

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

AMES, IOWA

AUGUST 28, 2007

The regular meeting of the Ames City Council was called to order by Mayor Campbell at 7:00 p.m. on August 28, 2007, in the City Council Chambers in City Hall, 515 Clark Avenue. Present from the Ames City Council were Doll, Goodman, Larson, Mahayni, Popken, and Rice. *Ex officio* Member Luttrell was also present.

CONSENT AGENDA: Mayor Campbell announced that Item #9 pertaining to the “Hillary Clinton for President” Campaign event had been pulled by staff. Council Member Doll asked that Item No. 5c, the Class C Liquor and Outdoor Service Privilege for Hilton Coliseum at Iowa State University, be pulled for separate discussion. Item No. 6, grant funding for a survey of the College Heights Neighborhood, was requested to be pulled by Council Member Goodman so it could be discussed. Also pulled for separate discussion, at the request of Council Member Larson, was Item No. 11, which pertained to funding the SCAN Historic Home Tour.

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

1. Motion approving payment of claims
2. Motion approving minutes of regular meeting of August 14, 2007, and special meeting of August 21, 2007
3. Motion approving certification of Civil Service applicants
4. Motion accepting Report of Contract Change Orders for August 1 - 15, 2007
5. Motion approving renewal of the following liquor licenses and beer permits:
 - a. Class C Liquor – Deano’s 119 Main, 119 Main Street
 - b. Class C Liquor – C Y Stephens Auditorium, Iowa State Center
 - c. Class C Liquor – Scheman Building, Iowa State Center
 - d. Special Class C Liquor – Fisher Theater, Iowa State Center
 - e. Class B Beer – Flame-N-Skewer, 2801 Grand Avenue
 - f. Class E Liquor, C Beer and B Wine – Hy-Vee Drugstore, 500 Main Street
6. RESOLUTION NO. 07-387 approving appointment of Michael Miller to fill vacancy on Public Art Commission
7. RESOLUTION NO. 07-408 approving Neighborhood Improvement Grant for State Avenue/Arbor Street Tree Planting
8. All American Weekend, August 31 - September 2, 2007:
 - a. Motion approving a Blanket Temporary Obstruction Permit for event activities on Welch Avenue and in the Main Street Cultural District
 - b. RESOLUTION NO. 07-388 approving Blanket Vending License and waiver of fees for the entire event
 - c. RESOLUTION NO. 07-389 approving use of outlets and waiver of electrical fees for outlets in Tom Evans Plaza and on Welch Avenue during their respective events
 - d. RESOLUTION NO. 07-390 approving closure of a portion of 30th Street on August 31 for Captain Midnight's 5K Race/Walk
 - e. RESOLUTION NO. 07-391 approving the closure of Welch Avenue from Lincoln Way to just north of Fire Station 2 from 10 AM to 10 PM on September 1
 - f. RESOLUTION NO. 07-392 approving closure of parking spaces, suspension of parking enforcement and waiver of meter fees on Welch Avenue, Lincoln Way to north of Fire Station

- 2, from 10 AM to 10 PM on September 1
9. RESOLUTION NO. 07-395 supporting Ames as the site of the 2008 Midwest Renewable Energy Conference and directing Electric Services' staff to coordinate the planning of the event with a budget of \$6,500
 10. RESOLUTION NO. 07-397 approving preliminary plans and specifications for S.E. 16th Street Pole Relocation Project; setting September 12, 2007, as bid due date and September 25, 2007, as date of public hearing
 11. RESOLUTION NO. 07-398 approving contract and bond for Hunziker Youth Sports Complex Paving Project
 12. RESOLUTION NO. 07-399 accepting completion of the 2007/08 Slurry Seal Program
 13. RESOLUTION NO. 07-400 accepting completion of the 2005/06 Water System Improvements Program
- Roll Call Vote: 6-0. Resolutions declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

CLASS C LIQUOR & OUTDOOR SERVICE PRIVILEGE - HILTON COLISEUM, IOWA STATE CENTER: Council Member Doll recalled that approximately one year ago, Iowa State University (ISU) representatives indicated to the City Council that they did not want outdoor liquor sites at events where persons under-21 would be exposed to alcohol. At that same meeting, the Council approved an Outdoor Service Privilege for sites on ISU Campus. He felt mixed messages about alcohol are being sent. In addition, he pointed out that Outdoor Service sites on Iowa State property do not have to have double fences or many of the safeguards that are required of other groups. Mr. Doll noted that the City does not have jurisdiction over ISU matters, but wanted to speak his concerns. He brought up that ISU sponsors events that promote tailgating for alumni, and he felt that it was sending the message "don't drink unless it brings in money for ISU." Council Member Rice agreed, also recalling last year's discussion involving ISU's concerns about exposing students to alcohol; it appears to be setting a double standard.

