

## MINUTES OF THE REGULAR MEETING OF THE AMES CITY COUNCIL

AMES, IOWA

DECEMBER 11, 2012

The regular meeting of the Ames City Council was called to order by Mayor Pro Tem Jami Larson at 7:00 p.m. on December 11, 2012, in the City Council Chambers in City Hall, 515 Clark Avenue. Present from the Ames City Council were Jeremy Davis, Matthew Goodman, Peter Orazem, Victoria Szopinski, and Tom Wacha. *Ex officio* Member Sawyer Baker was also present. Mayor Campbell was absent.

**PRESENTATION OF GOLD AWARD FOR “LIVE UNITED” CAMPAIGN:** Mayor Pro-Tem Larson presented the Gold Award for the United Way “Live United” Annual Campaign to the City of Ames employees. He noted that the United Way is one of the partners of the ASSET process, which helps fund human services contracts in Story County. Accepting the Award on behalf of City employees were Co-Chairs Lynne Carey, Acting Library Director; and Rich Iverson, Fleet Services Manager, and the 2011 Chairperson Charlie Kuester, City Planner.

**CONSENT AGENDA:** Moved by Goodman, 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 November 20, 2012, and Regular Meeting of November 27, 2012
3. Motion approving Report of Change Orders for November 16 - 30, 2012
4. Motion approving renewal of the following beer permits, wine permits, and liquor licenses:
  - a. Class C Liquor & Outdoor Service – The Café, 2616 Northridge Parkway
  - b. Class C Liquor – Tip Top Lounge, 201 East Lincoln Way
  - c. Class C Beer – Swift Stop #6, 125 6<sup>th</sup> Street
  - d. Class C Beer – Swift Stop #7, 2700 Lincoln Way
  - e. Class C Liquor & Outdoor Service – Thumb’s Bar, 2816 West Street
  - f. Class C Liquor & Outdoor Service – Aunt Maude’s, 543-547 Main Street
  - g. Class C Beer – Casey’s General Store #2298, 428 Lincoln Way
  - h. Class C Liquor & Outdoor Service – Mangostino’s Bar & Grill, 604 East Lincoln Way
  - i. Class B Beer – Pizza Pit, 207 Welch Avenue
5. RESOLUTION NO. 12-617 approving and adopting Supplement No. 2013-1 to *Municipal Code*
6. RESOLUTION NO. 12-618 approving appointment of Council Member Jeremy Davis to Ames Convention & Visitors Bureau Board of Directors
7. RESOLUTION NO. 12-619 authorizing Mayor to sign Certificate of Consistency with City’s 2009/14 CDBG Consolidated Plan on behalf of Youth & Shelter Services
8. RESOLUTION NO. 12-620 accepting purchase agreement from Mike Satterwhite and Carla Weiner for future park land
9. RESOLUTION NO. 12-621 approving law enforcement Memorandum of Understanding with National Center for Animal Health (NCAH)
10. RESOLUTION NO. 12-622 awarding contract to Altec Industries, Inc., of Daleville, Virginia, for Digger Derrick in the amount of \$131,267 and for Body and Accessories in the amount of \$22,157
11. RESOLUTION NO. 12-623 approving contract and bond for WPC Facility Motor Control Center No. 1 Replacement Project
12. RESOLUTION NO. 12-624 approving contract and bond for WPC Facility Raw Wastewater Pumping Station Pipe Repainting Project

13. RESOLUTION NO. 12-625 approving Change Order #69 to Weitz Company for a deduct amount of \$67,515 for Intermodal Facility
  14. RESOLUTION NO. 12-626 accepting completion of Main Street Alley Project
  15. RESOLUTION NO. 12-627 accepting completion of 2010/11 Water Systems Water Main Replacement Project (Oak Street)
  16. RESOLUTION NO. 12-628 accepting completion of 2011/12 Asphalt Pavement Improvements Program (Todd Circle and Abraham Drive)
  17. RESOLUTION NO. 12-629 accepting completion of 2011/12 Storm Sewer Improvements (Country Club Boulevard)
  18. RESOLUTION NO. 12-630 approving Minor Final Plat for 2501 Grand Avenue (Streets of North Grand, Plat 2)
- Roll Call Vote: 6-0. Resolutions declared adopted unanimously, signed by the Mayor, and hereby made a portion of these Minutes.

**PUBLIC FORUM:** No one came forward to speak during this time.

**HEARING ON REQUEST TO CHANGE AMES URBAN FRINGE PLAN AND LAND USE POLICY PLAN FOR ATHEN PROPERTY (3601 AND 3699 GEORGE WASHINGTON CARVER):** Mayor Pro-Tem Larson announced that the hearing would be held prior to the discussion on the Development Agreement.

Mayor Pro-Tem Larson opened the public hearing.

Information was provided to the Council by City Planner Charlie Kuester regarding the LUPP amendment process adopted by Council earlier this year. He clarified that, at this meeting, the Council would conduct the required public hearing on the LUPP and Urban Fringe Plan amendment request. He said that the approved LUPP process also states that the preference is not to take action on the request immediately following the public hearing, but act on it at the next meeting.

Planner Charlie Kuester recalled that the applicant was seeking approval to develop the Athen property (located west of Northridge Heights Subdivision on George Washington Carver Avenue) for a senior living center, which would be comprised of senior housing, assisted living, and skilled care, as well as residential housing. The applicant had requested the designation of the subject property as Urban Residential on the Urban Fringe Plan and inclusion of the subject site as an Allowable Growth Area in the Land Use Policy Plan (LUPP).

The Council was advised by Planner Kuester that the area in question consisted of approximately 140 acres of which 70 acres is developable and 70 acres is undevelopable because it is in the floodplain. Fifteen (15) acres would be needed for the proposed assisted living facility. It is estimated that approximately 200 homes could be built on the remainder of the property. At the inquiry of Council Member Goodman, Mr. Kuester advised that the annual single-family residential absorption equated to 60 - 65 homes.

