

MINUTES OF THE REGULAR MEETING OF THE AMES CITY COUNCIL

AMES, IOWA

NOVEMBER 9, 2010

The regular meeting of the Ames City Council was called to order by Mayor Campbell at 7:00 p.m. on November 9, 2010, in the City Council Chambers in City Hall, 515 Clark Avenue. Present from the Ames City Council were Davis, Goodman, Larson, Mahayni, Orazem, and Wacha. *Ex officio* Member England was also present.

PROCLAMATION: Mayor Campbell proclaimed November 14 - 20, 2010, as National Hunger and Homelessness Awareness Week. City Housing Coordinator Vanessa Baker-Latimer noted the agencies that were present to accept copies of the Proclamation, as follows: Iowa State University College of Design, represented by Professor Deb Satterfield and students Gail Dixon and Krystal Kopp; Emergency Residence Project and Story County Housing Coordinating Board, represented by Vic Moss; Youth and Shelter Services, represented by Carrie Dunwall; ACCESS, represented by Mandy Conrad and Bayadir Abbas; MICA, represented by Sheree Andrews; and Volunteer Center of Story County, represented by Shellie Orngard.

CONSENT AGENDA: Council Member Davis asked that Item No. 6 (Agreement with Qwest to provide Internet services to City departments) be pulled for separate discussion.

Moved by Mahayni, seconded by Wacha, to approve the following items on the Consent Agenda:

1. Motion approving payment of claims
2. Motion approving minutes of Special Meeting of October 19, 2010, and Regular Meeting of October 26, 2010
3. Motion approving Report of Contract Change Orders for October 16-31, 2010
4. Motion approving renewal of the following beer permits, wine permits, and liquor licenses:
 - a. Class B Native Wine – Kitchen, Bath & Home, 201 Main Street
 - b. Class B Liquor – Country Inn & Suites, 2605 S.E. 16th Street
 - c. Class C Liquor – Fuji Japanese Steakhouse, 1614 S. Kellogg Avenue
 - d. Class C Liquor & Outdoor Service – Outlaws, 2522 Chamberlain Street
 - e. Class B Native Wine – Chocolaterie Stam, 230 Main Street
5. RESOLUTION NO. 10-518 approving Agreement with Qwest to provide telephone connections to City Departments
6. RESOLUTION NO. 10-519 approving Engineering Services Agreement with Howard R. Green of Johnston, Iowa, for the 2009/10 Concrete Pavement Improvements
7. RESOLUTION NO. 10-520 approving contract and bond for Greenbriar Park Improvements Project
8. RESOLUTION NO. 10-521 approving Change Order for Wind Storm Debris Mulching Contract with J. Pettiecord, Inc., in an amount not to exceed \$19,800
9. RESOLUTION NO. 10-522 approving Change Order for Concrete Crushing Contract with Reilly Construction Co., in an amount not to exceed \$15,000
10. RESOLUTION NO. 10-523 approving Change Order for 2010/11 CDBG Public Facilities Neighborhood Infrastructure Improvements Program
11. RESOLUTION NO. 10-524 accepting completion of Resource Recovery Recyclables Building and Staging Area - Phase I (Parking Lot)
12. RESOLUTION NO. 10-525 approving Minor Final Plat for Dreyer-Easter Subdivision
13. RESOLUTION NO. 10-526 approving partial completion of public improvements and lessening security required for Southern Hills West, Plat 2

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

AGREEMENT WITH QWEST TO PROVIDE INTERNET SERVICE TO CITY DEPARTMENTS: Council Member Davis asked why staff had not recommended that the award go to the vendor submitting a proposal with the lowest cost. Finance Director Duane Pitcher explained that the project was not bid; the City requested proposals. Proposals included several qualitative factors. Based on those, the proposals were scored. Information Technology Manager Stan Davis advised that the cost was 20% of the evaluation criteria. The requirement for a dedicated fiber connection narrowed the possibilities to two vendors. Vendors were also asked to submit a list of similar projects that they had done, and Qwest was the only vendor that had provided specific “like projects.”

