

**MINUTES OF THE REGULAR MEETING OF THE
AMES CONFERENCE BOARD AND
REGULAR MEETING OF THE AMES CITY COUNCIL**

AMES, IOWA

FEBRUARY 22, 2011

REGULAR MEETING OF THE AMES CONFERENCE BOARD

The regular meeting of the Ames Conference Board was called to order by Chairperson Ann Campbell at 6:30 p.m. on February 22, 2011. Present from the Ames City Council were Davis, Goodman, Larson, Mahayni, Orazem, and Wacha. Story County Board of Supervisors present were Clinton, and Toot. Representing the Ames School Board were Todey and Talbot. Gilbert School District and United School District were not represented. Supervisor Sanders arrived at 6:37 p.m.

MINUTES OF THE JANUARY 25, 2011, CONFERENCE BOARD REGULAR MEETING:

Moved by Mahayni, seconded by Todey, to approve the minutes of the Regular Meeting of the Conference Board on January 25, 2011.

Vote on Motion: 3-0. Motion declared carried unanimously.

APPOINTMENT TO BOARD OF REVIEW: Moved by Todey, seconded by Goodman, to adopt RESOLUTION NO. 11-055 to approve appointment of Tom Carey to the Board of Review.

Roll Call Vote: 3-0. Resolution declared adopted unanimously, signed by the Chairperson, and hereby made a portion of these minutes.

INTERGOVERNMENTAL AGREEMENT REGARDING MAPs AND GIS FUNDING:

Moved by Mahayni, seconded by Clinton, to adopt an amendment to the Intergovernmental Agreement regarding MAPs and GIS funding.

City Assessor Greg Lynch advised that the proposed 28E Agreement had been forwarded by the City Attorney to the Story County Attorney's Office for review. Mr. Lynch said it was his understanding that the County had not had enough time to review the proposed Agreement. Story County Supervisor Clinton commented that the Board of Supervisors and the County Assessor had reviewed the proposed Agreement. The substance of it did not seem to be a major issue, but a couple clarifications needed to be made. According to Mr. Clinton, the County Attorney still needed to review the changes. It was his belief that the Agreement needed to be executed by July 1, 2011, and it was now in the hands of the two attorneys.

Chairperson Campbell pointed out that if the amendment to the Agreement could not be approved at this meeting, a special meeting would be required. Supervisor Clinton suggested that the meeting be held via a telephone conference.

City Attorney Doug Marek advised that if either Conference Board wanted to terminate the Agreement, it would give 90 days' notice. However, the Agreement may be amended at any time by mutual consent.

Moved by Mahayni, seconded by Clinton, to table the item.

Vote on Motion: 3-0. Motion declared carried unanimously.

PUBLIC HEARING ON PROPOSED FY 2011/12 BUDGET FOR AMES CITY ASSESSOR'S OFFICE: Chairperson Campbell declared the hearing open. There being no one wishing to speak, the hearing was closed.

Moved by Goodman, seconded by Todey, to adopt the FY 2011/12 Budget for the Ames City Assessor's Office.

Vote on Motion: 3-0. Motion declared carried unanimously.

ADJOURNMENT: Moved by Davis, seconded by Todey, to adjourn the Ames Conference Board at 6:38 p.m.

Vote on Motion: 3-0. Motion declared carried unanimously.

REGULAR MEETING OF THE AMES CITY COUNCIL

The regular meeting of the Ames City Council was called to order by Mayor Campbell at 6:42 pm. on February 22, 2011, 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.

Mayor Campbell announced that Items numbered 2 and 16, Presentation of Neighborhood Improvement Program projects by the Historic Old Town Neighborhood Association and street and parking space closures for Main Street Farmers' Market, respectively, had been pulled from the Agenda.

PRESENTATION BY IOWA DEPARTMENT OF INSPECTIONS AND APPEALS REGARDING STATE CONTRACT TO CONDUCT FOOD INSPECTIONS:

Rod Roberts, Director of the Iowa Department of Inspections and Appeals (DIA), 312 E. 12th Street, Des Moines, introduced Steven Mandernach, Iowa Department of Inspections and Appeals Bureau Chief for Food and Consumer Safety. Mr. Roberts stated that the City of Ames has handled food inspections in a contract relationship with the State of Iowa since 1979. The current contract was effective September 30, 2007. Mr. Roberts noted that, at learning of the upcoming retirement of City Sanitarian Kevin Anderson, his office reviewed the current contract and concluded that the State would be terminating it and assuming responsibility for the food inspections within the City of Ames. According to Mr. Roberts, he met with Sanitarian Anderson and Fire Chief Clint Petersen two weeks ago and followed that with a formal request to make this presentation to inform the City of the decision to terminate the contract, explain elements of the State's program, and state why he believes that that decision is in the best interest of the City of Ames' taxpayers. Mr. Mandernach distributed information to the Mayor and Council describing the DIA's coverage area and inspection frequency.

