

**MINUTES OF THE MEETING OF THE AMES AREA
METROPOLITAN PLANNING ORGANIZATION
TRANSPORTATION POLICY COMMITTEE
AND REGULAR MEETING OF THE AMES CITY COUNCIL**

AMES, IOWA

JUNE 9, 2009

**AMES AREA METROPOLITAN PLANNING ORGANIZATION (AAMPO)
TRANSPORTATION POLICY COMMITTEE MEETING**

The Ames Area Metropolitan Planning Organization (AAMPO) Transportation Policy Committee met at 7:00 p.m. on the 9th day of June, 2009, in the City Council Chambers in City Hall, 515 Clark Avenue, pursuant to law with Ann Campbell as Administrator. Voting members present were Campbell, Doll, Goodman, Larson, Mahayni, Popken, and Rice, representing the City of Ames City Council, and Mike O'Brien, Boone County Supervisor. Wayne Clinton, representing the Story County Board of Supervisors and Robert Anders, representing the Ames Transit Agency, were absent.

2009 TRANSPORTATION IMPROVEMENT PROGRAM (TIP) AMENDMENTS: Transit Director Sheri Kyras explained that CyRide was notified in April of the availability of additional stimulus funding through the American Recovery and Reinvestment Act (ARRA) of 2009. She said \$100,000,000 is being made available for energy projects, and CyRide would like to submit a grant application for a portion of that funding. Staff is proposing that the following two projects be included in the grant application.

1. Hybrid Bus Upgrades. Twelve (12) buses, currently on order, would be upgraded from diesel to hybrid to save energy, approximately 30% in fuel, and greenhouse gases over the life of the vehicle. Funding in the amount of \$2,454,000 is being requested, with no local match. If funded, CyRide would have a total of 14 buses operating with hybrid technology.
2. Articulated Buses. Four 40-foot buses would be replaced with two articulated 60-foot vehicles. This will reduce fuel, greenhouse gases, and labor costs. Four drivers, as opposed to six, will be able to transport the same number of passengers. Funding in the amount of \$2,460,000 is being requested, with no local match.

Director Kyras noted that these projects needed to be included in the Transportation Improvement Program in order to be considered for funding.

Council Member Goodman pointed out that, in the recent past, articulated buses were discussed in tandem with a dedicated Rapid Transit route. He asked if receipt of this funding would trigger any other costs to the City in regards to infrastructure. Ms. Kyras responded that it would not; energy-efficiency would be gained by the articulated buses without going to the next step (a Bus Rapid Transit). Mr. Goodman also asked if upgrading to 12 hybrid buses meant a physical change. Ms. Kyras stated that it would be an upgrade from diesel to hybrid; it would cost an additional \$204,000/bus. She said that there would be a physical change to the order; the former order for diesel buses would be canceled and hybrid buses would be ordered. Council Member Larson recalled that discussions on the possible widening of Beach had occurred. Ms. Kyras explained that that referred to Bus Rapid Transit. The thought was, if there was an additional lane at Beach, buses could get into that lane and travel through the intersection more quickly.

Moved by Goodman, seconded by Popken, to approve amendments to the 2009 Transportation Improvement Program (TIP) pertaining to hybrid bus upgrades and articulated bus purchases.
Vote on Motion: 6-0. Motion declared carried unanimously.

The meeting recessed at 7:05 p.m. and reconvened at 7:06 p.m.

REGULAR MEETING OF THE AMES CITY COUNCIL

The regular meeting of the Ames City Council was called to order by Mayor Campbell at 7:06 p.m. on June 9, 2009, in the City Council Chambers in City Hall, 515 Clark Avenue. Council Members present were Doll, Goodman, Larson, Mahayni, Popken, and Rice. *Ex officio* Member Keppy was also present.

PROCLAMATION SUPPORTING 2010 CENSUS: Mayor Campbell read a Proclamation in support of the 2010 Census. Accepting the Proclamation was Susan Gwiasda, City Public Relations Officer. Ms. Gwiasda advised that the actual Census will begin with the mailing of packets to residents in March 2010; those will need to be returned by April 1, 2010. She noted that the process will require the entire community to work together to get an accurate count.

CONSENT AGENDA: Moved by Mahayni, seconded by Larson, to approve the following items on the Consent Agenda:

1. RESOLUTION NO. 09-235 approving 2009/10 Pay Plan
2. RESOLUTION NO. 09-236 adopting new and revised fees
3. RESOLUTION 09-237 approving receipt of Department of Homeland Security Buffer Zone Protection Grant
4. RESOLUTION NO. 09-238 approving IDOT Agreement for Surface Transportation Funding for 2008/09 Arterial Street Pavement Improvements (North Dakota Avenue from 600 feet south of Delaware Avenue to Ontario Street)
5. RESOLUTION NO. 09-239 approving IDOT Traffic Safety Improvement Program Funding for 2010/11 Traffic Signal Program (28th Street/Grand Avenue)
6. RESOLUTION NO. 09-240 approving preliminary plans and specifications for Neighborhood Infrastructure Improvements Program; setting July 8, 2009, as bid due date and July 14, 2009, as date of public hearing
7. RESOLUTION NO. 09-241 approving preliminary plans and specifications for 2008/09 CyRide Route Pavement Improvements (Toronto and Hutchinson Street); setting July 8, 2009, as bid due date and July 14, 2009, as date of public hearing
8. RESOLUTION NO. 09-242 awarding contract to Wright Tree Service of Des Moines, Iowa, in the amount of \$270,100 for 2009/12 Line Clearance Program for Electric Distribution
9. RESOLUTION NO. 09-243 awarding contract to Elster AMCO Meter, Inc., of Ocala, Florida, for purchase of water meters and related parts and services
10. RESOLUTION NO. 09-244 awarding contract to RESCO of Ankeny, Iowa, in the amount of \$40,217, plus applicable sales taxes, for purchase of cable for Electric Services Department
11. RESOLUTION NO. 09-245 awarding contract to K.A. Steel Chemicals, Inc., of Lemont, Illinois, for purchase of 2009/10 liquid sodium hypochlorite in the amount of \$.79/gallon for an estimated total cost of \$71,100
12. RESOLUTION NO. 09-246 awarding contract to Western Lime Corporation of West Bend, Wisconsin, for purchase of 2009/10 pebble lime requirements in the amount of \$124/ton
13. RESOLUTION NO. 09-247 awarding a contract to Northway Well and Pump Company of Marion, Iowa, for Water Treatment Plant Well Rehabilitation Project (Year 3) in the amount of \$55,240
14. RESOLUTION NO. 09-248 approving contract and bond for 2008/09 Water System Improvements (Water Service Transfers)
15. RESOLUTION NO. 09-249 approving contract and bond for 2008/09 Water System Improvements (Water Main Replacement – Kellogg Avenue)
16. RESOLUTION NO. 09-250 approving contract and bond for South Duff Area Storm Sewer, Phase II
17. RESOLUTION NO. 09-251 approving contract and bond for Resource Recovery Plant Ferrous Magnet Installation Project
18. RESOLUTION NO. 09-252 approving contract and bond for Airport Runway 13/31 Rehabilitation Project

19. RESOLUTION NO. 09-253 approving renewal of contract with Iowa Association of Municipal Utilities for program development and safety training for 2009/10
 20. RESOLUTION NO. 09-254 approving renewal of contract with Midwest Trenchless Technologies, Inc., of Belle Plaine, Minnesota, for sanitary sewer cleaning in the amount of \$95,000
 21. RESOLUTION NO. 09-255 accepting completion of Brookside Park Pedestrian Bridge Project
 22. RESOLUTION NO. 09-256 accepting completion of Charles Calhoun Memorial Park Parking Lot Project
 23. RESOLUTION NO. 09-257 accepting completion of Dog Park
 24. RESOLUTION NO. 09-258 accepting completion of Campustown Court Renovation
- Roll Call Vote: 6-0. Resolutions declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

PUBLIC FORUM: Gloria Betcher, 531 Hayward Avenue, Ames, spoke as the Chairperson of the Historic Preservation Commission (HPC). She distributed a memo to the Council asking it to consider applying for Certified Local Government (CLG) grant money to fund a preservation training workshop on masonry restoration. The State CLG Coordinator had contacted Ms. Betcher asking if Ames would be interested in being one of two cities in Iowa to sponsor a workshop; the CLG has a surplus of approximately \$5,000 in grant monies, and if not used, less grant money will be allocated to it in the future. According to Ms. Betcher, the HPC is very interested in pursuing this opportunity. Its members view it as a way to partner with Iowa State's Department of Architecture and to show the state that Ames is a leader in preservation planning. Ms. Betcher asked that the City Council refer this request to staff to investigate the possibility of hosting the workshop. She advised that the grant process will require a quick turnaround; the application must be submitted by the end of July 2010.

Roy Cakerice, 2911 Duff Avenue, Ames, reminded the Council that he had offered, on behalf of the Friends of Carr Pool, to donate funding to assist with the costs to keep Carr Pool open during July and August. Pledges have been made, however, he has not collected them and will not be collecting them until he knows whether the City will accept the Friends' offer. He asked that the City Council provide an answer by June 20, 2010.

REQUEST TO VACATE RIGHT-OF-WAY OF FORMER SUMNER AVENUE AND ALLEY EAST OF SUMNER: Public Works Director John Joiner explained that the owner of the property at 217 High Avenue had approached the City and requested that the right-of-way of Sumner Avenue south of SE 2nd Street and an alley south of SE 2nd Street between Sumner Avenue and High Avenue be vacated.