Moved by Doll, seconded by Rice, to approve the Class C Liquor & Outdoor Service Privilege for Hilton Coliseum, Iowa State Center.

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

REQUEST FOR GRANT FUNDING FOR A SURVEY OF THE COLLEGE HEIGHTS NEIGHBORHOOD: Council Member Goodman asked for staff to brief the Council on what follows the survey and what it would mean for residents of this Neighborhood. Planner Ray Anderson reminded the Mayor and City Council that this is one of the recommendations that resulted from the survey of West Ames performed by Will Page. The College Heights Neighborhood is one of eight different areas that has been selected to be surveyed in the future. He defined an "intensive survey" as one that would gather historical and architectural information on each of the 106 properties in the Neighborhood.

Mr. Goodman asked what the survey results would yield. Mr. Anderson stated that it would yield information on the historical significance of the homes in this area. The next step, if approved by the City Council, would be to direct staff to prepare a nomination to the National Register of Historic Places. The survey results would provide the basic information needed for that nomination and could lead to this Neighborhood being designated as a National Historic District.

Council Member Popken asked to know the requirements for the City to be named a Certified Local Government (CLG). Mr. Anderson advised that the City must have [1] an Historic Preservation Commission (which was established in 1989); [2] an ordinance outlining the historic preservation regulations and a district where those apply (which were adopted in 1988); and [3] certain other regulations that follow the Secretary of the Interior standards. Ames has been a CLG since 1995.

Council Member Goodman asked if certain regulations would be imposed on homes in this Neighborhood if a designation of Historic Place were attained. Mr. Anderson said that, as a National Historic District, there would not be any regulations placed on the homes in this Neighborhood. It is a misconception held by many that a National Designation restricts properties; it is really more of a recognition of historical value. There are no prohibitions against demolition or restrictions on what can be done to a home unless it is a Local Historic District. It is possible, however, that at some point, the City Council might be asked to approve a designation of Local Historic District for this Neighborhood. Council Member Goodman wanted residents of this Neighborhood to know that these efforts could result in more regulations for them in the future.

Moved by Goodman, seconded by Mahayni, to authorize staff to submit a request for grant funding through the CLG Grant Program for an intensive survey of the College Heights Neighborhood.
Vote on Motion: 6-0. Motion declared carried unanimously.

REQUEST FOR FUNDS FOR HISTORIC HOME TOUR IN THE SOUTH CAMPUS AREA NEIGHBORHOOD (SCAN): Council Member Larson asked staff to explain the funding source being recommended for the Home Tour. It was noted that funding would come from the Neighborhood Improvement Program in the amount of \$1,700, and the SCAN would be contributing \$200 towards the expenses. It appeared to Mr. Larson that the in-kind services being performed by persons in the SCAN would be worth much more than \$200 and would probably equate to approximately a 50/50 match, which is what is required for a Neighborhood Improvement Program grant. City Manager Steve Schainker explained the difference sources of funding that could be used. He advised that \$50,000 has been allocated to the Neighborhood Improvement Program; \$25,000 is used for grants and the other \$25,000 is to be used for assisting neighborhoods with projects such as the one in question. It is not necessary for the SCAN to commit to a 50/50 match for this project.

Moved by Larson, seconded by Rice, to adopt RESOLUTION NO. 07-396 approving funds from the Neighborhood Improvement Program in the amount of \$1,700 for the Historic Home Tour in the SCAN.

Council Member Rice questioned what would be done with the proceeds from the tickets sold for the Tour. Barbara Pleasants, 516 Lynn Avenue, Ames, a member of the SCAN, said that they were not trying to make a profit from the Tour. It was felt that if they had any monies left after expenses, the City could be reimbursed or the funds saved for a future Tour.

Gloria Betcher, 531 Hayward, Ames, Chairperson of the Historic Preservation Commission, explained that the Commission has been contemplating holding home tours in potential historic districts and joining with the Old Town Neighborhood to expand its tour. Unfortunately, it was

too late to apply for state grant funds to assist with expenses for this Tour, but in the future, that is a possibility.