Moved by Davis, seconded by Wacha, to adopt RESOLUTION NO. 10-517 approving an Agreement with Qwest to provide Internet service to City departments.

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

PUBLIC FORUM: Richard Deyo, 505 Eighth Street, Apartment #2, Ames, expressed frustration at what he perceived as a lack of nudists’ rights.

5-DAY CLASS C LIQUOR LICENSE: Moved by Davis, seconded by Larson, to approve a new 5-Day Class C Liquor License for Gateway Hotel & Conference Center at ISU Alumni Center, 420 Beach Avenue.

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

NEW CLASS B NATIVE WINE PERMIT: Moved by Davis, seconded by Larson, to approve a new Class B Native Wine Permit for Lyla’s Boutique, 404 Main Street.

ENCROACHMENT PERMIT FOR 304 MAIN STREET: Moved by Goodman, seconded by Davis, to approve an Encroachment Permit for an awning and sign at 304 Main Street.

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

REQUEST OF JANE GRAHAM PERTAINING TO LANDSCAPING IN TOM EVANS PLAZA: City Manager Steve Schainker recalled that on September 14, 2010, after hearing the concerns of artist Jane Graham that the trees east of the mural that she painted are reducing the visibility of it from various angles of the Plaza. At that meeting, the City Council had directed staff to retain the services of a landscape architect to “arrive at a well-designed park while making sure that the visibility of the mural is maintained for its life.” Mr. Schainker stated that a letter from landscape architect Donald Marner had been received by the City, in which he is recommending that the trees remain and listing the reasons therefor.

Council Member Larson said that the architect had cited a reason that he had not thought of, i.e., for at least six months of the year, the trees in question are not leafed-out, and the mural is very visible. Council Member Mahayni expressed his disappointment at the architect’s analysis, believing that he did not do as the Council had directed. Specifically, Mr. Mahayni thought that the architect only addressed having a well-designed park, but had not included that the visibility of the mural be maintained. Council Member Larson pointed out that the landscape architect had

given an alternative by stating that the decision needed to be made as to whether Tom Evans Plaza is to remain as originally designed or if the role of mural was to become a more prominent feature within the Plaza.

Council Member Goodman said that he views the mural as a valuable asset and believes that the trees interfere with a viewer's ability to see the mural in its entirety.

Moved by Goodman, seconded by Mahayni, to direct that the City remove the two trees on the west side of the mural that directly observe the mural.

Council Member Davis expressed his preference that the trees remain. He thinks that parks are about discovery; one is not meant to see the whole park at one time. There is a lot of intricate detail on the mural that would require the viewer to examine the mural more closely. They should walk through the park and look at the mural up close.

Vote on Motion: 3-3. Voting aye: Goodman, Mahayni, Orazem. Voting nay: Davis, Larson, Wacha. Mayor Campbell voted nay to break the tie. Motion failed.

REPORT ON MODIFICATIONS TO RENTAL HOUSING CODE: Fire Chief Clint Petersen summarized the progress that had been made towards reaching agreement of the proposed changes to Chapter 13 since the October 19, 2010, workshop. He noted that, at that meeting, the City Council members appeared to have reached consensus on 26 of the 28 issues and directed staff to develop alternatives for the other two issues, specifically Issues 5 and 17.

Pertaining to Issue 5, staff was requested to provide a definition of "Administrative Approval" and how those are recorded. Staff's proposed definition of "Administrative Approval" was read by Chief Petersen, as follows: "A code interpretation by the Building Official conveyed in writing to the property owner and kept on record in the City Clerk's Office."

Chief Petersen also stated that one new issue was being brought forward at this meeting. He said that the new issue is in response to the City Council's request to add Code flexibility in unique situations where property owners seek to rent their properties for a temporary period. Staff is proposing that the Council consider creating a new category for homes that need to be rented for a temporary or transitional period. It was noted that new registered units would not be eligible for the exemptions. Chief Petersen read the proposed language that would create a Transitional Letter of Compliance.

