

MINUTES OF THE REGULAR MEETING OF THE AMES CITY COUNCIL

AMES, IOWA

MAY 11, 2010

In the absence of the Mayor and Mayor Pro Tem, the regular meeting of the Ames City Council was called to order by City Clerk Diane Voss at 7:00 p.m. on May 11, 2010, in the City Council Chambers in City Hall, 515 Clark Avenue. Present from the Ames City Council were Davis, Goodman, Larson, Orazem, and Wacha. *Ex officio* Member England was also present. Mayor Campbell and Council Member Mahayni were absent.

NAMING TEMPORARY PRESIDING OFFICER: Moved by Davis, seconded by Wacha, to name Council Member Larson to serve as the Temporary Presiding Officer over this meeting.
Vote on Motion: 5-0. Motion declared carried unanimously.

PROCLAMATION FOR NATIONAL PUBLIC WORKS WEEK: Temporary Presiding Officer Larson proclaimed the week of May 16 - 22, 2010, as National Public Works Week. Accepting the Proclamation on behalf of the City of Ames were Tracy Warner, Municipal Engineer; John Pohlman, Resource Recovery Plant Superintendent; and Dave Cole, Operations Administrator.

CONSENT AGENDA: Moved by Goodman, seconded by Davis, to approve the following items on the Consent Agenda:

1. Motion approving payment of claims
2. Motion approving minutes of Regular Meeting of April 27, 2010
3. Motion approving Report of Contract Change Orders for April 1-15, 2010, and April 16-30, 2010
4. Motion approving certification of civil service applicants
5. Motion approving renewal of the following beer permits, wine permits and liquor licenses:
 - a. Class C Beer - Swift Stop #2, 3406 Lincoln Way
 - b. Special Class C Liquor - Great Plains Sauce & Dough, 129 Main Street
 - c. Class C Beer & B Wine - Walgreens #12108, 2719 Grand Avenue
 - d. Class B Beer - Jeff's Pizza Shop, 2402 Lincoln Way
 - e. Class C Liquor - Mother's Pub, 2900 West Street
 - f. Class C Liquor - Red Lobster #747, 1100 Buckeye Avenue
 - g. Class C Beer - Tobacco Outlet Plus #530, 204 South Duff Avenue
6. RESOLUTION NO. 10-188 approving 2010/11 Commission On The Arts (COTA) Annual Grants
7. RESOLUTION NO. 10-189 approving Intergovernmental Contract with City of Nevada for fire and emergency medical services to I-35 and Highway 30
8. RESOLUTION NO. 10-190 approving agreement with Iowa Department of Transportation for 2011 Traffic Safety Funds for 28th and Grand Traffic Signal Replacement
9. RESOLUTION NO. 10-191 approving plans and specifications for 2006/07 Pedestrian Walkway Program; setting June 2, 2010, and June 8, 2010, as date of public hearing
10. RESOLUTION NO. 10-192 awarding contract to Odle, Inc., of Muncie, Indiana, in the amount of \$241,000 for 2010/11 WPC Clarifier Painting Project
11. RESOLUTION NO. 10-193 approving renewal of contract with Plibrico Company, LLC, of Omaha, Nebraska, for Power Plant Boiler Maintenance and Repair Services
12. RESOLUTION NO. 10-194 awarding a contract to Northway Well and Pump Company of Marion, Iowa, in the amount of \$67,311 for Water Treatment Plant Well Rehabilitation Project
13. RESOLUTION NO. 10-195 approving contract and bond for Power Plant Unit No. 8 Waterwall Installation Project
14. RESOLUTION NO. 10-196 approving contract and bond for 2009/10 CyRide Route Pavement

- Improvements (Knapp Street and Ash Avenue)
15. RESOLUTION NO. 10-197 accepting final completion of CyRide Facility Upgrades, Maintenance, and Washbays Project
 16. RESOLUTION NO. 10-198 accepting final completion of 2007/08 Water System Improvements (Water Service Transfers)
 17. RESOLUTION NO. 10-199 accepting final completion of WPC Raw Water Pump Station HVAC Heat Recovery Unit
 18. RESOLUTION NO. 10-200 approving completion of Estates West Subdivision, 1st Addition, and releasing security
- Roll Call Vote: 5-0. Resolutions declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

PUBLIC FORUM: Richard Deyo, 505 Eighth Street, #2, Ames, stated that he had been told by Mayor Campbell that painting words on the runway was not allowed due to federal rules. He read an example of what he would like to have painted on the runway. Mr. Deyo asked that the Council write a letter to the federal government requesting that the rules be changed to allow the words to be painted on the runway.

Marian Fitzgerald, 26556 - 650th Avenue, Nevada, introduced himself as an Account Manager for Alliant Energy, which is the gas utility provider in the City of Ames. He noted that Alliant's Annual Report had been provided to the Mayor and City Council in their non-agenda packet and welcomed the Council's questions and/or comments.

ENCROACHMENT PERMIT FOR 409 DOUGLAS AVENUE: Moved by Goodman, seconded by Davis, to approve an Encroachment Permit for placement of a sign at 409 Douglas Avenue. Vote on Motion: 5-0. Motion declared carried unanimously.

NEW 5-DAY CLASS C LIQUOR LICENSE FOR GATEWAY HOTEL & CONFERENCE CENTER: Moved by Davis, seconded by Goodman, to approve a 5-Day (May 12 - 16) Class C Liquor License for Gateway Hotel & Conference Center at ISU Alumni Center, 420 Beach Avenue. Vote on Motion: 5-0. Motion declared carried unanimously.