The Council was made aware of several factors that could impact its decision on this issue: as follows:

1. There is a serious issue regarding the capacity of the downstream sanitary sewer to accommodate the expected future growth within the City limits, with an even greater concern regarding the additional load created by this project. An agreement requiring the developer to contribute \$197,600 to the City to correct a sanitary sewer problem should be in place at the time that the City Council is asked to act on the annexation.
2. The emergency response factor does not require any development agreement; however, the City Council needed to consider what impact this annexation would have on emergency response times to this area.
3. The Council needed to consider the impact that development in this area may have on areas that have already been targeted for growth or are being invested in by the City for growth, i.e., development in the North Growth Area west of Ada Hayden Heritage Park. The City is currently investing in the water and sanitary sewer infrastructure with the expectation of payback as residential development occurs. However, an agreement to assess the paving of Grant Avenue has not yet been finalized between the City and two of the three developers adjacent to this unpaved roadway.
4. A Development Agreement is necessary to ensure that a care facility is built, rather than any other type of medium-density residential use. The agreement should be in place no later than at the time of rezoning approval.
5. The LUPP Map amendment had been prepared to extend the Urban Residential designation up to the tree line and to retain the Natural designation over the remainder of the site.
6. The area in question should be provided with two zoning designations with the minimum zoning necessary for the care facility and low-density housing, which would ensure that allowed uses are kept to a minimum to reduce the potential impact on existing neighbors. It is anticipated that the senior living center would require a FS-RM (Floating Suburban Medium Density Residential) zoning designation and that the remainder of the site would be zoned FS-RL (Floating Suburban Low Density Residential).

The processes necessary to be followed were summarized by Planner Kuester: Urban Fringe LUPP Amendment; LUPP Amendment & Annexation; agreement on the sanitary sewer issue should be resolved no later than at annexation; rezoning; an agreement should be in place at the time of rezoning to limit undesired uses, such as apartments; Preliminary Plat and Final Plat; and lastly, Building Permits.

Mr. Kuester summarized the meetings that had been conducted as part of the LUPP Major Amendment process. He reported that this request had also come before the City's Planning & Zoning Commission on October 3, 2012. The Commission had recommended approval of a Map amendment that would allow annexation of the proposed area and recommended the following changes:

1. Development of proposal for the distribution of cost for any needed sanitary sewer improvements.
2. The impact the development in this area may have on emergency service response.

3. The impact the development in this area may have on areas that had already been targeted for growth or are being invested in by the City for growth.
4. The possibility of a Developer's Agreement be investigated to require a care facility as the only allowable development [within a medium-density-zoned area].
5. Consideration be given to ensure the protection of the natural area of at least at or before the tree line.
6. The subject area be provided with two zoning designations with the minimum zoning necessary for the care facility and low-density housing.

Following the newly instituted Major LUPP Amendment process, no Council action was requested at this meeting. Mr. Kuester reiterated the necessary next steps, which would include annexation, rezoning, LUPP change, and approval of a subdivision.

Greg Artz, 3819 Deer Run Lane, Ames, said that he had attended many of the meetings concerning this topic. He expressed his desire that apartments not be allowed in the subject property. Mr. Artz asked what type of lighting would be installed for the prospective assisted-living facility and specifically asked that low-intensity lighting be installed.

Chuck Olson, 3853 Deer Run Lane, Ames, said his property would be adjacent to the proposed development. He requested that the assisted living development not be allowed to be a high-rise. He does not believe that a multiple-story structure, a parking lot with security lights, or the type of traffic (buses or ambulances) that is characteristic of an assisted-living facility would be conducive to a single-family residential neighborhood.

Chuck Winkleblack, 105 S. 16<sup>th</sup> Street, Ames, Iowa, explained that the proposed builder was present and could address questions about the type of building that would be proposed. Also addressing the parking lot concerns, he stated that the parking requirements for the proposed assisted living facility would not be the same as for other two-story multi-family residential buildings. Due to the clientele normally living in retirement homes, fewer parking places are required and the lot would be smaller.

Mr. Winkleblack noted that his initial request had been made on January 24, 2011. Since then, many meetings, workshops, and open houses had been held, which provided many opportunities for public input. He explained the time sensitivity of this project and asked that the LUPP amendment be de-coupled from the Development Agreement and approved at the Council meeting of December 18, 2012. It was the contention of Mr. Winkleblack that there are not that many outstanding issues. Even given that time frame, Mr. Winkleblack stated that it would be April or May 2013 before the annexation and rezoning processes would begin.

Gib Wood, 109 South Cottage Court, Olathe, Kansas, said that he represented the builder on this proposed development. He stated that his company is building a similar facility in Lenexa, Kansas; it is an infill project surrounded on three sides by residential subdivisions. The residents there had similar concerns about the lighting. A lighting study was conducted, and exterior lighting was selected that will cast the light down, so as not to cause issues for

the neighbors. It is a two-story structure, which would be the same as this proposed development. According to Mr. Wood, the assisted living building would essentially be the same height as a two-story house.

Mr. Wood explained that the developer was working on a tight time limit because of the Certificate of Need issued by the State of Iowa; therefore, it was crucial that the project get moving forward. Upon being asked by Mayor Pro-Tem Larson, Mr. Wood explained that residents would pay rent on a monthly basis for the units in the proposed assisted living facility; they would not own their unit.

The hearing was closed after no one else requested to speak.

City Manager Steve Schainker indicated that staff saw no problems de-coupling the development agreement from the LUPP change and moving forward on December 18 to approve the LUPP amendment; that would send a positive message for the developer regarding its Certificate of Need. Staff believes that the outstanding issues could be addressed in an Annexation Agreement, which would come before the Council for approval. The Council, at that time, would have the opportunity to approve or not approve the Developer's Agreement. If, at that time, Council was not satisfied with the Agreement, it could vote to change the LUPP back to its current form.