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

PUBLIC FORUM: Gary Reed, Civil Design Advantage, 5501 NW 112th Street, Suite G, Grimes, Iowa, advised that he was representing Ev Cochrane in his pursuit to modify the existing tax parcel line for 5239 Zumwalt Station Road. The property is located within two miles of the City of Ames' jurisdictional rights. The Council was told by Mr. Reed that a sketch plan had been submitted to City staff on August 21, 2007, which outlined the proposal to adjust the tax parcel line. He explained that Mr. Cochrane desires to create a split of the approximate 80-acre parcel. According to Mr. Reed, staff responded that division of the property is not supported due to the need for the property to be annexed into the City based on the City's Urban Fringe Plan. Mr. Reed requested that the City waive its jurisdictional authority and allow the land owner to work directly with Story County to accomplish the proposed property split. Mayor Campbell explained that this was an unusual use of public forum. She suggested that Mr. Reed request the City Council to refer this issue to City staff.

REVIEW OF PROCESS TO REVISE AMES URBAN FRINGE PLAN: Planning and Housing Department Director Steve Osguthorpe reminded the Council members that they, along with the Gilbert City Council, and Story County Board of Supervisors, had approved the Ames Urban Fringe Plan in July 2006. Since then, several requests to change the Plan have been received, and staff had been directed to propose a way to process such requests.

Mr. Osguthorpe stated that what staff was proposing tonight was the work of staff members from the three affected jurisdictions. The proposal was for one review cycle per year to consider revisions to the Plan. The process would provide an opportunity to decline to consider a change if the majority of the jurisdictional bodies did not want to invest the time and resources. After the joint staff meeting, each jurisdiction would publish notice of the proposed change and the request would be heard by each jurisdiction's Planning & Zoning Commission, with a recommendation being passed on to the Story County Board of Supervisors, Ames City Council, and the Gilbert City Council. The process would culminate in an annual joint meeting of the three jurisdictions to discuss and act on the proposed revisions. Requests for changes over a period of a year would be reviewed together, thereby facilitating a more comprehensive analysis of the collective conformance to Plan objectives and policies. Staff was suggesting that the annual joint meeting occur either in early December or May.

City Manager Schainker clarified that it would take a majority of the three jurisdictions to move ahead with the initial process; however, at the end of the process, it would take a unanimous vote to approve any changes; 100% support would be needed.

Council Member Larson asked where Boone County would fit in with this process. Mr. Osguthorpe advised that Boone County did not incorporate the Urban Fringe Plan into their Comprehensive Plan, so Boone County would not be part of this process.

Council Member Larson said he felt that requests for change would pertain mainly to Ames and Story County since there is only a very small area of overlap between Ames and Gilbert. Concerns were expressed that one jurisdiction could decide to side with one of the other jurisdictions even if the requested change did not pertain to it and ultimately determine the outcome of the Ames Urban Fringe Plan. Mr. Osguthorpe said that was the reason only two of the three jurisdictions needed to concur to move forward with analysis of any requested change. Council Member Goodman pointed out that the goal of adopting the Plan was to create cooperation among the different jurisdictions; it was not to streamline processes. Council Member Popken said that the goal was to create a predictable system within the two-mile fringe of the City's boundaries. Council Member Larson added that it was also an issue of timeliness; people became frustrated over the time it took for projects to be handled. He suggested that the development community be asked to provide input.

Council Member Mahayni questioned why the proposal was forcing all jurisdictions to act on a requested change; it should only include the jurisdictions that would be impacted. He felt that all jurisdictions would be included in discussions involving changes to the Plan and pointed out that there have been no requests to change the Plan. Council Member Popken thought that text amendments would affect all jurisdictions; however, a map amendment, e.g., in the south side of Ames, would only affect two jurisdictions (Story County and Ames). He asked if a distinction could be made between the two. Mr. Osguthorpe said staff could consider that; however, the Urban Fringe Plan includes both text and the map, and the two need to be consistent with each other.

Council Member Larson asked what if the change being requested pertains to property in the two-mile radius west of Ames (in Boone County). In order to answer that, Mr. Osguthorpe said that staff will need to meet with Boone County. At this time, all that is known is that Boone County adopted its Comprehensive Plan, and it was not consistent with the Ames Urban Fringe Plan. Council Member Goodman suggested that the application process include only the jurisdictions impacted, but the final decision involve all jurisdictions.

