

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

AMES, IOWA

JULY 26, 2011

The regular meeting of the Ames City Council was called to order by Mayor Campbell at 7:00 p.m. on July 26, 2011, in the City Council Chambers in City Hall, 515 Clark Avenue. Present from the Ames City Council were Goodman, Mahayni, Orazem, and Wacha. *Ex officio* Member Finseth was also present. Council Members Davis and Larson were absent.

**RECOGNITION:** Mayor Campbell presented an Awards Certificate to Paul Hinderaker in recognition of the City of Ames Fleet Services Department being named one of *100 Best Fleets* in North America. Mr. Hinderaker, Director of Fleet Services, explained that the City had received the national recognition among fleets, having scored the highest in 12 categories. He attributed the success to the hard work of the City's employees.

Pertaining to the Agenda, Mayor Campbell announced that staff had requested that Consent Item No.11 be pulled for separate discussion, Item No. 28 will be an Ordinance instead of a Resolution, and Item 37 needs to be postponed to the August 9 meeting due to a required agreement not yet being signed. In addition, Council Member Orazem asked to pull Consent Item No. 8 for separate discussion.

**CONSENT AGENDA:** Moved by Goodman, 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 July 12, 2011, and Special Meeting of July 15, 2011
3. Motion approving Report of Contract Change Orders for July 1-15, 2011
4. Motion approving renewal of the following beer permits, wine permits, and liquor licenses:
  - a. Class C Liquor – Applebee's, 105 Chestnut
  - b. Class C Liquor – Sportsman's Lounge, 123 Main Street
  - c. Class B Beer – Pizza Ranch of Ames, 1404 Boston Avenue
5. RESOLUTION NO. 11-353 approving 2011/12 Funding Agreement with Ames Historical Society
6. RESOLUTION NO. 11-354 approving 2011/12 Funding Agreement with Main Street Cultural District
7. RESOLUTION NO. 11-356 authorizing staff to work with the Office of Energy Independence to amend existing grant contract to fund the projects, using Cool Cities CIP funds as a match source
8. RESOLUTION NO. 11-357 approving permanent Pedestrian Easement from United States Post Office in connection with 2010/11 Downtown Pavement Improvements project
9. RESOLUTION NO. 11-358 approving renewal of contract with EMC Risk Services for Third-Party Administration of Worker's Compensation and Municipal Fire and Police claims
10. RESOLUTION NO. 11-359 approving preliminary plans and specifications for 2009/10 Concrete Pavement Improvements; setting bid due date for August 17, 2011, and August 23, 2011, as date of public hearing
11. RESOLUTION NO. 11-360 approving renewal of contract with Fletcher Reinhardt Company of Cedar Rapids, Iowa, in the amount of \$3,434.84 each for Power Quality Socket Type Electric Meters
12. RESOLUTION NO. 11-361 approving contract and bond for 2011/12 Water System Improvements (Water Main Replacement for Graeber Street/Hughes Avenue)

13. RESOLUTION NO. 11-362 approving contract and bond for Substation Control Panel Installations
14. RESOLUTION NO. 11-363 approving Change Order to Weitz Company for not-to-exceed amount of \$45,289 for additional sheet piling as a result of poor soil conditions for Intermodal Facility
15. 519 South Duff Avenue:
  - a. RESOLUTION NO. 11-364 rescinding approval of former Plat of Survey
  - b. RESOLUTION NO. 11-365 approving new Plat of Survey
16. RESOLUTION NO. 11-366 approving Plat of Survey for 2900 and 2910 West Street  
Roll Call Vote: 4-0. Resolutions declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

**FUNDING AGREEMENT FOR SHARED SUSTAINABILITY COORDINATOR:** Council Member Orazem noted a correction to a date in the memo pertaining to this item. It should read “July 1, 2010,” not 2011, in reference to the date when the City first entered into a contract with Iowa State University for sharing its Sustainability Coordinator. Seconded, he would prefer not to enter into another annual contract prior to the Council receiving the report on Fiscal Year (FY) 2010/11. Council Member Orazem proposed that the City only fund July, August and September 2011 on a prorated basis. After that point, the Council should be informed of what the anticipated deliverables will be for FY 2011/12 before entering into another contract.

City Manager Schainker noted that the Sustainability Coordinator and Task Force had hoped to complete its first charge, i.e., to have a plan on electric consumption reduction. However, despite their best efforts, it is taking longer than anticipated. The Task Force will meet with the City Council at a workshop scheduled for mid-August. After that meeting, the Council will need to decide what follow-up tasks result from the report as well as what the next course of action will be, if any. Therefore, he agreed that it would be best if the City Council did not commit to another annual contract until it had developed the next scope of services.

Moved by Orazem, seconded by Mahayni, to adopt RESOLUTION NO. 11-355 approving a prorated contract through September 2011 and directing that the proposed deliverables for FY 2011/12 be presented at that time.

Council Member Orazem clarified that he felt a discussion needed to be held concerning the charge of the Task Force beyond the electricity conservation issues before another year of funding is approved. Otherwise, funds are being allocated with no particular program.