Council Member Szopinski said that at some point the Council was going to have to have a policy discussion focusing on other developable land that the City had made investments in and where it wants to prioritize. Specifically, she noted that the City had committed to investing \$1.4 million in infrastructure improvements for certain areas that would be annexed with the expectation of payback in a certain amount of time. Ms. Szopinski advised that she was concerned that if additional developer land is added, the payback would be longer. She also wanted the Council to also look at emergency response times and how they would be affected by building in the area in question. City Manager Schainker recalled that the Council had requested an update on where the Pre-Annexation is on Grant Avenue; that was contained in the Council Action Form pertaining to the Athen request.

Council Member Goodman added that build-out of the land north of Ada Hayden Park was estimated to take 40 years; that is a long payback for infrastructure investment, and now the Council was being asked to consider annexation of another 80 acres.

Council Member Larson noted that the proposed development would be a property-tax-paying entity. According to Planner Kuester, the residential portion proposed for this development would allow for 160 single-family homes, which would take approximately two years to build out. He noted that the City would not have any infrastructure investment in this particular development.

Council Member Orazem said it was important to put history in context. He noted that for about ten years, starting in 1999, Ames' job growth was zero. The growth that did occur was from the University (18- to 25-year-olds) and retirees. The 2,500 jobs that have been created since 1999 have occurred within the last 18 months. Mr. Orazem also stated that commuters from Ames to Des Moines increased from 6% to 18% of the working-age population during that time. People to fill the newly added jobs might want to live in Ames close to their work and schools. Logically, the increase in the number of jobs in Ames should have some impact

on the demand for single-family home ownership. Council Member Orazem noted that the cost of infrastructure for this development will be borne by the developer.

Council Member Goodman agreed that developing the land in question would not require any investment by the City. However, the City had already committed to be a partner with three developers in developing 580 acres north of Ames. If that land is developed as well as the 80 acres in this development, emergency services will be impacted. The Athen property would be a good investment if it did not add to capacity and slow down the City's payback on the northern annexation.

City Manager Schainker recommended that the Council require the annexation agreements for the development along Grant Avenue be approved prior to the Development Agreement for the Athen property.

Council Member Wacha noted that the three developers of the 580 acres north and west of the city limits and the City had not come to a cost-share agreement regarding infrastructure improvements, e.g., paving of Grant Road. He would like to see the agreement among those three developers be worked out prior to annexation of the Athen property.

Moved by Wacha, seconded by Davis, to direct staff to prepare a Development Agreement for the Athen property at the time of the annexation of the property.

Moved by Wacha, seconded by Davis, to amend the motion to include direction to staff to create Developers' (Cost-Sharing) Agreements for Annexation of the Grant Avenue property prior to the annexation of the Athen property.

Vote on Amendment: 5-1. Voting aye: Davis, Larson, Orazem, Szopinski, Wacha. Voting nay: Goodman. Motion declared carried.

Vote on Motion, as Amended: 5-1. Voting aye: Davis, Larson, Orazem, Szopinski, Wacha. Voting nay: Goodman. Motion declared carried.

Council Member Davis noted that if the three developers of the properties along Grant had to agree to the cost-sharing agreement, that, in essence, is "holding the Athen property development hostage." Planner Kuester clarified that, following the Council's policy, the LUPP Map change would be acted on at the Council's next meeting (December 18, 2012).

#### **HEARING ON ZONING ORDINANCE TEXT AMENDMENT PERTAINING TO LIGHTING AND ALTERNATIVE LANDSCAPE STANDARDS FOR AUTO AND MARINE CRAFT TRADE USES:**

City Planner Karen Marren gave the history behind the request from a Deery Brothers' representative to reevaluate lighting provisions in the alternative landscape standards for auto dealers. The Council had been asked to consider changes to the lighting level allowed for the auto dealership. Subsequently, staff met with a Deery Brothers' consultant who provided information on the output of lighting associated with commercial developments. After assessing the information, it was staff's belief that shielding the view of fixture lenses from public rights-of-way would significantly mitigate one of the greater glare factors of outdoor lighting by shielding the visual "hot spots" of light around fixture lenses. Several options were presented to and considered by the City Council, which then directed staff to prepare an ordinance incorporating the following amendments:

1. Allow typical sales display light levels (15-foot candles average in all auto display areas (no dazzle or highlight levels).
2. Retain lower lighting levels of Code in all non-display parking areas.
3. Require glare shield requirements for all lights.
4. Require security lighting levels in all areas after 10:00 p.m. (2-foot candles average).

Those requirements would not allow for the most intense light that auto dealers would choose if left unregulated, but it would allow light commensurate with what dealers typically provide in their display sale areas while providing reasonable mitigation of lighting impacts on the community.

The specifics of the proposed ordinance were explained. Initially, staff had considered a 45-foot candle high point for the sales areas, while maintaining the 15-foot candle average. However, Deery Brothers' representative Fred Rose had indicated that they needed a range that would allow up to 90-foot candles on the upper end to achieve the 15-foot candle average across the sales area. This would result in approximately 2.5-foot candles on the low end and up to 90-foot candles on the high end. Planner Marren told the Council members that they needed to determine if that was an acceptable level on the upper end.

Ms. Marren reported that, on October 10, 2012, City staff had met with a workgroup to discuss the proposed alternative lighting text. The workgroup consisted of Bob Brown, KJWW Engineering Consultant; Scott Renaud, FOX Engineering; and representatives from the Ames Area Amateur Astronomers, including Al Johnson, Ed Engle, Joe Kollasch, and Jim Bonser. After reviewing examples given, the group generally agreed that the proposed language would help to address the concern for lighting hot spots, glare, and the typical light levels associated with auto dealers. Additional site research had been conducted by Bob Brown, who found some comparable 90-point source and higher values. Mr. Brown also had submitted information regarding lumen values for light fixtures to indicate the actual characteristics of a light source.