Another concern expressed by Council Member Goodman was that there could be a year wait after a request for a change was submitted. Director Osguthorpe reiterated that the benefit of having the requests come in collectively would be a more comprehensive review of the impact of all the requested changes. Council Member Popken suggested that individual approvals could be sought by each of the impacted jurisdictions. Each jurisdiction's Planning & Zoning Commission and Council/Supervisors would act independently when a request for a change was submitted, so it might not be necessary to have a joint meeting among all jurisdictions. Council Member Larson suggested that unanimous approval be required of only the jurisdictions impacted. Council Member Mahayni felt that if the staff report from the affected jurisdiction would be agreed to by the three entities, there would be no need for a joint meeting of all three jurisdictions. Director Osguthorpe advised that there would be a joint staff report for each request. Council Member Popken felt that it might be impossible to get all entities to agree on every change.

Council Member Goodman said that there is also a possibility of getting bogged down in different entity's priorities; each might have more pressing issues. If a jurisdiction is not interested in the proposed change, there needs to be an "opt-out" provision. Mr. Osguthorpe explained that there might be two reasons why a jurisdiction would not want to be involved in the discussion: (1) it does not affect them or (2) they are not interested in a change.

City Manager Schainker pointed out that the three jurisdictions have not gotten to the stage of adopting a 28E agreement. He suggested that the comments made tonight be gathered and compared to those made at the other jurisdictions' meetings to see if there is any overlap in the concerns.

Council Member Larson also felt that the proposed process still does not address the issue of where to start to request a change to the Urban Fringe Plan.

Chuck Winkleblack, Hunziker & Associates, 105 S. 16th Street, Ames, reminded the Council that it took approximately seven years to adopt the Urban Fringe Plan. To decide on how a change to that Plan is made might take another two years. He believes that to require unanimous approval of any change is a very lofty goal and one that he feels is impossible to achieve. Mr. Winkleblack also asked which jurisdiction would act first. He does believe that it is a good idea to have one meeting involving the three jurisdictions to discuss possible changes; however, a year wait is too long.

JOINT USE PARKING PLAN FOR 3329 LINCOLN WAY: Planner Jeff Benson explained that Stonebrook Community Church owns the building at 3329 Lincoln Way and uses it for a community center. A portion of the building is leased to a self-service laundry business. The Church would like to begin holding worship services at this location on Friday nights; however, that use requires a Special Use Permit since it is not currently allowed in the Highway-Oriented Commercial zoning district. In addition, that use would require more parking spaces than the current use of space, and the site cannot accommodate any more parking spaces. Because the site is 33 spaces short of the requirement, Stonebrook Community Church is requesting approval of a Joint Use Parking Plan, which would allow the use of existing parking spaces at the nearby St. Andrews Lutheran Church to support the worship services use at 3329 Lincoln Way.

Mr. Benson pointed out that Section 29.406(17)(a) of the Zoning Ordinance provides for joint use parking if the parking demands occur at different times. It allows for the same parking spaces to be counted to satisfy the off-street parking requirements for each use if a Joint Use Parking Plan is approved by the City Council. The Municipal Code requires one parking stall for 60 square feet of worship space without fixed seating; for 2,875 square feet of worship space, 48 parking spaces are required. In addition, time of peak demand is known because of the schedule for worship services. For Stonebrook Community Church, the services will be at 7:00 p.m. on Fridays. St. Andrews church has no program activities at that time.

It was pointed out by Mr. Benson that the Colorado Junction property lies between the two properties in question. A representative of the Stonebrook Church has spoken to the owner of

the Colorado Junction and reported that there is no objection to the joint use parking proposal; the City is in receipt of a letter from that owner advising of no objections.

According to Mr. Benson, churches are often cited as an example of the type of use where joint use can make more efficient use of parking and reduce the need for more parking lots. The two property owners in question have worked out the issues and addressed them in a Joint Use Parking Easement Agreement.

Moved by Goodman, seconded by Doll, to adopt RESOLUTION NO. 07-401 approving the Joint Use Parking Plan for 3329 Lincoln Way between St. Andrew's Lutheran Church and Stonebrook Community Church.