Council Member Goodman said he believed that the program is an ongoing commitment to sustainability, and he anticipates that there will always be opportunities for the Task Force to create positive outcomes. He does not feel that the exact objectives need to be known prior to allocating funding. Council Member Orazem advised that he was anticipating approving the funding for FY 2011/12, but wanted to have the annual report first.

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

## **CONTRACT FOR THIRD-PARTY ADMINISTRATION OF WORKER’S**

**COMPENSATION AND MUNICIPAL FIRE AND POLICE CLAIMS:** Project Coordinator Brian Phillips noted that the cost per claim under this Contract has not increased and there has been an increase in the number of claims that have been processed. However, he clarified that the increase in cost overall is attributed to bill review. Risk Manager David Eaton explained that the percent saved varies, but the savings from the bill review doesn't show up in the administrative services; it shows up in the losses. According to Mr. Eaton, EMC retains between 15 and 25% of the bill review charges, and the City gets to keep an average of 80% of the amount saved. He pointed out that that amount actually exceeds the increase in fees due to the bill review. City Manager Schainker noted that the City is paying for that extra service (bill review), but when EMC reviews the bills, they identify items that can save the City money. EMC then retains approximately 25% of the savings found and the City receives the rest. He pointed out that the City is paying a little more for administration, but the amount of the claims is actually less.

Moved by Mahayni, seconded by Wacha, to adopt RESOLUTION NO. 11-358 approving renewal of the contract with EMC Risk Services for Third-Party Administration of Worker's Compensation and Municipal Fire and Police claims.

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

**PUBLIC FORUM:** No one spoke during this time.

**NEW LIQUOR AND WINE LICENSE/PERMITS FOR WHEATSFIELD GROCERY:** Moved by Goodman, seconded by Orazem, to approve a new Special Class C Liquor, B Wine, and B Native Wine Permit with Outdoor Service for Wheatsfield Grocery, 413 Northwestern Avenue, Suite 105.

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

**NEW LIQUOR, BEER, AND WINE LICENSE/PERMITS FOR AJ'S LIQUOR:** Moved by Mahayni, seconded by Goodman, to approve a new Class E Liquor, C Beer, and B Wine Permit for AJ's Liquor II, 2515 Chamberlain Street.

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

**ENCROACHMENT PERMIT FOR SIGN AT 134 MAIN STREET:** Moved by Goodman, seconded by Wacha, to approve an Encroachment Permit for a sign at 134 Main Street.

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

**REQUEST FOR WATER SERVICE FOR 2121 STATE AVENUE:** Planning and Housing Director Steve Osguthorpe explained that the City Council recently referred a letter to staff from John Wiley & Sons, Inc., (now occupied by Wiley-Blackwell) requesting that the company be allowed to connect to City water service with an agreement that the owners would seek annexation at the City's request. The property is contiguous to the City limits and is eligible for annexation. According to Mr. Osguthorpe, it is the City's policy to provide municipal services only to those properties that have been incorporated into the City limits. Because the property is located outside the City limits, the City has no obligation to provide water service to the area in question.

Mr. Osguthorpe stated that the property is located within an area identified in the Land Use

Policy Plan as an allowable growth area. The applicant indicated that they seek to have access to City water immediately. It was explained that the source of their water (a well) is on a separate tract of land known as the Curtiss farm that is owned by Iowa State University. Wiley-Blackwell's concern is that the timing of an annexation may delay their access to City water services. In addition, the Ames Urban Fringe Plan designates this as Urban Residential. The existing use on the site is a publishing company, which would be considered an industrial use, although, depending on the actual activities that take place, it may be classified as a commercial use. However, by local ordinance, any newly-annexed land is designated Agriculture. Any subsequent rezoning would need to be consistent with the Land Use Policy Plan, which, in this instance, would be either a rezoning to Suburban Residential or Village Residential. Mr. Osguthorpe emphasized that the existing use of this as light industrial or commercial would be incompatible with either zoning designation.

According to City Manager Steve Schainker, the Wiley-Blackwell site is intended by the Land Use Policy Plan and the Ames Urban Fringe Plan to be annexed. However, the Fringe Plan foresees this property and the adjacent properties as residential. Director Osguthorpe explained that, while the annexation is consistent with these Plans, the current use of the property is not. It is currently developed with larger industrial grade structures and is used for commercial purposes. It is unlikely that the existing use will soon disappear and new residential uses introduced on the property; the existing development of the site reflects substantial investment and appears to be well-maintained. In addition, the current zoning of the site under Story County is Industrial, which would allow the property to be used for more intense uses than currently exist on the site and could exacerbate the problem of incompatibility with the surrounding residential development and land uses. According to Mr. Osguthorpe, if the City chooses to not annex the property, it will continue under the regulations of the County, leaving the City with little opportunity to affect the future use and development of the site. If the site is more intensely developed under current County zoning, it could undermine the City's long-range plans for the site as specified in the Land Use Policy Plan.