Mr. Mandernach said that the DIA believes this is a good time to make the transition from Ames having a City Sanitarian to the State conducting the food inspections program for the following reasons: (1) With the retirement of a single person conducting the food inspections, it was inevitable that the DIA would look at the program. (2) The State is well-positioned to incorporate Ames into its inspection system. Ames would be an "island" in a cluster of counties that is not part of the State's program. (3) Two of the 15 current inspectors live within the city limits of Ames and a third lives in Story County. According to Mr. Mandernach, the State can easily handle the volume of Ames' inspections, emergencies, temporary events, and "off-hours sorts of events." He said that there are five inspectors who are within an hour's drive of Ames.

According to Mr. Mandernach, the state approaches inspections a little bit differently than the City does. He said that the "Food Code" allows for two different inspection schedules: (1) twice

a year or (2) less frequently based upon a risk-based assessment schedule. Mr. Mandernach advised that the State, on April 1, 2011, would be moving to a risk-based system. The risk-based system looks at three tiers: the highest tier gets two inspections/year, the middle tier is inspected once/year, and the low-risk tier is inspected once every two years. According to Mr. Mandernach, the State is currently on a one-year cycle with 95% of the inspections being completed within one year. It does vary somewhat, as “they don’t always get done.” The new system will focus on the high-risk system. Mr. Mandernach defined “high risk place” as a full-service restaurant doing a lot of different processes or an assisted-living facility that does its own food preparation. Fast-food restaurants would fall into the second tier. According to Mr. Mandernach, McDonald’s and that type of restaurant have processes in place “that make it very difficult to do much wrong.” They also have very limited preparation. Bars or establishments with very low food service are in the low-risk tier.

Mr. Mandernach noted that, on June 1, 2010, 14 counties were transitioned into the State’s system. Involved restaurants and other establishments have indicated that it is working quite well. He noted a concern of Chief Petersen that the DIA work with City departments to coordinate efforts on such things as plan reviews. Per Mr. Mandernach, the State has done that in other areas and is willing to do that in Ames. The City of Ames will be assigned an inspector that probably has the City of Ames and Story County and will be very easily able to cover any situations that arise. In the case of a disaster, the State has 15 persons who are trained in food safety and they go to wherever the disaster has occurred.

Per Mr. Mandernach, the State’s standard is to inspect all temporary events with four or more vendors. The State inspects ongoing events with fewer than four vendors periodically. According to Mr. Mandernach, the State has ample resources to handle the number of events in Ames.

Council Member Larson asked, rather than eliminating an island, why the State would want to take Ames, especially since the City has been subsidizing the program for years. Mr. Mandernach stated that, in reality, it helps maintain the State’s program for all the other 38 counties. The resources work well together, and it will benefit the whole program and maximize its efficiency levels.

Council Member Orazem inquired as to whom pays for the state inspections. Mr. Mandernach said that the State has a General Fund appropriation that covers part. The fees are retained by the State for contracts that are taken back by the State. The State sets the fees and the regulations. The City of Ames would be totally removed from the process.

At the inquiry of Council Member Orazem, Mr. Mandernach advised that the State has one person who does plan review for all of the 38 counties.

Mr. Mandernach said that the State would like to work with the City of Ames on the transition timing. Under the 28E Agreement, the State has to give 60 days’ notice of its intention to terminate the contract; that has not yet been done, but it will be the State’s next step. It will occur no later than June 30, 2011.

Mayor Campbell asked if they were at this meeting telling the City that the State was terminating the 28E Agreement and that the City has no choice in the matter. Mr. Mandernach indicated that was correct. He said that the Director has the authority to terminate the contract unless the City

could convince him otherwise; however, the Director had made the decision to terminate the contract.

Council Member Larson asked if the City could get the contract back if the State's level of service was not what the City of Ames required. He noted that input is being gathered from restaurant owners as to how they feel about the City's level of service and the possibility of the State taking over the program. Mr. Mandernach noted that, "absolutely," it would be possible to get the contract back since it has a history of a strong program; however, the Director would be the person to make that decision. Mr. Larson expressed his concern that the State's level of service would be lower, especially if there were cuts in the state budget.

Mayor Campbell noted that the email from Mr. Mandernach requested that the State be allowed to come before the City Council to discuss how the City might be integrated into the State's program. Mr. Mandernach stated that the Director had made his decision after that email was sent and within the past two weeks.

Council Member Larson pointed out that only one person -- the Director -- has the authority to allow Ames to regain the contract. He again expressed his concern that the level of service might go down, but Ames would be mandated to use the State to provide the service.

The Mayor again stated that the discussion underway was quite different than the one the Council had prepared for. Mr. Roberts apologized for any perceived miscommunication. He said that the DIA can provide the level of service that should be expected of food inspectors. The situation, i.e., the retirement of the City Sanitarian, provides the opportunity for the State to assume the contract. He said that he firmly believes that the State will do a good job and the level of service will not decrease. According to Mr. Roberts, if the State did not have personnel living in Ames, it would be a different story.