NEIGHBORHOOD ART SCULPTURE ACQUISITIONS: Darla James, Vice-Chairperson of the Public Art Commission (PAC) introduced Commission Members Bill LaGrange and Greg Fuqua. Ms. James named the titles and showed pictures of the three sculptures being recommended for purchase, as follows:

1. "Change on Your Dollar" by Jerry Cowger for \$3,200 to be placed in Country Gables Park
2. "Untitled Flower" by Michael Sneller for \$1,500 to be placed at the trailhead entrance to Munn Woods
3. "Rising Wave" by Mark Baker for \$2,800 to be placed at the Furman Aquatic Center

At the request of Council Member Orazem, Ms. James explained the process to be followed by persons who want to request that a sculpture be placed in their neighborhoods.

Moved by Goodman, seconded by Wacha, to adopt RESOLUTION NO. 10-201 approving the purchase of the three Neighborhood Art sculptures, as above-listed:

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

HEARING ON INTENT TO FUND SITE-SPECIFIC DESIGN FOR NEW WATER TREATMENT PLANT AND AUTHORIZING ACQUISITION OF LAND BY EMINENT DOMAIN, IF NECESSARY: Water and Pollution Control Director John Dunn gave a chronology of events that led to the finding that major components of the existing facility could not be cost-effectively rehabilitated. The Infrastructure and Needs Assessment report recommended, and the Council endorsed, the construction of a new 15-million-gallon/day treatment plant at a yet-to-be-determined site. The site that has now been identified as being best suited for the new Treatment Plant is the inactive USDA site on E. 13th Street, which is located along the south side of the street between the Harley Davidson business and the South Skunk River. It consists of two parcels with a combined total of 49.14 acres. Approximately half of that site is buildable ground, and the rest consists of steeply sloped terrain and property that sits in the floodway.

According to Director Dunn, the preferred site is owned by the federal government; it is under the control of the USDA's Agricultural Research Service (ARS). The site was used for research purposes until the mid-1950s when the USDA moved to its current location on Dayton Avenue. The site continued to be used to raise animals for research purposes until the mid-1980s; it has been inactive since then.

Mr. Dunn said that the advantages of the site are many; however, no single item by itself makes this the preferred site, but it is the collection of advantages that led to this site being named as the preferred location. Mr. Dunn listed some of the advantages, which include:

1. Its proximity to the existing treatment plant, which provides the opportunity to reuse \$8 million or more worth of existing infrastructure at the current plant site (e.g., high-service pump station, lime residual holding ponds, two finished water storage reservoirs). Its closeness to the existing plant also makes it possible to move finished water into the distribution system from the old plant site. This offers major cost savings by avoiding major distribution system improvements.
2. The site is already zoned Governmental, and it has historically been used for a governmental purpose. Because the site is already owned by a tax-exempt entity, putting the new water plant there will not lead to a reduction in the Ames property tax base.
3. The elevation of the site is such that finished water can be moved back to the existing plant site with a very low energy cost (possibly even by gravity). The site's elevation also eliminates the need to make major modifications to the pumps and motors in the 22 potable supply wells (source water).
4. The site is not located in the floodplain, which is very important for such a critically vital facility.
5. The site, as it exists today, does not provide a visually appealing first impression of the community for those entering Ames from Interstate 35, and the ability to improve the site could provide a more welcoming gateway to the community.
6. The site is currently under-utilized.
7. Although the site is not technically a brown-field site, the opportunity to make it productive again provides a "green" benefit to the community.

Mr. Dunn stated that after the preferred site was identified, City staff met with representatives of

the NADC (on September 17, 2009) for an initial conversation about the availability of the land. There were four agenda items: (1) to receive confirmation that the USDA was willing to part with the site if mutually agreeable terms could be reached, and to find out what terms might be involved; (2) to learn what steps would be necessary to transfer ownership from the federal government to the City; (3) to learn the history of the site and its prior uses; and (4) to allow for the gathering of information about the site so a determination as to its suitability for the intended purpose could be made.

The USDA reported to Mr. Dunn that the site was used to conduct research into what was then referred to as hog cholera, which is now referred to as Classical Swine Fever. At the time the research was being conducted, hog cholera was widespread in Iowa, and the disease agent that was used to conduct the research was the same virus that was present on many hog farms throughout the state. The research that was done at that site was instrumental at leading to a 1978 declaration that the United States was now hog-cholera-free. Members of City staff have since met with a retired USDA researcher to learn about the work that was done on the site. Emails have also been received stating that there is no public health issue from Classical Swine Fever. According to Mr. Dunn, staff now feels comfortable recommending that the site be further evaluated in more detail.

Pertaining to the acquisition process, Mr. Dunn advised that the ARS branch of the USDA does not have the authority to buy or sell property outright without specific enabling legislation by the U. S. Congress. According to Mr. Dunn, this is the same route that was used a century ago when the property was initially acquired. The ARS also does not have the authority to enter into enhanced-use leases with outside agencies like the City. Representatives have told Mr. Dunn that the only authority they have is to trade the ground for other ground of equal value (dollar-for-dollar trade, not an acre-for-acre trade). Mr. Dunn emphasized that, regardless of what authority the federal government may or may not have, the only offer that has been made to the City for acquiring the property at this time is a land swap.

Mr. Dunn said that during the September 2009, City staff asked the NADC directly if ground immediately contiguous to its site was a rigorous requirement for the land swap. Its response was that it was not a rigid non-negotiated constraint, but it was by far its preferred option. After that meeting, City staff began to arrange for the financing of the treatment plant, including applying for low-interest loans and arranging for the rate structure necessary for the repayment of those loans. The legal acquisition process was also initiated at the beginning of this year.