Mr. Osguthorpe advised that staff prefers that the City pursue an annexation alternative subject to a contract between the City and property owner that would ameliorate the impacts of the existing use on current abutting residential uses and on the residential uses that are expected to develop under the City's Land Use Policy Plan. Such measures might include limitations on future uses and/or design and buffering standards. It was pointed out by Mr. Osguthorpe that if the City waits until after annexation and extension of water service, regardless of which order those two actions occur, the City will have very little leverage to ask the property owner to limit its uses or to install mitigation measures. While such leveraging could occur during any subsequent rezoning, Wiley-Blackwell is not obligated to seek a rezoning if they choose to live within the confines of being a non-conforming use in an Agriculture zoning district. It was clarified by Mr. Osguthorpe that only if Wiley-Blackwell sought a rezoning of the property in question would the City be able to impose use limitations or mitigation measures. A pre-annexation agreement would allow the annexation to move forward and Wiley-Blackwell to have access to City water services and could also specify what would trigger a rezoning and what use limitations and mitigation measures would be included.

City Manager Schainker told the Council that the City has time to get the appropriate agreements signed as the University would need to get approval of a new use for the property if it is sold. Although Warren Madden, Vice-President for Business and Finance at Iowa State University, has told Mr. Schainker that the University is not in the business of providing water to the property in question, there is nothing planned for the Curtiss Farm in the next three to four

months. Director Osguthorpe reported that the annexation process takes eight to twelve (12) weeks, depending on how long it takes to negotiate the agreement.

Brenda O’Neill Smith, John Wiley & Sons, indicated that the business has been located at its present site since the early 1970s. It is a publishing company, but does not do printing; the buildings are used primarily for office-type uses. Ms. O’Neill Smith advised that the company prefers Alternative #2: that the City grant 2121 State Avenue the ability to connect to City water services provided that they sign an agreement that indicates that they will petition for annexation when the City Council requests it. According to Ms. O’Neill Smith, the company’s concern is expediency; it is their fear that the University might sell the property that contains the well that services the company.

Moved by Mahayni, seconded by Orazem, to direct staff to negotiate a pre-annexation agreement with Wiley-Blackwell, allowing for subsequent annexation and the provision of water services as desired by the property owner.

Ms. O’Neill Smith again referenced the company’s need for expediency. She also noted that there are only 25 employees, so the water usage would not be great.

Council Member Goodman noted that the City’s Land Use Policy Plan calls for the property around the property in question to be residential. There would be a need for buffering (landscaping) around Blackwell Press if the property around it develops in residential uses. Ms. O’Neill Smith indicated that John Wiley & Sons has no plans to expand.

Council Member Wacha asked if the City would allow Blackwell Press to hook up prior to all the agreements being signed. Mr. Osguthorpe pointed out that the City would then have no leverage to enforce the requirements on Blackwell Press if the agreements were not signed. Mr. Goodman stated that he was strongly in favor of not extending City services until the property is annexed to the City. City Manager Schainker noted that the City might be able to reach an agreement with Iowa State University that it would not do anything that affects the well that services the property in question until Spring 2012. Council Member Orazem pointed out that the City’s water service is already in front of the property in question. The City would not be expending funds to connect to the property; however, the company would expend its resources to connect to the City’s infrastructure.

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

**REQUEST FOR UP TO FIVE UNRELATED PERSONS IN THE NEIGHBORHOOD**

**COMMERCIAL ZONE:** Director Osguthorpe explained that David Blakeley and Joel Paulson of Mother Lode Enterprises had submitted a letter to City Council that was referred to staff on June 14, 2011. Mother Lode owns property at 2900 and 2910 West Street. The property owners are in the process of renovating a single-family home with five bedrooms at 2910 West Street. According to Mr. Osguthorpe, the Neighborhood Commercial Zoning District (NC) only allows up to three unrelated persons ( a “family” ) to occupy one dwelling unit. The owners are requesting that the definition of “family” be changed to accommodate five unrelated persons in their rental home through some type of zoning text amendment; this would allow them to rent all five bedrooms in the home. The owners also requested that the City focus the amendment only on the West University-Impacted Overlay.

According to Mr. Osguthorpe, modifying the definition of “family” only for the NC Zone could be complicated because definitions are typically not zone-specific. Furthermore, the definition of family that the City utilizes had been carefully considered and had been upheld by the Iowa Supreme Court.

Mr. Osguthorpe reported that Mother Lode Enterprises had previously submitted an application to rezone the subject property to Residential High Density (RH). Two non-conformities would be created as a result of the rezoning: front-yard parking and side-yard setback. The property owners have requested that staff place their rezoning application on hold pending the outcome of the requested zoning text amendment. It was emphasized by Director Osguthorpe that a text amendment for the NC zone would have effect city-wide; however, the amendment could limit the area to just the West University Impacted Overlay Zone.

Mr. Osguthorpe presented four possible solutions: (1) add “Dwelling House” to the list of permitted uses in the Neighborhood Commercial Zone; (2) change the definition of “family;” (3) the applicant could go back to their rezoning application; or (4) apply for a variance from the Zoning Board of Adjustment to exceed the limit of number of unrelated people.