At the inquiry of Council Member Goodman, Mr. Roberts advised that no additional persons will be hired when all the food establishments in Ames, which total over 300, are added. Council Member Wacha noted that the workload will increase substantially; with the increased workload, possibly the level of service will decrease. Council Member Goodman noted the pressure at the State level to decrease costs, which signals to him that a large decrease in service could occur as a result of this change. He voiced his concern about relinquishing control of one of Ames' economic development tools, i.e., helping restauranteurs to be successful in this community. Council Member Larson concurred and noted what now appears to be an inability of the City to take the contract back in the future if the State's level of service decreases. Mr. Roberts indicated that was correct and was set out in Code; the authority to make that decision rests solely with him as the Director.

Council Member Goodman also noted that Mr. Mandernach's email portrayed the presentation by the DIA at this meeting to be something that would lead to a discussion, not a mandate. He would like the State to enter into an Agreement that states the DIA would be willing to discuss the City taking back the contract if the State's level of service was not where Ames wanted it to be. Mr. Roberts said that there would be no formal agreement written or signed, but it would simply be a good faith statement by him that if there are performance problems, the contract would be revisited.

Council Member Orazem asked who inspects food service at Iowa State University. Mr.

Mandernach indicated that the City Sanitarian currently performs those inspections.

Chief Petersen pointed out that there is a significant difference in what is being stated at this meeting and what he brought to the Council at budget time. He said this was the second surprise that he had received from the DIA since that time. The first was when the DIA asked to speak with him regarding the relationship of the City's contract with the State. At that meeting, they said that their intent was, indeed not that, but to deliver an ultimatum that the City relinquish its contract to the DIA. Chief Petersen advised that he had just learned at tonight's meeting, that a decision had been made by the State to take Ames' contract back. According to Chief Petersen, when the State says there is an adequate level of service, that would be equivalent to what is received in other parts of the state since the DIA took over that contract, but it certainly is not the level of service that the City Sanitarian has provided in the Ames community since 1979.

According to Chief Petersen, the City of Ames has had a City Sanitarian program since the 1950s. He said that he had been hearing about risk-based restaurant inspections for many years. Tonight, he learned that the State will be implementing that program in April 2011 based on a category of restaurants, but not on the inspections results of the restaurant, and that restaurant inspections may go to a duration of once every two years. Chief Petersen urged the Council to carefully consider that effect on the Ames community and its food safety, especially since Ames has oftentimes branded itself as being part of the Food Science and Food Service Industry.

The Council was reminded by Chief Petersen that the Sanitarian position serves multiple purposes. Some of the services that would not be done if the City loses that position would be inspection of garbage trucks, which prevents the dumping of hazardous wastes and materials on streets; supervision of the mosquito-control program; working closely with the Police Department on bar/restaurant inspection issues; and providing timely response for the Design Review Committee. Also noted was the fact that Ames is a town of special events, which are very frequent during the summer. The City Sanitarian inspects all food vendors at special events; however, the DIA's standard is that there has to be four vendors or more before an inspector would be sent to that site. Chief Petersen noted that there are significant differences in the level of service. He emphasized that how Ames defines adequate service in this community should be one of local control.

Chief Petersen said that he did not agree that this was as easy as a Director's unilateral decision to terminate the contract. He noted the State had followed a similar approach in Cerro Gordo County when it returned its contract and was told that it was being terminated. Cerro Gordo County sought legislative help from its state senator, and the County was allowed to retain its contract. Mr. Petersen said that was an option that could be considered should the Council decide that it wanted to continue its Sanitation Program. He recommended that the Council discuss the pros and cons and decide what it wants to do and what would be best for the citizens of Ames.

At the question of Council Member Orazem, City Manager Schainker stated that the City Council will have to decide who will assume responsibilities for garbage truck inspections and mosquito control.

In terms of special events, Mr. Orazem asked if Iowa City and Cedar Falls were currently under the State's program. Mr. Mandernach said they were not; Iowa City is handled by Johnson County Public Health, Cedar Rapids is done by Linn County Public Health, and Cedar Falls is taken care of by Black Hawk County Public Health. Council Member Larson asked if there were

any cities larger than Ames, other than Des Moines, under the State's program. Mr. Mandernach said the largest cities other than the Des Moines Metro would be Newton, Marshalltown, and Fort Dodge.

Mayor Campbell asked if the decision to terminate Ames' contract was merely a matter of geography, i.e., the State currently serves cities contiguous to Ames and so it is mandating Ames to be under its program. However, it is not mandating Iowa City or others. She expressed her confusion over the equity issue. Mr. Roberts said that it was due to State personnel living in Ames as well. Mayor Campbell noted that those persons might move or resign from their jobs. She expressed frustration that the State was basing its decision to terminate Ames' 28E Agreement in part on where its employees currently happen to live. Mr. Roberts replied that it was a combination of many factors.

