

**SPECIAL JOINT MEETING OF THE AMES CITY COUNCIL
AND PLANNING & ZONING COMMISSION
AND SPECIAL MEETING OF THE AMES CITY COUNCIL**

AMES, IOWA

JULY 20, 2010

JOINT MEETING WITH PARKS & RECREATION COMMISSION

The Ames City Council met in special session with the Parks & Recreation Commission on the 20th day of July, 2010, in the City Council Chambers in City Hall, 515 Clark Avenue, pursuant to law with Mayor Ann Campbell presiding and the following Council members present: Davis, Goodman, Larson, Mahayni, Orazem, and Wacha. *Ex officio* Member England was also present. Frandsen and Katzer, representing the Parks & Recreation Commission, were present.

WORKSHOP ON TRAIL SYSTEM: City Manager Steve Schainker reminded the Council members that, as part of their goal-setting session, they had directed staff to schedule a workshop with the Parks & Recreation Commission to discuss the City's trail system. Specifically, they wanted to review the Long-Range Transportation Plan, what trails currently exist, plans to expand it to meet the Plan, the easements currently in place to allow for the build-out, and what the costs would be to build it out.

Traffic Engineer Damion Pregitzer gave a brief history of how planning for trails evolved. He said that in the early to mid-90s, before the City became a Metropolitan Planning Organization (MPO), a Bicycle Route Master Plan was in existence. After the City became a MPO (after the 2000 Census), the Bicycle Route Master Plan became one of the modes in the City's Long-Range Transportation Plan (LRTP). Mr. Pregitzer said that every five years, the City holds a series of public input sessions to receive comments on vision, establish goals and objectives, and discuss specific conceptual plans. The conceptual plans list estimated construction costs. According to Mr. Pregitzer, that is the process followed to recommend connections to existing routes, where future routes should be, and whether it should be a bicycle/pedestrian path. The general public, bicycle/pedestrian advocacy groups, and stakeholder groups receive notification about the public meetings.

Mr. Pregitzer showed a map depicting the existing and future trail system. He advised the procedure for right-of-way acquisition, be it through easement or purchase of property. According to Mr. Pregitzer, it is crucial that the City follow the federal process to keep the project eligible for federal funding, e.g., grants, transportation enhancement monies. He said that there are currently only two places in Ames where the City has rights-of-way secured: along the railroad tracks in Bloomington Heights, which was done as part of the platting process; and a section next to the Skunk River north of SE 16th Street. Mr. Pregitzer stated that all the easements/right-of-way acquisitions that are not next to an existing road that would be needed for a trail would be secured at the time of construction.

Council Member Orazem asked if it was necessary to know if the easements could be obtained prior to planning for a trail. Mr. Pregitzer said that it is just assumed that a trail would be possible in that location; however, due to the need to follow the federal process, the easement cannot be secured until it is known if federal funds were going to be received for the trail. Mr. Orazem pointed out that the City may not use eminent domain for trails. He asked if the needed easements were identified on the map of the future trail system. Mr. Pregitzer advised that the

map does not show that information. However, staff is aware that for every greenbelt trail, easements are going to be necessary.

City Manager Schainker explained the three ways that paths are constructed:

1. Use local funds or federal funds to construct the path
2. The path is constructed when the roadway is reconstructed
3. Wait until an abutting property owner develops

Mr. Schainker said that is why there are gaps in the paths; sometimes developments do not occur in a logical progression. He said that could be remedied if the City required developers to install the path through their properties at the first platting.

Council Member Orazem asked if “one model fits all” for bike paths, e.g., concrete/asphalt, or if different materials could be used that would allow for other uses, e.g., cross country skiing in the wintertime. Mr. Pregitzer said that the City’s policy is that the paths are always paved; whether it is asphalt or concrete depends on which is less expensive. He noted, however, that there has been some indication in the Long-Range Transportation Plan that the pedestrian path through Munn Woods would have wood chips. According to Mr. Pregitzer, the City’s paths are geared toward pedestrians, bicycling, and/or rollerblading. Shared-use paths are cleared of snow ideally down to dry pavement. Director Carroll said that the trail in East River Valley is not hard-surfaced, and that is where cross country skiing is most possible. She said that if there is interest in increasing cross country ski trails, there are other areas to do that, but they would not be on the Trail System. Mr. Pregitzer said that the users who have provided input on shared-use paths want to use them year-round.