Joel Paulson identified himself as a co-owner of the property located at 2900 West Street. He stated that when he and David Blakeley purchased the property, it was being rented as a single-family residence. Mr. Paulson stated that, to his knowledge, the property in question is the only property in the University-Impacted Overlay that is zoned Neighborhood Commercial. He alleged that no other properties would, therefore, be affected. The owners are requesting to allow one person per bedroom. The property has been extensively remodeled and contains three bathrooms and five bedrooms.

Council Member Wacha stated his preference for rezoning the property instead of a text amendment. He noted that the property in question might, at present, be the only property in the Overlay that is zoned NC, but that might not always be the case.

Mr. Paulson told the Council that the property was contained in the NC zone because originally there was grocery store on the corner, and the NC zoning allowed for commercial uses to expand. However, that did not happen, and the properties adjacent to 2900 West had always been used for residential uses.

Moved by Wacha, seconded by Orazem, directing staff to process the application to rezone the property to RH.

Vote on Motion: 3-1. Voting aye: Mahayni, Orazem, Wacha. Voting nay: Goodman. Motion declared carried.

**REQUEST FROM BUSINESS OWNERS FOR ANOTHER ACCESS ROUTE TO ENTER BUSINESSES AT 421 AND 431 SOUTH DUFF AVENUE:**

Director Osguthorpe recalled that, on June 21, 2011, the City Council referred a letter to staff from three businesses—Car-X AutoService, Story Medical Natural Health, and Serenity Pet Spa. The letter sought the City’s assistance in acquiring a second access from the properties at 429 and 431 South Duff Avenue to South 5th Street. Staff had spoken with representatives of the three businesses that wrote the letter and understands that they are concerned about northbound traffic on Duff Avenue being unable to access their property. This is because there is often southbound traffic backed up at the intersection with South 5th, especially in the center/left turn lane. Another concern expressed by the three businesses is that it is difficult for cars to exit Car-X onto northbound Duff Avenue.

The business owners hoped that by providing an access across the corner lot at 435 South Duff Avenue, northbound traffic could turn left on South 5th and turn right into a driveway that would lead to their businesses.

A vacant lot, formerly the Fox II and Sprint store, lies between the Car-X and South 5th Street and is owned by 435 South Duff, LLC. Mr. Osguthorpe advised that a site plan for a two-tenant building (of which one tenant is proposed to be a restaurant) has been submitted for that property, addressed as 435 South Duff. During conversations with the businesses that wrote the letter, staff showed them a copy of the proposed site plan for the two-tenant building but, since the driveway around the south side of the restaurant is a one-way drive, it would not provide an alternate entrance drive to the Car-X property. It could, however, provide an exit lane for drivers wishing to exit Car-X onto South 5th. The cars could then make a left turn to become northbound on Duff Avenue.

Director Osguthorpe explained that the City cannot require such an access. Staff has recommended that all three business owners approach the owner of the vacant lot at 435 South Duff to see if, through their design of the site, they could provide the access they want. Mr. Osguthorpe emphasized that the City has no authority to compel the owner to provide an alternative access for the Car-X property.

Valerie Stallbaumer, 823 Crawford, Ames, voiced her opinion that the current situation is dangerous. Referencing the congestion created by the build-up of vehicles in the turn lane, she told the Council that it is her belief that this is the only location in the City where this situation exists.

Director Osguthorpe reiterated that the City does not have any authority to require access easements across 435 South Duff Avenue to accommodate the wishes of the businesses at 429 and 431 South Duff Avenue.

**3409 - 3413 DUFF AVENUE DRAINAGE REFERRAL:** Public Works Director John Joiner reminded Council that it had, on June 28, 2011, directed staff to report back regarding the cost estimate, funding source, and time frame to complete a comprehensive analysis regarding storm water runoff as it relates to the Teagarden/Southdale/Airport area.

Mr. Joiner reported that, in 1984, a comprehensive report was completed for the entire watershed. He noted that five detention basins were recommended and built on the Airport grounds. Additionally, a low-flow cunette was constructed in 1985 from Jewel Drive south past Garnet Drive. In 1986/87 channel improvements were made along the middle and south branch culverts each at Emerald Drive. In 2000, another study was conducted by Snyder and Associates with focus on prevention of the overtopping of U.S. Highway 69 and sizing of a culvert under Jewel Drive. That study focused on the north branch of the watershed only. Eight alternatives looked at how to accommodate flow from U.S. Highway 69/Crystal Street east and south to Jewel Drive. In 2001, a 72-inch storm sewer was installed along Crystal Street, south and east through the Schill property, and then along Opal Drive to the existing three 48-inch pipes at Jewel Drive.

The Council was told by Mr. Joiner that feedback received by the consulting firm that serves as the Airport engineer indicated that a comprehensive analysis of the entire watershed would best

address the neighborhood concerns. That comprehensive approach would offer an opportunity to analyze specific complaint or problem areas in the context of regional surface water interaction. In addition, since the rezoned properties straddle the north and middle branches and the Drainage District #59 boundary, it is believed that analysis of the impact of the subject properties is best addressed under a comprehensive review. Mr. Joiner gave an estimated time frame and cost for the study: it would be presented to Council in April 2012 and would cost between \$40,000 and \$60,000. Mr. Joiner advised that there is an adequate fund balance available in the Storm Water Utility Fund to allow a shift in the planning for this project from FY 2013/14 to FY 2011/12. In order to advance this planning study, the \$125,000 Low-Point Drainage Improvements Project reflected in the CIP would need to be amended. Ms. Joiner cautioned, however, that the projected balance in the Storm Sewer Utility assumes federal FEMA mitigation monies would be available to accomplish other needed improvements in various neighborhoods. If those federal funds are not forthcoming, then that balance might be needed to accomplish other priority storm water improvements.