Council Member Goodman asked if a property would still be treated as a rental unit with a Letter of Compliance if the Letter of Compliance had lapsed and the property had been sold or would the new owner have to bring the property up to Code. Chief Petersen said that if the property lapses in the rental registration, it would come back on as a new rental unit and would have to be made Code-compliant. If the intention was to make it a permanent rental, a Letter of Compliance can be issued and the residence occupied during the time it is being brought up to Code. Typically, the City has allowed up to one year for the improvements to be made.

Regarding Issue 17, Chief Petersen recalled that staff had been directed to work with the Ames Rental Association representatives to develop alternatives for Council's consideration regarding plumbing issues. Those issues were recapped and the proposed options to address the concerns

were presented by Chief Petersen. He said that the five options presented by staff were devised in response to the Council's and Ames Rental Association's desire to modify the existing Rental Housing Code to provide more flexibility for existing plumbing regulations. The pros and cons for each option to address the plumbing issues were also pointed out.

City Attorney Marek reminded the City Council of the City's parameters since the standards are based on International and Uniform Codes. He pointed out that the Administrative Code, through which the State Code is enforced, makes it very clear that the *Iowa Code* is the minimum standard that applies in all jurisdictions. According to Mr. Marek, although the Council may create a variance system, it cannot create a variance that exempts someone from compliance with the minimum standard of the State Plumbing Code. He noted that Options 4 and 5 were based on the Iowa City ordinance that has a provision for variances. While all the staff-drafted options are theoretically available to the City, no variance could be granted that would include anything that would not comply with the State Plumbing Code.

Specific discussion ensued on existing "S" traps and the need for installation of an auto vent. Council Member Larson expressed concern that enforcement of existing "S" traps would only pertain to rental properties and not to owner-occupied properties. City Attorney Marek noted that under *Iowa Code*, the City is required to perform rental inspections, and as such, if "S" traps are located, they would need to be brought to the City's attention. "S" traps would also be located by plumbers, who have been retained to perform work on owner-occupied properties.

City Attorney Marek noted that the Plumbing Code had been in existence since May 1907 (Ordinance 178). All traps were required to be vented at that time. That predated any of the International Codes that have been adopted since then. According to Mr. Marek, the current Uniform Plumbing Code allows a non-compliant item to continue as long as it was compliance when originally installed and maintained correctly. Council Member Goodman noted that it appeared that the S-trap has never been legal since 1907.

Council Member Orazem expressed hesitancy in adopting anything that would require the Board to look at every case; there are some things that are set out to be safe if they are properly maintained. The issue will be if they are being properly maintained and if they can be inspected on a frequent-enough basis.

References were made to the Iowa City Code, from which some of the options for Ames were based. Chief Petersen advised that Iowa City has had a much more aggressive staffing level and enforcement program for many years. They have five inspectors for 17,000 rental units.

Council Member Wacha asked the City Attorney if there would be any possible situations when an Appeals Board action could violate the State Code. He noted that staff had indicated under Option 2, and possibly Option 3, that it might not be a viable option due to the minimum standards set out for Iowa cities in the State Plumbing Code. Mr. Marek explained that if Option 2 is an actual revision to Chapter 5, which is the Plumbing Code (not the Rental Housing Code), it could not be amended to a standard that is lower than the State Code. He advised that if the City Council chose Option 2, the Plumbing Code would have to be amended so that it was a lesser standard; however, the State Code would still apply. It was noted by Chief Petersen that Option 3 creates a conflict for the Inspections staff as one Code would allow, but another Code would not. He added that issuing a Letter of Compliance and then issuing a Municipal Infraction for a plumbing violation is not the relief that is being sought.

City Attorney Marek stated that the Uniform Plumbing Code provides that if there is an item that is not currently compliant, but it was compliant when it was installed, it can remain until it is replaced; at that time, it must be brought up to Code. At the inquiry of Council Member Goodman as to if there were any way that a variance to the Plumbing Code could be granted, Chief Petersen noted that a violation could be appealed to the Property Maintenance Appeals Board based on an equivalent level of protection being received from alternate materials.