On March 4, 2010, City staff met with the NADC to discuss the conditions under which the E. 13th Street site could be transferred to the City. In addition to local NADC representatives, representatives from the Ag Research Service in Peoria and officials from the Washington, D.C., office of the USDA were brought in telephonically. Many procedural steps were discussed at that time, e.g., timing of land appraisals and the need for environmental assessments. At the conclusion of that meeting, the USDA had not yet identified specific parcels that would be acceptable to it for a land swap.

Mr. Dunn clarified a misstatement that he made at the public meeting held on May 3, 2010, as to the timing of when the USDA did identify specific parcels. An email was received by Assistant Director Steve DuVall on March 19, 2010, where four specific parcels were identified as the preferred parcels. Those were confirmed in an April 28, 2010, letter to Mayor Campbell when the NADC indicated an order preference for the parcels.

It was reported by Mr. Dunn that the City Council set May 11, 2010, as the date of a public hearing on the land acquisition for a new water treatment plant. *Iowa Code* dictates specific timelines for notifying potentially affected property owners about the actions being requested to be taken at this meeting. Notification must be sent to them at least 30 days prior to the date of the public hearing; those notices were mailed on April 9, 2010, and a notice was published in *The Tribune* on April 27, 2010. The notifications were sent to the owners of the four properties identified by the USDA. Since the USDA had stated that being contiguous was preferred, but not an absolute, City staff also extended the list of notified property owners in order to keep additional options open for the City.

According to Director Dunn, in addition to the legally required notifications, City staff held an open house for property owners on May 3, 2010, in an effort to explain the project and the land acquisition process being followed. That meeting was not a requirement of the *Iowa Code*, but was arranged by City staff in order to share as much information with property owners as possible. Property owners received a notice of the informational meeting by mail, as well as a personal telephone call. The meeting was attended by approximately half of the notified property owners, as well as owners of a nearby property and the press.

Mr. Dunn reported that a representative of the USDA was invited to attend tonight's Council meeting. He spoke personally with the Director of NADC, but that person was scheduled to be out of the country this week.

It was emphasized by Mr. Dunn that the action being requested of the City Council at this meeting will not give authority to the City to take any particular property to condemnation. It does give notice that eminent domain is a possibility and allows City staff to begin negotiating with property owners to determine if a voluntary sale can be reached. Mr. Dunn stated that condemnation proceedings may not commence unless the City Council takes additional separate action specifically approving condemnation for specific property.

Director Dunn told the City Council that it might want to consider an additional option: Since it literally would take an act of Congress to grant the USDA authority to sell the land outright, the City Council could request that staff make contact with local representatives of the Congressional Delegation to see if they would support such an action. City staff asked that, if the Council wants to pursue that option, it be done in parallel with the initiation of appraisals in the negotiation for a voluntary sale. Mr. Dunn also noted that any final action would need to come back to the City Council for approval, so it would have an opportunity at that time as make a determinate as to whether seeking new authority for the ARS was bearing fruit or not. According to Mr. Dunn, a change in the law could take years. He requested that the Council act at this meeting to indicate the City's intent to fund the site-specific design for the Water Treatment Plant Project and authorize the acquisition of land via eminent domain, if necessary.

Council Member Orazem asked if staff had received any official responses from any land owners. Mr. Dunn acknowledged that he had received phone calls from a couple of the property owners wanting to know if anyone had indicated a willingness to sell. At this time, all he has received have been "off-the-cuff" comments, e.g., "If the price is right, I would be willing to consider."

It was also asked by Mr. Orazem if other properties would be assessed either for use by the City or for a potential land swap at the same time as the property on E. 13th Street. Mr. Dunn stated that, if Council gives the direction, staff would initiate an appraisal on the E. 13th Street site that

the City wishes to acquire. The environmental assessments, historical evaluation, wildlife evaluations, etc., would also be initiated. Due to the age of the structures that are on the site, it is anticipated that they will have asbestos insulation and possibly lead paint. The cost of not only acquiring the land, but also getting the site ready for construction, would be evaluated. Appraisals of the four USDA-preferred parcels would be initiated. The number of acres that would be acquired for trade to the USDA would depend on the appraised value of the site that the City is wanting to acquire and the appraised value of the sites of interest; that could dictate which parcels would be looked at. It was noted that right-of-way easements would also be necessary, and negotiations with those affected property owners would be occurring at the same time.

Director Dunn pointed out the four parcels preferred by the ARS on a map.

Council Member Orazem asked what zoning designation would be placed on the land along E. 13th Street. He noted that the land had been vacant. Director Dunn said that his assumption is that the land would be zoned and used for its highest best purpose, which would be up to an appraiser to determine. Planning and Housing Director Steve Osguthorpe said the City would look at the surrounding land uses to determine what would logically be an extension of that land use.

Temporary Presiding Officer Larson opened the public hearing.

Matt Frank, 2811 Dayton Avenue, Ames, advised that he is not one of the land owners that would be subject to eminent domain. However, if the land swap went through, his property would be surrounded by property owned by the USDA. He noted that most of the USDA property in the area is bordered by 8'-high barbed wire fences. A larger concern of Mr. and Mrs. Frank is that they have been told that the NADC plans to spread manure from its animals on the land. Mr. Frank believes that those actions would have a significant impact on his family. Another concern is that their one- and two-year-old daughters attend Eagles Loft Daycare Center, which is at the end of the lane and would have a similar adjacency to the USDA land. The manure field would be about 50' from the driveway to the Daycare Center on the north and within about 40' of the playgrounds on the south side.

