

MINUTES OF THE REGULAR MEETING OF THE AMES CITY COUNCIL

AMES, IOWA

AUGUST 23,

2011

The regular meeting of the Ames City Council was called to order by Mayor Campbell at 7:00 p.m. on August 23, 2011, in the City Council Chambers in City Hall, 515 Clark Avenue. Present from the Ames City Council were Davis, Goodman, Larson, Mahayni, and Orazem. *Ex officio* Member Finseth was also present. Council Member Wacha was absent.

Mayor Campbell announced that the Council would be working off an Amended Agenda. A Closed Session to discuss strategy with counsel regarding settlement of the City's appeal of its NPDES Permit had been added. She also brought to the Council's attention that the amount of the contract with Gillig Corporation for the purchase of five buses (Agenda Item No. 34) was \$1,960,000 (not \$1,900,000).

PROCLAMATIONS: The Mayor read a Proclamation for National Day of Remembrance for the 10th Anniversary of the events of September 11, 2001. Accepting the Proclamation were Ames Fire Lieutenant Dave Folkmann, Firefighters Wes Hubbard, Dave Whitaker, Todd Moomaw, and Rowdy Kraby, and Ames Police Commander Geoff Huff and Lieutenant Tom Shelton.

A Proclamation celebrating 11 Days of Global Unity (September 11 - 21, 2011) was read by Mayor Campbell. Heather Withers, Mary Nakadate, and Cheryl Binzen accepted the Proclamation. Ms. Withers, 1226 Ridgewood Avenue, Ames, gave the history behind the origin of this celebration, which began after September 11, 2001. She highlighted several events that will occur to support the peace-making activities and celebrate strengths inherent in community diversity.

PRESENTATION OF ANNUAL AMES ECONOMIC DEVELOPMENT COMMISSION REPORT: Dan Culhane, President and Chief Executive Officer, presented the Ames Economic Development Commission's Annual Report for 2010. He reminded the City Council that this annual presentation is part of AEDC's contractual obligation with the City.

Mr. Culhane described 2010 as possibly the best year Ames had ever had relative to economic development activity and success. He recapped the new and expanded businesses that had resulted in new and expanded investment and jobs in Ames. According to Mr. Culhane, Ames economic development had been "robust" since 2010. On behalf of the AEDC Board of Directors, Mr. Culhane thanked the City Council for its past support. He stated that the AEDC is currently developing its Five-Year Plan for 2012-2017.

PRESENTATION BY LIBRARY BOARD OF TRUSTEES PERTAINING TO BUILDING RENOVATION/EXPANSION: Dudley Luckett, member of the Library Board of Trustees expressed his personal passion for libraries. He emphasized the importance of public libraries to communities. Mr. Luckett introduced other Trustees present: Kevin Stow, Laura Rawlins, Sherry Bradley, Sherry Meier, Sam Schill, Al Campbell, and Shazia Manus.

Library Director Art Weeks introduced Roger Kluesner, Jane Acker, Sam Lyon, Tripli Upreti, and Diuya Navi, who were present on behalf of the Ames Public Library Friends Foundation.

Mr. Weeks gave a presentation on the proposed Library expansion/renovation. He explained that

the City had held 22 public forums to receive comments on the possible expansion and renovation of the Library; over 800 people attended the forums. In addition, telephone surveys were conducted with over 400 registered voters to get their input. Mr. Weeks summarized the information gleaned from the public sessions. The recurring comments were: to keep the library downtown at its current location, maintain the historic structures (the 1904 original building, the 1940 addition, and the 1984-85 addition), keep the project cost at a reasonable level, and do so in a manner so as not to drive up operating costs. He reviewed the objectives that would be met in by the proposed addition to and renovation of the current library. The end result would be a facility totaling 77,000 square feet.

Director Weeks requested that the City Council direct staff to work with bond counsel to prepare the language for an \$18 million bond referendum to be on the November 8, 2011, ballot. He stated that \$2 million in philanthropic donations would be added to that, bringing the total cost of the project to \$20 million.

Kevin Stowe identified himself as the Vice-President of the Library Board of Trustees, Director of the Friends Foundation Board, and a member of the Renewal Project Campaign Committee. He told the Mayor and City Council that the Library has a constituency of loyal annual donors, and between \$50,000 to \$80,000/year is raised through two annual campaigns. However, there is not an established base of major gift donors. Because of competing capital drives and an uncertain economic future, potential contributors have become more cautious before pledging their resources. According to Mr. Stowe, philanthropic donations have never been sought for a multi-million-dollar campaign. Federal grant money has dried up, and most smaller grants will not consider applications until a successful bond referendum has occurred. Mr. Stowe stated that the Board of Trustees has pledged \$1,000,000 in funds from the Myers, Howell, Marsden, and Thompson bequests that are currently held by the City. In addition to that, \$300,000 has been already committed. Library employees have developed an internal campaign.

Mr. Lockett addressed each of the comments that he had heard from persons objecting to the proposed project. He also listed the reasons why the Library renovation and expansion is needed. It was pointed out that it had been 26 years since construction of the last addition, which was planned to serve a 15- to 20-year period of growth. According to Mr. Lockett, the Library, in its current state, needs extensive repairs. The architect has estimated that those repairs would equate to approximately \$10 million. Those monies will have to be expended to even maintain the current library. In the opinion of Mr. Lockett, Ames owes it to future generations to renovate and expand its Library.

Roger Kluesner, 2702 Cottonwood, Ames, identified himself as the President of the Ames Public Library Friends Foundation Board. He said that that Board operates independently as a 501C3 Foundation. It is a result of a merger of what was previously known as the Friends of the Ames Public Library and the Ames Public Library Foundation. The Friends Foundation operates with a 15-member Board of Directors. It exists for one purpose, which is to support the Library with energy and time and/or raising funds directly through activities. Mr. Kluesner described the activities of the Foundation Board to garner support for Library projects. He also described how the Friends Foundation has worked on the Library “renewal project.”

Jane Acker, 2107 Graeber Street, Ames, said that she is also a member of the Friends Foundation Board, however, was speaking tonight on her own behalf. Ms. Acker expressed her appreciation

of the Library staff, who “basically turn themselves inside out in a thousand different ways” to make it possible for library users to ignore the terrible inadequacies of the existing building. Ms. Acker said that “to call the current library building sub-optimal would truly be charitable.” She referenced a Council goal of making Ames a united and welcoming community. In her opinion, the library is the place where those kinds of activities occur; it is the one place in Ames where every age group, every socio-economic group, every ethnic group come to gather information, learn, and participate in other functions (use computers, get help with taxes, watch movies, attend story time in six different languages, etc.). Investing in the library means the community is taking steps to strengthen and unify Ames. Ms. Acker urged the Council to support a bond issue in the amount of \$18 million for improvements to the library.

Sam Schill, 619 Onyx Street, Ames, stated that he, as a Friends Foundation Board Member, wants to see a library facility that will exist for future generations. He sees the library as a strategic point in children’s education. It is a “hub” for educational opportunities that cannot be offered at home or at school. Mr. Schill wants to inspire young adults to live, work, and raise families in Ames, and the library is a point of reference to keep people excited and serve as a resource center and a technological center in this community. That facility needs to meet residents’ needs not only currently, but also in the future.