Moved by Orazem, seconded by Goodman, to approve the time frame and funding for the study. Vote on Motion: 4-0. Motion declared carried unanimously.

**REDIRECTION OF GENERAL OBLIGATION (G.O.) BONDS IN 2011/12 CAPITAL IMPROVEMENTS PLAN (CIP):** Director Joiner advised that the Grand Avenue Extension project had been included in the approved 2011-2016 Capital Improvements Plan (CIP) with planning and land acquisition from Squaw Creek Drive to South 16<sup>th</sup> Street scheduled for 2011/12. Those planning and land acquisition costs were programmed to have \$300,000 from General Obligation Bonds (G.O. Bonds) and \$1,200,000 from Congressionally Directed Funds. Since City Council approved the CIP, staff had been notified by the Congressional delegation that the City should not expect to receive any Congressionally Directed Funds (Earmarks) in the near future. As a result of the lack of federal funding, staff is no longer recommending pursuing that major project. Mr. Joiner stated that the City Council could choose to redirect the \$300,000 in G.O. Bonds to fund other work in accordance with priorities recommended by the City's Pavement Management System.

According to Mr. Joiner, staff had received several complaints about the pavement condition on the frontage road south of Southeast 16<sup>th</sup> Street adjacent to S. Duff Avenue and several businesses. The existing asphalt roadway is a City street that provides access management from U.S. Highway 69 to area businesses. The pavement management data shows this section of roadway being in the category of "worst condition" with a pavement condition index of 20 or lower. This indicates that a full reconstruction is likely the most feasible solution. A preliminary cost estimate to reconstruct the roadway pavement, including engineering, is \$165,000.

Mr. Joiner advised that another roadway in need of rehabilitation is Hickory Drive from Lincoln Way to Westbrook Drive, which is located at a traffic-signal-controlled intersection, and connects the Woodland Street area to Lincoln Way. Maintenance crew input and an inspection of this section showed it to be greatly deteriorated. A preliminary cost estimate to rehabilitate the roadway pavement, including engineering is \$135,000.

Moved by Goodman, seconded by Wacha, to adopt RESOLUTION NO. 11-367 approving the redirection of G.O. Bonds in the 2011/12 Capital Improvements Plan in the amount of \$300,000 to be used to reconstruct the S. Duff Avenue/Southeast 16<sup>th</sup> Street frontage road and Hickory



Drive (Lincoln Way to Westbrook Drive).

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

**PROPOSED DEMOLITION OF FORMER GREEK HOUSE AT 129 ASH AVENUE:** City Planner Jeff Benson told the City Council that St. Thomas Aquinas Church owns property at 129 Ash Avenue in the Greek house neighborhood on the west side of Ash Avenue. On the property is a nine-unit apartment building, which was built around 1913 and housed the Pi Beta Phi sorority until at least 1936. In the survey of potentially historic properties conducted for the City, Will Page identified this residence as architecturally and historically compatible as an example of a wood frame Greek chapter house, noting that it calls attention to the relocation of Greek houses from west of the ISU campus to this area. Mr. Benson said that, since siding has covered the original exterior material and details, it is difficult to determine its historic integrity.

According to Planner Benson, St. Thomas Aquinas Church has owned the property in question since 1973 to provide housing for pastors and staff. The Church proposes to demolish the existing building, combine the subject property with the properties containing the Church and the existing parking lot to the west, and construct a parking deck that extends from Ash Avenue through to Lynn Avenue.

The Council was informed by Planner Benson that the property is within the Residential High Density (RH) Zoning District and the East University Impacted Area (O-UIE) Overlay Zoning District. *Ames Municipal Code* Section 29.1110(2) requires City Council approval for demolition of an existing or former Greek house in the East University Impacted Area. That standard establishes that at least one of the following two criteria must be met: that the building cannot be used as a Greek house and that the building cannot be used for an alternative reasonable use allowed in the zoning code. The standard also requires that it be demonstrated that leaving the existing building in place would create an economic hardship.

Mr. Benson gave the Council available options: deny the application, approve demolition, or table the application for a Demolition Permit for a period of time not to exceed 30 days. The 30-day period would permit an opportunity for other alternatives to be evaluated.

John Klaus, 2167 Ashmore, Ames, identified himself as a member of the St. Thomas Aquinas Church parish and of its Parking Structure Project Committee. Mr. Klaus contended that if the request to demolish the building at 129 Ash Avenue were not approved, it would definitely cause an economic hardship for the Church.