Mr. Frank reported that, although the affected land owners were told about being subject to eminent domain, he, his neighbors, or Eagles Loft Daycare did not get noticed about this project. They found out through *The Tribune*.

A presentation prepared by Mr. Frank showed the land in question (49.14 acres). He said that dollar-for-dollar, that amount of land would impact four main stakeholders: City of Ames, USDA, taxpayers of Ames, and landowners that would potentially lose their properties. Mr. Frank stated that it has been reported that the City is looking for ten (10) to 15 acres for a water plant. To him, the issue is how much land is actually needed for the water plant, and however much that costs, dollar-for-dollar, the Ames taxpayers are going to have to pay for it. If there is not a willing seller, the land is going to have to be acquired from the farmer.

According to Mr. Frank, looking at the Assessor's site, the Harley Davidson dealership (one-acre parcel abutting 13th Street) is valued at \$153,000/acre. However, if you move one acre south, the land value drops to \$63,000/acre, and if you go to an adjacent property at the rear of the potential site, it is \$211/acre. Mr. Frank offered that those valuations clearly state that the frontage

property is very expensive. He proposed an option where the City leaves the high-value frontage property, retaining a right-of-way and 37 acres of land for a ten (10) to 15-acre water plant. This proposal could significantly reduce the cost of property, most likely over a 50% reduction, lowering the direct cost to taxpayers and reducing the amount of farm land potentially needed via eminent domain. For the sake of the Ames taxpayers, Mr. Frank believes that the land can be acquired for a lot less money.

Mr. Frank also read excerpts from *Iowa Public Code* 6A.21 pertaining to eminent domain's use against agricultural land. It specifically states that after execution of eminent domain authority, the resulting lands may not be used for commercial and/or private use; this means that after the City takes the land, the very expensive frontage would forever have to be green space.

The Council's attention was brought to "Public Law" 111-80 by Mr. Frank where it specifically states that the ARS can do 75% of the trade in property and can allow 25% in cash. To further reduce the impact of eminent domain on farmers, the City could pay cash for 25% of the land. Mr. Frank also alleged that there is a way for the City to actually get the land for free. He referenced the "General Services Administration of the U. S. Government," where it specifically states that "...Unless otherwise delegated, Federal agencies must report excess real property to the GSA for disposal under the Property Act." Mr. Frank noted that the land in question has not been used since the 1950s and would be considered "excess." The first option for excess property is to find another federal agency that might want the property. If not, the property could be negotiated with public entities. According to Mr. Frank, the GSA also states that there can be a substantial discount in the selling price up to 100%.

Mr. Frank asked that the City Council table discussion on this topic. He noted that affected property owners had only had a week to look at this.

Mona Kilborn, 1964 Vance Avenue, Marshalltown, identified herself as one of the owners of Griffith Century Farms LLC. She said they are "targeted as No. 2 and No. 3" on the master list of the four preferred parcels of land. Ms. Kilborn said that using a scheme like "substitute condemnation" seems like a trick to them. According to Ms. Kilborn, they were told that eminent domain was used when land was needed for something like a road; that doesn't seem like the case here. She said the City of Ames wants to come into the County, condemn her land, and then trade it; it is not going to be used for a new water plant. She said that if the NADC wanted her land, they should have asked the owners for it instead of "scheming with the City." Ms. Kilborn said that she talked with Congressman Latham's aide in Washington, D.C., today, and they are looking into what can be done. She advised that she also talked to one of Senator Grassley's aides; they are also looking at what they can do.

Teresa Garman, 1799 Old Bloomington Road, Ames, stated that she and her husband do not wish to sell their farm. She said that she finds the fact that the USDA is saying they cannot sell their land for cash rather disingenuous. Ms. Garman advised that she has talked to five different people in Washington who are looking at whether the land may be sold for cash; there is conflicting legislation. Ms. Garman reported that "substitute condemnation" bothers her the most. She has looked for anything in the *Iowa Code* that would allow that; however, she cannot find anything that makes it legal.

No one else requested to speak, and Mr. Larson closed the public hearing.

Referencing Mr. Frank's presentation, Council Member Goodman asked Director Dunn to comment on the size of the parcel needed and other possibilities that the City may not have looked at in terms of negotiating with the ARS. Mr. Dunn showed a map of the preferred property. He said it is steeply terrained; the portion of the site that is buildable is half of the total acreage. A portion of the land is also located in the floodway, so that is not buildable ground. Mr. Dunn believes that there is approximately 25 acres that would be buildable. He said that the consultants have told the City that between ten (10) and 15 acres are needed for initial construction. Additional ground would give flexibility for future growth. In addition, the City would prefer not to have another industrial customer abutting the water treatment plant – both for security reasons and compatibility.

City Attorney Marek advised that there are limitations in the *Code* against using condemnation to obtain property that would be used for economic development. The City could not build a water plant on a portion and sell the other part for commercial development.

Council Member Davis asked to know the net cost of the preferred property. Mr. Dunn said that ultimately it would be a value that was negotiated and agreed to by both the City and the USDA. An appraisal would be conducted as to the value of the property as it currently exists, and then estimates will be procured for the building demolitions, asbestos abatement, and other types of clean up needed on the site. The City will then propose to the USDA to take the appraised value minus the costs to prepare the site for construction.

Council Member Goodman asked if the City has asked the NADC if it would be willing to sell a portion of the site. Mr. Dunn said the City had not made that request; the City had only talked about the total property. Mr. Goodman said that it would be worthwhile to check into if there was a way to create additional commercial property in infill areas as long as it did not jeopardize the City's ability to provide safe drinking water to the community. He urged the staff to consider Mr. Frank's suggestion.