Lad Grove, 218 SE 16th Street, Ames, referenced copies of letters among him, David Brown, Clint Petersen, and Doug Marek that Mr. Grove had distributed to the Mayor and Council members prior to the meeting pertaining to proposed language that had been agreed upon by the parties. Of specific reference was the attachment to the letters, which was a copy of two sections of the 2009 *Uniform Plumbing Code* (UPC). According to Mr. Grove, Section 101.4.1.3, which deals with existing construction, specifies that if something was lawfully installed pursuant to the Code at a previous time, it does not have to be changed even though it would not comply with the current provisions of the UPC. Section 101.5.3, regarding existing installation, allows the repair of a previous installation with a “like-kind” of installation. Mr. Grove interpreted that Section as meaning that if there was an S-trap installed and a portion of it rusted and had to be replaced, it could be replaced with a “like-kind”, i.e., S-trap.

Mr. Grove advised that after the meeting on October 19, he met with Chief Petersen and David Brown and discussed proposed variance language. He believed that the three of them had reached agreement pertaining to additions to Sections 13.402(4), 13.600(3), 13.103(1), 13.103(5), 13.108(9), and 13.108(13). Mr. Grove explained each proposed addition. Concerning granting variances, the City Attorney reiterated that the State Plumbing Code sets the minimum standard, and it would be inappropriate for the Board of Appeals, City Council, or Building Official to grant a variance that would not comply with the UPC. He advised that the important distinction is that at the time the discussion on variances occurred, it was with the assumption that there were plumbing fixtures that did lawfully comply with the Code at the time of their installation. It is important to note that the fixtures must be “lawfully in existence” at the time of the adoption of the new Code. Mr. Marek believes that S-trap venting has been a requirement for over 100 years, and therefore, none of them were legally installed unless they were installed prior to 1907.

Lad Grove said he was not sure what type of trap was allowed in 1907. According to Mr. Grove, the first UPC was adopted in Ames in 1992; it was the 1988 version that was adopted.

Mr. Grove stated that the Ames Rental Association recommends that the City adopt Option No. 5, which is to authorize the Property Maintenance Appeals Board to grant variances for all issues related to Chapter 13 (Rental Housing), including the five plumbing situations.

Council Member Mahayni noted that the City has received criticism about the way the Code has been interpreted by staff. He sees Mr. Grove’s request to give more power to staff as contradictory to the same things that the Ames Rental Association has complained about. Mr. Mahayni believes that the Building Official is doing what he has been directed to do. Mr. Grove said that the Ames Rental Association hopes that there will “be an avenue” administratively so that every case does not have to be heard in District Court.

Council Member Goodman stated that the only way to comply is to meet the Code requirements. Council Member Orazem disagreed, stating that using “common sense should not be illegal.” Mr. Orazem suggested that staff make note of technical violations. Technical violations could be allowed as long as the old technology still in place is properly maintained and in proper working order. However, if, on inspection, it is found that the item is not being properly maintained, another Letter of Compliance would not be issued until the requirements of the new Code are met. Council Member Goodman disagreed, stating that no matter what Option 1 states, the City cannot create Code language that has lower expectations than the *Uniform Plumbing Code*.

City Attorney Marek recommended that, if the Council chooses to include variances in the Code, public hearings be held, which would give an opportunity for the public to hear the discussion. Chief Petersen noted, however, that Option 5 gives the Building Official the power to grant variances.

Jim Gunning, 119 Hickory Drive, Ames, said that, going back to 1907, S-traps were never specifically excluded until approximately the 1970s. The idea of venting has been around since the 1930s. Mr. Gunning advised that the UPC first came out in 1945, and the only information that he had that specifically excluded S-traps was a book that the Plumbing Inspector (Bruce Kincaid) brought forward from around 1970. He pointed out that the UPC does allow “like-kind” installations; i.e., an S-trap could be replaced with an S-trap. It is his belief that if there were dangers, the 2009 version would not allow “like-kind” replacements. He also pointed out that the Building Official does have the option to stop any installation or condition if he feels that there is a life-safety issue.