Diuya Navi, 922 Poe Avenue, Ames, and Tripli Upreti, 4605 Hemingway Drive, Ames, Co-Presidents of TAG, a club for teens at the Ames Public Library, were present. According to Ms. Navi, they organize events, such as “Rock the Library,” and raise funds for “Project Smyles.” She said that there are over 40 members of TAG. Ms. Navi referred to the Library as her “second home.” She described the teen space as basically just a hallway with four computers. There is no room for all the members of TAG to hold study groups or work on any projects. On behalf of the teens of Ames who use the Library, she urged the Council to approve the wording for the bond issue for the Library “renewal project.”

Terry Stark, business owner in Ames, said he lives in Nevada; however, served on the Library Board in Nevada for ten years. Mr. Stark spoke about two capital campaigns that he had been involved with in Nevada, which has a population of approximately 7,200, where they raised nearly \$7 million and \$2 million of private money. He sees Ames as a community with a lot of people with discretionary income, and he hopes that the people of Ames will step up and support the project through voting for the bond referendum and in financial contributions. Mr. Stark also stressed the importance of the Library and said the project needs to be done.

Laura Rawlins, 1119 Johnson Street, Ames, advised that she was a member of the Friends Foundation Board, but was speaking for herself. She said that she and her family moved to Ames two years ago, and one of the comments they were told was that they “wouldn’t believe the public library.” Her family still considers the library a gem; however, it needs work. There are many inadequacies and the project is very much needed to make the facility what it should be for the Ames community. The Public Library is a selling point for the City. Ms. Rawlins pointed out that borrowing books from the Library does not cost its patrons anything. She further explained what a great benefit the Library with its “World of Ideas” is to the Ames community. Ms. Rawlins encouraged the Council to support the bond referendum as it is very important to the community.

City Manager Schainker clarified that the next step to be taken by the Council members would be to pass a motion, if that is their desire, directing staff to work with the bond attorney to

prepare the referendum language.

Council Member Davis asked Kevin Stowe to clarify what funding has been committed to the project. Mr. Stowe reported that the Board of Trustees had committed \$1 million from bequests to the Library. An additional \$300,000-plus had been committed. Council Member Larson questioned whether there would only be \$700,000 remaining to be raised. Mr. Stowe stated that the preference is to raise above the \$2 million, so that the full \$18 million bond issue would not have to be spent.

Moved by Larson, seconded by Goodman, to direct staff to prepare a bond referendum ballot question for Library expansion in an amount not to exceed \$18,000,000 for the City-wide election to be held on November 8, 2011.

Council Member Mahayni noted that this issue had been discussed for almost two years, the Board members have done their homework, but the job is not done yet. He said that the Council and the Board members need to work together to ensure that the referendum is successful.

Vote on Motion: 5-0. Motion declared carried unanimously.

CONSENT AGENDA: Council Member Goodman asked to pull Item No. 10 for separate discussion.

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

1. Motion approving payment of claims
2. Motion approving Minutes of Regular Meeting of August 9, 2011
3. Motion approving Report of Contract Change Orders for August 1-15, 2011
4. Motion approving renewal of the following beer permits, wine permits, and liquor licenses:
 - a. Class C Liquor & Outdoor Service Privilege – SMG Food & Beverage, CY Stephens Auditorium
 - b. Class C Liquor & Outdoor Service Privilege – SMG Food & Beverage, Scheman Building
 - c. Special Class C Liquor – SMG Food & Beverage, Fisher Theater
 - d. Class C Beer & B Native Wine – Char's, 3100 South Duff Avenue
 - e. Class E Liquor, C Beer, & B Wine – HyVee Drugstore, 500 Main Street
 - f. Class C Liquor & Outdoor Service – Indian Delights, 127 Dotson Drive
 - g. Class C Liquor – Mandarin Restaurant of Ames, 415 Lincoln Way
 - h. Class E Liquor, C Beer, & B Wine – Cyclone Liquors, 626 Lincoln Way
 - i. Class C Liquor – Corner Pocket/Zone, 125 Main Street
5. Motion directing City Attorney to draft ordinance revisions pertaining to snow emergency routes
6. RESOLUTION NO. 11-396 waiving enforcement of Ordinance 19.9 from 1:00 - 3:00 p.m. on September 18, 2011, to allow golf cart rides for mobility impaired individuals at Ada Hayden Heritage Park
7. RESOLUTION NO. 11-397 accepting report of proposals and approving seven Professional Services Contracts to Clapsaddle Garber Associates, Inc., in an amount of \$69,050 and two contracts to Snyder and Associates in the amount of \$23,000, for the Federal Emergency Management Agency Hazard Mitigation Grant Program
8. RESOLUTION NO. 11-398 approving renewal of contract for Power Plant Ash Hauling Services with Biosolids Management Group of Boone, Iowa, in an amount not to exceed \$1,000,000

9. RESOLUTION NO. 11-399 approving Iowa Department of Transportation Agreement for maintenance and repair of primary roads
10. RESOLUTION NO. 11-400 approving contract and bond for WPC Plant Switchgear Rehabilitation Project
11. RESOLUTION NO. 11-401 approving contract and bond for WPC Facility Methane Engine Generator Rehabilitation Project
12. RESOLUTION NO. 11-402 approving Change Order No. 1 for 2011/12 CDBG Public Facilities Neighborhood Infrastructure Improvements Program (North Hazel Avenue and North 3rd Street)
13. RESOLUTION NO. 11-403 completion of 2007/08 Sanitary Sewer Rehabilitation, Contract 2
14. RESOLUTION NO. 11-404 accepting completion of 2009/10 Water System Improvements (Water Main Replacement)
15. RESOLUTION NO. 11-405 approving Plat of Survey for 220 South Duff Avenue
Roll Call Vote: 5-0. Resolutions declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

GOLF CART RIDES FOR MOBILITY IMPAIRED INDIVIDUALS AT ADA HAYDEN HERITAGE PARK: Council Member Goodman asked to be reminded of the reason why golf carts are not allowed in Ada Hayden Park. City Manager Schainker advised that anything that is motorized is not allowed on the trails. Referencing the environmental sustainability that the City is promoting at Ada Hayden, Mr. Goodman requested that the Parks & Recreation Director Nancy Carroll consider using something less upsetting to those who use the area regularly, e.g., electric golf carts instead of gas-powered ones, to provide this service.

Moved by Goodman, seconded by Davis to adopt Resolution No. 11-396 waiving enforcement of Ordinance 19.9 from 1:00 - 3:00 p.m. on September 18, 2011, to allow golf cart rides for mobility impaired individuals at Ada Hayden Heritage Park.