Moved by Goodman, seconded by Orazem, to adopt RESOLUTION NO. 10-208 declaring the City Council's intent to fund the final site-specific design and to acquire, by condemnation if necessary, property for the construction of a new drinking water treatment plant; authorizing staff to pursue voluntary negotiations with property owners and the USDA Agricultural Research Service; and asking staff to examine if a portion of the parcel would be available as part of that process.

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

Moved by Orazem, seconded by Wacha, to simultaneously request assistance from the Congressional delegation for specific federal legislation to allow the ARS to convey property for cash.

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

HEARING ON 2010 ANNUAL ACTION PLAN IN CONNECTION WITH COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM: Housing Coordinator Vanessa Baker-

Latimer explained that in order to receive federal CDBG funds, the City must submit a Consolidated Plan to the Department of Housing and Urban Development (HUD). The Consolidated Plan also requires that the City develop an Annual Action Plan that outlines the

program activities that will be undertaken to address or meet those goals and priorities. Federal regulations require that the Annual Action Plan be submitted to HUD for approval 45 days before the beginning of the program fiscal year; that date is May 17, 2010. Prior to that date, the Plan must be made available for a 15-day comment period (from April 23 to May 7) to allow for citizen input on the proposed projects.

According to Ms. Baker-Latimer, on January 26, 2010, the City received notification from HUD that the City will receive \$534,545 in Community Development Block Grant funds for the fiscal year beginning July 1, 2010. This represents a \$43,000 increase compared to the 2009-10 allocation. In addition to the \$534,545 of newly allocated funding, it is anticipated that there will be approximately \$600,000 in rollover funds from 2009-10, along with approximately \$110,870 of anticipated program income in 2010-11, for a total budget of \$1,245,415. Of this amount, \$1,116,332 is available for programming. Ms. Baker-Latimer outlined the proposed 2010-11 Annual Action Plan programs and expenditures, as follows:

Renter Affordability Program:	\$ 85,132
Neighborhood Sustainability Program:	\$ 441,200
Public Facilities Improvement Program:	\$ 590,000
2010-11 Program Administration:	<u>\$ 129,083</u>
Total	\$1,245,415

According to Ms. Baker-Latimer, the funding proposed for the Housing Activities under the Neighborhood Sustainability Program represents 47% of the funding available for program activities. She noted that this did not reflect the 51% priority for Housing Activities set by City Council at its March 27, 2004, goal-setting session; however, all of the activities proposed are of benefit to low- and moderate-income persons. That meets the primary objective for the use of CDBG funds and will help to exceed HUD's requirement that at least 70% of the aggregated funds received during a set three year period (2010-2012) be expended on programs that directly benefit low- and moderate-income persons.

Ms. Baker-Latimer advised that, on February 17 and 18, 2010, staff hosted public forums to inform the public about the overall CDBG Program and to solicit their input regarding the proposed 2010-11 Program activities. A total of nine citizens attended the sessions, representing one human service/non-profit organization, four Section 8 Participants, three citizens, and one City Board/Commission. One e-mail was received from a neighborhood association representative. All attendees were receptive to the proposed Action Plan projects. Since that date, no other comments have been received.

At the request of Council Member Wacha, Ms. Baker-Latimer gave examples of projects that have been done under the Public Facilities Improvement Program and the Neighborhood Sustainability Program. She said that HUD supplies data to the City on designated census tract areas where low- and moderate-income persons reside.

Noting that Ms. Baker-Latimer had stated a goal of the Council set in 2004, Council Member Davis asked if there were prescribed dates for Council goal-setting updates where this particular topic would be discussed. He pointed out that it appears that there has been no discussion to change the percentage since that time and thought it was time to revisit it.

Council Member Orazem said that Heartland Senior Center has a need for a larger facility. He asked if CDBG funds could be used to help that agency. Ms. Baker-Latimer advised that there is a total of \$260,000 to be used for public facilities improvement for non-profit agencies.

Council Member Goodman asked to know the status of the human services campus project. According to Assistant City Manager Sheila Lundt, United Way had arranged for a fund-raising campaign study to see if it was feasible to raise the amount of needed funds. The study indicated that fund-raising to the extent necessary to fund a human services campus would not be successful at this time.

Temporary Presiding Officer Larson opened the public hearing. The hearing was closed after no one requested to speak.

Moved by Wacha, seconded by Orazem, to adopt RESOLUTION NO. 10-202 approving submittal of the City's 2010-11 CDBG Annual Action Plan with the projects presented above. Roll Call Vote: 5-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

HEARING ON 2009/10 CLEAR WATER DIVERSION PROGRAM: The public hearing was opened by Temporary Presiding Officer Larson. He closed same after no one came forward to speak.

Moved by Orazem, seconded by Goodman, to adopt RESOLUTION NO. 10-203 approving final plans and specifications and awarding a contract to Ames Trenching of Ames, Iowa, in the amount of \$184,311.40.

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

HEARING ON 2009/10 AIRPORT IMPROVEMENTS: The Temporary Presiding Officer opened the public hearing. No one came forward to speak, and he closed the hearing.

Moved by Davis, seconded by Goodman, to approve RESOLUTION NO. 10-204 approving final plans and specifications and awarding a contract to Con-Struct, Inc., of Ames, Iowa, in the amount of \$970,170.85.

