarding rental properties, he said that there are a number of buildings in the downtown area that have second stories, but if they have not had a Letter of Compliance in the past, they do not stand a chance of getting one now. In a recent building that he and Mark Hanson renovated in the downtown area, the apartments were rented within 30 days of completion; people want to live Downtown.

Matt Randall addressed why people do not show up to provide input on Code changes. He noted that most of the changes have not been directed by the City Council or the development community; staff has initiated the changes due to perceived problems. Some of the new requirements are impossible or nearly impossible for developers to meet.

City Manager Schainker noted that the concerns brought to light tonight appear to be quite serious. A summary of the meeting with staff comments will be generated.

Council Member Orazem agreed with the City Council needs to be looking long-term. He asked those present to advise the Council of instances where the City had missed in the past to bring development to or retain businesses in Ames. He knows that the City needs Codes, but it also needs to be flexible. Mr. Orazem encouraged others to provide specifics to the Council members.

Council Member Wacha said that he heard many comments about building a better relationship between the development and business communities and the City. He sees this as a two-way street and urged better and/or continued communication from developers.

Council Member Goodman said that if there are specifics about inconsistency in Code enforcement, the City Council members need to be informed. He urged those persons with specifics to email the City Council. Mr. Goodman also addressed density, explaining that it is tied to infrastructure. He referenced a recent discussion at a Council meeting regarding Mediacom providing its services based on a required density.

Mayor Campbell thanked those in attendance and for the input received.

**ADJOURNMENT:** Moved by Davis, seconded by Goodman, to adjourn at 8:42 p.m.

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Diane R. Voss, City Clerk

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Ann H. Campbell, Mayor