Scott Sankey, architect for St. Thomas Aquinas, advised that an analysis of the nearly 100-year-old structure had been done. He reported that the cost to renovate the building would far exceed its worth. In addition, its size does not meet the current standard of fraternities, and it would be very difficult to fund-raise to the extent needed to restore the building to its former state of grandeur. Mr. Sankey also reported on the condition of the building, which had been subjected to infestation and excessive leakage.

Mr. Klaus alleged that the standards are being met because: the current building can no longer be used as a Greek residence, it currently operates at a loss as an apartment building, the Church did not own the property in order to make an economic return, and parking is a reasonable use

for the property.

Gloria Betcher, 531 Hayward, Ames, advised that she was involved in the creation of the overlay standards. She said that she is not necessarily speaking as a preservationist, but does have a concern that the City should see the process work, which means that all alternatives be explored. Ms. Betcher noted that the Delta Upsilon is located adjacent to this property. Its parking lot is adjacent to what then would be a parking structure.

Harlan Hansen, 2717 Duff Avenue, Ames, identified himself as a member of the Church parish. He noted that St. Thomas serves in excess of 5,000 students at various times throughout the year. Mr. Hansen pointed out that the Church purchased the property in question in 1973, long before the Overlay District was created in 2006. He tried to impress upon the Council the urgency behind the Church's request. According to Mr. Hansen, the building will be emptied next week, and the Church is concerned about vandalism. Mr. Hansen contended that the building cannot be remodeled in such a way that would meet the City's standards; there is asbestos in the building that needs to be removed. Mr. Hansen urged the Council to approve the Demolition Permit so that the Church could move forward with its project. Mr. Hansen also indicated that the Church has adequate financial resources to pay for the parking structure that would be built at 129 Ash Avenue.

Council Member Goodman asked Ms. Betcher if the Council should rethink its process about preserving Greek Houses to pick out the houses that are "important." Ms. Betcher said she would not recommend that because a survey would be needed before that determination could be made.

Mr. Klaus pointed out that distinctions needed to be made concerning what the demolition ordinance was intended to protect. He told the Council that it was discovered by accident (when the abstract was being reviewed) that the property was used briefly as a Greek house in 1917. Mr. Mahayni asked why the property was even being referred to as a Greek House because it hasn't been used as such since at least 1936. Director Osguthorpe concurred that the building had not been a Greek residence for over 70 years. In fact, at the time that the current demolition standard was adopted, it was not included in a list of current and former Greek houses provided by the ISU Office of Greek Affairs. The applicant has provided evidence that it is no longer possible for this building to be a residence for Greek students. The Church also maintains that the building is not sustainable as an apartment building. It proposes a parking structure that would be an accessory use to the Church and states that this is a reasonable use that the owner would be deprived of if the demolition permit were denied.

Moved by Mahayni, seconded by Wacha, to approve demolition of the Greek residence at 129 Ash Avenue, without restrictions.

*Ex officio* Member Tor Finseth stated his opinion that the former Greek House lost its historic significance in 1940.

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

**REVISIONS TO NON-DOMESTIC WASTE PRE-TREATMENT PROGRAM:** Matt Hawes,

Environmental Engineer with the Water and Pollution Control Department, presented a general overview of the required revisions as part of a new National Pollutant Discharge Elimination System (NPDES) permit. As part of the new permit requirements, the City is required to review the pretreatment streamlining rules and make revisions to its local code no later than September 1, 2011, adopting the required portions of the rule and any optional portions of the rule the City feels are necessary.

According to Mr. Hawes, many of the required components of the streamlining rule have already been put into practice; however, they must be officially adopted into local Code. In addition to adopting all required rule changes, adopting all optional rule changes allows the greatest flexibility in administering the pretreatment program and allows the program to be easily adapted to new industries and program changes. Staff has shared details of the proposed revisions with utility customers who are currently covered by the program, and all were invited to attend this meeting.

The Mayor asked if there was any one wishing to provide public input. No one came forward to speak.

Moved by Goodman, seconded by Wacha, to adopt on first reading an ordinance 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: 4-0. Motion declared carried unanimously.

#### **CHANGE ORDER TO PROFESSIONAL LEGAL SERVICES AGREEMENT FOR 161-Kv**

**LINE:** Electric Services Director Donald Kom presented a summary of the City's petition for a franchise to construct its 161kV transmission line outside the City limits to northeast Ankeny. The project has been underway since 2004. Mr. Kom stated that, on July 2, 2008, the Iowa Utilities Board (IUB) issued a final ruling, effectively denying the City's petition for a franchise to construct its 161kV transmission line outside the City limits to northeast Ankeny. In its final decision, the IUB acknowledged the need for the line and did not contest the route specifically, but rather took issue with evidence of compliance with *Iowa Code* requirements as the basis for the initial route planning. On August 7, 2008, proposals were solicited for professional services to conduct a routing selection study conforming to *Iowa Code* and franchising requirements. On September 9, 2008, the City Council approved a contract with Burns & McDonnell to conduct a routing study as the City again began a process for obtaining a franchise. Members of the City staff interviewed representatives from two law firms that specialize in franchise representation. On September 3, 2008, City Council approved a retainer agreement for legal services with the BrownWinick law firm of Des Moines. At that time staff anticipated the cost of these services to be between \$60,000 and \$100,000. A purchase order was issued in the amount of \$50,000 to begin the work. Hourly rates for BrownWinick staff involved in this work have varied between \$160 and \$275 per hour. The agreement with BrownWinick provides that the City may be charged separately for items such as computer time, courier costs, copy/printing, document retrieval and related services as they are incurred.