Roll Call Vote: 5-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

PUBLIC FORUM: Brian Kineer, 202 Sandberg Court, Ames, expressed his fondness for the Ames community. He stated that he pays over \$20,000/year in taxes and employs over 70 people at his business. Mr. Kineer asked that the Council address three issues: (1) Parking Meters. In the opinion of Mr. Kineer, parking meters do not encourage anyone to shop Downtown or Campustown. He has been told by the Police Chief that parking meter revenue equates to \$800,000/year. Mr. Kineer alleged that shopping would increase if the parking meters were taken out, and that would make up that \$800,000. (2) Floodplain. Mr. Kineer contended that the numbers being used to determine where the floodway is are wrong. He wants to ensure that the IDOT, when making crucial decisions, is using the correct numbers. Mr. Kineer stated his disagreement with what is being done on South Duff, referencing the dirt that is being brought in where Carney's formerly was located on South Duff. Although he is a big proponent of growth, he believes that no new businesses should occur on Duff Avenue. Mr. Kineer recommended that large culverts be installed underneath Duff and underneath Highway 30. (3) "Green Screens" (bushes and trees planted to buffer concrete). Mr. Kineer suggested that amendments to the *Code* be made regarding the requirement for green screens. With the current requirements, there is no place to dump snow. It ends up being dumped with the salt on bushes,

which ultimately kills the bushes. Landscaping still should be required, but with a plan for where snow will be pushed in the wintertime. He also feels that the screens create a place for people who commit crimes to hide.

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

MOSQUITO ABATEMENT AT HUNZIKER YOUTH SPORTS COMPLEX: City Manager Schainker reminded the Council that it had received a request from the Hunziker Youth Sport Complex (HYSC) Board of Directors for assistance in fogging for mosquitos at the Complex. However, no action was taken. On June 17, 2011 the HYSC Board again requested assistance with mosquito abatement at the Complex. To date, this request has not been referred to staff. Mr. Schainker noted that the City Sanitarian formerly supervised the mosquito abatement program, but with the recent elimination of the Sanitarian position, the responsibility for the administration of the mosquito control program has shifted to the Parks Superintendent.

According to Mr. Schainker, staff estimates that it costs approximately \$50 per application. He said that larviciding already occurs around the neighborhoods in the Southdale area. Noting that the City's past practice had been to concentrate on public property only, the Council was advised that HYSC has indicated that it would be willing to pay for the mosquito fogging. Mr. Schainker reminded the Council that the HYSC leases the property from the City; however, part of that agreement is that the HYSC will pay all operating costs. It is estimated that it would cost an estimated \$1,000/year to fog the Hunziker Youth Sports Complex. Fogging is done annually from June to October.

William Jenks, 3101 Greenwood Road, Ames, representing the HYSC, advised that over 1,000 children and adults use the Complex. The soccer club alone has 550 participants in the fall. The fall activities start after school (late afternoon) and conclude at sunset; that is the worst time of day for mosquitos. Mr. Jenks stated that they are willing to pay for the application; however, they do not have the equipment or trained personnel to do the fogging.

Moved by Goodman, seconded by Orazem, to direct the Parks and Recreation staff to fog the Hunziker Youth Sports Complex weekly with the City absorbing all of the costs to accomplish this new service level.

Council Member Mahayni expressed appreciation of the volunteers who run the HYSC. Council Member Orazem pointed out that the Complex is well known for the large number of youth activities it coordinators and the large numbers of people those activities bring into the City. He does not see the cost of mosquito fogging as a large investment to maintain the benefit of being known as a community that does good things for its youth. Council Member Larson noted the collaboration between the City Parks and Recreation Department and the HYSC. The City could not provide enough programs for all the participants involved in activities sponsored by the HYSC. He does not see any reason why the City would not provide the same level of mosquito control for the HYSC as it does for its other parks.

Council Member Goodman stated his preference that the HYSC Board try to work the mosquito spraying costs into the \$25,000 annual allocation provided by the City.

Vote on Motion: 5-0. Motion declared carried unanimously.

ADAMS STREET PAVING: Public Works Director John Joiner recalled that the City Council had referred to staff a petition from neighborhood residents submitted by Staci Harper of 1419 Edgewater Court, Ames, pertaining to paving the graveled portion of Adams Street. This petition is specific to a small section that is located east of Calhoun Avenue over to Dawes Drive; the last section of street in that area that is still graveled.

The letter that was submitted with the petition states that during the winter the area develops large potholes and ruts, gets very muddy, and makes it difficult to drive. There also has been a large increase in traffic in the area due to its proximity to Ada Hayden Park. Both of these issues greatly impact the adjacent property owners. Ms. Harper requested that the paving of this intersection be included in the next annual Capital Improvement Plan (CIP).

Director Joiner reviewed the possible options: (1) Program the project into the CIP and fund it entirely through General Obligation Bonds, (2) Fund the improvement through assessments. Mr. Joiner noted that the *Iowa Code* requires that cities may only assess up to 25% of the property value. This project is estimated at \$160,000 (including engineering). Any amount that would be in excess of 25% would be a deficiency; that amount would have to be picked up by the City, and that deficiency amount is \$60,000. (3) Funding the improvement through a Special Assessment. With this method, all adjoining property owners agree through an Assessment Agreement to waive the deficiencies and pay the total costs.

According to Mr. Joiner, the Municipal Engineer spoke with one of the affected property owners, and the impact of either type of assessment would be an issue for the property owners. Mr. Joiner also referenced a long-standing Council policy that at least 50% of the homeowners with frontage on the area in question voluntarily agree to the assessment. It appears that that would also be an issue for this area.

Council Member Davis asked how the 1998 paving of Adams Street, from Calhoun Avenue to the west line of Windsor Oaks Subdivision, was funded. Mr. Joiner advised that it was a special assessment; it was tied to the development of the retirement community. One-half was paid for by the developers of the retirement community and the other half was assessed to the northern property owners.

Staci Harper, 1419 Edgewater Court, Ames, described the growth that has been experienced in the past few years around Adams Street. She stated that two subdivisions had been added that brought in 74 family homes. All of those families are Ames residents. In addition, two City parks were added. Ms. Harper explained that the portion of street in question is a graveled section at an intersection on a hill. The area degrades very quickly with all the traffic. Ms. Harper alleged that the City does not always keep up with it, and it gets dangerous. Ms. Harper acknowledged that, historically, subdivision streets get paved through the cost of lots; however, this subdivision has been in existence for quite some time, and asking the adjacent property owners to come up with \$160,000 would mean that that portion of street would never get paved. She said the paving of the rest of Adams Street would benefit all the residents of Ames who travel that way to Ada Hayden, to Gilbert Schools, and areas in the north part of Ames; therefore, the City should include it in the CIP and assume the costs.

Dennis Wendell, 917 Adams Street, Ames, stated that he was fully supportive of the paving of

Adams Street. The section of road is regularly used by residents of all over town. The loose gravel does pose a safety risk. The road has to be maintained by the City now. Adams Street is one of the few unpaved streets remaining in Ames. Mr. Wendell said he was speaking with permission for Steve Martin, 4003 Dawes, Ames, and George and Dorothy Kizer, 3919 Dawes Drive, Ames, and asked the Council to support Alternative No. 1, which is for the City to assume all costs associated with the requested paving.