Mayor Campbell noted that it appeared as if the decision was being made for the State's budgetary reasons. Mr. Roberts admitted that that was a component of the decision; however, the State believes that it will benefit the citizens of Ames. Council Member Goodman emphasized that the Ames City Council is best fit to make the decision as to what is in the best interest of its citizens. He noted that the fact that the City Council has been approving a subsidy for the Sanitarian position for the past 20 years represents the value that they place on those services.

Council Member Mahayni advised that the City Council has never hesitated to subsidize the food inspections program since 1979. It does that because of the special circumstances that are present in Ames in terms of the number of restaurants, number of special events, and the location of Iowa State University. It is being done because the City Council values a higher level of service. Mr. Mahayni expressed his dismay that the State was informing the City that it has no choice in this matter and one of the factors is that it is for the State's budgetary convenience.

It was asked by Council Member Mahayni if the State will ensure that Ames will continue to have the higher level of service that it has become accustomed to over the past 32 years. Mr. Roberts stated that the level of service provided by the State inspectors will ensure the health and safety of the Ames citizens. Mr. Mahayni asked again, citing that different communities are accustomed to different levels of service, but Ames values a higher level of service than other communities do. Council Member Goodman said he believes that answer is no. Mr. Roberts answered that the State has the staff who will provide a level of service to Ames that will get the job done. He said he does not know how to measure the higher level of service, but the State can do the job for the City of Ames.

Council Member Goodman noted that restaurants are inspected two times a year in Ames. He asked if the State would provide that level of service plus inspection of all vendors at special events. Mr. Mandernach said that the "Food Code" recognizes two types of inspections: (1) two inspections/year or (2) risk-based inspections, and the State is going with a risk-based inspection program.

Mayor Campbell asked why the 28E Agreements with all the other counties were not being terminated if it was a uniform state system that they were seeking. Mr. Roberts stated that the contracts are reviewed on a case-by-case basis. It is due to several factors that the State believes the time is right to terminate Ames' contract.

Council Member Orazem noted that Dubuque and Muscatine would also be considered “islands” and asked if the State was terminating the 28E Agreements with those two cities. Mr. Roberts advised that the State had made no decisions on any other contracts at this point. Mr. Orazem asked how their cases differed from Ames. Mr. Roberts said that there were a number of factors, but the fact that the City Sanitarian was retiring was one factor. Mr. Orazem asked if the State had any inspectors living in the Cities of Dubuque or Muscatine. Mr. Mandernach said that an inspector does live in Dubuque, but not in Muscatine.

Council Member Larson noted that the Council would have to approach this legislatively in order to retain its contract. Mr. Roberts made the Council aware that on the same day that the DIA talked to Chief Petersen, they also visited with Senator Quirnbach and Representatives Heddens and Wessel-Kroeschell to inform them of their intentions. Council Member Goodman asked if they were also under the false impression that this was going to be a discussion, rather than a mandate. Mr. Roberts said that they made them aware of their intention to assume responsibility for Ames’ inspections.

City Attorney Marek advised that the City’s current 28E Agreement allows for non-renewal of the Agreement with a 60-day notice and termination with 60-day notice. The only difference is that there has to be written rationale for termination. He noted that the anniversary date of the Agreement is based on a calendar year. Mr. Marek also advised that there is no provision under the State Code for any local authority except under a contract from the DIA; the only remedy would be a legislative remedy.

City Manager Schainker asked the Council if it still wanted the survey done of the restaurant owners. Council Member Goodman said the Council will be able to have a much better conversation with legislators if Ames’ citizens care about who is doing the inspections. He noted that the citizens have showed that they care through property taxes for the past 30 years, but that is not a priority for the State.

Council Member Davis asked what educational materials would be provided to restaurant owners to inform them that Ames would be going from two inspections/year to a risk-based system. Mr. Mandernach said that restaurant owners are generally happy with the risk-based system and don’t complain; “they are happier when the State is not there as much.” Mr. Davis also asked how the State would handle special events. Mr. Mandernach said that any time there are four or more vendors, the State inspects. For ongoing events, the State covers a “random portion of the event,” rather than covering every single week.

Mayor Campbell stated that she was very disappointed in the State’s method of delivering the news. Mr. Roberts said the State never intended to mislead the City.

Council Member Goodman acknowledged that he is a restaurant owner. He said that he firmly believes that safe operating restaurants prefer many inspections because they respect the safety of the community; the only restaurants that prefer fewer inspections or less regulation are those that have issues “and want to get away with something.”

Council Member Larson said that the request to the Chamber of Commerce has radically changed in light of the information provided at this meeting. In addition, there might be legislative meetings that the Chamber will be asked to be involved in.

Council Member Mahayni wants the legislatures contacted and made aware of the issues. He believes that the discretionary way the State decides on which programs to assume is a discriminatory practice, without regard to the local level of authority.

Council Member Orazem noted the value of surveying the restaurant owners, i.e., to find out what concerns they have with the change and whether there is an avenue where the City could help mitigate those concerns. Council Member Wacha noted the benefit of gathering that information before the legislators are approached.