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

CRESCENT/SUMMIT/RIDGEWOOD SIDEWALKS: Municipal Engineer Tracy Warner advised that, per Council direction, staff met with this neighborhood on April 26, 2010, to discuss solutions on infill of sidewalk in the Crescent Street, Ridgewood Avenue and Summit Avenue area. All property owners within this area were invited to attend; there were approximately 12 people in attendance at that meeting. Three options were discussed with those in attendance; however, staff asked the residents to tell them what they felt was needed in the neighborhood.

According to Ms. Warner, if the City was unwilling to financially cover the full cost of sidewalk installation, the residents present at the April 26 meeting preferred that the City install sidewalks to provide a continuous connection through the area. However, if the City went ahead with an assessment project, property owners asked to be given enough time to explore installing the

sidewalks on their own and/or selling their properties. All attending residents agreed that if the City would pay the full costs associated with the sidewalk installation, they would have no issue maintaining the installed sidewalks. They did raise a concern, however, that some properties are owned by people who may have trouble maintaining the sidewalks due to existing health conditions. They also expressed a desire for the City to look at traffic calming options on Summit Avenue.

Council Member Larson suggested that a Neighborhood Improvement Project grant be pursued to help the residents pay for their portion of the sidewalk.

Council Member Goodman noted that residents on Summit Avenue do not have access to any sidewalk and that road is highly used due to its proximity to the high school. He does not, however, feel comfortable putting in a local improvement without resident involvement.

Mr. Larson noted that no action was being requested from the Council.

Moved by Orazem, seconded by Wacha, to install sidewalk in limited locations to provide a continuous connection throughout the area to be accomplished by placing sidewalk on the City-owned portion of land between Summit Avenue and Ridgewood Avenue, installing a crosswalk on the west side of Summit Avenue, and placing sidewalk on portions of two private properties to connect to the existing sidewalk going north with the proviso that staff investigate the use of CDBG funding or NIP funding to help the property owners with their portion of the costs.

Council Member Davis is concerned about setting a precedent. He would like to see more of a defined plan. City Manager Schainker pointed out that some years ago, Council directed that the City would only pay for sidewalks on safe routes to schools on arterials.

Moved by Davis to table this issue.

Motion withdrawn.

Vote on Motion: 2-3. Motion failed.

Moved by Goodman to request staff to explore working with the NIP application to make funding sidewalk installations on routes to schools on heavily trafficked streets eligible.

City Manager Schainker advised that sidewalks are currently eligible under the NIP Program.

Motion withdrawn.

Moved by Goodman, seconded by Wacha, to direct staff to contact the neighbors about utilizing the NIP grant process to increase sidewalk continuity in this neighborhood.

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

STORY COUNTY LAND, LC (ROSE PRAIRIE): Planning and Housing Department Director Steve Osguthorpe said that it has been requested that Canterbrooke be separated from the balance of the Story County Land, LC, property west of Ada Hayden Heritage Park. This subdivision is within the area of the Ames Urban Fringe Plan that the City Council recently amended. The

Canterbrooke tract was designated Rural Transitional Residential, and the remainder of the area (from the Union Pacific Railroad tracks to the H. P. Jensen subdivision-Alta Vista Court) was designated as Urban Residential. Mr. Osguthorpe advised that this proposed subdivision does not create any new developable lots apart from the proposed Canterbrooke lot.

According to Mr. Osguthorpe, the staff recommendation includes something not done before, i.e., includes a six-month timeframe for submitting the Final Plat along with the covenants. This is to ensure that approved waivers will not be outstanding indefinitely.

Bob Gibson, 3405 SE Russell Drive, Grimes, advised that he was present as the representative for Story County Land, LC.

Moved by Davis, seconded by Orazem, to adopt RESOLUTION NO. 10-205 approving waiver of design and improvement standards of subdivision regulations for only the proposed two-lot, 188-acre subdivision owned by Story County Land, LC (Rose Prairie), lying west of Grant Avenue and south of 190th Street, to be effective only if, within six months following the date of the Resolution, signed covenants and application for the Final Plat are submitted to the City. Roll Call Vote: 5-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

The meeting recessed at 9:08 p.m. and reconvened at 9:17 p.m.

DAVID NORRIS REQUEST FOR LUPP MAP CHANGE: Director Osguthorpe explained that David Norris owns three parcels, comprising about 89 acres southeast of Ames. Mr. Norris is requesting a Land Use Policy Plan (LUPP) Map amendment to designate this land as Rural Residential. Mr. Osguthorpe explained that the Ames Urban Fringe Plan designates the bulk of this land as Agriculture and Farm Service with the remainder as Natural Areas. The land lies between U.S. 69 and Interstate 35 and is addressed as 55497-265th Street. The land contains an existing farmstead; the land is about 20% timber, 20% pasture, 20% sloping CPR land, 20% flood zone, and 20% cropland. Dave Norris, 1660 Grand Avenue, Ames, clarified that his property consists of 11 acres of farmland and 18 acres of CPR land.

Mr. Osguthorpe reported that the Ames Urban Fringe Plan was instituted in 2006 to, among other things, address the impacts of development on rural and agricultural activities and environmental quality. Boone County, Story County, Ames, and Gilbert adopted agreed-upon principles to address these issues, and to fulfill those principles, a land use map was developed. According to Mr. Osguthorpe, the Fringe Plan describes Agricultural and Farm Service as follows: "...The designation encompasses large areas of highly valuable farmland, with farming and agricultural production as the primary activity."