Al Warren, 3121 Maplewood Road, Ames, Chairman of the Property Maintenance Appeals Board, noted that the Board had approved Option 4 by a vote of 4-2. He asked if structures built years ago had to have some type of certificate to be occupied. City Attorney Marek advised that there are provisions in the 1907 ordinance indicating that structures were approved by the City Engineer or Sewer Committee. He is not sure how it was implemented during that time period; there was not a separate Inspection office. Mr. Marek noted that the granting of a Certificate of Occupancy is not a guarantee that everything is in compliance. He said that for plumbing and electrical, the City is under the directive of the state as to the minimum standards. According to Mr. Warren, the four members who voted aye were inclined to believe that this was a widespread problem throughout Ames. It was his feeling that the two members who voted nay felt that the Code should be exactly followed with no discretion given.

Council Member Larson stated his belief that very few, if any, variances could be granted under Option 4.

Pat Brown, 3212 West Street, Ames, stated that she is a member of the Property Maintenance Appeals Board, and she had voted for Option 1 because the issue is the State Code. She believes that the City Council will set the policy to ensure that the rules will be fairly applied to everyone. She is not in favor of granting variances to a state law; the state law needs to be respected so everyone has a clear knowledge of the requirements. Ms. Brown said that she would like to see more liberal granting of time extensions.

Council Member Mahayni recalled that when the Council discussed the creation of a Property Maintenance Appeals Board, the City Manager Schainker stressed the need for rationale or criteria that must be met before a variance may be granted. Council Member Larson said he was

in favor of that also until reference was made to going back to the 1907 Code. Council Member Larson said that he formerly was in favor of Option 4; however, after hearing the interpretation of the City Attorney, he now prefers Option 5. In his opinion, Option 4 does not grant any authority to the Property Maintenance Appeals Board because each one would be a violation of the Plumbing Code.

Council Member Davis asked if it were possible to grant an “intermediate waiver of compliance” that is conditional based on the annual inspection as long as the item is not being replaced; replacement would trigger the enforcement of the new requirements of the UPC. City Attorney Marek pointed out that that was close to what Option 1 would allow.

Council Member Orazem believes that it should be more simple. He said the City has a current Code, but there are going to be properties that are not in compliance with that Code. Those properties are using technologies that are not unsafe as long as they are properly maintained. There is an option available to give a reasonable time to bring the item into compliance. The City Council could set what constitutes a “reasonable time.” He believes technical violations should be noted as long as the technology is currently safe and properly maintained, and as long as it remains properly maintained, it will be allowed to continue in a “probationary period.” If there is a violation of the probationary period, full compliance of the current Code will be required.

Moved by Orazem, seconded by Wacha, to direct staff to allow one with technical violations to continue for the five mentioned items (stand pipe for washing machines without a visible trap; basement surface drainage flowing into floor drains from showers, washing machines, or laundry sinks; existing auto vents; existing S-traps; toilets, showers, tubs, and sinks located in bathrooms with less clearance than required by the UPC) if the technology is properly maintained in a safe and reliable manner.

Chief Petersen asked for clarification as to whom would determine the definition of “safe manner.” He advised that “S-traps” without an auto vent are not safe; they allow methane gas to come into the house. Attorney Marek said that the State Code authority for granting variances states “not unsafe.”

Council Member Larson said that the issue seems not to be if something is legal or illegal, but when it was legal. He believes that a date specific should be agreed on for the purposes of interpreting portions of the Code. Mr. Larson suggested the date of the first adoption of the Uniform Plumbing Code. He feels strongly that it should not be 1907.

Moved by Mahayni, seconded by Goodman, to amend the motion to state that the technology “will not be unsafe” and such noted technical violations will only be allowed for a period of up to three years.