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

URBAN REVITALIZATION AREA FOR UNIVERSITY-IMPACTED AREA (UIA) WEST:

Planner Jeff Benson recalled that the City Council had referred to staff a request from the owners of 405 and 415 Hayward Avenue for tax abatement to support the redevelopment of the former Greek house into the Iowa House Bed and Breakfast. Approval of the request would require the City Council to establish a new Urban Revitalization Area (URA).

Criteria contained in the Iowa Code for establishment of URAs were reviewed. Eight previously approved Urban Revitalization Plans, which fulfilled additional policy guidelines, were summarized. No changes to those Plans are being requested at this time.

Mr. Benson stated that the proposed Iowa House property is located in the West University Impacted Area (UIA). Policies previously adopted by the City Council regarding historic resources in that Area were briefly reviewed. The property in question is listed on the National Register of Historic Places, and as such may be considered by the City Council for tax abatement. This is consistent with the City's Land Use Policy Plan and with the UIA Sub-Area Plan. It was noted that state law requires Urban Revitalization Areas to contain two or more properties and that tax abatement may not be given for a vacant lot. He said that the properties would be eligible to be designated as an Urban Revitalization Area if they meet the following criteria:

1. Properties are located within the West University Impacted Overlay Zoning District, and,
2. The National Park Service has determined that one or more of the properties has a structure(s) that meets the National Register Evaluation Criteria, and
3. Improvements are being made to one of the National Register eligible structures that preserve 70% or more of the area of existing exterior walls of the structure and that preserve and/or restore original or historic materials and designs.

Mr. Benson advised that there is "nothing magical" about the requirement for preserving 70% or more of the area. It has been used for other URAs. Council Member Larson asked if the abatement would only be given on the improved value of the property. Mr. Benson confirmed that it would be; the City Assessor makes the determination.

Moved by Mahayni, seconded by Rice, to:

1. Establish a new Urban Revitalization Program for properties within the West University Impacted Overlay Zoning District with the following eligibility criteria:
 - a. Properties are located within the West University Impacted Overlay Zoning District, and
 - b. The National Park Service has determined that one or more of the properties has a structure(s) that meets the National Register Evaluation Criteria, and
 - c. Improvements are being made to one of the National Register eligible structures that preserve 70% or more of the area of existing exterior walls of the structure and that preserve and/or restore original or historic materials and designs.

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

Moved by Mahayni, seconded by Rice, to approve the application and determine that the proposed project at 405 and 415 Hayward meets the above criteria.

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

Moved by Mahayni, seconded by Rice, to direct staff to prepare an Urban Revitalization Plan for 405 and 415 Hayward Avenue based on the above criteria.

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

Moved by Mahayni, seconded by Rice, to adopt RESOLUTION NO. 07-402 setting the date of public hearing for October 9, 2007.

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

AQUATIC CENTER: Council Member Larson asked if the projected amount not to exceed \$100,000 to be paid to Iowa State University Department of Facilities Planning and Management for construction observation was in addition to the \$718,000 to be paid for design services. Parks & Recreation Director Nancy Carroll said that the \$100,000 was separate from the \$718,000. Staff is recommending entering into that agreement for services as the City does not have the internal expertise to provide inspection services on a daily basis. City Manager Schainker advised that it is better to have an independent inspector on site in case there are disputes between the architect and the general contractor.

Council Member Larson stated that it would be unusual for the City to bypass the normal qualification process used to select an architect for the magnitude of services needed for this project. He said that construction management services are sometimes included in the architectural fees. Ms. Carroll indicated that, after researching other communities, the 8 ½% is normal. She also pointed out that RDG will be doing some construction management. Ms. Carroll said that, given the magnitude of this project, the uniqueness of the site, and the need to incorporate storm water infiltration areas throughout the 45-acre site, staff feels 8 ½% is appropriate.

City Manager Schainker stated that this is a contract for professional services, and the City does not always go with the lowest bid. City staff views RDG's fee as being very competitive. Council Member Larson said he is aware that time is of the essence on this project. In the future, however, he suggested that a broader request for proposals be drafted so perhaps rate structures could be ascertained during the feasibility study.

Council Member Goodman advised that he had the same concerns. He pointed to the City's policy of receiving competitive proposals if the services exceed \$50,000, yet in this case, the City would be waiving that policy for a total cost of services at over \$800,000. Mr. Goodman said he did not feel that was a fiscally responsible decision. With that amount of expenditure, he is uncomfortable giving a contract to a firm without soliciting competitive bids. Mayor Campbell said that the Council should be mindful of what it would cost to postpone this for a year. Council Member Mahayni pointed out that RDG has been providing services to the City for the past 12 years on numerous recreation and aquatic center projects. If another firm were to start new and have to gather all the information over again, the bid could come in higher than \$718,000.