Director Joiner described the City's policy for disposing of public right-of-way. Per this policy, adjacent property owners were approached regarding their interest in purchasing the land. Utility rights-of-way would need to be retained by the City. The total value, based on City policy, of the Sumner Avenue right-of-way and the alley is estimated at \$124,723.81 and \$12,091.85, respectively. The owners of 202 South Duff informed the City that they were not interested in purchasing the land in question. Mr. Joiner advised that there is an existing lease between the City and the property owners of 220 South Duff for a portion of right-of-way used for parking. Those owners have indicated that they are not interested unless they would lose that lease. The person requesting to purchase the rights-of-way has countered with an offer to buy all the property for \$50,000. That value is not consistent with the City's policy on determining the value of the land. In addition, no other adjacent property owners have been approached about any adjustment to the price.

Moved by Goodman, seconded by Rice, to deny the request to vacate and sell the right-of-way of Sumner Avenue and the alley located in Kingsbury Addition.

Council Member Larson asked what purpose would be served by the City retaining the land in question. Director Joiner advised that the City has not identified a specific purpose; however, both the street corridor and right-of-way corridor do contain existing utilities. Council Member Goodman emphasized that the City has a policy governing the disposal of its land, and he felt that policy should be followed. He said that he was comfortable holding onto the land until a buyer offered a fair price for it; there is no motivation for the City to dispose of the land at this time for such a low price. Council Member Popken pointed out that the policy dictates the amount to charge for City-owned land, and he doesn't want to have to "bargain" every time there is a request to purchase vacated land. In Mr. Larson's opinion, the land is not worth \$125,000. He also pointed out that the land does not bring in any revenue as long as it is retained by the City. Mr. Larson said that he would agree with the City holding onto the land if it intended to construct a road through that area, but since there is no purpose for the land, it should be sold.

Vote on Motion: 5-1. Voting aye: Doll, Goodman, Mahayni, Popken, Rice. Voting nay: Larson. Motion declared carried.

REQUEST FROM WILLOW CREEK HOMEOWNERS' ASSOCIATION FOR EXCEPTION FROM SEWER RATE ORDINANCE:

Council Member Goodman asked why the exception of 5,000 cubic feet was originally put in an ordinance. Customer Services Supervisor Mike Wheelock advised that the exception was included in an ordinance so that every request for exception did not have to come to the City Council. According to Mr. Wheelock, requests for exceptions are not normally frequent occurrences; however, this one is the third one received by the City in the past six months. Mr. Wheelock clarified that the Sewer Rate Ordinance allows for an exemption of up to 5,000 cubic feet of water usage in a calendar year if, in any billing period, more than 2,000 cubic feet of water was used in such a way that it did not reach the sanitary sewer system. This provision was specifically added to assist property owners with newly established landscaping and/or lawns. It is based on the premise that the water does not reach the sanitary sewer system, so the Sewer Utility does not incur any costs. It can be granted for no more than two consecutive billing periods. The purpose of that is to encourage the prompt repairing of leaks.

Moved by Goodman, seconded by Rice, directing staff to prepare a Rate Ordinance revision removing the 5,000 cubic foot total/calendar year exception.

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

ADA HAYDEN HERITAGE PARK: Parks and Recreation Director Nancy Carroll explained that, prior to the Park's opening, local anglers expressed their opinions that, due to the lack of habitat and the depths of this man-made lake, the fish population of the Lake had been impaired. This group felt there was a need to impose limits on pan fish (Crappie, Bluegill, and Sunfish) and for catch-and-release regulations on Bass. The IDNR did not support that position. Based on these findings, discussion occurred among local anglers, ISU, City staff members, and the IDNR staff on how best to manage and enhance this resource. Ms. Carroll noted that, in 2003, local anglers made a recommendation that the City adopt an ordinance in an attempt to maintain Ada Hayden Lake as a viable recreational fishing sport for years to come. The local anglers urged that a City ordinance be adopted to protect the sensitive fishery, and felt that if it were not, the site could be "fished-out" in perhaps less than a month or two. Since the IDNR's authority is limited to "public bodies of water," the City could control how many and the type of fish anglers had in their possession "on land." In response to the input received from these Ames residents, the City Council adopted Municipal Code Chapter 19.15, 16, and 17, which imposed catch-and-release regulation on Bass; limits on Crappie, Bluegill, and Sunfish, and established protected spawning zones.

According to Ms. Carroll, once the Ordinance was adopted, the IDNR continued to challenge the City's philosophy for managing the fish population. In response to the IDNR's ongoing concern, the City hosted a meeting in 2007 among the IDNR, ISU faculty and staff members, and Story County Conservation staff. At that time, IDNR officials continued to state that limits and catch-and-release regulations were not an effective method to manage fish populations. The IDNR stated that if the City would rescind the existing ordinance, the IDNR would monitor and research the fish population, stock the Lake with fish, and enhance and increase the fish habitat. The IDNR also told the City that it would become eligible for grants up to \$90,000 that could enhance the Park's amenities, such as the construction of a fishing pier.

