

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

AMES, IOWA

JUNE 2, 2009

The Ames City Council met in special session at 7:00 p.m. on June 2, 2009, in the Council Chambers of City Hall, 515 Clark Avenue, pursuant to law with Mayor Campbell presiding and the following Council members present: Doll, Goodman, Mahayni, Popken, and Rice. Council Member Larson was absent. *Ex officio* Member Keppy was also present.

Mayor Campbell announced that Agenda Item No. 2 would be heard first due to the length of time that Agenda Item No. 1 was anticipated to take.

**SUBSTANTIAL AMENDMENT TO THE CITY'S 2008/09 COMMUNITY DEVELOPMENT
BLOCK GRANT ANNUAL ACTION PLAN:**

Housing Coordinator Vanessa Baker-Latimer informed the Council that on March 6, 2009, the Department of Housing and Urban Development (HUD) notified the City that it had been allocated \$130,258 of Community Development Block Grant Recovery (CDBG-R) funds as part of the American Recovery and Reinvestment Act of 2009 that was signed into law by President Obama on February 17, 2009. Ms. Baker-Latimer advised that in order to receive CDBG-R funds, the City must submit a Substantial Amendment to its 2008/09 CDBG Annual Action Plan to HUD no later than June 5, 2009. The seven-day comment period on the Amendment ended on June 1, 2009. She stated that CDBG-R funds have to be spent relatively quickly (be "shovel-ready"), and in light of that, staff was proposing the following two projects:

1. The Neighborhood Infrastructure Improvement Program will provide much-needed improvements to street infrastructure in a designated HUD low-income census tract area. This is also in keeping with the Council's directive regarding sustainable core neighborhoods.
2. The "EcoSmart Housing" Retrofit Program will utilize an existing single-family home and incorporate "Go Green" features as part of the property rehabilitation for resale to a low- to moderate-income first-time homebuyer. Ms. Baker-Latimer introduced the City's newest initiative: "Smart Housing" and unveiled its logo. She explained that this is newest component of the City's energy-savings program series.

According to Ms. Baker-Latimer, \$100,000 of the Recovery funds would be spent on the Infrastructure Improvement Program. The EcoSmart Housing Retrofit Program would require allocation of approximately \$30,000; CDBG monies would be used to supplement the Recovery funding.

Moved by Rice, seconded by Mahayni, to adopt RESOLUTION NO. 09-234 approving an Amendment to the 2008/09 Community Development Block Grant Substantial Annual Action Plan and authorizing its submittal to the Department of Housing and Urban Development (HUD). Roll Call Vote: 5-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

RENTAL HOUSING CODE: Assistant City Manager Bob Kindred reminded the City Council members that they had met approximately six weeks ago and provided direction to staff on this issue. He introduced Fire Chief Clint Petersen, who presented pictures evidencing poorly maintained and unkempt rental properties and yards.

Assistant Manager Kindred presented the historical background of the City's Rental Housing Code. The Code was initially adopted in 1977. Twenty-three revisions have been made since its adoption. Mr. Kindred recalled that during 2008, landlords, neighborhoods, the City Council, and City staff agreed that changes were again needed to the Rental Housing Code to provide clarity for both landlords and staff and to make sure that it is enforced as the City Council intends. As a result, a citizens ad hoc Rental Housing Advisory Committee (RHAC) was created. The Committee met 23 times, with the end result being the recommended revisions that are being presented at this meeting. Mr. Kindred noted that there was not unanimous concurrence by the Committee members on all issues; however, the proposed revisions reflect a delicate balance.

Mr. Kindred named the following schedule constraints for adoption of the new Code:

1. The moratorium has expired on four Rental Code items.
2. Mid-July to August is the lease turn-over period.
3. The new Property Maintenance Ad Hoc Committee will be beginning its work.

The proposed time frame for adoption of the revised Rental Housing Code was also presented. Staff is hopeful that all readings of the ordinance will occur in June so that the new Code can be published and take effect on July 1, 2009.

Chief Petersen highlighted several of the proposed revisions to the Rental Housing Code (Chapter 13 of the Ames Municipal Code), reviewing specifically the major policy issues. He recognized the Rental Housing Advisory Committee's work and noted that many of the procedural requirements were developed by the Inspections staff based on a great deal of input from the RHAC. Requirements also took into account provisions contained in the current Rental Housing Code and International Property Maintenance Code. Chief Petersen explained the codification process and Code language priorities.