Dorothy Kizer, 3919 Dawes Drive, Ames, also asked the City Council to support Alternative No. 1. Ms. Kizer told the Council that she and her husband have lived in their home for 45 years. According to Ms. Kizer, there has not been a lot of discussion about the road until lately when two new parks were constructed and new subdivisions were added in that area. Because the City has allowed the new developments and constructed new parks that are used by all residents, Ms. Kizer believes that the City has an obligation to provide a safe road and safe access to the parks. The City should take the responsibility of paying for improvement to the road.

Council Member Orazem asked if Option 2, i.e., funding accomplished through a standard assessment procedure, would require 100% agreement on the part of the homeowners. Director Joiner advised that the City could institute an assessment following the *Iowa Code* procedures, which would require the adjacent property owners to pay an amount up to 25% of their property's value with the City to pick up any deficiencies. It would be collected through property taxes over a period of 12 years with prorated interest (approximately 4%).

Council Member Goodman pointed out that Adams Street is not the only unpaved area in Ames, and the Council would need to be consistent with similar requests. He said he did not want to force the cost of paving on the property owners, who may be unwilling or unable to pay the assessment; likewise, he does not want to force the costs on taxpayers. Most taxpayers have already paid for the paved street in front of their homes because it was included in cost of the home they chose to purchase.

Moved by Goodman to reject the request to include the paving of Adams Street (Calhoun Avenue to Dawes Drive) in the Capital Improvements Plan.

Council Member Orazem noted that if the affected property owners did not consent to the assessment, the project ultimately would not happen; that would, in essence, mean that the request would be rejected.

Motion withdrawn.

In the opinion of Council Member Larson, the property value of each owner's home would increase significantly. He estimated that the homes' values would probably increase at least to by the amount of the assessment. He agreed with Council Member Goodman that a precedent would be set if the paving of this street would be included in the Capital Improvements Plan, with funding by the City. This could pertain not only to paving, but other requests for infrastructure. Mr. Larson thought that somewhat of a compromise would be best; the property owners would pay via an assessment procedure, with the City picking up any deficiencies.

Moved by Larson, seconded by Orazem, to direct staff to include the paving of Adams Street

(Calhoun Avenue to Dawes Drive) in the Capital Improvements Plan in a specified year, with funding accomplished through a standard assessment procedure.

The Mayor clarified that under that option, the four adjacent property owners would not be assessed more than 25% of their property's value. The City would cover the deficiencies.

Council Member Goodman asked if conversations would be held with property owners first to ascertain their willingness to participate in an assessment project. Director Joiner said that staff typically does that before moving forward with the public hearing. City Attorney Marek explained that a public hearing would be held, and the affected property owners will then have an opportunity to express their willingness to participate.

City Manager Schainker clarified that the Council was actually asking staff to meet with the four property owners directly affected and then report back to the City Council prior to commencing an assessment project.

At the inquiry of Council Member Mahayni, Director Joiner advised that Adams Street is a collector street.

Council Member Larson said that he would have preferred that the City Assessor be asked to report on what the increased value of each affected property would be after the street had been paved. That number could then be compared to the amount of each assessment, which would prove that the project would benefit the affected property owners in an amount greater than what they would be assessed.

Vote on Motion: 4-1. Voting aye: Davis, Goodman, Larson, Orazem. Voting nay: Mahayni. Motion declared carried.

AMES HIGH HOMECOMING: Danielle Sitzman, 5416 Thackery Drive, Ames; Samantha Bortle, 1923 BelAir Drive, Ames; and Sarah Marnin, 1030 Vermont Court, Ames, were present.

Moved by Mahayni, seconded by Davis, to adopt/approve the following:

1. RESOLUTION NO. 11-406 approving closure of Parking Lot MM and south half of Parking Lot M at 5:30 p.m. on September 19, 2011
2. RESOLUTION NO. 11-407 approving waiver of parking meter fees and enforcement for Parking Lot N from 5:00 to 6:00 p.m. on September 19, 2011
3. RESOLUTION NO. 11-408 approving closures of portions of Main Street, Douglas Avenue, Fifth Street, Burnett Avenue, Kellogg Avenue, Clark Avenue, and Pearle Avenue from 5:30 p.m. to approximately 7:30 p.m. for parade scheduled at 6:30 p.m. on September 19, 2011
4. RESOLUTION NO. 11-409 approving suspension of parking meter fees in Main Street Cultural District from 5:30 p.m. to 6:00 p.m. on September 19, 2011
5. Motion approving fireworks permit for display after football game (approximately 9:15 p.m.) on September 23, 2011

6. RESOLUTION NO. 11-410 approving waiver of fee for Fireworks Permit

Roll Call Vote: 5-0. Resolutions/Motions declared adopted/approved unanimously, signed by the Mayor, and hereby made a portion of these minutes.

MUSIC WALK ON SEPTEMBER 15, 2011: Moved by Mahayni, seconded by Goodman, to adopt RESOLUTION NO. 11-411 approving waiver of fees for electricity usage in the entire MSCD from 3:00 to 8:00 p.m.

Roll Call Vote: 5-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

Motion by Mahayni, seconded Goodman, to adopt RESOLUTION NO. 11-412 approving waiver of parking meter fees and enforcement for MSCD from 3:00 p.m. to 8:00 p.m.

Roll Call Vote: 5-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

Moved by Mahayni, seconded by Goodman, to approve Blanket Temporary Obstruction Permit for MSCD from 3:00 p.m. to 8:00 p.m.

Vote on Motion: 5-0. Motion declared carried unanimously.

Moved by Mahayni, seconded by Goodman, to approve Blanket Vending License for MSCD from 3:00 p.m. to 8:00 p.m.

Vote on Motion: 5-0. Motion declared carried unanimously.

Moved by Mahayni, seconded by Goodman, to adopt RESOLUTION NO. 11-413 approving waiver of fee for Blanket Vending License.

Roll Call Vote: 5-0. 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. 11-414 approving use of six parking spaces at the intersection of Main Street and Kellogg Avenue for food vendors.

Roll Call Vote: 5-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

“WELCOME TO AMES” EVENT ON AUGUST 26, 2011: Moved by Mahayni, seconded by Goodman, to adopt RESOLUTION NO. 11-415 approving closure of street and metered parking spaces on Chamberlain Street between Welch and Stanton Avenues from Noon to 8:00 p.m.

Roll Call Vote: 5-0. 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. 11-416 approving closure of lot and parking spaces in Chamberlain Lot Y

Roll Call Vote: 5-0. 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. 11-417 approving waiver of fees for electricity usage.

Roll Call Vote: 5-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby

made a portion of these minutes.

5-DAY LICENSES FOR OLDE MAIN BREWING COMPANY: Moved by Mahayni, seconded by Davis, to approve two 5-Day licenses for Olde Main Brewing Company at ISU Alumni Center, 420 Beach Avenue:

- a. Class C Liquor - August 31 - September 4
- b. Special Class C Liquor - September 10 - 14

Vote on Motion: 5-0. Motion declared carried unanimously.