Mr. Kom reported that, in September 2009 (after the second routing study had been submitted to the IUB staff) legal counsel advised that the City should proceed with the process of preparing

for public hearings and an appearance before the Administrative Law Judge (ALJ). At that time, \$61,000 had been spent and it was estimated that the total would be within the \$100,000 originally estimated for the contract. On September 22, 2009, City Council approved Change Order #1, increasing the amount of the purchase order to \$100,000. Due to continued delays in receiving a decision from the Iowa Utilities Board, on March 23, 2010, City Council approved Change Order #2, increasing the amount of the purchase order to \$150,000. Staff has recently approved Change Order #3, in the amount of \$10,000.

Almost all of the \$150,000 which the City Council has authorized has now been spent for services provided by BrownWinick. A revised petition has been submitted, and while staff had hoped to avoid public hearings, it now appears the hearings will be required. There still are five objectors to the route, and one property owner has not agreed to an easement and will require a subsequent condemnation hearing.

City Attorney Doug Marek stated that the principal attorney who has been heading the City's legal team, Mr. Philip Stoffregen, has years of experience in guiding franchise proposals successfully through the IUB process, and has been doing an outstanding job for the City. Mr. Stoffregen has provided an estimate of \$85,000 to provide additional services through the public hearings and appearance before the Administrative Law Judge.

Director Kom requested that the Council approve Change Order #4, in the amount of \$85,000, increasing the purchase order amount to \$235,000. This will allow for legal services necessary to obtain the electric transmission franchise for the City to continue, and the City will continue to be billed on an hourly services for services incurred in accordance with the Agreement.

Moved by Goodman, seconded by Mahayni, to adopt RESOLUTION NO. 11-368 Approving a Change Order to the Professional Services Agreement with BrownWinick of Des Moines, Iowa, increasing the amount of the purchase order to \$235,000 for the 161-kV Tie Line.

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

**CHANGES IN BOUNDARIES FOR WARDS/PRECINCTS DUE TO REDISTRICTING:** City

Attorney Doug Marek recalled that, at the meeting of the City Council on June 28, Story County Auditor Lucy Martin presented a map illustrating the new legislative districts and her proposal for new ward boundaries. Since then, Auditor Martin and Story County GIS Coordinator Matt Boeck have finalized the proposed ward and precinct boundaries.

Mr. Marek advised that the maps of the proposed wards and precincts were compared with statutory requirements for reconfiguration following each decennial census and the subsequent redrawing of legislative boundaries, and the maps were found to satisfy the standards set out in the *Iowa Code*. Additionally, City GIS Coordinator Ben McConville used the redistricting tool in the GIS system to verify that the population numbers from the census blocks for each ward are within allowable deviation.

The Council was told by Mr. Marek that *Iowa Code* requires that the City Council complete changes in wards and precincts by the adoption of an ordinance describing the election precinct boundaries. The ordinance must be adopted no later than September 1 of this year, but the new

precinct boundaries will not become effective until January 15, 2012.

Maps of individual wards were shown by City Attorney Marek and Story County Auditor Lucy Martin. Mr. Marek said that he needed direction by the Council to draft the ordinance outlining the ward/precinct boundaries.

Ms. Martin advised that the boundaries being discussed would go into effect for the City's election to be held November 2013. She noted that if a Council member is redistricted from his ward, that Council member's term would end at the next regularly scheduled election. The terms

of those Council seats would be two-year terms so that the City's current staggering of term expirations would remain.

Moved by Wacha, seconded by Orazem, to direct the City Attorney to draft an ordinance with the ward/precinct boundaries as presented at this meeting.

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

**HEARING ON WPC PLANT SWITCHGEAR REHABILITATION PROJECT:** The Mayor opened the hearing. There being no one wishing to speak, she closed the hearing.

Moved by Goodman, seconded by Mahayni, to adopt RESOLUTION NO. 11-370 approving final plans and specifications and awarding a contract to Ziegler Power Systems of Altoona, Iowa, in the amount of \$31,854.00.

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

**HEARING ON GRAND AVENUE EXTENSION (FROM SOUTH 16<sup>th</sup> STREET NORTH APPROXIMATELY 400 FEET):** The public hearing was opened by Mayor Campbell. No one requested to speak, and the hearing was closed.

Moved by Goodman, seconded by Mahayni, to adopt RESOLUTION NO. 11-371 approving final plans and specifications and awarding contract to Con-Struct of Ames, Iowa, in the amount of \$466,290.49.