Vote on Amendment: 3-3. Voting aye: Goodman, Mahayni, Wacha. Voting nay: Davis, Larson, Orazem. Mayor Campbell voted aye to break the tie.

Vote on Motion, as amended: 3-3. Voting aye: Goodman, Mahayni, Wacha. Voting nay: Davis, Larson, Orazem. Motion failed.

Council Member Goodman felt that the City Council must know the date of adoption of the Code and what Code is being referred to. Chief Petersen said that it is known that, since 1907, there have been regulations against unvented S-traps. Council Member Larson recommended

that other cities be contacted as to how they are interpreting the UPC related to enforcement of existing conditions.

Council Member Goodman asked if City staff would be searching out all unvented S-traps and mandating their replacement. Council Member Davis again recommended that intermediate waivers be issued until something triggers replacement, at which point the item must be brought into compliance with the currently adopted Code.

Moved by Goodman, seconded by Wacha, to approve Option 1, which is to retain existing Code requirements, but allow more time to comply, and that the time to comply with S-traps will be three years and the other four items will be ten years.

Vote on Motion: 2-4. Voting aye: Goodman, Wacha. Voting nay: Davis, Larson, Mahayni, Orazem. Motion failed.

Moved by Orazem, seconded by Mahayni, to direct staff to allow one with technical violations to the Plumbing Code to continue as long as they are noted and the technology is maintained in a not unsafe manner.

City Attorney Marek again noted that the City Council could set conditions for Chapter 13 as long as they comply with the State Code; however, they would not be in compliance with the Uniform Plumbing Code.

City Attorney Marek cautioned the Council about directing City staff not to enforce portions of the Code.

Council Member Goodman asked for an interpretation of what is safe and unsafe. Bruce Kincaid, Building Inspection Supervisor, advised that he has done plumbing and mechanical work for approaching 40 years. He is a licensed Master Plumber, licensed HVAC contractor, and is ICC certified. Of the listing of five items, he felt that four of the five are unsafe, with the stand pipe for washing machines without a visible trap being marginally unsafe, but the least of his concerns.

Council Member Larson said that he was not going to support the motion because he believes the Council should not get into Code interpretation.

Council Member Wacha advised that he will not support the motion because he feels that the time of noncompliance should be limited.

Moved by Goodman, seconded by Wacha, to amend the motion that the wording only be applied to four items on the list, excluding existing unvented S-traps.

Council Member Davis wants all five items included. He believes that there are a lot of homes in the community that have S-traps.

Vote on Amendment: 4-2. Voting aye: Goodman, Mahayni, Orazem, Wacha. Voting nay: Davis, Larson. Motion declared carried.

Vote on Motion, as Amended: 4-2. Voting aye: Goodman, Mahayni, Orazem, Wacha. Voting nay: Davis, Larson. Motion declared carried.

Moved by Goodman, seconded by Mahayni, to move that with regards to unvented S-traps, five years be allowed to be brought into compliance.

Vote on Motion: 3-3. Voting aye: Goodman, Mahayni, Orazem. Voting nay: Davis, Larson, Wacha. Mayor voted aye to break the tie. Motion declared carried.

Moved by Orazem, seconded by Davis, to direct that the Building Official or designee may issue a Transitional Letter of Compliance for a maximum of one year under the following conditions:

1. After initial inspection, it is determined the property is not code-compliant; and,
2. There are no life safety code violations present that constitute an immediate danger to occupants; and, in order for a Transitional Letter of Compliance to be issued, one of the following conditions must exist:
 - a. The unit is to be used for less than one year as a rental unit, or
 - b. The unit is for sale and the rental is temporary until the sale occurs, or
 - c. The unit was previously a registered rental unit and is in the process of being brought into code compliance

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

Moved by Wacha, seconded by Mahayni, to direct that Administrative Approvals be defined as a code interpretation by the Building Official conveyed in writing to the property owner and kept on record in the City Clerk's Office.