NEW CLASS B BEER PERMIT FOR LITTLE TAIPEI: Moved by Goodman, seconded by Davis, to approve a new Class B Beer Permit for Little Taipei, 2514 Chamberlain Street.

Vote on Motion: 5-0. Motion declared carried unanimously.

EXTENSION OF OUTDOOR SERVICE AREA FOR BUFFALO WILD WINGS: Moved by Goodman, seconded by Davis, to approve an extension of Outdoor Service Area for Buffalo Wild Wings, 400 South Duff, for ISU home football games between September 3 and November 18, 2011.

Vote on Motion: 5-0. Motion declared carried unanimously.

EXTENSION OF OUTDOOR SERVICE AREA FOR WEST TOWNE PUB: Moved by Mahayni, seconded by Davis, to approve an extension of Outdoor Service Area for West Towne Pub, 4518 Mortensen Suite 101, for ISU vs. Iowa football game on September 10, 2011.

Vote on Motion: 5-0. Motion declared carried unanimously.

NEW CLASS C LIQUOR LICENSE FOR WHISKEY RIVER: Moved by Goodman, seconded by Davis, to approve a new Class C Liquor License for Whiskey River, 134 Main Street, pending issuance of a Certificate of Occupancy.

Vote on Motion: 5-0. Motion declared carried unanimously.

NEW SPECIAL CLASS C LIQUOR LICENSE & OUTDOOR SERVICE FOR NOODLES & COMPANY: Moved by Davis, seconded by Mahayni, to approve a new Special Class C Liquor License & Outdoor Service for Noodles & Company, 414 South Duff Avenue, pending issuance of a Certificate of Occupancy.

Vote on Motion: 5-0. Motion declared carried unanimously.

2011/12 ANNUAL ACTION PLAN PROJECTS FOR COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAMS: Vanessa Baker-Latimer, Housing Coordinator, advised that, due

to the August 2010 flood event, the City became eligible to apply for grant money under the federal Hazard Mitigation Grant Program (HMGP). Under HMGP, the City applied for grant funds to support a property acquisition or "Flood Buyout" project. The HMGP program requires a 15% local match, and the City was notified that CDBG funds would qualify for this match. The Council then set aside approximately \$500,000 of the 2010-11 CDBG allocation to be used as possible matching dollars for implementation of the flood buyout program. However, the designated properties did not meet FEMA's funding threshold for HMGP funding, and the City withdrew its application. This consequently requires that the \$500,000 of CDBG funding be reallocated to other programs.

Ms. Baker-Latimer reviewed the proposed amended budget for the 2011-12 Annual Action Plan program activities. She explained that the activities being recommended are the same as in the original Action Plan, but have revised funding amounts. These activities directly focus on the City Council goal of strengthening neighborhoods. The 2011-12 Annual Action Plan Program activities were reviewed, specifically the (1) Neighborhood Sustainability Program [includes the Home Improvement Rehabilitation Program, the Homebuyer Assistance Program, and the Slum and Blight Program], and (2) Public Improvement Program [includes the Neighborhood Infrastructure Improvement Program].

Housing Coordinator Baker-Latimer provided the staff's rationale for not proposing new projects to replace the Flood Buy-out Program as follows: (1) The proposed projects are consistent with the City's goals and priorities to focus on neighborhood sustainability by improving both the housing stock and the infrastructure in low- and moderate-income vital core neighborhoods. (2) The proposed projects reduce the downtime that would result from starting new programs that can affect the City's ability to meet HUD's timely expenditure requirements. (3) The number of projects for FY 2011-12 reflects the workload capacity of the current full-time staff due to the reduction in the number of FTE staff assigned to the Housing Division.

It was pointed out by Ms. Baker-Latimer that all of the proposed activities would be of 100% benefit to low- and moderate-income persons and/or neighborhoods except for the Slum and Blight Activity (Dangerous Building Removal Program).

According to Ms. Baker-Latimer, if the City Council is in agreement with the proposed amended 2011-12 Action Plan Projects, the next steps would be to solicit input from citizens on these projects and then to bring any public comments back to City Council at its September 13 meeting for finalization of projects to be included in the amended 2011-12 Action Plan.

At the inquiry of Council Member Goodman, Ms. Baker-Latimer stated that she was not optimistic that the City would continue to receive federal funding in the future.

Moved by Davis, seconded by Mahayni, directing staff to obtain public input on the proposed amended 2011/12 Annual Action Plan projects for the Community Development Block Grant programs.

Vote on Motion: 5-0. Motion declared carried unanimously.

FACADE GRANT APPLICATIONS: City Planner Jeff Benson explained that, in May 2011, the City Council directed that all of the applications for Downtown Façade Improvement grants for each fiscal year be reviewed and awarded at one time. To aid in comparing applications, the Council also established a scoring process. According to Mr. Benson, the number of grants awarded is based on the number of grant requests, the costs of the improvements, and the budget available for the Downtown Façade Improvement Fund. Mr. Benson stated that funding is \$111,662 for the 2011/12 fiscal year.

Mr. Benson advised that seven grant applications were received by August 1, 2011. Two owners of businesses and properties on Main Street, along with two City staff, evaluated these grant applications based on scoring criteria. All of the projects are located in the two blocks between Kellogg and Duff Avenues. Highlights of each project were given by Mr. Benson. Three of the

projects are planned for implementation this fall, and two for next spring. Current grant guidelines require completion of projects within six months of the Notice to Proceed. Based on experience with past projects, staff would set November 1, 2012, as the completion date for the projects.

According to Mr. Benson, two grant applications each have been received from Emerhoff's and Moormans. The Moormans own and occupy two, interconnected 25-foot building bays (or "fronts"), and Emerhoff's owns and occupies one 25-foot bay plus half of another 25-foot adjacent, but not interconnected, bay. Emerhoff's owns the other half bay and leases it to another retail business. The grant applications include improvements to all the facades. Mr. Benson reminded that, in its discussion on April 12, the City Council directed that more points be given to projects that include more than one 25-foot bay in one building, but that multiple grants would not be awarded. The scores given assume that both 25-foot bays will be completed if only one grant is awarded in each case. However, the owners have said that the total amount of both grants is very significant to their projects and neither has decided whether the project would proceed with the support of only one grant. If either or both of the projects do not proceed, then the next grant cycle in spring 2012 would award the remaining funds. If an owner proceeds with improvements to only one 25-foot bay, a second grant could be awarded during the second grant round in a fiscal year if funds are still available, but would still be ranked lower than applications for projects never before funded.

Mr. Benson advised that the \$65,551 total is \$46,111 less than the total funding available of \$111,662. The \$46,111 could be awarded in a second grant cycle later in the 2011/12 fiscal year.

Ron Eagan, 1137 Johnson, Ames, member of the Ames American Legion Post 37, said that the Legion is embarking on an extensive renovation project to the interior and exterior of its building located at 225-227 Main. The project is estimated to cost approximately \$440,000. Sarah Schendel, 212 Walnut Street, Ames, explained the benefits that the American Legion provides to the community. Ms. Schendel gave the history of the Legion building.