Council Member Wacha noted that the Plan shows a future on-street bike lane on Duff north of 13th Street. He asked how shared lanes are achieved, e.g., painting the lane on the pavement. Mr. Pregitzer advised that the 2009 *Federal Manual on Uniform Traffic Control Devices* has a new pavement marking called the sharrow. The intent is to put the marking in the lane offset from the curb line to provide the correct location for bicyclists to ride. The purpose is basically to “up the awareness” that bicyclists could be present. Sharrows are used when there is not an extra five feet to actually stripe the bike lane.

Referencing the draft score cards, Council Member Davis who performs the evaluations. According to Mr. Pregitzer, the score card was developed by HDR (consulting engineers who are updating the LRTP). He said the criteria on the cards are a simplified culmination of the input received from the public. The score card is used to assess the usability of the trail, if there were environmental impacts, etc. The costs to construct the path are then determined, and those that have the greatest benefit at the lowest cost are named as priorities.

Council Member Goodman pointed out that bikers use trails for different reasons: some use them as a mode of transportation and others for recreational purposes. He noted that some users want the most direct route to a destination. He asked if the City could be more flexible on the type of materials uses; there are some trails where concrete would not be necessary. Mr. Pregitzer said that commuter users have indicated a desire for a parallel system along the heavily traveled

arterial streets. He reiterated that the majority of the users have also indicated that they prefer to have a trail that can be used year-round. Mr. Goodman felt that some of the shared-use paths could be treated differently from November to February, i.e., only “groomed” because of recreational usage. He felt that would allow for less concrete and the excess funding could be used for improvements at other locations. Mr. Goodman felt that, if users would indicate that was their desire, the City could plan for that. Parks & Recreation Director Carroll explained the challenges when a path is not concrete, i.e., the path erodes, there are wash-out areas. She acknowledged that some locations would lend themselves to only being “groomed” in the winter months, but most would not.

Ms. Carroll pointed out that the Parks & Recreation Commission had discussed labeling, e.g., low recreation bicycle usage, certain paths because there are conflicts that occur on shared-use paths. She gave an example of Ada Hayden where there are sometimes bicyclists training for races who are going around, at a very fast pace, elderly persons trying to walk.

Council Member Larson recalled a suggestion formerly made by Mr. Goodman that the City should, whenever roads are constructed or reconstructed, find out what the cost would be to extend the lanes to accommodate bicycle traffic.

Council Member Orazem noted the safety hazards faced by people when trying to cross at busy intersections. Mr. Pregitzer explained another new concept called a Refuge Island, which increases pedestrian/cyclist safety when crossing busy roadways. The possibility of installing raised crosswalks was also presented as a way to increase safety. Council Member Orazem expressed skepticism that a Refuge Island would be enough on South Dakota. He pointed out that that is a route to the Middle School, and an area where there is a great deal of pedestrian/bicycle and vehicular traffic. Mr. Pregitzer noted that there is a sidewalk slated for construction along the east side of South Dakota. People would use the path on North Dakota, cross Lincoln Way, transition into a sidewalk, and continue on until it connects to the trail just north of the Hospice House.

Council Member Orazem said a safety concern also exists for bicyclists from the traffic coming off of U. S. Highway 30 onto University Boulevard because, at the bottom of the off-ramp, motorists are not expecting pedestrians/cyclists coming from the right. He also pointed out the disconnect occurring along S. 16th Street as some of the path has been installed on the north side and then continues on the south side. Mr. Pregitzer explained that the majority of that road is an institutional road [owned by Iowa State University (ISU)]. When that road was constructed, ISU built a trail on the south side; however, the City’s trail was constructed on the north side. There is a possibility that when University Boulevard is reconstructed, the City will attempt to get ISU to agree to move it to the other side of the street. It was also noted that the path in front of the Christian School has some gaps.

Council Member Larson asked to know the time table for the sidewalk in front of Greenbriar Park. According to Ms. Carroll, it is included as part of the Park Development Plan; it will go out for bid in Fall 2010 or Spring 2011.

Council Member Goodman pointed out that there are safety concerns anywhere where there is a bike path that discontinues and forces the bicyclist to use the roadway, and it is a challenge to create awareness of that. Mr. Pregitzer again gave examples of certain techniques or concepts that can raise awareness that there could be cyclists on the roadway.

Mr. Goodman asked the Parks & Recreation Commission members if they receive input from recreational users versus transportation users. Commission Member Frandsen said that they don't hear a lot from the public on shared-use paths; however, the feedback she had received has been mainly concerning recreational paths through parks.