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

Moved by Goodman to direct that staff come back with language for a one year grace period if the Letter of Compliance had lapsed such that they could still be considered on the existing rental rolls with the benefits of not having to bring the unit in compliance with Chapter 13.

Motion failed due to lack of a second.

Moved by Davis, seconded by Mahayni, to direct the City Attorney to draft an ordinance with the above-named changes and bring it back to Council for its consideration.

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

The meeting recessed at 10:10 p.m. and reconvened at 10:17 p.m.

ANNEXATION MORATORIUM TO EAST OF 590TH AVENUE: City Manager Schainker recalled that, at the October 26, 2010, Council meeting, staff reported that a notice had been received from the City of Nevada regarding its intent to annex property immediately west of the ethanol plant along Lincoln Way. Mr. Schainker emphasized that this was the first time the City of Nevada had attempted to annex property within the City of Ames' urbanized area (two-mile fringe). He noted that continued annexation of land west of the current Nevada city boundaries would limit Ames' ability in the future to create more developable industrial land. After discussions with Nevada, it became clear to Ames' representatives that the City of Nevada wanted similar protection. Therefore, moratoriums are now moving forward by both entities.

Mr. Schainker gave the highlights of the proposed Annexation Moratorium Agreement to be executed by both the City of Nevada and the City of Ames. He pointed out that besides the

prohibition for annexation as it relates to 590th Avenue, the Agreement promotes joint planning at the “Division Line” for the moratorium areas. Section 5 of the proposed Agreement calls for both cities to coordinate the planning and zoning of development for land within 600 feet of the Division Line between the moratorium areas. Section 6 specifies that within one-eighth of a mile of the Division Line, both parties should coordinate the design and location of major transportation improvements and requires joint planning for any public improvements that are located on or along the Division Line.

Moved by Mahayni, seconded by Orazem, to adopt RESOLUTION NO. 10-529 setting December 14, 2010, as the date of public hearing on an Annexation Moratorium to east of 590th Avenue.

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

Moved by Davis, seconded by Wacha, to direct staff to appear before the City of Nevada and formally object to the annexation with the stipulation that the objection will be withdrawn if the Moratorium Agreement is approved and noting that if the Moratorium Agreement is not approved, the City of Ames will appear before the City Development Board to object to the annexation.

Council Member Wacha expressed his desire to pursue more aggressive tactics and object to the proposed annexation if the Moratorium Agreement is not approved by the City of Nevada.

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

DISSOLUTION OF AMES/STORY COUNTY PARTNERSHIP AFFORDABLE HOUSING

PROGRAM: Housing Coordinator Vanessa Baker-Latimer gave the history behind the Ames/Story County Partnership (ASCP), which was established after the Iowa Department of Economic Development awarded a Local Housing Assistance Program grant on December 31, 1998, in the amount of \$400,000 to the City of Ames. Partnership with Ames were Collins, Colo, Huxley, Maxwell, McCallsburg, Nevada, Zearing, and Story County.

According to Ms. Baker-Latimer, the Partnership has not had an active program since 2008. The City of Colo requested to withdraw from the Partnership last spring, which opened up a discussion on whether the Partnership should continue. There is a lack of interest in keeping the Partnership moving in a direction that would allow the continuation of programming. In accordance with the provisions of the 28E Agreement, it remains in effect until more than half of the participating municipalities express a desire to end it. To date, six of the eight partners have submitted resolutions agreeing to dissolve the Partnership.

Council Member Orazem asked if there were any funds remaining in the Program. Ms. Vanessa Baker-Latimer said there is approximately \$684,847.45. Ames’ share of the refund will be \$515,852.91.

Council Member Larson left the meeting..