According to Chief Petersen, a significant new feature of the Rental Code is the creation of a Property Maintenance Board of Appeals (at Section 13.108). The Board is proposed to be comprised of seven members that will include the following: one property owner with fewer than 50 rental dwelling units, one property owner with 50 rental dwelling units or more, two homeowners who do not own any rental units, one long-term tenant (non-student renter for more than five years), one student tenant (full-time post-secondary student), and one general contractor who owns no more than six rental properties. According to Chief Petersen, appeals may be made to the Board for the following reasons:

1. The intent of the Code was incorrectly interpreted.
2. The provisions of the Code do not apply.
3. There are other means to satisfy the intent of the Code.
4. Strict compliance to the Code is impractical.
5. It is impossible to comply with the time limit established by the Building Official to complete the corrective action.

Chief Petersen brought the Council's attention to a section being recommended under Division III that specifically differentiates between "noted" and "cited" Code violations. He advised that a Letter of Compliance may be issued if there are "noted" violations if staff determines that the non-compliant condition has been maintained in a safe manner. Council Member Doll recalled that one of the main reasons the Rental Code was being revised was to provide clarity, and he was

concerned that “noted” versus “cited” violations might be confusing. Council Member Goodman agreed and thought the language should be more straightforward.

Moved by Doll, seconded by Goodman, to strike “may” and replace it with “shall” under Paragraph 9A (on Page 14) pertaining to “Noted and Cited Code Violations.”

Chief Petersen stated that the Committee has really taken ownership over the proposed language, and he was uncomfortable changing anything without input from the RHAC.

Mayor Campbell acknowledged that members of the Committee were present and asked if Mr. Warren would like to speak.

Al Warren, 3121 Maplewood Road, Ames, a member of the RHAC, explained that the intent of the Committee was to allow for problems that are not yet severe to be noted, but not hold up the Letter of Compliance. Inspections would inform the property owner of the problems. By noting the violations, it puts the property owner on notice that the problems need to be addressed, and if they are not by the next inspection, a citation would be issued.

Council Member Mahayni suggested that it be documented by specific language in the Code that a citation would be issued if the problems are not addressed by the next inspection. He feels that the property owner would then know exactly what needs to be taken care of and by when.

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

Chief Petersen explained that Retroactive Conversion Permits were used in the 1980's to address the issue of “grandfathering” rental units that were built during periods of no code enforcement or differing codes. He said that those Permits were not well-documented and have caused considerable problems for rental owners as well as City staff. Building Official David Brown further explained that the proposed Rental Code will allow for holders of Retroactive Conversion Permits, Board Variances, and Administrative Approvals to continue non-compliant conditions. They must reapply to the Building Official for permanent exceptions; those will be approved as long as the procedures called for in Section 13.402 are followed and the Building Official verifies that the non-compliant condition has been maintained in a safe and otherwise Code-compliant manner. Staff will then document the approved pre-existing conditions. Mr. Brown named several non-compliant conditions that will be allowed to continue: off-street parking, building numbering, stairway rise and run, handrails, guardrails, minimum ceiling height, natural light and ventilation, minimum room area, minimum site requirements, single furnace serving multiple units, and egress windows above grade.

According to Chief Petersen, staff and the RHAC members agreed that the following conditions would not be allowed to continue under any circumstances: inadequate second exit from basement apartments, lack of separation between gas-fired appliances and bedrooms and/or bathrooms, lack of fire alarm system for rental properties with more than 16 dwelling/sleeping units, and lack of a hard-surfaced driveway approach.

Council Member Goodman asked for the disposition of prospective changes regarding standards for building numbering. Chief Petersen specifically highlighted Section 21.407(2) pertaining to that issue. According to Chief Petersen, the RHAC spent a great deal of time on it, but was finally able to strike a balance. Basically, the proposed revision establishes 4-inch numbers, but

does not mandate change for street numbers that are currently adequate.

Council Member Goodman said that he did not see a need to change to a particular “standard” if legibility is the issue. David Brown confirmed that if changes are made to a property, numbers would then have to comply to the new requirement. Mr. Goodman strongly disagreed with the mandate as long as the numbers are legible from the street. Chief Petersen said that the national standard is 4-inch numbers. Council Member Doll expressed his opinion that the stringent minimum standard was necessary so that the Appeals Board would not be tied up on appeals over the size of building numbers. He said to just state that the numbers must be legible leaves it up to someone’s interpretation and that can be arbitrary. Council Member Goodman disagreed, reiterating that the intent was to make sure the numbers are legible, and numbers would either be legible or would not be legible from the street.