Mr. Osguthorpe stated that, because a residential development is not consistent with these Plan designations, Mr. Norris is asking that the City Council begin the process of amending the Plan. According to Mr. Osguthorpe, in Spring 2007, Mr. Norris sought a revision to the Urban Fringe Plan to allow for the rezoning and development of this land. Following a staff report to the City Council, the Council directed staff to set a joint meeting with the governing bodies of Boone County, Story County, and Gilbert. That meeting, in April 2008, gave direction and clarified some outstanding issues on the amendment process; however, a process for amending the Plan has not yet been finalized.

In April 2009, Mr. Norris sought a waiver of subdivision standards for his proposed residential subdivision; however, withdrew that request prior to City Council consideration. Mr. Osguthorpe stated that, since the adoption of the Ames Urban Fringe Plan in July 2006, the Plan has not been amended by all of the adopting bodies. Staff from the three jurisdictions has been working on an intergovernmental agreement that would prescribe a process whereby the Plan could be amended by all three jurisdictions, but it has not been finalized.

Noting that there are other properties designated as Rural Residential, Council Member Orazem asked what process those owners went through to be designated as such. Director Osguthorpe said those properties had held that designation since the adoption of the Urban Fringe Plan.

Council Member Wacha asked Mr. Norris what his plans were for his property. Mr. Norris advised that the property would be divided into acreages of ten acres or less. Mr. Norris also stated that water service from Xenia is available.

Mr. Osguthorpe recalled that Ames had amended the Plan once in the past four years. Since the intent of that change was to facilitate the annexation of this area, the Gilbert City Council, and Story County Supervisors consented to it because once annexed, the land would be subject entirely to the jurisdiction of Ames. With any change to the Plan by the City on the Norris property, the County would also need to amend the Story County Development Plan to remain consistent with the Ames Plan.

Director Osguthorpe presented four options: (1) Deny the referral, (2) defer to the County, (3) refer the request to City staff, or (4) suspend the referral since an amendment process has not yet been finalized among the jurisdictions.

Moved by Goodman, seconded by Davis, to refer the request to City staff to further analyze the request from Mr. Norris to amend the Fringe Area Plan.

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

TIMBER ROAD ESTATES: Director Osguthorpe noted that the City Council had referred to staff the letter from Jared Willis seeking a waiver of the subdivisions standards and requested a written background report. However, the City Council has routinely granted waivers for residential development in those areas of the Urban Fringe where annexation by the City is not anticipated in the foreseeable future.

Moved by Davis, seconded by Orazem, to adopt RESOLUTION NO. 10-206 approving a waiver of subdivision regulations for the proposed five-lot, 20-acre residential subdivision on Timber Road to be effective only if, within six months following the date of the resolution, signed covenants and an application for the Preliminary Plat are submitted to the City.

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

URBAN REVITALIZATION COMMERCIAL CRITERIA: Director Osguthorpe recalled that staff had previously presented an approach that included three different categories that required compliance with at least one subcategory in each of the broad categories. It also included language pertaining to aesthetics and addressed compatibility issues. At that time, Council

members indicated that they were not comfortable approving those criteria and referred it back to staff.

Mr. Osguthorpe presented new eligibility criteria for the Council's consideration. He advised that they still contain three different categories: Economic Development, Nonconforming Uses or Blight, and Environmental Protection. Staff is suggesting that only one of the criteria has to be met to qualify for tax abatement.

According to Mr. Osguthorpe, the concept is to identify properties that might not show up as vacant in the Assessor's database, but may have a development quality that suggests the property is not being well-utilized.

Mr. Osguthorpe presented a series of policy questions for the Council's consideration. He reviewed the redevelopment criteria. Director Osguthorpe said that properties eligible for tax abatement must be within the Highway-Oriented Commercial (HOC) zoning district. City Manager Schainker said that if the City Council were to expand the concept, a larger area would be opened up and could apply for abatement; otherwise, there are only two properties currently zoned HOC that are undeveloped that could qualify for this program.

According to Mr. Osguthorpe, there are additional costs to develop within the area in question. Council Member Goodman asked if staff knew what the additional costs would be. Mr. Schainker said that it depends on the size of the lot; however, if the property is in the floodplain, they would need to elevate. Mr. Goodman pointed out that many businesses along South Duff have had to add fill to build up, but the unique piece of this is the "thousand feet of the well." Mr. Schainker stated that part of the "additional cost" is actually due to the loss of developable land because of certain requirements. Council Member Goodman said that he did not agree that there are always additional costs due to not being able to build within a thousand feet of a well.

Chuck Winkleblack, 105 S. 16th Street, Ames, asked for clarification as to how many criteria would need to be met to qualify for tax abatement. It was stated by Director Osguthorpe that the way it is currently written, there are three broad categories, but only one sub-category out of any one of the three broad categories would need to be met. Council Member Davis clarified that an applicant would need to meet any one of the six items. He suggested eliminating the categories and just number the criteria 1 through 6.

Director Osguthorpe also asked the City Council to make the determination if this program should be retroactive. City Manager Schainker reviewed the non-qualifying uses.

Council Member Goodman offered his opinion that the categories are too broad. He thinks the City needs to be very careful about offering any abatement for commercial property. Mr. Goodman said that he would be more supportive of commercial tax abatement if the property had sat vacant for a long period of time. It appeared to him that there is already quite a bit of redevelopment occurring on South Duff without tax abatement.

Mr. Winkleblack said an analysis should be done because the Assessor has taken several properties in town and taken the improvements to zero. He noted that a higher number can be achieved by putting all the value in the land. According to Mr. Winkleblack, there are a number of properties in Campustown and other areas in Ames where the building or improvements have been determined to be zero. Mr. Winkleblack cautioned against using the assessed value.