Council Member Orazem asked about the sources of funding for paths. He noted that there are several paths that are close to being completed. It was pointed out by Mr. Orazem that one of the ways shared-use paths get constructed is when there is an obligation for the development to include one. However, oftentimes the paths are low on the priority list or non-existent on the priority list. Some are not going to connect to other paths, so in his opinion, their usefulness is very limited. Mr. Orazem suggested that, if it doesn't make sense for a path to be constructed in a certain location, the developer could be allowed instead to fill in one of the priority gaps in the City's existing trail system. City Manager Schainker cautioned that that could be viewed as an impact fee, and the City Attorney would need to provide an opinion as to the legality of that recommendation.

Council Member Goodman urged that, when the City looks at new lands, every attempt be made to ensure that future developments occur without creating gaps in the trail system. It was also his suggestion that the City mandate the filling in of those gaps that were created by "leaf-frogging" developments.

ADJOURNMENT: The meeting adjourned at 7:47 p.m.

SPECIAL MEETING OF THE AMES CITY COUNCIL

The Ames City Council met in special session at 8:00 p.m. on the 20th day of July, 2010, in the City Council Chambers in City Hall, 515 Clark Avenue, pursuant to law with Mayor Ann Campbell presiding and the following Council members present: Davis, Goodman, Larson, Mahayni, Orazem, and Wacha. *Ex officio* Member England was also present

AMES TRIBUNE SPECIAL EVENT: Moved by Goodman, seconded by Wacha, to adopt RESOLUTION NO. 10-344 allowing The Tribune to reserve parking spaces on 5th Street, from Burnett to Kellogg on July 23, 2010, by paying in advance for three hours on each meter desired. Roll Call Vote: 6-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

UPDATE ON NEGOTIATIONS WITH ROSE PRAIRIE DEVELOPERS AND OTHER DEVELOPERS IN THE NORTH GROWTH AREA: City Manager Schainker reviewed the direction that had been given by the City Council at its meeting of July 13. He advised that staff had been in negotiations since that meeting in an attempt to settle a lawsuit with Story County Land, L.C. (the developers of Rose Prairie Subdivision) and two local developers, Friedrich/Johansen and Hunziker, on the land they own near Ada Hayden Heritage Park.

City Manager Schainker referenced the direction given by the City Council that the City receive Pre-Annexation Agreements signed by the three parties (Story County Land, L.C.; Friedrich/Johansen, and Hunziker). Mr. Schainker said that the City has prepared its final proposal to Story County Land, L.C., and Attorney Chuck Becker is present tonight to address the proposed Agreement. The other two developers had a very short amount of time to review the Agreements pertaining to their land, and only one [the owners of Quarry Estates (Friedrich/Johansen)] has signed.

City Manager Schainker reviewed the components of the Pre-Annexation Agreement pertaining to Rose Prairie Subdivision. He highlighted the changes that had been made to the Conditions Precedent. City Attorney Marek advised that the major change in the Conditions Precedent from the draft of the Agreement discussed at the Council meeting of July 13 and the one presented tonight is that all the terms of the Agreement become effective when the property is rezoned after it is annexed.

Mr. Marek explained that, under the terms of the Conditions Precedent, the annexation would proceed as if it were 100% voluntary; however, it will still need to go before the City Development Board. Adjacent property owners will have an opportunity to object to the annexation at the hearing before the City Development Board. After receiving approval from the City Development Board, the property would then go through the rezoning process. He said that at the time the City Development Board hearing on the annexation proposal is held, the City must have a plan for implementation of City services within the annexation area. Mr. Marek also noted that, per Iowa Code, upon annexation of an area that is served by a rural water provider (as this area is), the City has 60 days to reach agreement with the rural water provider on their perceived losses from no longer serving that property.

City Manager Schainker brought the Council's attention to language in Sections III.B and D that offers some remedies to the City if there are changes to federal requirements or its own policies. He also emphasized that under Section IV, there is no deadline for platting; it is at the developer's choosing.

Council Member Orazem noted the reference in the Agreement to the "Site," however, "Site" was not defined in the Agreement. City Attorney Marek advised that the "Site" was identified by Attachments A and B, which are comprised of the legal descriptions of the property owned by Story County Land, LC, as well as the Sturges property, which may or may not be included at the developer's discretion. City Manager Schainker named the owners of the properties comprising the entire proposed annexation area.