Moved by Goodman to revise Section 13.407(2)(c) pertaining to building numbering to strike the phrase, “When such address numbers are replaced, the new numbers must comply with this standard...”, and strike the phrase, “...Approval of this pre-existing condition shall not be granted to newly registered rental properties.”

Motion failed for lack of a second.

Chief Petersen described changes being proposed to Divisions IV through VIII. He noted that throughout the Code, the Building Official’s designee is allowed to make judgment calls; however, due to an oversight by staff at Section 13.702(7), “designee” was not included.

Moved by Goodman, seconded by Doll, to add “or designee” after Building Official at Section 13.702(7).

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

Assistant City Attorney Judy Parks indicated that she has had to defend the City’s position in court cases pertaining to specific locations of gravel driveways. Upon her review of the proposed Rental Housing Code, she had recommended that fixed boundaries be required for pre-existing gravel driveways so that it can be determined where the driveway is actually located. This would also serve to keep the gravel in place. City Manager Schainker noted that this new requirement was contained on Page 20 under “Pre-Existing Parking Areas” [Section 13.406(8)(d)]. According to Chief Petersen, the RHAC did not make that recommendation, but has been informed about its addition.

Council Member Popken noted that the Council had received an email asking about notification to the property owner or manager of any violations. He recommended that a “punch list” be provided. Council Member Goodman showed an example of the Inspection sheets used for food establishments and suggested that a similar form be used for Rental Code inspections. Assistant City Attorney Parks advised that such a checklist could be part of the staff’s procedures without specific language being included in the Code.

Discussion ensued on the timeliness of notification to the property owner of the non-compliant items and “when the clock starts.” Council Member Goodman again encouraged the use of a similar system as the Food Establishment Inspection model to afford the property owner the most notice.

Gary Denner, 25030 Myerwood Drive, Nevada, a member of the RHAC, advised that not all

Committee members agreed on everything, but reached consensus on most things and agreed that the remaining items were at least tolerable. He urged that the Appeals Board be formed quickly. Mr. Denner noted that consistency in enforcement is very important, and decisions made by the Appeals Board will provide further clarity. He also suggested that the Council move forward with the City's Exterior Maintenance Code, again for consistency sake. It was Mr. Denner's opinion that if standards are established for rental properties, those standards should also apply to single-family homes. Mr. Denner asked that rental property owners be provided with a copy of the Inspection Report immediately after the inspection is performed. He referenced allegations made by some rental property owners that violations had been added after the inspector had left the premises.

Rhoda Mansbach, 512 Oliver Circle, Ames, thanked the Committee members and staff for providing a document that will mandate rental property standards. She noted issues with a rental property in her neighborhood that had been turned into an eyesore by its tenants.

Al Warren, 3121 Maplewood Road, Ames, voiced his favor of the proposed Rental Housing Code. He stated that the majority of the rental property owners that he has spoken with are also in favor of it. Mr. Warren expressed a strong desire for the City Inspector to leave a copy of the Inspection Report with the property owner/manager after the inspection has concluded. Mr. Warren also asked that the Council authorize the Inspection Division to move forward with the formation of the Appeals Board prior to the Rental Housing Code being formally adopted. Mayor Campbell advised that the Rental Housing Code must be adopted first, but encouraged anyone interested in serving on the Appeals Board to contact her. City Manager Schainker noted that if the Council so chooses, it could suspend the rules and adopt the ordinance at its first or second reading.

Referencing the "Administrative" portion of the new Code, Mr. Warren suggested that wording be added to state that if the City Inspector cites or notes a violation and the property owner is aggrieved by that decision, the first step would be for the property owner to schedule a meeting with the Building Official before scheduling an appeal. Assistant City Attorney Parks advised that staff had already discussed that and language outlining the appeals process will be included on the Inspection Report, which will be handed to the owner/property manager.

Assistant City Manager Kindred reviewed the proposed adoption schedule. The public hearing and first reading will be scheduled for June 9. It was noted that a workshop is scheduled for June 16, and the second reading could occur then. The third reading and adoption would occur on June 23, with the ordinance being published to take effect on July 1, 2009.

COMMENTS: Moved by Goodman, seconded by Popken, to direct staff to contact the provider of the City's Wi-Fi system to see if a phone number could be included on the signage, so if there is an issue with the service, contact can be initiated.

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

ADJOURNMENT: Moved by Doll, seconded by Goodman, to adjourn the meeting at 8:58 p.m.

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

Diane Voss, City Clerk

Ann H. Campbell, Mayor