Moved by Mahayni, seconded by Doll, to adopt RESOLUTION NO. 07-403 waiving purchasing policies and approving a contract with RDG Planning & Design in the amount of \$718,000 for design services.

Roll Call Vote: 5-1. Voting aye: Doll, Larson, Mahayni, Popken, Rice. Voting nay: Goodman. Resolution declared adopted, signed by the Mayor, and hereby made a portion of these minutes.

Moved by Goodman, seconded by Popken, to authorize staff to finalize an agreement with Iowa State University Department of Facilities Planning and Management to provide construction observation in an amount not to exceed \$100,000.

Director Nancy Carroll advised that the agreement will come back to the City Council for approval at a later date.

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

AQUATIC CENTER LEASE: City Manager Schainker said that, prior to the bond referendum regarding the new outdoor aquatic center site, staff received assurance from Iowa State University Administration that they would support a long-term lease of ISU property on 13th Street for the facility site. The Council was told that, rather than approve the lease agreement, the Board of Regents granted authority to the Executive Director of the Board of Regents and ISU administrators to negotiate a final lease agreement with the City. Inherent in that direction was a requirement that lawyers (University, Attorney General's Office, Board of Regents) from three entities be involved in the negotiations and approve the terms of the lease. Mr. Schainker advised that the final lease is slightly altered from the one previously reviewed by the Council in July; it is more complex.

According to Mr. Schainker, the lease remains a 50-year lease; however, the City may request extensions to the Lease Agreement term at any time. There will be no monetary payments due to the University for use of the property.

Each of the provisions of the lease were explained in detail by City Manager Schainker. One provision allows for a special Aquatic Center entry fee to be offered to currently registered Iowa State University students at a rate halfway between the rates offered by the City for resident youth (children under 17) and adults. That will continue unless the City discontinues offering a Youth rate. Iowa State University will be allowed to use the leased area other than the Aquatics Center for research activities and will also have access to the Ames Community School District fields, which are anticipated to be built in the future. For any usage other than the existing archaeology lab, the University will have to obtain prior approval from the City.

It was noted that the City was “pre-approved” to make all of the improvements on the leased site that have been included in the July 24, 2007, bond referendum; that includes the Aquatics Center, parking lot, and water infiltration projects. However, following completion of the initial construction project, any additional buildings, recreational fields, or other improvements will require approval of the University. No prior approval for landscaping or improvements to the Aquatics Center is needed.

City Manager Schainker emphasized that once the City takes over the premises, it must maintain the premises in a safe and serviceable condition consistent with other City facilities; that is the standard by which the University will hold the City accountable. At the end of the lease term, the premises must be returned to a safe and open space, unless otherwise agreed to by the parties. If the City requests to extend the lease, and the University denies that request, the City’s obligation to remove all facilities, equipment, etc., will be based on mutually agreed-to terms by the parties. Another important aspect deals with breach of the contract. Mr. Schainker explained that if the City fails to do certain things, the University has the right to declare the City in breach of the contract.

Mr. Schainker reminded the Council that it is a known fact that the Ames School District wants to use some of the land for athletic fields. The University desired to enter into an agreement with only one entity; that entity is the City of Ames. A companion agreement between the City and the Ames School District will need to be entered into, and it will need to mirror the obligations placed on the City in the Lease Agreement with ISU. Any misuse of the property by the School District could jeopardize the City’s lease.

Moved by Rice, seconded by Goodman, to adopt RESOLUTION NO. 07-404 approving a land lease for the Aquatic Center site on 13th Street.

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

AGREEMENT FOR PUBLIC RESTROOMS: The City Council had requested that the Student Affairs Commission (SAC) explore the issue of the lack of public restrooms in Campustown,

and the issue was raised by the ISU Government of the Student Body (GSB) at last year's joint meeting with the Council.