Street and street improvements were described by Mr. Schainker. He specifically highlighted the assessments that would be necessary for the pavement of Grant Avenue, from Hyde Avenue to 190th. The four parties to the special assessment would be Story County Land, L.C.; Hunziker; Friedrich/Johansen; and the City. Those four parties would pick up a share of the costs for the property owners on the east and the Sturges property on the west as long as all three developers have signed Agreements with the City. Mr. Schainker said that there is a fallback position built in: if at the time of annexation of Rose Prairie, the other two developers have not signed the Pre-Annexation Agreements, the Rose Prairie developers will be able to deposit cash with the City

based on a proportionate share of the lots that they develop. According to Mr. Schainker, that is not ideal as the road would be done piecemeal. He said the preferred way to do it would be for the City to upfront the costs for the road and be reimbursed through a special assessment. City Attorney Marek stated that if Rose Prairie, under this Agreement, applies for their first Final Plat and the City does not have signed Assessment Agreements, the Municipal Engineer will do an estimate on what it would cost to build it. That amount would then be taken to compute it according to the amount of land being developed, and that's how much cash the developer would give to the City. If all parties sign the Agreements, Rose Prairie will be responsible for 37%; Hunziker, 23% for two parcels of land; and Quarry Estates, 17%. Mr. Schainker noted that the road improvements would not be needed for at least two years; in fact, the Agreement prohibits the City from starting a special assessment any sooner than two years.

City Attorney Marek explained what would occur in the event a developer requests approval of the Final Plat and properties located within the area had not been annexed. Mr. Schainker advised that the City will only assess if Pre-Annexation Agreements and Waivers of Assessments have been signed. He reiterated that the City may not assess property that it has not annexed. City Manager Schainker also stated that the developer will pay for any additional grading or reinforcement of Grant Avenue to facilitate a detention basin or pond on the property.

Council Member Goodman noted that the City will issue G.O. Bonds in the amount of approximately \$2.9 million (a portion of which will be abated through special assessments) to upfront the funding for Grant Avenue. The City will be responsible for its share as an abutting property owner of approximately \$400,000. The City will also upfront the cost for water/sewer hook-ups in the amount of \$1.4 million. Mr. Goodman asked how much the road improvements would cost the City if the development were coming into the City by traditional annexation means. Mr. Schainker said that would be up to the Council; in some cases, the developer has been responsible for both sides of the road.

Council Member Larson asked to know the timing of the traffic signal to be installed at Hyde Avenue and Bloomington Road. City Manager Schainker said that the developer will pay \$185,000 for those improvements prior to the initial Final Plat being filed. The City will determine when those signals are installed based on traffic studies.

Council Member Davis asked if the Agreement would be binding on future owners of the properties in question. According to Mr. Schainker, all obligations will run with the land.

Water improvements were explained by City Manager Schainker. Water districts will be established. The timing of water connection fee payments was described by Mr. Schainker. He pointed out that the proposal for the City to upfront water and sewer lines was a new provision since the last draft of the Agreement.

City Attorney Marek explained, in more detail, the statutory requirement of the City to reach agreement with Xenia Rural Water District within 60 days of annexing the property. The Agreement provides that the developer shall be responsible for payment of any amounts that may be due to any rural water cooperative as a result of annexation of any lot in Rose Prairie. City Manager Schainker advised that the City will not require existing residents to hook up

immediately to City water; however, when they do, there will be a hook-up fee. Mr. Schainker also noted that the developers will grant to the City without charge easements for installation of sanitary sewer and water mains required for approval of any plat. The possibility of creating a sanitary sewer district with respect to the areas of land west of the site was also described by City Manager Schainker. This would allow Rose Prairie developers to partially recoup their costs if they upfront a portion of its infrastructure. The City's cost for water and sewer construction would be approximately \$1.4 million.

Council Member Larson said that it was important to remember why the City is entering into the Agreements in the first place and that is to protect the Ada Hayden Watershed.

Council Member Goodman asked for a summary of the costs that would be paid upfront by the City. City Manager Schainker said the road would be approximately \$2.9 million and the water/sewer would be approximately \$1.4 million. Assistant City Manager Kindred noted that the water/sewer numbers were inflated for inflation two years out and the road is five years out. It is expected that the City will be paid back; however, it could take up to ten years.

Assistant City Manager Bob Kindred explained the sections pertaining to storm sewers and storm water management. He noted specifically that the owners' association will be responsible for routine maintenance of the storm water management facilities and surface water flowage areas. According to the Agreement, the City will assist and support (not monetarily) efforts by the developer to obtain DNR, WIRB, or other funding that might be available for storm water quality systems, wetlands, dams, prairie restoration, etc.