Council Member Larson said that he believes the number of years a property has sat vacant is not as important as its location. His opinion was that, if located on a major arterial or entryway into the City, properties should have to sit vacant for a lesser period of time in order to qualify.

Moved by Goodman, seconded by Davis, to direct staff to keep the Criteria required to be met at one; delete 1.1; keep 1.2, specifying that the property has been vacant for at least seven years; delete 2.1, keep 2.2, keep 3.1 removing "real or perceived"; and keep 3.2 as long as the developer can prove that the project cannot be reconfigured without incurring extra costs.

Council Member Goodman clarified that he wants to ensure that the City is getting something in return for the abatement.

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

Moved by Goodman, seconded by Davis, to direct that the non-qualifying uses not be granted for properties developed for or otherwise used for the following uses:

1. Mini-storage warehouse facilities or other industrial uses
2. Transportation, communications, and utility uses
3. Institutional uses
4. Automotive, boat, and/or RV sales
5. Adult entertainment business
6. Detention facilities
7. Ag/industrial equipment

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

530 AND 900 SOUTHEAST 16TH STREET: City Attorney Doug Marek advised that the Sidewalk Agreement requires sidewalks to be installed in front of the lot prior to an Occupancy Permit being issued.

Council Member Orazem raised the fact that there are no other sidewalks on the south side; adding this one would not do any public good. He noted that there is only 3/8" of a mile on the north side of S. 16th Street that does not have sidewalk.

Chuck Winkleblack, 105 S. 16th Street, Ames, said that there is no benefit to the owner to install a sidewalk. The costs are estimated at \$40,000 to \$50,000 for the developer to install the sidewalk. The developers want the project to go forward so the retail development may occur, so they are not going to refute it. To spend another six months arguing about a sidewalk would be in vain. He recommended that sidewalks not be included as part of a rezoning request; sidewalks need to be brought into the site plan development portion.

Moved by Goodman, seconded by Wacha, to adopt RESOLUTION NO. 10-207 approving the Sidewalk Agreement.

Council Member Orazem said that if the City is going to impose costs on private development, there should be public good. He asked Mr. Winkleblack if he would have agreed to install

sidewalk at another location in lieu of being required to install it on this site. Mr. Winkleblack said the developer would not feel comfortable doing that.

Tracy Warner said that the City is currently under design for several years' worth of the Skunk River Trail; it will go from the Hunziker Youth Sports Complex, on the west side, and will eventually tie in. Mr. Orazem asked when the multi-use path on the north side of SE 16th Street will be completed all the way to University. Ms. Warner said that the City is responsible for a small amount of that sidewalk (in front of Greenbriar Park); however, the University is responsible for the rest.

Roll Call Vote: 4-1. Voting aye: Davis, Goodman, Larson, Wacha. Voting nay: Orazem. Resolution declared adopted, signed by the Mayor, and hereby made a portion of these minutes.

Moved by Goodman, seconded by Davis, to pass on first reading an ordinance rezoning property at 530 and 900 Southeast 16th Street from Agricultural (A) to Highway-Oriented Commercial (HOC).

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

ORDINANCE REZONING PROPERTY LOCATED NORTH OF INTERSECTION OF STANGE ROAD AND BLOOMINGTON ROAD: Moved by Davis, seconded by Goodman, to pass on second reading an ordinance rezoning property located north of intersection of Stange Road and Bloomington Road from Convenience Commercial Node (CVCN) to Convenience General Service (CGS).

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

Moved by Davis, seconded by Orazem, to suspend the rules necessary for the adoption of an ordinance.

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

Moved by Davis, seconded by Wacha, to pass on third reading and adopt ORDINANCE NO. 4038 rezoning property located north of intersection of Stange Road and Bloomington Road from Convenience Commercial Node (CVCN) to Convenience General Service (CGS).

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

ORDINANCE PERTAINING TO REQUIRED NUMBER OF OFF-STREET PARKING SPACES REQUIRED FOR GROCERY STORES: Moved by Davis, seconded by Goodman, to pass on third reading and adopt ORDINANCE NO. 4036 making a zoning text amendment to reduce the minimum number of off-street parking spaces required for grocery stores.

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

ORDINANCE INCREASING WATER AND SEWER RATES: Moved by Goodman, seconded by Davis, to pass on third reading and adopt ORDINANCE NO. 4037 increasing the rates for water and sewer.

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

COMMENTS: Moved by Orazem, seconded by Goodman, to refer request from Steve Karsjen pertaining to the Prairie Kids Triathlon.

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

Moved by Goodman, seconded by Orazem, direct staff to invite the Ames Community School District, Gilbert Community School District, and United Community School District to a workshop to work towards accomplishing two main objectives: (1) to begin dialogue and (2) for all groups to share perspectives on challenges facing them and any role the City might play in helping them meet those challenges.

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

Moved by Goodman, seconded by Wacha, to request staff to prepare a report to Council on how new sidewalks get installed in this community.

It was noted that information on this topic had been presented in the past. It was suggested that perhaps that report, if relatively unchanged, could be re-distributed.

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

Moved by Wacha, seconded by Goodman, directed staff to contact the residents on Jensen Avenue, from 20th to 24th Street, regarding the feasibility of changing the parking to one side only.

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

Moved by Davis, seconded by Larson, to refer to staff the letter listing requests from Ames Collaborative Art needed to facilitate a dedication ceremony for the Campustown Mural.

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

Council Member Orazem asked if there can be a targeted completion date for street projects listed on the City's web page.

ADJOURNMENT: Moved by Davis, seconded by Goodman, to adjourn the meeting at 11:12 p.m.

Diane R. Voss, City Clerk

Ann H. Campbell, Mayor