The Council was reminded by Ms. Marren that the proposed ordinance represented an alternate option in the Code. Auto and marine dealers may still choose to install landscaping and lighting to meet the existing Lighting Code if they choose not to utilize this alternative landscaping and lighting option.

Ms. Marren advised that the Planning and Zoning Commission, at its meeting of November 28, 2012, unanimously recommended that the City Council adopt the proposed ordinance to allow for a maximum high point value of 90-foot candles over an area with an average of 15-foot candles for all sales display areas.

The public hearing was opened by Mayor Pro-Tem Larson. He closed same after no one came forward to speak.

Council Member Goodman expressed appreciation to the staff for getting input from the Ames Amateur Astronomers on the proposed ordinance.

Moved by Davis, seconded by Orazem, to pass on first reading an ordinance pertaining to lighting and alternative landscape standards for auto and marine craft trade uses; thus, approving a maximum of 90-foot candles on the upper end to achieve a 15-foot candle average across the sales area.

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

**HEARING ON REZONING PROPERTY LOCATED AT 2008-24TH STREET:** City Planner Karen Marren provided a chronological summary of the actions taken by the City Council to date on the request of the First Evangelical Free Church (property owners) and Northcrest Community (applicant) to grant a Land Use Policy Plan (LUPP) Map change and rezone the property at 2008-24th Street from Low-Density Residential to High-Density Residential. She noted that, if approved, the proposed rezoning would bring the subject property into conformance with the Future Land Use Map.

Land uses for surrounding properties were described by Planner Marren. She said that rezoning the subject parcel would be an extension of the Residential High-Density Zone abutting its east property line. The Northcrest Community development abuts not only the subject property, but also low-density residential to the south (single-family detached homes). Staff believed that extension of Northcrest and demolition of the existing church facilities, if developed in a manner similar to the existing senior housing facilities, would greatly increase the on-site open space and landscaped areas for storm water infiltration as compared to the more auto-dependent church development. It was also the contention of staff that the zoning change to high-density residential is a logical extension of the high-density residential development to the west and will transition to lower-density development with landscaped back yards to the south and two-family dwellings to the west.

Planner Marren reviewed the staff's findings of fact. Based on the analysis, staff concluded that the proposed rezoning of the subject property was consistent with the Future Land Use Map as well as the goals and objectives of the LUPP.

Ms. Marren specifically noted that if the zoning classification were to be changed to High-Density Residential, but the subject property was not developed as senior housing, apartment buildings could be constructed on the land. For that reason, staff had recommended that the zoning change be approved with conditions that the use of the site be limited to only group-living uses consistent with or existing on the current Northcrest Senior Care Facility property and that new facilities not exceed existing building heights or be limited to 50 feet or four stories, which would be in line with the Residential Medium-Density Zoning District.

It was stated by Ms. Marren that the Planning and Zoning Commission, at its meeting of November 28, 2012, had unanimously recommended that the City Council approve the rezoning of 2008-24th Street from Residential Low Density to Residential High Density with the following conditions:

1. The use of the site be limited to only senior housing and/or senior services facilities consistent with or existing on the current Northcrest Senior Care Facility property, such as senior housing consisting of town home or apartment style residences, assisted living facilities, nursing care facilities, or specialized care facilities.
2. The maximum building height not exceed the existing building height of the current Northcrest property or 50 feet or four stores, whichever is lower.

Ms. Marren noted that staff was currently working with the applicant to draft a Development Agreement to outline the use conditions recommended by the Planning and Zoning



Commission and in line with the Council directive. That Agreement is expected to be completed by the Council's January 8, 2013, meeting; therefore, staff was recommending that the public hearing be continued until that date.

The hearing was opened by Mayor Pro-Tem Larson. David Miller, President of Northcrest, 1801 20<sup>th</sup> Street, Ames, summarized the discussions held at the Planning & Zoning Commission meeting regarding this request. He stated that Northcrest representatives agreed with City staff's recommendation that Council postpone this issue until the Development Agreement could be prepared. That would allow representatives of Northcrest to meet with City staff to ensure correct wording in the Ordinance so that Northcrest's use of the property would not be unnecessarily constrained.

No one else came forward to speak.

Moved by Davis, seconded by Orazem, to continue the hearing until January 8, 2013.

Vote on Motion: 5-0-1. Voting aye: Davis, Goodman, Larson, Orazem, Szopinski. Voting nay: None. Abstaining due to a conflict of interest: Wacha. Motion declared carried.

**HEARING ON ZONING ORDINANCE TEXT AMENDMENT TO CORRECT SCRIVENER'S ERROR PERTAINING TO PLANNED REGIONAL COMMERCIAL ZONING DEVELOPMENT STANDARDS:** Planner Kuester explained that an error had been discovered in the Development Standards Table for the Planned Regional commercial Zoning District regarding rear setbacks. A former *Code* amendment approved in 2007 added new setback requirements from the street lot line for the then-new Northeast Gateway Overlay District. There was a mistake in the formatting of the Council-approved Ordinance No. 3928 in 2007. A comparison of the incorrect table and the corrected table was given.

The public hearing was declared open by the Mayor Pro-Tem. There being no one who wished to speak, the hearing was closed.

Moved by Goodman, seconded by Davis, to pass on first reading an ordinance correcting a scrivener's error in Table 29.805(3) specific to the Rear Lot Line Setback Requirements in the Planned Regional Commercial Zone Development Standards.

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

**RENTAL HOUSING CODE INSPECTIONS AT FRATERNITIES AND SORORITIES:**

Council Member Larson and Council Member Davis recused themselves from the discussion of this item due to conflicts of interest.