Mr. Kindred advised that the City will install street lights and the developer will pay all of the City's costs of said installation for those areas included within the Ames Electric Service Area. Outside the City's territory, the developer will arrange with Midland Cooperative for installation of street lights in accordance with City standards. Extension and relocation of electric facilities will be at the developer's sole expense.

The Council was briefed by Mr. Kindred on the covenants pertaining to the use of phosphate-free fertilizer and the installation of a fire sprinkler system. The issue of the City's fire response time was again raised. Mr. Kindred said that the sprinkler systems must be in accordance with National Fire Protection Standard 13D. He noted that the City is currently close to meeting the fire response time set by the Council to 85% of the community; however, if the area in question is annexed, it may necessitate the lowering of the response time goal for community.

City Attorney Marek briefed the Council on the possibility of separately platting the Canterbrook property.

Council Member Larson asked what the Sturges property would be zoned if it were included. City Attorney Marek said it would be zoned Low-Density Residential.

City Manager Schainker again noted that there is a timing issue with Rose Prairie since the lawsuit filed against the City by Story County Land, L.C., is due to go to court in a couple weeks.

Chuck Becker, Belin Law Firm, Des Moines, Iowa, representing Story County Land, L.C., said that all issues had been addressed. It is a workable Agreement; albeit not exactly as they had hoped it would be.

Quarry Estates. Assistant Manager Kindred advised that the Voluntary Annexation Agreement pertaining to Quarry Estates had been signed by its owners. He reviewed the Agreement, noting specifically the provision requiring the creation of a homeowners' association. Council was reminded that the developer of Quarry Estates will be assessed for 17% of that Grant Avenue.

City Manager Schainker noted the problem that could occur if all four developers did not agree to be assessed for Grant Avenue. He said it was possible that the City would be forced under the Agreement with Quarry Estates to install water and sewer lines with no plan to pave Grant Avenue in place. He explained that the City would be required, no later than two years from the date of approval of a Preliminary Plat, to install the sanitary sewer system improvements.

City Attorney Marek said that the Rose Prairie Pre-Annexation Agreement could be approved as a free-standing agreement at this time. He also advised that the Rose Prairie Agreement and an Agreement from one of the other developers could be approved at this time. However, that would obligate the City to extend the utilities and set up the assessment agreements even though the third party had not yet entered into agreement for assessment of the costs. Council Member Larson summarized that the City had been negotiating three Pre-Annexation Agreements. It appears that the one with Rose Prairie has been worked-out. The City has a back-up plan for that one; however it does not have a back-up plan if only one of the other Pre-Annexation Agreements is signed. He said he was important to have both of the other Agreements signed.

Kurt Friedrich, 100 Sixth Street, Ames, reported that the owners of Quarry Estates believe that the Pre-Annexation Agreements provide a unique opportunity for all parties to work together to develop the area in question the right way: timely and orderly, providing the maximum environment protection for Ada Hayden, and creating building opportunities for the people of Ames well into the future. He said that the owners of Quarry Estates wished to cooperate with the City, support the annexation proposal, and have signed the Pre-Annexation Agreement.

Chuck Winkleblack, 105 S. 16th Street, Ames, noted that he is a proponent of growth to the north. He pointed out that the total cost-share obligations for property owned by Hunziker Land Development would total more than a \$1 million, and he had had less than two hours to review and sign the Agreement. Mr. Winkleblack advised that he was, therefore, not in a position at this time to agree to an agreement of that magnitude. Potential "sticking points" could be the provisions relating to a buy-out of Xenia Rural Water and the 13D sprinkler requirement. He stated that he was unwilling to fast-track approval of an agreement for settlement of a lawsuit that he is not a part of.

Catherine Scott, 1510 Roosevelt, Ames, noted that the City had agreed not to incentivize growth to the north; however, she felt that, by up fronting costs for improvements, the City was doing just that. She believes that the Council, by negotiation, is changing the City's Land Use Policy Plan, which makes her uncomfortable. According to Ms. Scott, up fronting the costs will necessitate a change to the Capital Improvements Plan, and she wonders what will have to be

delayed or given up to pay for the infrastructure. Referring to the economy, Ms. Scott noted that conditions can change. She also pointed out that the City does not yet have the road to the Industrial Park. Ms. Scott said she would feel more comfortable if the developers knew that they were ready to build now so that the time frame for costs would be known. She recommended that the City look at the worst-case scenario and be prepared to deal with it as there are many things that can go wrong with such complex agreements.