City Manager Schainker noted that, due to the Council's direction to ask the Chamber to conduct the survey, the Chamber will only survey its member restaurants. Mayor Campbell said the City is obligated to inform the restaurant owners that there is going to be a very drastic change.

Moved by Larson, seconded by Orazem, to direct that the City Manager continue to seek out, through the Chamber of Commerce, a survey of its membership as it relates to this issue based on the new information, and separately, upon receipt from the State that the contract is being terminated, the City notify all restaurants of that information.

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

City Sanitarian Kevin Anderson recommended that open forums be held in the City Council Chambers to inform the businesses and to allow them to provide input. He agrees that the survey would be the first step, but after that, forums should be scheduled. Mr. Anderson stated that the City issues approximately 300 Food Service Establishment Licenses.

Moved by Goodman, seconded by Orazem, that the City duplicate that effort and survey all 300+ restaurant licensees based on the fact that there will be such a large impact on those in the restaurant industry.

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

Moved by Mahayni, seconded by Goodman, directing staff that, pending the analysis of the survey to be conducted by the Chamber, restaurant owners be invited to one or more open forums to discuss the issues.

Council Member Davis took issue with the wording, specifically, "one or more," and asked for more concrete direction as to how many forums would be held. Council Member Goodman noted that it was his belief that staff would only hold as many forums as are absolutely necessary to give people a reasonable opportunity to provide input.

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

PRESENTATION OF NEIGHBORHOOD IMPROVEMENT PROGRAM PROJECTS BY HISTORIC OLD TOWN NEIGHBORHOOD ASSOCIATION: This item was pulled from the Agenda.

CONSENT AGENDA: Council Member Wacha asked to pull Item #7 [Engineering Services Agreement for 2010/11 Traffic Engineering Studies (Traffic Calming Study)] for separate discussion. Council Member Orazem asked to pull Item #11 (Contract for Unit No. 8 Coal Mill Parts) to be discussed separately.

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

1. Motion approving payment of claims
2. Motion approving minutes of Regular Meeting of February 8, 2011
3. Motion approving Report of Contract Change Orders for February 1-15, 2011
4. Motion approving renewal of the following beer permits, wine permits, and liquor licenses:
 - a. Special Class C Liquor – Angie’s Cantina, 2416 Lincoln Way
 - b. Class C Beer – Almost Always Open, 419 Lincoln Way
5. RESOLUTION NO. 11-058 correcting the name of subdivision pertaining to Rose Prairie Final Plat
6. RESOLUTION NO. 11-059 approving preliminary plans and specifications for 2010/11 Arterial Street Pavement Improvements (6th Street/Grand Avenue to Northwestern Avenue); setting March 16, 2011, as bid due date and March 22, 2011, as date of public hearing
7. RESOLUTION NO. 11-060 approving 2010/11 Neighborhood Improvement Program grant to Historic Old Town Neighborhood for Phase I In-Fill Planting of Street Trees
8. RESOLUTION NO. 11-062 awarding contract for Vet Met Substation Equipment Commissioning to Electrical Reliability Services Inc., of Minneapolis, Minnesota, in the amount of \$77,759

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

ENGINEERING SERVICES AGREEMENT FOR 2010/11 TRAFFIC ENGINEERING STUDIES (TRAFFIC CALMING STUDY):

Council Member Wacha said he wanted to be clear on the deliverables after the Study. He asked if there were going to be particular areas of the City analyzed. Public Works Director John Joiner replied that the Study would not be for any one area in particular; it will be a community-wide review from the standpoint of applying national standards for traffic calming. The end result will be a “toolbox” that may be applied anywhere in Ames. Mr. Wacha specifically referenced Jewel Drive, Crescent, and the area to the southwest, noting that the Council could revisit the concerns raised by residents for those areas once the City has that “toolbox.” Mr. Joiner explained that the situational information for different areas would be input into the “toolbox” and a recommended set of traffic-calming measures would be recommended that could be applied for those specific situations. There will be public input sessions held by the consultants as the “toolbox” is being developed; the “toolbox” will be tailored specifically to Ames.

Moved by Wacha, seconded by Mahayni, to adopt RESOLUTION NO. 11-057 approving the Engineering Services Agreement with HR Green of Johnston, Iowa, for the 2010/11 Traffic Engineering Studies (Traffic Calming Study) in an amount not to exceed \$50,000.