According to Ms. Carroll, on March 26, 2009, the Parks and Recreation Commission unanimously recommended that the City Council repeal the Ordinance and direct staff to submit a grant to the IDNR for up to \$90,000 of the cost to construct a fishing pier at this site. However, after that meeting, a few local anglers contacted staff expressing concern that the spawning areas would no longer be enforced by Ordinance. Staff held a meeting with the IDNR and local anglers on May 12, 2009, to address that concern. Representatives of the IDNR stated that decades of scientific research and data prove that restricting fishing from a "designated spawning zone has no effect on the fish population, and "70% of fish mortality is due to mother nature and environmental factors – not anglers." Following a lengthy discussion, the local anglers in attendance said they now understood the science behind the IDNR's position and offered to assist the City staff with educating other fishing enthusiasts. It was agreed that City staff, in conjunction with IDNR staff and avid local anglers, could begin providing educational information to the general public (via TV Channel 12, local media, etc.) related to the "science of managing fish populations."

Moved by Mahayni, seconded by Rice, to pass on first reading an ordinance repealing fishing population sections of the Municipal Code related to catch-and-release regulations; limits on Crappie, Bluegill, and Sunfish; and spawning zone restrictions at Ada Hayden Heritage Park. Roll Call Vote: 6-0. Ordinance declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

Moved by Goodman, seconded by Popken, to direct staff to submit a grant application to IDNR for funding the construction of a fishing pier at Ada Hayden Heritage Park. Vote on Motion: Motion declared carried unanimously.

ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT: Assistant City Manager Bob Kindred told the Council that the City of Ames had received notification that it was eligible to receive \$544,000 in funding through the Energy Efficiency and Conservation Block Grant (EECBG) Program. The Grant is intended to assist in the reduction of fossil fuel emissions and total energy use of the eligible entities; improve energy efficiency in the transportation, building, and other appropriate sectors; and create and retain jobs. Mr. Kindred further stated that this allocation may be guided by the City Council's direction as to how the funding may be spent. City Manager Schainker said that staff is recommending that the \$544,000 be channeled into one to three high-profile projects due to the complexity involved in administering the grant.

Program requirements were explained by Mr. Kindred. If the City's application is not initially approved or if any submitted projects are not acceptable, the City will be informed of the specific issues that need to be addressed in order to satisfy the requirements of the program. The grant must be submitted by June 25; however, eligible entities may revise and submit their proposed strategy "as many times as necessary" to get approval. Grant funds may be used community-wide as well as for government-owned facilities and infrastructure projects. Mr. Kindred brought the Council's

attention to the list previously provided to them showing activities that would be eligible under the program. The exact cost and carbon reduction numbers are not known at this time; however, after the Council members decide on one or two projects, the applicable numbers will be provided to them.

Noting No. 4 on the list of eligible activities, i.e., grants to non-profit organizations and government agencies for the purpose of performing energy-efficiency retrofits, Council Member Larson asked if the City should be informing non-profit agencies of the availability of this funding. He recalled specifically that Heartland Senior Services had indicated to the City that its heating and cooling systems are failing. Council Member Popken pointed out that if the City decides to make Project No. 4 a priority, notification would need to be made to all non-profit agencies. Mayor Campbell noted that Project No. 4 might not be feasible due to the turnaround time being so short. City Manager Schainker concurred, stating that the projects must be “shovel-ready.” He said that it would be best for the City Council to choose one or two projects that would qualify. Mr. Schainker suggested that funding be applied to the City’s Bike Path System, a City Hall geo-thermal project, or be added to the Demand-Side Management Program. Mr. Kindred added that the funding must be obligated within 18 months and spent within 36 months. Finance Director Duane Pitcher advised that he is aware of a separate federal weatherization grant that might be more applicable to non-profit agencies. Those types of projects were not included in the list provided to the City Council. He noted that all projects under the EECBG Program will be subject to Davis Bacon regulations, and the administrative requirements will be very difficult for small non-profit agencies to meet.

Council Member Goodman pointed out that there are no “bad” projects included in the list. He would like the City to attempt to make an impact with this funding that would make Ames known nationwide. Mr. Goodman referenced the Resource Recovery Plant being built in the 1970's, which put “Ames on the map.” Mr. Pitcher suggested that funding be used to make a smaller City facility, e.g., Animal Control, much more energy-efficient; such a project could serve as a model.

Council Member Rice suggested that the projects on the list be prioritized. Mayor Campbell recommended that the Council members name what goals they want met through the use of this funding, and then see which of the projects would meet those goals.

Council Member Popken advised that he had received e-mails from citizens suggesting that the funding be used as follows:

1. Work with area schools on education regarding energy efficiency. He envisioned that this would be built into the science curriculum or funding would be applied to partially fund a teaching position.

Mayor Campbell noted that the School District has its own budget, which is approved well in advance, and it would be impractical for the City to fund a position on a short-time basis.