City Manager Schainker reported that, after assuming leadership of the Fire Department, Chief Shawn Bayouth has been reviewing the services being provided by the Inspections Division. As a result, he had discovered that rental housing inspections were not being performed for ISU Greek houses. It was pointed out by Mr. Schainker that Section 13.301 (3) of the *Ames Municipal Code* specifies that rental housing inspections are required for fraternities and sororities every year.

It was noted by Mr. Schainker that Chief Bayouth had not been able to determine precisely when rental inspections had ceased. Mr. Schainker emphasized that, while rental inspections had not been performed, fraternities and sororities had been subjected to comprehensive Fire Code inspections each year. In addition, when obvious violations of other codes (plumbing,

electric, etc.) were identified, the Fire Inspector requested the respective inspector to intervene to correct those Code issues.

Mr. Schainker advised that the *Municipal Code* was modified some time ago to require the installation of sprinkler systems in all Greek housing by 2016. As a result, approximately 30 out of the 40 houses had made a significant investment to provide that superior level of life safety. It was cautioned by Mr. Schainker that, if rental housing inspections were to be re-initiated, problems might be identified related to S-traps, egress windows, etc., that previously had not been brought to the attention of officers of the Greek houses.

Also, according to Mr. Schainker, the extent of the full compliance with the Rental Housing Code for fraternities and sororities is not known at this time. He reported that the City's Rental Housing Inspectors had accompanied the Fire Inspector on a few Greek housing inspections this fall and did not identify any significant violations; however, those findings might not be indicative of all Greek houses.

The options available to the City Council were given, as follows:

1. Reinitiate Rental Housing Inspections for Fraternities and Sororities. Chief Bayouth recalled that, while the City does not have an external property maintenance code for owner-occupied residential units, there are regulations that allow the City to address these types of complaints for properties under the Rental Housing Code. Eliminating Greek houses from the jurisdiction of the Rental Housing Code would diminish the City's ability to respond to property-maintenance-related complaints involving fraternities or sororities.
2. Exclude Sororities And Fraternities from the Rental Housing Code. The situation provides the City Council with an opportunity to pursue another course of action and exclude sororities and fraternities from the Rental Housing Code. The argument in support of rental housing inspections revolves around a belief that government should protect third parties (tenants) from property owners who are operating a housing related business.

Mr. Schainker said that it could be argued that Greek houses are different than rental units. The inhabitants of fraternities and sororities are members of an organization that operates their housing. Therefore, a case can be made that Greek housing should be added to the list of uses that are exempt from the City's Rental Housing Code (e.g., hotels, motels, university housing, state-licensed health and custodial facilities, owner-occupied single family housing dwellings, and other residential occupancies specifically regulated by state and federal authority).

Chief Bayouth reported that staff had surveyed other cities to learn of how they were dealing with inspection of Greek housing. The responses indicated that only two of the 13 college communities surveyed perform rental inspections for Greek housing. In addition, because the Greek Affairs Office at Iowa State University has substantial influence over the off-campus sororities and fraternities, staff believed that the City would be able to influence corrective actions for any exterior maintenance complaints received on these properties, even if they were exempted from the Rental Housing Code.

City Manager Schainker advised the Council that, if Option 2 is pursued, it would be advisable to maintain a \$100 inspection fee. The amount of time spent inspecting for the International Fire Code would justify this fee. The only question would be whether to credit this revenue to the General Fund or continue to use it to support the Rental Housing Inspection program. It was noted that all other businesses in the City are not charged a fee for this type of fire safety inspection.

*Ex-officio* Member Baker expressed support for reinitiating rental housing inspections for fraternities and sororities. She stated that the residents of the Greek institutions pay rent and the Greek houses should be treated like other rental institutions. Ms. Baker said her comments were mainly for the safety of the residents.

Council Member Szopinski asked if the City generally received complaints about fraternities or sororities. Chief Bayouth reported that it would vary from fraternity to fraternity and from sorority to sorority; however, the Fire Inspector typically does issue several violations, which vary in severity, every year. Council Member Goodman asked Chief Bayouth if he believed reinitiating Rental Housing Code inspections would cause financial implications for fraternities and sororities. Chief Bayouth said that it could, depending on what violations would be found by the Rental Inspectors. He noted several requirements that are imposed on rental property owners

Council Member Wacha said that he feels the Council is focusing on the wrong things: “Is it going to be tough on the fraternities and sororities? Is it going to be cost-prohibitive for the fraternities and sororities?”. He believed that the right thing is to determine whether fraternities and sororities are rental units and should they be treated the same as other rental units.

Moved by Goodman, seconded by Orazem, to direct staff to organize a round table discussion on this issue with people of interest, i.e., Boards that run the fraternities and sororities or other owners, residents, and the Office of Greek Affairs; and that staff describe and provide the philosophy behind the exemptions.

Vote on Motion: 4-0-2. Voting aye: Goodman, Orazem, Szopinski, Wacha. Voting nay: None. Abstaining due to conflict of interest: Davis, Larson. Motion declared carried.

City Manager Schainker recommended that Council instruct staff to temporarily cease rental housing inspections for fraternities and sororities. Council Member Goodman noted that he would be in favor of the inspections continuing to occur, if nothing more than for data collection. Mr. Schainker advised that Rental Housing fees for inspections of fraternities and sororities equate to \$100; however, that does not fully recuperate the City’s costs.

Chief Bayouth pointed out that potentially each Greek house would be inspected three times: once by the Fire Inspector, once by the Rental Inspector, and once by Fire crews who go through to do pre-planning.

Moved by Goodman, seconded by Orazem, to direct that staff continue on its current schedule noting Rental Housing Code violations under the current Code until the round table discussion occurs.