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

POWER PLANT UNIT NO. 8 COAL MILL PARTS:

Council Member Orazem said it appeared to him that there was only one producer of parts for Unit No 8. He asked if it was the City’s intention to build up an inventory of those parts. Electric Services Director Donald Kom said the majority of the parts will be used as soon as the mills are rebuilt. He recalled that, last year, the City went out for bids for some of the parts. Two bids were received; one bid was deemed unresponsive and the other came from the original manufacturer (Babcock & Wilcox). Mr. Kom again noted that the majority of the parts will be used this year, and the few remaining will be

placed in stock. Mr. Orazem noted his concern that Babcock & Wilcox might stop producing the parts. According to Mr. Kom, Babcock & Wilcox is a well-known company that has been manufacturing the parts since power plants have been in existence, and he does not see them getting out of that business. Mr. Orazem asked if the parts are unique to Ames' equipment. Mr. Kom said that other international bidders can make the parts, but the quality may be inadequate. He did not believe it would be fiscally responsible to stock the parts needed for the next 20 years. Mr. Orazem also inquired if the City had an agreement with Babcock & Wilcox that would give the City the rights to the specifications if the company should quit making the parts. Mr. Kom said that would be difficult to get; the City could get the parts elsewhere, but at a lesser quality.

Moved by Orazem, seconded by Wacha, to adopt RESOLUTION NO. 11-061 awarding a contract to Babcock & Wilcox of Barberton, Ohio, in the amount of \$239,006.98 for Power Plant Unit No. 8 Coal Mill Parts.

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

PUBLIC FORUM: Ryan Jeffrey, 234 Partridge Circle, Ames, expressed his agreement with Council Member Goodman's response to the DIA. He said he would be extremely nervous about the City giving up control of the City Sanitarian duties. Mr. Jeffrey strongly encouraged the City Council to consider its legislative options.

Mr. Jeffrey said he wanted to give the Council a sense of the feeling that some Ames businesses have with regards to the way the Campustown redevelopment plan is going. He said that he had been hearing about it for some time, but recently read an article in the *Des Moines Register* that appeared last weekend that raised his concerns. According to Mr. Jeffrey, the owner of Mayhem Collectibles had been interviewed. Mayhem's owner, Rob, had stated that some Campustown property owners have not been informed, not been talked to, and not been consulted during the process. They have gotten requests to purchase their buildings, however. Comments threatening to use eminent domain have created an adversarial relationship with the owners. Mr. Jeffrey quoted comments by the developer (Lane 4) that called "tattoo parlors, piercing shops, and late-night noise" as undesirable businesses and stating that "the City wanted blight removed related to that." Mr. Jeffrey said that he did not believe it was the business of the City Council to be making the decision as to what an undesirable business is in Campustown. He pointed out that it is a campustown area; there are students there and there will be places that appeal only to students. Those businesses are often locally owned, and it is not within the City Council's purview to make moral judgments as to what type of businesses are located in the City. Mr. Jeffrey asked for public forums. He agreed that some Campustown renovation would benefit the area, but more community input needed to occur.

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

NEW CLASS C BEER & B NATIVE WINE PERMIT FOR CASEY'S STORE #2905: Moved by Mahayni, seconded by Goodman, to approve a new Class C Beer & B Native Wine Permit for Casey's Store #2905, 3612 Stange Road.

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

NEW 5-DAY CLASS C LIQUOR LICENSE FOR OLDE MAIN BREWING CO., AT REIMAN GARDENS: Moved by Mahayni, seconded by Davis, to approve a new 5-Day Class C

Liquor License for Olde Main Brewing Co., at Reiman Gardens, 1407 University Boulevard.
Vote on Motion: 6-0. Motion declared carried unanimously.

ENCROACHMENT PERMIT FOR SIGN AT 2320 LINCOLN WAY: Moved by Goodman, seconded by Wacha, to approve an Encroachment Permit for a sign at 2320 Lincoln Way.
Vote on Motion: 6-0. Motion declared carried unanimously.

MAIN STREET FARMERS' MARKET: This item was pulled from the Agenda.

2126 STATE AVENUE: Public Works Director John Joiner noted that the City Council had referred a letter to staff from Xenia Rural Water District regarding water service to 2126 State Avenue. The property is in an unincorporated Story County on the east side of State Avenue. The request, first made to Xenia Rural Water, was denied by its Board of Directors because service could not reasonably be extended to the property in an efficient and cost-effective manner. Due to the existence of a City water main near the property, Xenia released the property to the City of Ames for the purpose of providing water service.

Mr. Joiner noted that it has been the long-standing policy of the City of Ames to only provide municipal services to properties that have been incorporated into the City limits. The *Ames Municipal Code* was modified in 2009 to establish procedures to temporarily provide water service to rural customers until they are incorporated into the City limits.

After being questioned by Council Member Goodman, Director Joiner advised that all hook-up costs would be borne by the property owner, e.g., the tapping fee (\$18/frontage footage) and all associated plumbing permits.

Mr. Joiner noted the stipulation recommended by staff that no further division of the lot be allowed was to not facilitate further subdivision in the County for properties with City services. He showed a map of the area in question in relation to the city limits, noting that the properties along Meadow Glen are located in the County.

Council Member Larson pointed out that the reason the property known as Wiley/Blackwell Press is not included even though it is a peninsula and willing to be annexed is because of the cost to the City of getting sanitary sewer there. He asked if there had been any study done to determine what that cost would be. Mr. Joiner advised that would be the north phase of the Worle Creek Sanitary Sewer, so 18" sanitary would have to be brought from the Dartmoor Road area along State Avenue. City Manager Schainker noted that it would be costly. Mayor Campbell noted that this was the first time that the owners of Wiley/Blackwell Press had expressed interest in being annexed.