2. Solar power to be used at City Hall.
3. Mortgage Buy-Down Program.

In reference to energy-efficiency street lighting, Electric Services Director Don Kom advised that there were two things to consider: (1) LED lighting has not been done on streets and (2) guidelines pertaining to street lighting had been adopted by the Council. He further explained that LED lighting does not provide enough lumens to be used in parking lots; however, such a project could

provide data on how many lumens are necessary and how LED lighting would hold up under Iowa's adverse winter weather conditions.

Council Member Popken suggested that one project be selected that would provide very visible results. Council Member Goodman agreed.

Mr. Kindred stated that Fleet Services Director Paul Hinderaker has estimated that an Energy Star model building, such as the Animal Shelter, would cost approximately \$50,000.

Mayor Campbell summarized the discussion, stating that the Council was looking for a project to be located on City property and contain an educational component. Council Member Larson said that he could not see \$544,000 spent on such a project. He also felt that it was important to "get the most bang for the buck," suggesting that the remainder of the funding be spent on replacing the heat pumps at City Hall, opening up the possibility to go geo-thermal some time in the future. Council Member Goodman said that he wanted a project that showed the Ames community's commitment to energy efficiency and sustainability.

City Manager Schainker suggested that more-efficient parking lot and street lighting be used as a demonstration project with the remainder of the funding used for energy-efficiency improvements to a City building. Council Member Rice suggested that the remainder of the funding be used to make the City's fleet more energy-efficient, i.e., hybrid vehicles.

Mr. Kom explained that improvements to parking lots come down to use perception. Regarding any street lighting project, he said both Electric Services and Public Works would need to be involved.

City Public Relations Officer Susan Gwiasda explained the Ames Elementary Schools' current energy-efficiency education program that is partially funded by the City.

Moved by Doll, seconded by Mahayni, to direct staff to apply EECBG Program funding to the following projects:

1. Parking lot and street lighting improvements
2. Energy-efficiency improvements to one City building, with extension to multiple buildings, if funding allows
3. Energy-efficiency education
4. Small hybrid vehicles

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

Mr. Kindred advised that additional information regarding those projects will be gathered for a final Council decision on June 23.

INTERMODAL TRANSPORTATION FACILITY PLANNING STUDY: Transit Director Kyras explained that the American Recovery and Reinvestment Act included \$1.5 billion dollars in federal funding for the construction of transit system facilities. Guidelines for this funding, called TIGGER, were released on May 18, 2009, soliciting eligible projects for consideration of up to 100% funding. The concept of an intermodal facility within the City of Ames, which would house parking, a CyRide station, inter-city bus station, and possible offices for ISU departments, has been briefly discussed within the community; however, specific details of its design, location and impact on the community have yet to be developed. For federal consideration of the TIGGER grant, these

details would need to be further developed into a viable project. Ms. Kyras further explained that the following work would need to be completed to meet the grant requirements: (1) Site Selection Study, (2) Programming – functions within the facility, space requirements, (3) Conceptual Design, (4) Cost Estimates - federal and local (review by Federal Transit Administration for compliance with funding regulations), (5) Business Plan/Joint Development Agreement, (6) Construction Schedule, and (7) Traffic Plan. According to Ms. Kyras, in order to accomplish this work no later than the grant deadline of September 15, 2009, and to gain agreement within the community, it is believed that a majority of this work would need to be accomplished by one or more outside consultants in coordination with a team comprised of City, ISU, and CyRide staff. It is estimated that it could cost up to \$100,000 to complete this work in sufficient detail for the grant. Ms. Kyras advised that a tentative agreement had been developed with the CyRide Transit Board of Trustees and Iowa State University to each fund one-third of the costs if the City would fund one-third.

Moved by Mahayni, seconded by Rice, to adopt RESOLUTION NO. 09-259 approving up to \$33,000 from the available balance in the Hotel/Motel Fund, contingent upon corresponding action by the Transit Board of Trustees and Iowa State University to provide \$34,000 and \$33,000, respectively, toward the completion of a planning study for development of an Intermodal Transportation Facility.

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

HEARING ON ORDINANCE PERTAINING TO PLACEMENT, SCREENING, AND LANDSCAPING AROUND MECHANICAL EQUIPMENT UNITS: Mayor Campbell opened the public hearing. No one wished to speak, and the Mayor closed the hearing.

Planning and Housing Director Steve Osguthorpe gave the history behind the proposed text amendment. Staff is recommending that Section 29.201(116) be revised to ensure consistent use of the term “mechanical unit” and not refer to mechanical “equipment” units. Mr. Osguthorpe also noted that the Code currently defines mechanical unit as being located above-ground and clearly visible, and staff is recommending that potentially confusing language pertaining to the placement of a mechanical unit be eliminated. He read Section 29.403(6) with staff’s proposed language.

Moved by Rice, seconded by Goodman, to pass on first reading an ordinance making zoning text amendments related to screening and landscaping around mechanical equipment.