*Ex-officio* Member Baker pointed out that continuing to inspect could cause a philosophical issue in that, if violations are found that would be costly, that could influence the ultimate decision of the City on whether it would reinstitute inspections.

Vote on Motion: 4-0-2. Voting aye: Goodman, Orazem, Szopinski, Wacha. Voting nay: None. Abstaining due to conflict of interest: Davis, Larson. Motion declared carried.

The meeting recessed at 9:00 p.m. and reconvened at 9:08 p.m.

Mayor Pro-Tem Larson advised that, due to technological difficulties, the Semi-Annual Report of the Business Development Coordinator would be presented before the Buxton Retail Analysis.

**2012 DEVELOPMENT PROCESS SURVEY:** Seana Perkins, Business Development Coordinator, presented a summary of the results of the responses to the 67 Planning Surveys and 303 Building Inspections Surveys. The response rate was 24.8% for the Planning and 35% for the Inspections Surveys. She highlighted responses to some of the questions. A comparison between 2011 and 2012 survey responses was shown. Ms. Perkins read through the Continuous Improvement Themes created by staff.

Discussion of software for Inspections Division. Fire Chief Bayouth read a list of improvements compiled by staff members that they felt would provide efficiencies for the inspectors as well as better service to customers. The bottom line was that a new system was needed to help provide essential tools to increase productivity and better manage administrative operations. Currently, the Inspections Division does not have field access to information, but a new system would create fully mobile inspectors with the ability to access information in the field and on job sites, to email violations notices/letters/Certificates of Occupancy, etc., immediately to the responsible party and to be notified remotely of newly scheduled inspections.

Chief Bayouth reported that a Request for Proposal had been sent to prospective vendors to provide inspections/permitting hardware and software to help the Inspection Division's efforts to better manage its operations; ten proposals were received. Those proposals were analyzed, which resulted in a request for a presentation by each of the four chosen vendors. After further review, a company was deemed to be the vendor of choice. Staff made an on-site visit to Omaha, Nebraska, to witness the software being used.

City Manager Schainker said that if the City Council so desired, the first step would be to place the proposed expenditure in the budget. It was noted that the cost would be approximately \$250,000.

Council Member Wacha requested that the City Council receive more information on the process undertaken to arrive at the point of staff recommending a certain vendor. City Manager Schainker told the Council that no Council decision was being requested at this meeting; however, it was staff's intention to bring this to the Council's attention prior to budget time.

**SEMI-ANNUAL REPORT OF BUSINESS DEVELOPMENT COORDINATOR:** Business Development Coordinator Seana Perkins provided the semi-annual report of the duties she

had performed in her position as Business Development Coordinator. She described in detail how she receives customer feedback and how that creates opportunities for process improvement. The toolkit, introduced early in 2012, will be included on the economic development section on the City's website. Content is being created and designed to provide the business community with resources and links to information that are beneficial to business development. Ms. Perkins described her involvement in the City's Development Review Committee. Future plans include continued community education about the Business Development Coordinator position and the assistance that can be offered.

**BUXTON RETAIL ANALYSIS:** Ms. Perkins recalled that the City Council had approved sharing equally, with the Ames Economic Development Commission (AEDC), the cost of hiring Buxton to build the Retail Matching Model, deploy the Model, and provide a 12-month access to the data through a Web-based, client-specific, analytic portal. The Council was shown how the Retail Matching Model would work. It reviews and assesses retail opportunities with the selection by the user of the following: (1) Site Selection, (2) Geographic Area, (3) Type of Retail; (4) Drive Time, and (5) Residential or Workplace. After all the selections are made, a document is produced that includes all of the matches for the site that were chosen based on parameters that had been selected. The Retail Match Report includes all available retailers and then further identifies if they are a good match by reviewing the Match Quality and the Consumer Density. Once a retailer is found that has a Match Quality designation that is Average or High and a Consumer Density that is Comparable or High, a Comparables Report can be created. A Comparables Report is based on the same criteria that the Retail Match Report is based on, except that it allows the user to select the retailer. The Comparables Report and the Retail Matching Report can be provided to the retailer to support their location in Ames.

The Retail Leakage and the Surplus Analysis report was described by Ms. Perkins. She said that that report indicates how well the retail needs of local residents are being met, uncovers unmet demand and possible opportunities, helps to create an understanding of the strengths and weaknesses of the local retail sector, and measures the difference between actual and potential retail sales. The definition of retail leakage was given; it means that residents are spending more for products than local businesses capture. It suggests that there is unmet demand in the trade area and that the community can support additional store space for that type of business. Retail surplus means that the Ames trade area is capturing the local market plus attracting non-local shoppers. Ms. Perkins cautioned that even though this report could indicate retail leakage, there could be a strong competitor in a neighboring community that dominates the market for that type of product or store. Likewise, a retail surplus does not necessarily mean that Ames cannot support additional business.

Lastly, the Consumer Propensity Report, which analyzes an area that is determined by a drive time, radius, or by a created shape from a point selected on a map, was explained by Ms. Perkins.

City Manager Schainker noted that the contract with Buxton for Internet-Based Retail Analysis, was due to expire in March 2013. The Council will have to decide prior to that time if the contract should be continued.

**RECRUITMENT PROCESS FOR NEW CITY ATTORNEY:** City Manager reviewed the recruitment plan in detail. The project start date for the new City Attorney would be May 2013.

Discussion ensued on the education and experience requirements, specifically relative to experience in public sector professional legal experience, and whether it would be required or preferred. Council Member Larson did not want to require five years' experience because he did not want that to preclude a potentially good candidate from applying. Council Member Goodman suggested that some, but not necessarily five years' experience, be required.

Moved by Szopinski, seconded by Davis, to change the word "required" to "preferred" pertaining to the public sector professional legal experience.

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

Moved by Goodman, seconded by Davis, to require that the new City Attorney live in the City of Ames.