M i c h a e l
Deacon, 317
Ninth Street,
Ames, asked
f o r t h e
C o u n c i l ' s
approval of the
L e g i o n ' s
facade grant
application.

Dennis Jones, 4211 Stone Brooke Drive, Ames, described the Facade Grant being requested for the Pantatorium building located at 410 Douglas. The grant would pay for the canopy and the store front windows. Unrelated to the grant request, Mr. Jones asked that the City reinstall the street light in front of the building. Council Member Larson asked what the building will be used for. Mr. Jones advised that the tenant will be KHOI Community Radio.

Mark Peterson, 303 Westbrook Lane, Ames, stated that he was representing 215, 217, and 219 Main Street, Ames. These buildings house Emerhoff's Footwear and Ngairé Photography. Mr. Peterson said that he was pleased the projects are located in the core of the downtown area; the

improvements will have a large impact.

Moved by Goodman, seconded by Mahayni, to adopt Resolution No. 11-418 approving the projects listed in the table entitled "Downtown Facade Improvement Grants for FY 2011-2012" for a total of \$65,551 from the Downtown Facade Grant Program, specifically,

410 Douglas Avenue	Pantorium	\$ 4,500
115 Main Street	Retail business	15,450
217-219 Main Street	Emerhoff's Footwear	16,000
226 Main Street	Moorman Clothiers	16,000
225-227 Main Street	American Legion	13,601

Noting the two grants being asked for by two businesses, Council Member Orazem asked if the Council could consider allocating half of the request for the second part of the project since the budget would allow for that. Council Member Goodman noted that the guidelines already decided on by Council were set to allow for other owners who had not received grants previously to have a chance to receive funding.

Roll Call Vote: 5-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

The meeting recessed at 9:22 p.m. and reconvened at 9:29 p.m.

AIRPORT PROTECTION PLANNING: City Planner Sam Perry explained that currently, the only reference to protecting the continued viability of the Ames Municipal Airport is in *Ames Municipal Code* Section 29.408 (6). That Section addresses heights of buildings constructed within 750 feet of the property boundary of the Airport, mandating that they be in compliance with height restrictions from the Federal Aviation Administration. According to Mr. Perry, that *Code* section leaves a gap in necessary airport protection because navigable airspace can be impacted by many kinds of obstructions and by incompatible uses located in critical flight path areas that go well beyond the 750 feet. Navigable airspace is defined by the FAA pursuant to Title 14 of the *Code of Federal Regulations* (FAR) Part 77. FAR Part 77 surfaces are those air spaces above and around airports that required protection from potential obstructions that might interfere with airport traffic. If development happens that conflicts with Part 77 surfaces, then the FAA's response is to alter the pilot's flight path into the runway in order for it to be safe. These alterations could lead a pilot to choose a different airport because of personal preference or a certain aircraft's physical limitations. Mr. Perry pointed out that, although the Ames Municipal Airport is not a commercial passenger airport, it is still very important to the viability of local businesses, recreational uses, and airport-based flight instruction.

Mr. Perry described the current development review process followed when an application is submitted for property within an area on the Part 77 map: The City requests that a federal notice be filed. That notice notifies the FAA of the height and location of the building at least 30 days prior to commencement of construction. According to Mr. Perry, the notice is required by federal law, but it does not give the City any police power to limit construction if a conflict is identified by the FAA. The FAA serves as the City's agency of expertise, but it does not have local control

on development; the FAA's main role is to administer airport traffic and safety. Therefore, if the City allows development that conflicts with safe operation of the airport approaches, runway access could be more difficult for pilots.

According to Mr. Perry, while the City does not have standards to directly regulate development within critical flight paths, through the subdivision process, it may have some ability to limit the intensity of development for any plats created within those flight paths and/or to acquire easements to limit structure height in those areas. The City's subdivision process allows the Council to consider the impacts of the subdivision on existing public improvements. However, this provision is primarily intended to help the Council determine if additional public improvements may be necessary to alleviate any burdens on existing infrastructure created by the subdivision. Mr. Perry advised that rezoning, LUPP amendments, and similar discretionary actions may also provide opportunity to address the impacts of development on airport flight paths.

Mr. Perry recalled that the City Council recently approved a rezoning on South Duff Avenue, south of Highway 30, for which an airport easement was acquired as a condition of the rezoning. Rezoning land is a discretionary action by the City Council, so the acquisition of an airport easement is legal and supported by Goal 7 in the Land Use Policy Plan. However, such

discretion cannot be applied to site plan or building permit approval, which is subject to specifically defined standards in the zoning and building codes.

It was stated by Mr. Perry that the Iowa DOT supports airports through its Office of Aviation, and state funding is set aside for a grant program to assist cities in writing codes and policies to protect airports from the incremental encroachment of urban development. *Code of Iowa* Chapter 329 gives cities the police power to protect airports.

Traffic Engineer Damion Pregitzer reported that a Master Plan for the airport was completed by Snyder and Associates in 2008. The Master Plan identifies areas around the airport which need protection. Some of those areas are already protected by the City through fee-simple ownership or easements. The Master Plan also identified obstructions such as existing trees and buildings that are on private property.

Council Member Larson left the meeting at 9:42 p.m.

Mr. Perry advised that another potential conflict is airport noise near residential living. While housing near airports is typically built after the airports were established, new residents often complain about airport light, noise, and operations, which places increased pressure on airport operators to limit or change their operational activities. There are examples of airports that have had to shut down and/or relocate because of residential encroachment. In response, some cities have opted to require that new residential subdivisions record documents with each lot so that owners are aware of airport operations and cannot contest them or request additional mitigation. According to Mr. Perry, that type of language was also included in the most recent airport easement on South Duff Avenue.

The Council was told by Mr. Perry that one of the topics that it will need to address is existing development. He said that some jurisdictions have dealt with this by allowing existing uses as long as they do not expand. One positive aspect of the existing situation in Ames is that development around the airport is currently not very dense. Additionally, the City does own land beyond the runway areas. Mr. Perry pointed out that putting an airport protection ordinance in place now would ensure consistent regulation in the future.

City Manager Schainker requested direction from the City Council as to what level of regulation was desired. He suggested that Council direct staff to contact comparable cities that have land use restrictions in their airport zoning ordinances to ascertain what techniques they use.

Moved by Davis, seconded by Goodman, to direct Council to contact other cities of comparable size (e.g., Des Moines, Cedar Rapids, Dubuque) that have land use restrictions in their airport zoning ordinances and determine what airport protection techniques are being used.

Vote on Motion: 4-0. Motion declared carried unanimously.

PURCHASE OF BUSES: Moved by Davis, seconded by Mahayni, to adopt RESOLUTION NO. 11-419 approving a contract with Gillig Corporation of Hayward, California, in an amount not-to-exceed \$1,960,000 for the purchase of five 40' buses, contingent upon Transit Board of Trustees approval.

Roll Call Vote: 4-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

PROPOSED CITY LOGO: Due to there being only four Council members currently in attendance, Mayor Campbell suggested that this item be again tabled until the next regularly scheduled meeting.