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

HEARING ON ORDINANCE DEFINING “SPORTS PRACTICE FACILITIES” AND ESTABLISHING REGULATIONS AND EXEMPTIONS FOR SAID USE: Director Osguthorpe gave the background of this request. He advised that Jensen Development Corporation, Ltd., is currently constructing a practice facility at 1010 Dickinson Avenue for the Iowa State University basketball teams, and a Major Site Development Plan was approved on October 20, 2008; it met all requirements, including parking. The developer of the site has now indicated that he would like to further subdivide the parcel to retain land for additional private development after ownership of the basketball facility is transferred to Iowa State University (ISU).

Mr. Osguthorpe advised that ISU has indicated that the proposed use of the facility as office space and a “sports practice facility” would need no more than 59 parking spaces. According to Mr. Osguthorpe, the City’s Zoning Ordinance does not define or provide parking requirements for such a use. He said that Planning staff sought information from other in-state and out-of-state

jurisdictions on how they address parking needs; however, no other jurisdiction has addressed this uniquely defined use; the City would be establishing its own precedent.

According to Mr. Osguthorpe, the proposed text changes would have limited impact; however, one that should be considered is the reuse possibilities if the structure were to become vacant. He pointed out that it could be difficult to convert such a facility to a use with a higher parking demand. Mr. Osguthorpe outlined the potential risks in passing the proposed ordinance. He elaborated that staff believes, because of the uncertainties involved in the anticipated parking demands of this unique structure, staff is recommending exempting “sports practice facilities” from the provisions of the collective parking provision.

City Manager Schainker added that the City is attempting to make this facility work to serve its customer. He pointed out, however, that once the University becomes the owner of the building, the facility will no longer be under the City’s jurisdiction.

Council Member Doll said that he is concerned about the facility being used in the future for intermural sports, which would create a much greater demand for parking. City Attorney Marek reiterated that the City will have no control over the building once ownership is transferred to Iowa State University and it is zoned Governmental.

Council Member Rice noted that oftentimes facilities are used for multiple purposes, and it is possible that this building will be used for other reasons other than a sports practice facilities. He suggested that language be added to state, “unless appropriate shuttle services can be arranged for from outside parking areas.” Council Member Larson questioned why this case was not treated as a variance, rather than a change to the Code. Mr. Osguthorpe advised that the developers would have had a difficult time meeting the criteria to be granted a variance.

The public hearing was opened by the Mayor.

Attorney Victoria Feilmeyer, 1416 Buckeye Avenue, Ste. 200, Ames, spoke on behalf of Jensen Development Corporation, Ltd. She noted that the Council is being requested to adopt the ordinance at this meeting. Ms. Feilmeyer emphasized that the building in question will have a very unique use and the proposed amendments are narrowly tailored to address the parking requirements of sports practice facilities only. She noted that the land may not be subdivided until the ordinance passes.

After no one else wished to speak, the hearing was closed.

Moved by Popken, seconded by Rice, to pass on first reading an ordinance making a zoning text amendment defining “sports practice facilities,” setting the parking requirement of 2.0 spaces/1,000 square feet of gross floor area, including it as a “Miscellaneous Use” and adding it in the Use Tables for CCN and HOC, and listing its exemption from the collective parking provisions.

Mr. Goodman said that in his opinion, the facility will be used for more than a basketball practice facility; however, since ownership will ultimately be passed on to Iowa State University and the City will not have control over the building, he sees no reason to continue to discuss parking requirements.

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

Moved by Mahayni, seconded by Larson, to suspend the rules necessary for the adoption of an ordinance.

Roll Call Vote: 3-3. Voting aye: Doll, Larson, Mahayni. Voting nay: Goodman, Popken, Rice. Motion failed.

Council Member Rice asked that the second reading of this Ordinance be placed on the workshop agenda for June 16, 2009. Council Member Larson noted that the item passed unanimously tonight, and not passing the ordinance at this meeting only serves to slow down the process. Council Member Goodman disagreed, stating that the rules pertaining to the adoption of an ordinance have been in effect for decades, and he does not believe allowing the public to comment, if so desired, slows down the process.

HEARING ON ORDINANCE GRANTING TO INTERSTATE POWER AND LIGHT COMPANY (IPL), ET AL, THE RIGHT TO OPERATE A NATURAL GAS DISTRIBUTION SYSTEM UNDER A NON-EXCLUSIVE FRANCHISE: Mayor Campbell noted that the hearing had been opened on May 26, 2009, and continued to this meeting. City Attorney Marek told the Council that discussion could occur, but the hearing would need to be continued again because the City does not yet have a finalized agreement with IPL.

Assistant City Manager Sheila Lundt presented the history behind the Gas Franchise, which had been awarded to Interstate Power and Light Company (IPL), [formerly known as Iowa Electric Light and Power Company] in July 1984. She advised that the Governor had recently signed legislation impacting franchise agreements, and she listed the key points of that legislation. According to Ms. Lundt, City Councils may now dispense with elections and approve extensions or renewals of franchises, subject to the presentation of a valid petition requesting a vote. Also, if a franchise fee is assessed, it shall have a limit of 5% of gross revenues generated within the City and will allow a maximum .06% administrative cost recovery by the franchised gas utility.