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

Moved by Davis, seconded by Szopinski, to state that the salary is "commensurate with experience."

Council Member Goodman suggested that other advertisements for City Attorneys be reviewed to see if that terminology is included.

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

Moved by Davis, seconded by Wacha, to adopt RESOLUTION NO. 12-631 appointing Judy Parks as Acting City Attorney with a 5% increase [salary of \$87,424].

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

**SOUTH FORK SUBDIVISION:** Public Works Director John Joiner that the 2001 Memorandum of Agreement or Developer's Agreement for South Fork Subdivision had required the developer to pay 50% of the costs of construction for installation of the left turn lane improvements at the intersection of Lincoln Way and Franklin Avenue. The City would pay for the remaining 50%, as well as any engineering design and right-of-way costs, as needed, to complete the project. The Agreement further had stipulated that those improvements not be constructed until the intersection had fallen below the Institute of Traffic Engineers Level of Service "C" or a Final Plat was sought for a part of the site east of Dotson Drive and not abutting Dotson Drive, whichever occurs first. It was reported by Director Joiner that neither of those triggers had been met.

Mr. Joiner further advised that the developer had also been required to guarantee the financial obligation by providing security in an amount equal to 50% of the estimated costs of construction specified by the City. The most recent estimate from June 2012 estimates the construction costs at \$900,000. The developer was required to post security equivalent to \$450,000.

According to Director Joiner, on October 25, 2012, the City Council approved the developer's request to use security interest in the developer's real property as an alternative to the Letter of Credit. The developer provided the City with security interest in two lots (Outlot R contains a 4,000 square foot residence and Outlot U, which is an unimproved four-acre parcel). In October 2010, the City Attorney reviewed abstracts, appraisals, and titles to

both properties and determined that Outlot R (3908 Marigold Drive) had an appraised value of \$700,000 and was encumbered by a mortgage in the amount of \$420,000, and Outlot U (500 Dotson Drive) had an assessed value of \$175,100 and was encumbered by the Letter of Credit currently being held by the City. With those considerations, there was unencumbered value in the two lots of \$455,100 to exchange the form of security from a Letter of Credit to a mortgage on Outlots R and U.

The Council was informed that Pinnacle Properties had recently approached the City to express its desire to purchase and further develop Outlot U. Mr. Joiner explained a number of issues that needed to be addressed by the City Council to facilitate the development of 500 Dotson Drive, as follows:

1. Because the subject property is being held as security for the Lincoln Way and Franklin Avenue improvements, a replacement form of security would need to be provided to the City.
2. Due to the parcel connecting to Dotson Drive, rather than leading east to Franklin Avenue improvements, the Developer's Agreement needs to be modified so that developing this area doesn't initiate the requirement for the Lincoln Way and Franklin Avenue improvements. Further development of 3908 Marigold Drive or the intersection falling below a Level of Service "C" would still initiate the requirement for the improvements.
3. Using recent estimates from the City Assessor, the combined value of the two parcels is approximately \$560,014. Outlot U (estimated at \$175,100) represents 31% of the overall value while Outlot R represents 69% of the cost share.

Mr. Joiner advised that the Developer's Agreement would also need to be modified to reflect that Pinnacle Properties is responsible for 31% of that cost share and that Terra Firma, L.P. , remain responsible for 69% of the cost share.

Moved by Goodman, seconded by Davis, to direct the Acting City Attorney to draft modifications to the Memorandum of Agreement so that:

1. Construction of the improvements at Lincoln Way and Franklin Avenue shall be done and completed at such time as it is determined that the overall intersection had fallen below the Institute of Traffic Engineers Level of Service "C" or a Final Plat is sought for any portion of 3908 Marigold Drive.
2. Pinnacle Properties will be responsible for providing a Letter of Credit to the City in the amount of \$175,100, which should be adjusted periodically, to secure 31% of half the estimated cost of the intersection improvements at Lincoln Way and Franklin Avenue.
3. Pinnacle Properties will be responsible for 31% and Terra Firma, L.P., will be responsible for 69% of the developer's share of the actual cost of construction improvements at Lincoln Way and Franklin Avenue.
4. Pinnacle Properties will be responsible for the provisions of said Agreement that are necessitated by or pertain to the further development of 500 Dotson Drive.

5. Terra Firma, L.P., will be responsible to pay 69% of half the cost of the intersection improvements at Lincoln Way and Franklin Avenue. The security for that responsibility will continue to be in the current form of mortgage on the land in Outlot R, which previously had a net value of \$280,000.

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

**OUTDOOR WARNING SYSTEM:** Police Chief Chuck Cychosz informed the Council that the City had updated the siren equipment in the City's 15 outdoor warning system sirens approximately five years ago. The sirens are designed to provide a warning of severe weather to citizens who are outside their homes. The Chief cautioned that indoor warnings are best achieved through household use of a weather radio.

It was reported by Chief Cychosz that there has been a trend across the country toward siren activation in the event of high winds or potentially dangerous hail. The Story County Emergency Management Commission had recommended, on October 17, 2012, that activation criteria include forecasted winds in excess of 70 mph or hail in excess of 1.75 inches. Chief Cychosz noted, however, that the most-recent high wind events within the City of Ames were not forecasted with sufficient advance warning to allow utilization of the Outdoor Warning System.

According to Chief Cychosz, Ames and Iowa State University have coordinated their usage of the Outdoor Warning System for many years. He advised that staff from both entities supported the proposed additional activation criteria.

Moved by Davis, seconded by Orazem, to direct staff to add Outdoor Warning System activation criteria for winds in excess of 70 mph and hail in excess of 1.75 inches.