Moved by Mahayni, seconded by Davis, to table this item until the Council's next Regular Meeting.

Vote on Motion: 4-0. Motion declared carried unanimously.

ADDITIONAL NORTHERN ANNEXATION FOR RESIDENTIAL DEVELOPMENT: Assistant City Manager Bob Kindred summarized the staff report.

Joanne Olson, 3817 Columbine Avenue, Ames, said that the issue of northern growth continues to focus on who is paying to pave Grant Avenue. According to Ms. Olson, Hyde Avenue does not have the geometric design features of a collector road, yet it will be used as such. In her opinion, Hyde Avenue was built as a local road. She believes that the time is now to determine the best access to the new development [Rose Prairie]. Ms. Olson pointed out that access to Rose Prairie is not addressed in the staff report pertaining to additional northern annexation. She told the Council that the residents of the area believe that the City is ignoring the issue of the park that is located at Hyde and Bloomington. Ms. Olson noted that she had been before the Council previously asking to get answers to several questions. She asked the Council when the residents of the area would get answers to the issues that had been raised.

Council Member Larson returned to the meeting at 10:03 p.m.

City Manager Schainker reported that the staff had hoped to have a coordinated approach among all three developers (Rose Prairie, Hunziker, Quarry Estates), specifically regarding the paving of Grant Avenue and infrastructure improvements (water main extensions; sewer main extensions; and off-site improvements, i.e., intersection improvements; electric distribution system extension, phosphate-free fertilizer; residential fire sprinklering; and densities).

Kurt Friedrich, Friedrich Development, 619 East Lincoln Way, Ames, as owner of Quarry Estates, stated that they have signed an agreement with the City; however, it was done in haste in an attempt to work out the issues that would allow for development of their land. He said the one glaring issue that is problematic for Friedrich is the fire sprinklering requirement. Requiring fire sprinklering will cause an expense of approximately \$10,000 per household to cover the cost.

Mr. Friedrich asked that the City take a leadership role and install the infrastructure upfront. Each developer would then pay its proportionate share. According to Mr. Friedrich, he does not see Rose Prairie, Quarry Estates, or the land owned by Hunziker's developing without the City installing the infrastructure. Mr. Friedrich told the Council that the City is almost out of lots for people to build. He does not want to see any more "leakage" from the Ames community to communities to the south. Mr. Friedrich asked the Council to address the fire sprinklering issue and then step up and take the leadership role to install the infrastructure.

Council Member Mahayni expressed frustration in that all three developers have different opinions over what they are willing to do to move the development forward. Mr. Friedrich committed that, if the project moves forward and all three developers are in agreement to go forward with the project, Friedrichs will agree to pay its proportionate share of the costs.

Chuck Winkleblack, Hunziker & Associates, 105 S. 16th Street, Ames, stated that the costs came in 46% higher than what had been indicated initially. He stated that he needs the entire design of the development to be determined first. Mr. Winkleblack said that he is unwilling to negotiate one item at a time because developers cannot get a handle on what their total costs will be. According to Mr. Winkleblack, he has been unwilling to pay for costs that are not associated with the development, e.g., removing infrastructure and replacing it with new infrastructure. Regarding the fire sprinklering requirement, Hunziker & Associates is not willing to put sprinklers in every residence as it would add \$10,000 per home. Mr. Winkleblack added that Hunziker & Associates has been building homes in Ames for over 60 years, and they have not once been asked to install sprinklers in a residential development.

Council Member Goodman said he was not a proponent of fire sprinklering; however, he is a proponent of avoiding future costs to the citizens of Ames of building an additional fire station. Council Member Larson reiterated his opinion that the real problem is with emergency services, not fire calls. Council Member Schainker pointed out that it is the Council's prerogative to change its emergency response time goal.

Assistant City Manager Kindred said that the density issue and the Conservation Subdivision

Ordinance provisions can be addressed when Quarry Estates requests approval. The two main issues are residential sprinklering and infrastructure improvements. Mr. Kindred clarified that the Ames Fire Chief has never gone on record as saying that residential sprinklers replace a fire station.

Council Member Mahayni said that the Council needs to know what the major issues are, who is going to pay for what, and when is the project going to start. Mr. Kindred said that the developers have agreed to pay for a proportion of the paving of Grant Avenue as long as the City pays its 23%. The three developers have not agreed on sharing infrastructure costs.

Council Member Goodman noted that the City cannot carry the cost of infrastructure for all developments until it is time for them to “hook up.” He feels that is unreasonable and an undue burden on taxpayers.

Mr. Kindred noted that the issue is very complex with three different parties with separate developments. Listening to the concerns about Hyde Avenue and the issues regarding infrastructure pointed to the fact that previous City Councils had been very clear that Ames was not going to grow north of Bloomington Road. The Council then made a decision to grow to the north, and developers invested in land in that area to develop.

Mayor Campbell summarized that the two issues that needed to be addressed at this time were emergency response time and installation of infrastructure. City Manager Schainker pointed out

that the Council had already directed staff to come back with a report on emergency response times.

Council Member Larson said it was clear to him that what was needed was to determine what the cost will be for the infrastructure and who will pay for what. He asked when that would be known. City Manager Schainker stated that if he was referring only to preliminary design and the costs based on the preliminary design, staff could bring that back to Council at its next meeting.

Moved by Larson, seconded by Orazem, to direct staff to report back to Council on September 13, 2011, on options for financing the preliminary design of the infrastructure (water, sewer, streets).

Vote on Motion: 5-0. Motion declared carried unanimously.

HEARING ON EASEMENTS FOR FIRST UNITED METHODIST CHURCH: Mayor Campbell opened the public hearing.

Dale VanderSchaaf, 2602 Tyler Avenue, Ames, Chair of the Church Steering Committee, reported that a groundbreaking for the Church expansion project occurred on August 21, 2011. He expressed appreciation to the City staff for their assistance. The nearly \$4 million project is planned to officially get underway in approximately three weeks.

There being no one else who wished to speak, the Mayor closed the hearing.

Moved by Goodman, seconded by Mahayni, to adopt RESOLUTION NO. 11-420 approving an Access Easement.

Roll Call Vote: 5-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

Moved by Goodman, seconded by Mahayni, to adopt RESOLUTION NO. 11-421 approving a Storm Sewer Easement.

Roll Call Vote: 5-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

HEARING ON ORDINANCE TO ALLOW CONCRETE BATCH PLANTS THROUGH A SPECIAL USE PERMIT FROM ZONING BOARD OF ADJUSTMENT: The public hearing was opened by the Mayor. She closed same after no one came forward to speak.

Moved by Mahayni, seconded by Davis, to pass on first reading an ordinance to allow concrete batch plants in the HOC District and Ag District through a Special Use Permit from the Zoning Board of Adjustment.

Roll Call Vote: 4-1. Voting aye: Davis, Larson, Mahayni, Orazem. Voting nay: Goodman. Motion declared carried.