Ms. Lundt stated that staff is proposing to incorporate language into the franchise that would allow for the institution of a franchise fee by the City Council, but would recommend setting the fee at 0% at this time. This is being done in recognition of the additional burden any fee would place on consumers at this time. City Attorney Marek referenced recent litigation initiated in Polk County concerning the imposition of a franchise fee.

Ms. Lundt detailed other changes being proposed by the City to the current Franchise Agreement. She said that staff is recommending the following action be taken:

1. Council approve the renewal document without submitting it to the voters unless a valid petition is received to do so.
2. Include a provision for IPL to ask the Council for permission to exercise eminent domain to acquire property for its use on a case-by-case basis.

Ms. Lundt pointed out that the need to exercise eminent domain rights would not occur often. She pointed out that, even though now allowed by Iowa Code, the City has never conferred the power to condemn property to a third party. Mr. Marek said that IPL contends by giving them that power, savings would be realized because they would have the right to negotiate purchase prices directly with land owners. It was also stated by Mr. Marek that he does not believe IPL will be interested in entering into a Franchise Agreement in the absence of eminent domain rights. He advised that

the need for condemnation of property for this purpose has never occurred during the past ten years since that provision has been included in the Code.

It was noted by Ms. Lundt that IPL is asking for other revisions to the Ordinance, which staff finds objectionable, as follows:

1. IPL is requesting that the City confer a general power to condemn property without asking the Council for permission on a case-by-case basis.

City Attorney Marek advised that, in the absence of a Franchise Agreement, IPL would be subject to the City's Right-of-Way Users Ordinance. Under that Ordinance, the City has the capability to deny access to its rights-of-way. According to Mr. Marek, IPL believes that a Franchise Agreement allows it to invest with confidence and provide better service to its customers.

2. If the City requires IPL to relocate its facilities for any other reason other than widening a street or improving the right-of-way, the City should be required to reimburse IPL for that move.

City Manager Schainker noted that this is a much larger issue for the City than the eminent domain issue. Ms. Lundt pointed out that a number of the City's easements are located on property owned by other governmental jurisdictions. Mr. Schainker outlined options for the City Council. He asked the Council for direction as to the pending issues. Mr. Schainker said that staff prefers to enter into an agreement identical to the one that it has been operating under for the past 25 years.

3. Deleting language that makes IPL responsible for all damages that occur to its system (making the City liable) for damages that might occur while the City is working in the right-of-way or easement.

According to Ms. Lundt, the City's hold-harmless clause is very similar to the language in the current Agreement with IPL for an easement along Grand Avenue.

Ms. Lundt asked the Council for guidance on continued negotiations with IPL. City Manager Schainker advised that the City's options at this time were:

1. It can inform IPL that it is not interested in conveying eminent domain rights to them.
2. It can attempt to compromise with IPL on the eminent domain issue by requiring IPL to receive permission from the Ames City Council before eminent domain authority is used.

Mr. Schainker pointed out that, by requiring IPL to receive permission from the City Council before exercising condemnation authority, the Council would be drawn into dealing with property owners on every case.

City Attorney Marek added that if the Council was anticipating the imposition of a franchise fee, now would be the time to do it. City Manager Schainker noted that staff is not recommending a fee at this time. Council Member Larson asked how much would be collected if a franchise fee were

imposed. Mr. Marek advised that it would be millions of dollars. Discussion ensued on the pros and cons of not entering into a Franchise Agreement. In the opinion of Mr. Larson, it would be to the City's benefit to have a Franchise Agreement with IPL.

Marion Fitzgerald, 26556-650th Avenue, Nevada, identified himself as an Account Manager with Alliant Energy. He noted that he was not an expert on franchise language; however, was here to provide assistance in bringing resources to help in the negotiations.

City Manager Schainker summarized that staff is comfortable with two of the three points of negotiation; however, it does not feel comfortable with granting eminent domain rights to a private party.

Assistant Manager Lundt said that IPL is citing the desire to have all of its Franchise Agreements contain consistent language. Council Member Larson indicated that he did not have a problem with granting eminent domain rights to IPL. He noted that the City requires certain provisions in agreements to protect itself, and he sees why IPL would want to do that as well. Council Member Mahayni concurred.

Moved by Rice, seconded by Goodman, to continue the hearing to June 23, 2009.

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

Moved by Goodman, seconded by Rice, to support the staff's position on the franchise fee and the other two provisions (the City will not reimburse IPL for relocating its facilities for any other reason other than widening a street or improving the right-of-way; and IPL will be responsible for all damages that might occur to its system while the City is working in the right-of-way or easement.).

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

Moved by Mahayni, seconded by Larson, to offer eminent domain rights to IPL.

Vote on Motion: 4-2. Voting aye: Doll, Larson, Mahayni, Rice. Voting nay: Goodman, Popken.