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

**HEARING ON REZONING PROPERTY LOCATED AT 1820 SOUTH DAYTON PLACE TO ADD THE SOUTHEAST GATEWAY OVERLAY DISTRICT (O-GSE):** Director of Planning and Housing Steve Osguthorpe explained that on June 28, 2011 the City Council rezoned to Highway-Oriented Commercial the five-acre property at 1820 South Dayton Place owned by Jeffrey James and Judy James. It also found that applying the Southeast Gateway Overlay District (O-GSE) to the property at 1820 South Dayton Place is consistent with the land use policies of the City of Ames and Story County. Therefore, the City Council initiated the proposed amendment to the Official Zoning Map, as provided for in Ames *Municipal Code* Section 29.1507(1).

Mr. Osguthorpe stated that, at its meeting of July 6, 2011, with a vote of 5-0, the Planning and Zoning Commission recommended approval of the rezoning to add the Southeast Gateway

Overlay Zoning designation to the property. At that meeting, the representative for the property owners said that the property owner has no objection to the placement of this overlay onto the property.

The hearing was opened by Mayor Campbell, who closed same after no one came forward to speak.

Moved by Wacha, seconded by Mahayni, to pass on first reading an ordinance rezoning property located at 1820 South Dayton Place to add the Southeast Gateway Overlay District (O-GSE). Roll Call Vote: 4-0. Motion declared carried unanimously.

**HEARING ON MAJOR SITE DEVELOPMENT PLAN FOR 2899 BLOOMINGTON ROAD:**

Planning and Housing Director Osguthorpe advised that on June 28, 2011, the City Council approved the revised Preliminary Plat and Master Plan for the Northridge Heights Subdivision consolidating several lots into one 10.4-acre lot.

Council Member Wacha referenced an email and picture received from Sue Cunningham. The picture showed backhoes already parked on the property in question; this struck him as a little presumptuous.

The Mayor opened the public hearing and closed same when there was no one wishing to speak.

Moved by Goodman, seconded by Mahayni, to adopt RESOLUTION NO. 11-372 approving the Major Final Plat for Northridge Heights, 14<sup>th</sup> Addition.

Roll Call Vote: 4-0. 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. 11-373 approving the Major Site Development Plan for 2899 Bloomington Road to permit the construction of apartment buildings west of the Fareway store.

Roll Call Vote: 4-0. 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:** Mayor Campbell opened the public hearing on first reading of an ordinance. No one asked to speak, and the hearing was closed.

Moved by Mahayni, seconded by Goodman, to pass on first reading an ordinance correcting a scrivener's error regarding Mechanical Unit screening definition.

Roll Call Vote: 4-0. Motion declared carried unanimously.

**ORDINANCE CHANGING NAME OF CARDIFF DRIVE TO GRAYHAWK AVENUE:** The public hearing on first reading of an ordinance was opened by the Mayor. She closed same as no one came forward to speak.

Moved by Goodman, seconded by Wacha, to pass on first reading an ordinance changing the name of Cardiff Drive to Grayhawk Avenue.

Roll Call Vote: 4-0. Motion declared carried unanimously.

**ORDINANCE REZONING PROPERTY AT 3409-3413 SOUTH DUFF AVENUE:** Moved by Goodman, seconded by Mahayni, to postpone the third reading and adoption of the ordinance rezoning property at 3409-3413 South Duff Avenue from Agricultural (A) to Highway-Oriented Commercial (HOC) to August 9, 2011, to allow for receipt of the required Sidewalk Agreement and Airport Protection Easement.  
Vote on Motion: 4-0. Motion declared carried unanimously.

**ORDINANCE REZONING PROPERTY AT 516 KELLOGG AVENUE:** Moved by Goodman, seconded by Mahayni, to pass on third reading and adopt ORDINANCE NO. 4078 rezoning property at 516 Kellogg Avenue from Government/Airport (S-GA) to Downtown Service Center (DSC).  
Roll Call Vote: 4-0. Ordinance declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

**ORDINANCE REZONING PROPERTY AT 500 KELLOGG AVENUE:** Moved by Goodman, seconded by Wacha, to pass on third reading and adopt ORDINANCE NO. 4079 rezoning property at 500 Kellogg Avenue from Downtown Service Center (DSC) to Government/Airport (S-GA).  
Roll Call Vote: 4-0. Ordinance declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

**COUNCIL COMMENTS:** Moved by Orazem, seconded by Goodman, to refer to staff the letter requesting a waiver of design and infrastructure standards and Preliminary Plat requirement for Matthew's Summit Subdivision.  
Vote on Motion: 4-0. Motion declared carried unanimously.

Moved by Goodman, seconded by Wacha, directing staff to place the payday lending issue on a future agenda.  
Vote on Motion: 4-0. Motion declared carried unanimously.

Noting the number of fights that had been occurring on Welch Avenue, *Ex officio* Member Finseth asked that a Council member request that security cameras be installed on the Campustown Clock Tower.

Moved by Orazem, seconded by Mahayni, to direct that staff provide a report to the Mayor and City Council on the issue.  
Vote on Motion: 4-0. Motion declared carried unanimously.

**ADJOURNMENT:** Moved by Goodman to adjourn the meeting at 9:25 p.m.

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Diane R. Voss, City Clerk

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Ann H. Campbell, Mayor