HEARING ON ORDINANCE AMENDING THE FLOOD PLAIN ZONING REGULATIONS: Mayor Campbell opened the hearing and closed same after no one asked to speak.

Moved by Mahayni, seconded by Davis, to pass on first reading an ordinance amending the flood plain zoning regulations to allow public infrastructure as permitted use in Floodway Overlay District and to amend references to professional engineers.

Roll Call Vote: 4-1. Voting aye: Davis, Larson, Mahayni, Orazem. Voting nay; Goodman. Motion declared carried.

Moved by Goodman, seconded by Davis, to pass on first reading an ordinance regarding references to professional engineers.

Roll Call Vote: 5-0. Motion declared carried unanimously.

HEARING ON 2009/10 CONCRETE PAVEMENT IMPROVEMENTS: The public hearing was opened by the Mayor. No one requested to speak, and the hearing was closed.

Moved by Goodman, seconded by Davis, to adopt RESOLUTION NO. 11-422 approving final plans and specifications and awarding a contract to Concrete Technologies, Inc., of Urbandale, Iowa, in the amount of \$1,022,869.18.

Roll Call Vote: 5-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

ORDINANCE CORRECTING SCRIVENER'S ERROR REGARDING MECHANICAL UNIT SCREENING DEFINITION: Moved by Goodman, seconded by Mahayni, to pass on third reading and adopt ORDINANCE NO. 4080 correcting a scrivener's error regarding the Mechanical Unit screening definition.

Roll Call Vote: 5-0. Ordinance declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

ORDINANCE CHANGING NAME OF CARDIFF DRIVE TO GRAYHAWK AVENUE: Moved by Mahayni, seconded by Davis, to pass on third reading and adopt ORDINANCE NO. 4081 changing the name of Cardiff Drive to Grayhawk Avenue.

Roll Call Vote: 5-0. Ordinance declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

ORDINANCE REZONING PROPERTY LOCATED AT 1820 SOUTH DAYTON PLACE TO ADD THE SOUTHEAST GATEWAY OVERLAY DISTRICT (O-GSE): Moved by Goodman, seconded by Davis, to pass on third reading and adopt ORDINANCE NO. 4082 rezoning property located at 1820 South Dayton Place to add the Southeast Gateway Overlay District (O-GSE).

Roll Call Vote: 5-0. Ordinance declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

ORDINANCE PERTAINING TO NON-DOMESTIC WASTE PRE-TREATMENT PROGRAM: Moved by Goodman, seconded by Davis, to pass on third reading and adopt ORDINANCE NO. 4083 approving implementation of all components of the EPA Pretreatment Program Streamlining Rule and perform, modifying the *Ames Municipal Code* to adopt all EPA Pretreatment Program Streamlining Rule regulations.

Roll Call Vote: 5-0. Ordinance declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

ORDINANCE RELATED TO PRECINCT AND WARD BOUNDARIES: Moved by Davis, seconded by Goodman, to pass on third reading and adopt ORDINANCE NO. 4084 relating to precinct and ward boundaries as a result of the 2010 Census.

Roll Call Vote: 5-0. Ordinance declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

WATER & POLLUTION CONTROL STATUS OF NPDES APPEAL: City Attorney Marek recalled that the City appealed the final National Pollutant Discharge Elimination System (NPDES) Permit issued by the Iowa Department of Natural Resources (IDNR) for the Ames Water Pollution Control Facility on September 1, 2010. City staff had identified five elements of the new Permit that could impose a significant financial impact on the rate-payers of the Ames sanitary sewer utility. Those issues had been raised while the Permit was open for public comment, and the IDNR rejected the recommended changes offered by the City. After receiving Council direction on September 14, 2010, the Council authorized staff to file an appeal of those five permit elements. With the assistance of an environmental legal consulting firm, staff has been engaged in an extended discussion with the IDNR over the past year in an attempt to find mutually acceptable resolutions to each of the five elements.

Mr. Marek noted that the City had received notice from the IDNR today at 3:00 p.m. that it had approved the City's recommended language.

Water and Pollution Control Director John Dunn reviewed each of the five Permit elements of concern, as follows:

1. The new Permit altered the minimum dissolved oxygen limitations from the previous seven-day average limitation to a single-day limitation.

According to Mr. Dunn, the IDNR had been applying single-day minimums in other Permits that have been issued. He reviewed the previous Permit limits, the 2010 Permit limits, and the revised limits in the proposed settlement agreement.

2. The new Permit established a single-day carbonaceous biochemical oxygen demand limit, as opposed to the previous Permit's seven-day average limit.
3. The new Permit included language that reads "wastes in such quantities as to exceed the design capacity of the treatment works...are considered to be a waste which interferes with the operation or performance of the treatment works [and] are prohibited.

According to Mr. Dunn, staff's concern is not with this wording in the Permit since it is based on current state law, but staff is concerned because an IDNR staff member's written comment on this issue asserted that the IDNR intends to treat "flow" as a "waste." The IDNR has provided language in the proposed settlement agreement clarifying that the requirement in the Iowa Administrative Code that led to the Permit language arises solely from Iowa law. There would be no change to the final Permit on this item, but the clarification would mean that there could be no federal enforcement under the Clean Water Act for a violation of this Permit provision.

4. The new Permit contained a compliance schedule for the installation of disinfection at the facility, calling for the system to be operational within 37 months of the effective date of the Permit.

According to Director Dunn, there are steps in the process where the City is entirely at the mercy of the IDNR staff to process applications and grant approvals in a timely manner. He advised that staff is not comfortable accepting a compliance schedule with a fixed end date when critical portions are outside of the City's control. The IDNR has identified a list of factors for which they have routinely granted an extension to a compliance schedule. Through the appeal negotiation process, Ames staff requested a minor extension to the compliance schedule, extending the date of final completion by six weeks. The proposed settlement agreement provides a Permit revision that includes the requested compliance schedule modification.

5. The new Permit would not allow the continued use of the Plant's existing peak weather treatment scheme of "blending," and instead, would treat it as an illegal bypass.

Mr. Dunn stated that in order to avoid any bypass incidents under any and all circumstances, the City would need to spend an estimated \$30 to \$40 million to construct an additional hydraulic capacity that would be needed, on average, only a few times each year. He reviewed each of the points where the City and IDNR have reached agreement.

Mr. Dunn told the City Council that staff had concluded that the negotiated terms are the best that the City can secure at this time.

Council Member Davis asked how long the Permit would be valid. Mr. Marek stated that it would be valid for five years from its date of issues. He pointed out that the City had operated for over 18 years on the former Permit. Mr. Marek advised that the City has continued to operate under the former NPDES Permit; the City had requested a stay, but that had not yet been acted on by the IDNR.

Moved by Goodman, seconded by Davis, to adopt RESOLUTION NO. 11-423 directing staff to accept the negotiated language, resolving all issues that the City raised in the appeal of the NPDES Permit for the Water Pollution Control Facility.

Roll Call Vote: 5-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

ADJOURNMENT: Moved by Davis to adjourn the meeting at 11:37 p.m.

Diane R. Voss, City Clerk

Ann H. Campbell, Mayor