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

**CONCEPTUAL COST STUDY FOR AIRPORT TERMINAL:** Public Works Director John Joiner said that the next step in this process was to take the input from the Airport users to create a conceptual layout to be used for refining the overall project budget and to meet state and federal requirements of providing definitions of the proposed spaces within the Terminal. Those definitions are used by the Iowa Department of Transportation and Regional Federal Aviation Administration staff to determine eligibility of each space.

The City's current airport consultant, Bolton & Menk, along with Architectural Alliance of Minneapolis, Minnesota, will meet with City staff to develop the schematic design and refine the budget. The cost of that conceptual work is estimated not to exceed \$7,000 and could be funded from the City Council Contingency Account.

Moved by Davis, seconded by Wacha, to adopt RESOLUTION NO. 12-632 approving the Contract for Professional Services with Bolton & Menk in the amount of \$7,000 to be paid from the City Council Contingency account for creation of a conceptual layout and budget for the new Airport Terminal Building project.

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



**6<sup>TH</sup> STREET BRIDGE DESIGN ALTERNATIVES:** Josh Opheim, representing WHKS, provided the design alternatives study, which refined the type, layout, and style of the proposed bridge. The report identified Alternate D as the preferred alternative based on cost and feedback received on the alternatives and aesthetics. Alternative D called for a concrete bridge having two vehicular travel lanes and on-street bike lanes, a shared use path on the south side, and a sidewalk on the north. It also included the aesthetic elements identified through the public input process. The total cost of \$2,286,000 includes the aesthetics; however, costs could be reduced by choosing only certain aesthetic treatments.

Examples of each aesthetic treatment and its cost were detailed by Mr. Opheim. The total cost for all aesthetic premiums would equate to \$349,500.

Council Member Goodman asked that the Council be provided with some visual elements for the different types of bridges. Mr. Mellies stated that staff could provide that to the City Council.

Discussion ensued as to whether a decision on the 6<sup>th</sup> Street Bridge should be postponed until the information on flood mitigation is received.

The City Council accepted the report, but took no further action.

**ORDINANCE SETTING STORM WATER RATE:** Moved by Goodman, seconded by Davis, to pass on first reading the new Storm Water Rate Ordinance.  
Vote on Motion: 6-0. Motion declared carried unanimously.

**ORDINANCE SETTING SPEED LIMIT ON GRAND AVENUE:** Moved by Goodman, seconded by Davis, to pass on second reading an ordinance setting the speed limit on Grand Avenue.  
Vote on Motion: 6-0. Motion declared carried unanimously.

**ORDINANCE REZONING PROPERTY LOCATED AT 1519 TOP-O-HOLLOW ROAD:**  
Moved by Goodman, seconded by Davis, to pass on third reading and adopt ORDINANCE NO. 4133 rezoning property located at 1519 Top-O-Hollow Road from Agricultural (A) to Residential Low-Density (RL).  
Roll Call Vote: 6-0. Ordinance declared adopted unanimously, signed by the Mayor, and hereby made a portion of these Minutes.

**COUNCIL COMMENTS:** Moved by Wacha, seconded by Goodman, to refer to staff the letter dated November 29, 2012, from Historic Old Town Association, requesting that the City conduct a traffic speed study in the residential stretch of Duff from just north of 6<sup>th</sup> Street to approximately 10<sup>th</sup> Street.  
Vote on Motion: 6-0. Motion declared carried unanimously.

Moved by Wacha, seconded by Goodman, to refer to staff the recommendation of the City Attorney's Office that the ordinance establishing the Ames Board of Health be amended or repealed. Vote on Motion: 6-0. Motion declared carried unanimously.

Moved by Davis, seconded by Wacha, to refer the request of Rusty Hesson to spread a sidewalk assessment over a period of up to ten annual installments.  
Vote on Motion: 6-0. Motion declared carried unanimously.

Moved by Goodman, seconded by Szopinski, to refer to staff for a memo from John Dunn regarding an email received by the City Council that pertained to levels of fluoride in the water.

Council Member Orazem noted that he had gone to the website from the link provided in the email, and the issue was actually pertaining to incidents occurring in China, and he did not feel that the staff should be asked to respond. Mr. Orazem said that he had replied to the sender of the email. Council Member Goodman said that he was responding to an inquiry made by an Ames citizen, and he preferred that a response be made by John Dunn, Director of Water and Pollution Control, to the concerns expressed in the email.

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

Noting the tasks being referred and assigned to the City Attorney, Council Member Larson stated that, in the interim before the hiring of the new City Attorney, Council Member Goodman and he, representing the subcommittee for the recruitment of the new attorney, would meet with City Manager Schainker and Acting City Attorney Judy Parks to prioritize work.

Council Member Szopinski advised that she and Council Member Larson had recently met with some residents of Northridge Subdivision to discuss alternatives to mitigate flooding. Ideas from the residents had been shared with Ms. Szopinski and Mr. Larson, and she would like City staff to hear those ideas.

Moved by Szopinski, seconded by Davis, to direct staff to meet with Jim Bollinger and Carroll Marty to consider and discuss the ideas being suggested by them to mitigate flooding in the Northridge Subdivision.

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

Moved by Orazem, seconded by Goodman, to refer Brian Phillips' memo pertaining to car/pedestrians/bicyclists collisions occurring in the 100 Block of Welch and Lincoln Way/ Welch area.

Ms. Baker stated that property owners in the Campustown area had approached her to take up this issue to the Student Affairs Commission, which she had done.

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

Moved by Davis, seconded by Szopinski, to refer the letter of Keith Arneson dated December 6, 2012, requesting a timing exception to the staff's policy regarding Final Plat review.

Vote on Motion: 5-1. Voting aye: Davis, Goodman, Larson, Orazem, Szopinski. Voting nay: Wacha. Motion declared carried.

**ADJOURNMENT:** Moved by Davis to adjourn the meeting at 11:46 p.m.

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Diane R. Voss, City Clerk

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Ann H. Campbell, Mayor