Mr. Schainker advised that a number of options were explored. Ultimately, it was decided that there was not sufficient space to construct new restroom facilities on existing public space, that single-stall toilets were too costly, and that the placement of portable restrooms in the Welch Avenue area would prove aesthetically offensive and be prone to vandalism. The SAC recommended that the City consider utilizing the Fire Station No. 2 site for a public restroom location if the Station is ever moved; however, for a short-term solution, the Commission received support from Mike Yeagle, the Director of Operations of Campustown Property Management, for the City to rent restroom facilities at Cyclone Plaza, 200 Stanton Avenue. and 303 Welch Avenue, for use by the general public. The restrooms will be available from 8 AM until 2:30 AM seven days/week at a cost of \$333/month. In return for that fee, Campustown Property Management would clean the facilities and be responsible for any repair or replacement necessitated by any damage caused.

City Manager Schainker recommended that the funding allocation come from the Contingency Fund. He also requested that the City Council allocate funds for signage at a later date. Council Member Doll suggested that signage be placed in the 100 and 200 Blocks of Welch to indicate the location of the public restrooms.

Moved by Goodman, seconded by Doll, to adopt RESOLUTION NO. 07-405 approving the contract with Campustown Property Management for public restrooms.

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

UNIT NO. 7 ROTOR: Electric Services Director Don Kom said that the City Council was being asked for authorization for testing and possible repair of the Unit No. 7 Rotor. He explained that the Unit was taken out of service late last February for inspection, and it was determined that the rotor needed repair. The rotor is essential equipment needed to produce electricity in the Power Plant. The rotor was sent to a subcontractor in Miami, FL, where it was rewound and sent back to Ames. It was then reinstalled in Unit No. 7; however, under certain conditions, the rotor began to vibrate excessively. It was again removed, and after talking with the contractor and subcontractor, sent back to Miami for Florida. The subcontractor took the equipment through its standard tests and advised that there was nothing wrong with the rotor; however, the contractor believes to the contrary. To solve this question, the City believes that more-conclusive testing needs to be performed on the rotor. It is important to get the contractor and subcontractor off "dead center" because, without the rotor, the City must constantly buy electricity on the open market.

Mr. Kom asked the Council to authorize staff to use a company named Alstom Power of Midlothian, Virginia, because it is believed that that test site can best match the conditions seen in the Ames Power Plant. He requested approval for Unit No. 7 rotor to be sent to Alstom to be tested and repaired, if needed; that could cost up to \$100,000. Staff is requesting authorization

of a cost not to exceed \$120,000 because additional testing may be needed, or if some of the issues are found to be minor, Alstom could make those repairs.

According to Mr. Kom, the City is requiring that the initial rewind costs be paid by the contractor to the subcontractor, which is one of the issues that remains and is the reason why the rotor is still in Miami. The next course of action will be that the rotor will be brought back to Ames and installed in Unit No. 7, or if needed, additional repairs performed. Also requested was a Change Order with Cotter Turbine Services deducting from its contract the final payment made under the Alstom Power contract. Mr. Kom advised that the subcontractor has verbally told the City that if the work performed on the rotor was found to be the cause of the malfunction, the subcontractor would take the rotor back and make the needed repairs. The testing needs to be done to determine if the malfunction is caused by the workmanship on the rewind, issues in the Ames Power Plant, or by work performed by the contractor.

Director Kom stated that to purchase a new rotor would cost between \$2.5 and \$4 million, and it is unknown how long it would take to build one. A world-wide search has been made to find a rotor of exact design; however, that has been in vain.

Council Member Larson asked if the contractor will sign the Change Order for the deduct. Director Kom said that has been communicated to the contractor, who actually made the suggestion. A request to increase some of the bonds has also been made to the contractor; however, agreement on that issue has not been reached. If the arrangement is not worked out with the contractor to allow the deduct, Mr. Kom said there would still be a need to have the rotor tested. Council Member Larson said that he believes the Change Order for the deduct needs to be in place before any other action is taken.

Council Member Doll pointed out that nearly a quarter million dollars is being expended weekly by the City to buy energy off the open market since the rotor is not operational. He asked if the suggested action is the most expedient way to solve this issue. Mr. Kom advised that staff believes it is still in the City's best interest to work through the contracts that are currently in place.

Council Member Goodman asked how realistic it was that the City will be able to recover damages incurred as a result of the contractor's actions. City Attorney Doug Marek said that consequential damages would need to be proven. It is necessary to determine what caused the delay and then to evaluate if the delay was unreasonable; that is why the testing at this point is critical. The rotor, when it malfunctioned and was taken back to Florida, was tested at that facility. It was also tested at an off-site independent facility. Both facilities were unable to simulate the conditions that occurred at the Ames Power Plant.