Council Member Wacha asked what repercussions could exist if the Rose Prairie Pre-Annexation Agreement was approved without the other agreements being approved at the same time. City Attorney Marek said it would be important for all Pre-Annexation Agreements to be in place at the time that the City Council considered the actual annexation of the Rose Prairie site. He also reviewed what could happen if agreements with Rose Prairie and Quarry Estates were approved, but the third Pre-Annexation Agreement was not signed. Attorney Marek then explained what would happen if none of the agreements were approved and the lawsuit went forward.

Moved by Larson, seconded by Davis, to adopt RESOLUTION NO. 10-348 approving the Pre-Annexation Agreement with Rose Prairie developers, as presented at this meeting.

Council Member Goodman asked if the strategic pieces of the Pre-Annexation Agreements would be discussed in Closed Session. City Attorney Marek outlined the reasons why the Council could go into Closed Session. Closed Session discussion could include the analysis of the risk of going to court.

Mr. Marek recommended that the City Council hear from Mr. Becker whether approval of the Pre-Annexation Agreement would lead to dismissal of the lawsuit. Mr. Becker said that Story County Land, L.C., has agreed that if approval of the Pre-Annexation Agreement is given by the City Council, the lawsuit would be dismissed. He advised that the two parcels have to be split out and that application is before the County now.

Council Member Goodman stated his preference to have a Closed Session discussion of the final settlement. Mayor Campbell asked Attorney Marek to repeat the circumstances for which a Closed Session may be held. Council Member Wacha believed what Mr. Goodman was suggesting was that the Council discuss potential strategy for litigation, part of which would be whether the City should go to court or not. Attorney Marek advised that a discussion on the analysis of the risk could occur in Closed Session, but that would be about it. Council Member Mahayni pointed out that if the motion on the floor is carried, the lawsuit will be dismissed and there would be no litigation.

Council Member Larson said he made the motion because he believed that resolution of the outstanding issues had been reached, and Mr. Becker had stated that the lawsuit would be dismissed.

Council Member Goodman said he feels that if the City acts as a bank for this development, it is throwing a carrot to the project to get the road paved; however, one of the potential paying members has not signed the Agreement. If the City says yes, it loses all leverage regarding the payment for the road. According to Mr. Goodman, it is possible that there would not be enough

money for the road and the costs would fall on the taxpayer. Mr. Schainker said that if the road cannot be specially assessed, it would mean that the City would not have a solid funding mechanism for completing the pavement of Grant Avenue all at once. Council Member Larson

said that more funding by the City would not be required; it means that portions of the road would not get done.

Council Member Mahayni said that he believes the City lost leverage when the former Council failed to approve annexation. Council Member Goodman disagreed and said that he also doesn't believe that the developer will choose to build condominiums in the County. He also stated that he thinks the developer would prefer an annexed development. It was Mr. Goodman's opinion that the City is engaging in great concessions in terms of the taxpayer to settle a case in which he believes the City is undervaluing its position. Looking at the environmental aspect to Ada Hayden Heritage Park, Council Member Wacha believes that it is too great a risk for the City to let this go to a lawsuit.

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

COMMENTS: Appreciation for the hard work of City staff, particularly Electric Distribution and Public Works, after last Sunday's storm was given by the Mayor and all Council members.

Assistant City Manager Lundt gave an update to the Council on the number of residences still without power. She also recognized electric utility crews from Indianola and Cedar Falls for rendering mutual aid to the City.

Moved by Wacha, seconded by Davis, to refer to staff the letter from Melvin Bell dated June 25, 2010, requesting a waiver of subdivision requirements.

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

CLOSED SESSION: Moved by Davis, seconded by Mahayni, to hold a Closed Session as provided by Section 21.5(1) ©, *Code of Iowa*, to discuss strategy with counsel for matters in litigation. Roll Call Vote: 6-0. Motion declared carried unanimously.

The meeting resumed in Open Session at 10:37 p.m.

Moved by Davis, seconded by Larson, to adopt RESOLUTION NO. 10-346 approving additional legal services from Dorsey & Whitney, LLP, in an amount not to exceed \$80,000.

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

ADJOURNMENT: Moved by Davis to adjourn the meeting at 10:40 p.m.

Diane R. Voss, City Clerk

Ann H. Campbell, Mayor