Council Member Wacha wanted it noted that the 2126 State Avenue request is a very unique case given the special circumstances that exist. He advised that he is willing to make an exception in this case, but does not want it to set a precedent. Mr. Schainker said that this situation is unusual in that the water line does exist by the property.

Council Member Larson believes that if this is approved, other requests will be made. He indicated that he would be more comfortable approving this request if it appeared that the properties in the area around Meadow Glen were moving toward annexation. Council Member Goodman said that annexation is one of the tools that the City uses to encourage land owners to be annexed into the

City and become Ames property taxpayers who pay for services; it should not reward perimeter development. He feels that it will be difficult to deny service to others in similar circumstances in the future. Mr. Goodman stated his preference to wait until the property next to the one in question annexes and then 2126 State Street could also be annexed.

Moved by Wacha, seconded by Mahayni, to adopt RESOLUTION NO. 11-063 approving the request to provide water service to 2126 State Avenue with the following two requirements recorded with the property deed: (1) that the owner agree to voluntarily annex into the City either when the property becomes contiguous or at a later date at the discretion of the City Council, and (2) that no further division of the lot or construction of additional homes be allowed on the property.

Roll Call Vote: 4-2. Voting aye: Larson, Mahayni, Orazem, Wacha. Voting nay: Davis, Goodman. Resolution declared adopted, signed by the Mayor, and hereby made a portion of these minutes.

HEARING ON INTERMODAL FACILITY (CONTINUED FROM FEBRUARY 8, 2011):

Mayor Campbell continued the public hearing. There being no one wishing to speak, the hearing was closed.

Moved by Mahayni, seconded by Goodman, to adopt RESOLUTION NO. 11-064 approving the Operations Agreement with Iowa State University.

City Manager Schainker advised that, prior to authorizing construction of the new Intermodal Facility, it was important that an agreement be finalized that outlines the responsibilities for operating the new facility. It was ultimately determined that Iowa State University (ISU) would be the most appropriate operator of the new facility. According to City Manager Schainker, the Federal Transit Administration (FTA) is requiring that the applicant for the TIGER Grant, i.e., the Ames Transit Agency, be named as the contracting authority with the University, even though Ames Transit is an agency of the City.

Mr. Schainker advised that the University will assume all responsibilities for operating the facility. He emphasized that the daily operational decisions will be made by the Manager of the Parking Division of the Department of Public Safety, policy direction and management decisions will be made by the City Manager and the ISU Vice-President for Business and Finance.

According to Mr. Schainker, all revenues and expenses related to the operation of the Intermodal Facility will be handled by the University and reflected in a separate University fund. None of the financing for the operating revenues or expenses will be shown on the City's accounting system. The University will provide a recommended budget to the City Manager by January 1 for the next fiscal year. Mr. Schainker again emphasized that, while the intent of the parties is to ensure that revenues equal expenditures, there is a possibility that revenues may not be sufficient to cover operational and capital improvement expenditures. If that occurs, the University and the City will share equally in the subsidies necessary to maintain a positive balance.

Council Member Davis noted that "University" is misspelled in the first paragraph of Article IV. City Manager Schainker said that would be corrected.

City Manager Schainker advised that the Council will receive periodic updates on the Facility's

revenues and expenditures.

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

Pertaining to the construction contract for the Facility, Transit Director Sheri Kyras advised that six bids were received. Staff from CyRide and the University have been addressing the following two issues related to a bid award:

1. There was a question regarding the federally mandated Disadvantaged Business Enterprise (DBE) participation on this project. The issues raised have now been resolved.
2. Bid Alternates. There were three alternates included in the construction bid documents - two add alternates (one for the additional deck and one for the bike path extension) and one was a deduct alternate for a different foundation system. At this time, staff is not recommending moving forward with either add alternate. The bids came in at \$7,187,000. The construction budget is \$7,204,210. Both alternates are significantly more than that; however, the bike path extension through the ISU Arboretum to State Street will be revisited after it is known how the construction is going. In discussing Alternate 3 (the deduct), the architectural firm indicated that they are comfortable with that as a good foundation system; it will be good for the Facility, and it is being recommended that the deduct be accepted.

Moved by Orazem, seconded by Wacha, to adopt RESOLUTION NO. 11-065 approving final plans and specifications and awarding a contract to Weitz Company of Des Moines, Iowa, in the amount of \$7,115,000 (which reflects the deduct Alternate 3).

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

HEARING ON ISSUANCE OF \$6,640,000 ESSENTIAL CORPORATE PURPOSE GENERAL OBLIGATION BONDS AND HEARING ON ISSUANCE OF \$310,000 GENERAL CORPORATE PURPOSE GENERAL OBLIGATION BONDS: Mayor Campbell opened the public hearings. No one wished to speak to either issue, and the hearings were closed.