Moved by Mahayni, seconded by Goodman, to adopt RESOLUTION NO. 07-406 authorizing the emergency purchase of testing and possible repair service with Alstom Power, Inc., of Midlothian, VA, in an amount not to exceed \$120,000.

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

Moved by Mahayni, seconded by Goodman, to adopt RESOLUTION NO. 07-407 approving a proposed change order with Cotter Turbine Services deducting from its contract the final payment made under the Alstom Power contract.

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

HEARING ON POWER PLANT PASSENGER ELEVATOR REPLACEMENT PROJECT:

Moved by Popken, seconded by Mahayni, to adopt RESOLUTION NO. 07-393 approving final plans and specifications and awarding a contract to Schumacher Elevator Company of Denver, Iowa, in the amount of \$169,709.00.

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

HEARING ON GRAND AVENUE EXTENSION PROJECT (SQUAW CREEK DRIVE TO LINCOLN WAY):

Moved by Mahayni, seconded by Popken, to adopt RESOLUTION NO. 07-394 approving final plans and specifications and awarding a contract to Con-Struct, Inc., of Ames, Iowa, in the amount of \$2,729,238.30, subject to receipt of IDOT concurrence.

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

COMMENTS AND FUTURE AGENDA ITEMS: Council Member Rice said that he was disturbed that Gary Reed was not allowed to finish his presentation pertaining to 5239 Zumwalt Station Road during public forum. He thought that it was appropriate for the City Council to hear the presentation before deciding whether to refer the issue to staff. Mayor Campbell explained that the issue being raised by Mr. Reed was complex and the Council had no information on it prior to the presentation. Council Member Mahayni pointed out that Mr. Reed could have sent the document to the Mayor and Council prior to the meeting instead of distributing it during Public Forum, which would have allowed for review before referring it to staff. Mr. Mahayni also pointed out that, as a courtesy to others who may wish to speak, each person coming before the Mayor and Council during Public Forum is limited to a five-minute time period.

Council Member Goodman would like staff to come up with a policy listing the rules for special events so that organizers know what to expect. It had been alleged that the City placed requirements on one group that it had not placed on others, and he felt that if there was a policy, that criticism would be avoided. Mr. Schainker advised that staff has a policy, but certain groups request that the City Council waive the fees. Mr. Goodman said that he was asking for a memo explaining how staff makes a recommendation as to how many police officers will be required and whether costs should be waived.

Moved by Goodman, seconded by Mahayni, to direct staff to devise a universal policy that can be consistently applied to requests for special events, e.g., the number of police officers required, who pays for what, and requests for cost waivers.

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

Council Member Popken asked if the request from Civil Design Advantage was currently being processed by City staff. City Manager Schainker indicated that staff had some limited discussion with them, but had requested that they write a letter to the City Council outlining their request. That letter would have started the process, but they took it a step further tonight by making a presentation. Planning & Housing Director Steve Osguthorpe clarified that Mr. Reed was asking for a waiver of subdivision authority, not an amendment to the Urban Fringe Plan. City Attorney Doug Marek reminded the City Council members that they had adopted a Resolution requiring property owners to sign certain covenants pertaining to annexation and costs associated with public improvements when waivers of subdivision authority are granted. Those covenants have not been signed for this property.

Moved by Popken, seconded by Rice, to refer to staff the letter from Civil Design Advantage in reference to property at 5239 Zumwalt Station Road.

Council Member Doll said that he would not be able to support that motion because he had not had time to review the materials. He was concerned that the applicant put the information on the dais tonight and expected action at the same meeting without allowing time for the Council to review the material. Council Member Mahayni expressed concerns that it would be a violation of the Open Meetings law to act on items that are not listed on the Agenda. City Manager Schainker said that it compromises the intent of Public Forum if persons were allowed to give half-hour presentations during that time.

Motion withdrawn.

Council Member Larson referenced a letter from Tim Garner, 1008 Marston Avenue, Ames, that had been distributed to the City Council. It pertained to the City's Sump Pump Program, for which Mr. Garner had been told that he didn't qualify. After Mr. Larson had discussed the program with staff, he understood the City's interpretation.

Moved by Larson, seconded by Goodman, to direct staff to update the City Council on the Sump Pump Program.

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

ADJOURNMENT: Moved by Doll, seconded by Goodman, to adjourn the meeting at 9:30 p.m.

Diane R. Voss, City Clerk

Ann H. Campbell, Mayor