Motion declared carried.

HEARING ON CYRIDE FACILITY UPGRADES, MAINTENANCE, AND WASHBAYS: The Mayor opened the hearing and closed same after no one came forward to speak.

Moved by Goodman, seconded by Popken, to adopt RESOLUTION NO. 09-260 approving final plans and specifications and awarding a contract to Welker Construction Company, Inc., of Marshalltown, Iowa, in the amount of \$423,570.

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

HEARING ON VALVE MAINTENANCE, TESTING, REPAIR, REPLACEMENT, AND RELATED SERVICES AND SUPPLIES FOR POWER PLANT BOILERS: The public hearing was opened by Mayor Campbell. No one requested to speak, and she closed the hearing.

Moved by Doll, seconded by Goodman, to accept the report of bids and delay award of the contract.

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

HEARING ON SPECIALIZED CLEANING SERVICES (GRIT BLASTING, HYDRO BLASTING, DETONATION BLASTING, AND VAC TRUCK SERVICES)FOR POWER PLANT BOILERS: Mayor Campbell opened the public hearing. The hearing was closed after no one asked to speak.

Moved by Goodman, seconded by Popken, to accept the report of bids and delay award of the contract.

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

HEARING ON SPECIALIZED WET DRY VACUUM, HYDRO BLASTING, AND RELATED CLEANING SERVICES FOR POWER PLANT: The hearing was opened. No one wished to provide input, and Mayor Campbell closed the hearing.

Moved by Popken, seconded by Goodman, to accept the report of bids and delay award of the contract.

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

RENTAL HOUSING CODE: Moved by Doll, seconded by Mahayni, to pass on first reading the Rental Housing Code.

City Attorney Marek indicated that the proposed ordinance includes the revisions recommended by the City Council at its last meeting.

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

ORDINANCE CHANGING ALL REFERENCES TO “ELWOOD DRIVE” TO READ “UNIVERSITY BOULEVARD:” Moved by Mahayni, seconded by Doll, to pass on third reading and adopt ORDINANCE NO. 3992 changing all Municipal Code references to “Elwood Drive” to read “University Boulevard.”

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

COMMENTS: Moved by Popken, seconded by Goodman, to refer to staff the letter from Youth and Shelter Services dated May 28, 2009, pertaining to replacement materials for the stairs on the west side of the 1915 City Hall Landmark (420 Kellogg Avenue).

Council Member Popken asked that the request be specifically directed to the Historic Preservation Commission.

Vote on Motion: 5-0-1. Voting aye: Doll, Goodman, Larson, Popken, Rice. Voting nay: None. Abstaining: Mahayni. Motion declared carried.

Moved by Popken, seconded by Rice, to refer to staff the letter dated June 1, 2009, from Bill Malone, owner of Café Diem, and directing that staff work with the Main Street Cultural District on Mr. Malone’s request to hold a street concert on July 17, 2009.

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

Moved by Larson, seconded by Mahayni, to refer to staff the memo from the Ames Historic Preservation Commission pertaining to a CLG grant to host a masonry workshop.

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

Moved by Rice, seconded by Larson, to direct staff to provide a status report on the Wi-Fi services now being offered.

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

Moved by Rice, seconded by Goodman, to direct staff to look into ways to keep Carr Pool open for July and August 2009.

Council Member Larson pointed out that he has made it clear that he cannot make a decision on that until after the Furman Aquatic Center is open. If the Friends of Carr Pool need an answer, his answer would be no at this time. Council Member Goodman agreed, stating that having Carr Pool open at the same time as the Aquatic Center is first opened would not provide accurate data on usage.

Vote on Motion: 1-5. Voting aye: Rice. Voting nay: Doll, Goodman, Larson, Mahayni, Popken. Motion failed.

Council Member Goodman asked for conversation on the City's policies regarding advertising.

Moved by Goodman, seconded by Doll, to direct staff to include, in a status report, the City's required terms for individual use of the City's Wi-Fi services.

Vote on Motion: 5-1. Voting aye: Goodman, Larson, Mahayni, Popken, Rice. Voting nay: Doll. Motion declared carried.

Ex officio Member Keppy told the Council that the Government of the Student Body had tentatively set September 16, 2009, for its joint meeting with City Council.

CLOSED SESSION: Moved by Doll, seconded by Goodman, to hold a Closed Session as provided by Section 21.5(1)c, Code of Iowa, to discuss strategy with counsel on pending litigation.

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

REGULAR SESSION: Moved by Doll, seconded by Popken, to reconvene in Regular Session.

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

Moved by Popken, seconded by Rice, to direct staff to engage in negotiations that may lead to a settlement in the case of Story County Land, L.C., v. the City of Ames.

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

ADJOURNMENT: Moved by Doll, seconded by Goodman, to adjourn the meeting at 10:54 p.m.

Diane R. Voss, City Clerk

Ann H. Campbell, Mayor