Moved by Goodman, seconded by Mahayni, to adopt RESOLUTION NO. 11-066 approving issuance of \$6,640,000 Essential Corporate Purpose General Obligation Bonds and associated tax levy for debt service and approving issuance of \$310,000 General Corporate Purpose General Obligation Bonds and associated tax levy for debt service.

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

ELECTRIC SERVICES COST OF SERVICE STUDY AND ELECTRIC RATE DESIGN STUDY: City Manager Schainker noted that, under the City's Purchasing Policies, since the cost of the Study is less than \$50,000, it does not require approval by the Council. However, due to the

importance of this Study, staff wanted to provide an update regarding the scope and schedule of it.

Moved by Larson, seconded by Goodman, authorizing the City Manager to negotiate and enter into

a contract with SAIC Energy, Environmental & Infrastructure LLC of St. Paul, Minnesota.
Vote on Motion: 6-0. Motion declared carried unanimously.

CITY HALL HEAT PUMP REPLACEMENT PROJECT: Assistant City Manager Bob Kindred advised that staff from the U. S. Department of Energy recently informed City staff that Congress is considering rescinding EECBG funding that has not been obligated by grantees. The largest portion of the City's EECBG grant will not become obligated until the HVAC construction bid is awarded. A public hearing was previously set for April 12, 2011; however, this project needs to be expedited. Mr. Kindred noted that on March 1, 2011, the Council will be asked to rescind that hearing date and set the hearing date for March 8, 2011, which will be a Special Meeting of the City Council.

Moved by Orazem, seconded by Wacha, to accept the report of bids.
Vote on Motion: 6-0. Motion declared carried unanimously.

PUBLIC SAFETY INFORMATION MANAGEMENT SYSTEM: Police Chief Chuck Cychosz advised that in early 2008, the current software vendor announced that it would discontinue support of its CAD6 product. That decision was due, in part, to their purchase of a competing software company (OSSI). An RFP was issued by the City of Ames after review by the purchasing departments of each of the other agencies: Story County and Iowa State University. As a result of the process, SunGard Public Sector, Inc., and its OSSI product were selected as the recommended vendor. The new program will include all of the capabilities of the existing software. The funding sources were reviewed by Chief Cychosz.

Moved by Davis, seconded by Wacha, to adopt RESOLUTION NO. 11-068 approving contracts with SunGard for the purchase of the Public Sector information management system.
Roll Call Vote: 6-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

Moved by Davis, seconded by Wacha, to adopt RESOLUTION NO. 11-069 approving the Cost-Sharing Agreement among City, Story County, Iowa State University, and 9-1-1 Board..
Roll Call Vote: 6-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

CONTINUATION OF OUTSIDE CONSULTING SERVICES FOR WATER POLLUTION CONTROL PLANT NPDES PERMIT APPEAL: Council Member Orazem asked for a list of deliverables from Hall & Associates to be provided to the City Council. John Dunn, Director of Water and Pollution Control, stated that would be done. He explained that staff has a meeting set with the Department of Natural Resources (DNR) for the first week in March to see if they can arrive at a resolution to some of the points of contention; that will determine how much more effort is needed. Originally, a hearing before the Administrative Law Judge was scheduled for early January; however the DNR requested to have that continued until the end of March. There remains a considerable amount of review of discovery materials to be done, which is part of what Hall & Associates is providing.
Council Member Wacha noted that it is frustrating to spend thousands of dollars on a consultant; however, tens of millions is conceivably at stake if the City loses the appeal.

Moved by Mahayni, seconded by Orazem, to adopt RESOLUTION NO. 11-070 authorizing an

additional \$30,000 to be paid to Hall & Associates for continuation of services in connection with the NPDES Permit appeal.

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

ORDINANCE VACATING FORMER SUMNER AVENUE RIGHT-OF-WAY AND ALLEY RIGHT-OF-WAY IN KINGSBURY'S ADDITION: Moved by Mahayni, seconded by Davis, to pass on second reading an ordinance vacating the former Sumner Avenue right-of-way and alley right-of-way in Kingsbury's Addition.

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

ORDINANCE REZONING PROPERTY AT 712 SOUTH 16TH STREET: Moved by Goodman, seconded by Mahayni, to pass on second reading an ordinance rezoning property at 712 South 16th Street from Highway-Oriented Commercial (HOC) to Residential High Density (RH).

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

COMMENTS: Moved by Larson, seconded by Goodman, to refer to staff for a report on what can be televised on Channel 12 in order to address the request of Central Iowa Symphony to videotape and air their concerts on Channel 12.

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

Moved by Larson, seconded by Goodman, to refer to staff the letter from Chuck Winkleblack dated February 18, 2011, regarding a text amendment to the village regulations to allow a small animal veterinary clinic in Somerset.

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

ADJOURNMENT: Moved by Davis to adjourn the meeting at 8:53 p.m.

Diane Voss, City Clerk

Ann H. Campbell, Mayor