Moved by Davis, seconded by Mahayni, to adopt RESOLUTION NO. 10-527 approving dissolution of the Ames/Story County Partnership Affordable Housing Program and the

redistribution of the remaining fund balance and uncollected receivables to the respective cities..
Roll Call Vote: 5-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

EXTENSION OF PURCHASE AGREEMENT WITH HABITAT FOR HUMANITY OF CENTRAL IOWA FOR 1621 CLARK AVENUE: Ms. Baker-Latimer explained that, on July 27, 2010, the City Council approved the sale of property at 1621 Clark Avenue to Habitat for Humanity of Central Iowa (Habitat), as part of its 2010/11 Community Development Block Grant Neighborhood Sustainability Program. The sale was scheduled to occur on or before November 30, 2010, if all conditions of the Purchase Agreement for the rehabilitation were satisfied. Habitat for Humanity of Central Iowa has identified and approved a family to purchase the property; however, the availability of needed contractors to complete work has been difficult due to the August flooding event. Habitat has requested two modifications to the Agreement: (1) Rehabilitation to be completed on or before December 31, 2010, and (2) Closing to a qualified home buyer to be completed on or before January 31, 2011. The time extension requires Habitat to be responsible for the care and maintenance of the property in question until the closing.

Moved by Davis, seconded by Mahayni, to adopt RESOLUTION NO. 10-528 approving extension of the Purchase Agreement with Habitat for Humanity of Central Iowa for the property at 1621 Clark Avenue.

Roll Call Vote: 5-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

HEARING ON ZONING ORDINANCE TEXT AMENDMENT PERTAINING TO FENCE REGULATIONS: Director of Planning and Housing Steve Osguthorpe presented a summary of the proposed formatting and organization improvements of the fence standard contained in the City's Zoning Code. He also explained the substantive changes pertaining to exemption of fences in industrial zones and fence heights on retaining walls.

Mr. Osguthorpe noted that at its meeting of October 20, 2010, the Planning and Zoning Commission approved, with a vote of 4-0, the proposed text amendments.

Moved by Mahayni, seconded by Davis, to pass on first reading an ordinance pertaining to fence regulations.

Roll Call Vote: 5-0. Motion declared carried unanimously.

ORDINANCE EXTENDING INDUSTRIAL TAX EXEMPTION AVAILABILITY: Moved by Mahayni, seconded by Davis, to pass on second reading an ordinance extending Industrial Tax Exemption availability to 2020.

Roll Call Vote: 5-0. Motion declared carried unanimously.

ORDINANCE REPEALING CHAPTER 32, "MECHANICAL CODE:" Moved by Goodman, seconded by Davis, to pass on second reading an ordinance repealing Chapter 32, "Mechanical Code," of the *Municipal Code*.

Roll Call Vote: 5-0. Motion declared carried unanimously.

COUNCIL COMMENTS: Moved by Goodman, seconded by Mahayni, to direct staff to get some

feedback on what other communities are doing to work against expansion of the predatory practice of payday lending institutions.

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

Moved by Davis, seconded by Goodman, to refer to staff the petition requesting a stop sign at Clemens and Wilder

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

Council Member Goodman referenced the plethora of emails received by the City Council pertaining to Plumbing Code issues related to grease traps.

Moved by Goodman, seconded by Orazem, to request staff to initiate a process similar to the process followed by the Rental Housing Code to get feedback from entrepreneurs, contractors (mechanical, general), and architects, to uncover Code impediments that focus on remodeling projects in existing commercial spaces.

Council Member Davis asked that entrepreneurs to be broadened to include business partners, business owners, and others.

The Mayor noted that the Council has made a long list of referrals to staff, and the one in question seems to be quite staff- and time-intensive.. Mr. Goodman said that this is important because he would like to see if the City is actually hindering small businesses. Council Member Mahayni suggested that a workshop first be held to discover what issues there are.

Council Member Davis asked for more time to think about the best way to address the issue.

Motion withdrawn.

Moved by Goodman, seconded by Orazem, to direct staff to suggest a process involving business stakeholders to look at the issues experienced by some in renovating existing commercial spaces.

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

ADJOURNMENT: Moved by Davis to adjourn the meeting at 10:58 p.m.

Diane R. Voss, City Clerk

Ann H. Campbell, Mayor