

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

**AMES, IOWA**

**OCTOBER 23, 2007**

The regular meeting of the Ames City Council was called to order by Mayor Pro Tem Mahayni at 7:00 p.m. on October 23, 2007, in the City Council Chambers in City Hall, 515 Clark Avenue. Present from the Ames City Council were Doll, Goodman, Larson, Popken, and Rice. *Ex officio* Member Luttrell was also present. Mayor Campbell was absent.

**RECOGNITION OF IOWA’S BEST-TASTING WATER:** Mayor Pro Tem Mahayni introduced Phil Propes, Water Plant Superintendent, and John Dunn, Director of Water and Pollution Control. Mr. Propes advised that the Iowa Division of the American Water Works Association (AWWA) selected Ames, among 16 entries, as having the best-tasting water in the state of Iowa. In June 2008, the Iowa AWWA will be entering Ames in the national competition.

**PROCLAMATION FOR NATIONAL HUNGER & HOMELESSNESS AWARENESS WEEK:** November 11-17, 2007, was proclaimed as National Hunger & Homelessness Awareness Week by Mayor Pro Tem Mahayni. Accepting the Proclamation were City Housing Coordinator Vanessa Baker-Latimer; Sharlene Holdhaus, ACCESS; Roy and Pat Hougen, Bethesda Community Food Pantry; Allen Trenkle, Emergency Residence Project; Tamaria Wright, Good Neighbor; Doug Keats, Iowa Council on Homelessness; Janelle Durlin and Barbara Schroeder, Mid-Iowa Community Action; Katie Walquist, The Help Center; and Carrie Dunnwald, Youth and Shelter Services. Ms. Baker-Latimer described the third annual Skip-a-Meal event that will occur on November 15, 2007, in the Ames City Hall Auditorium.

Doug Keats, representing the Iowa Council on Homelessness, stated that a “Point-in-Time” Study conducted last year revealed 19,233 people as being homeless in the state of Iowa. In addition, another 9,864 Iowans are at risk of becoming homeless. He also noted that 11,141 of those totals are under the age of 18.

**CONSENT AGENDA:** Council Member Larson asked to pull, for separate discussion, Item No. 15, which pertained to a Professional Services Agreement for the Raw Water Main Loop Project.

Moved by Goodman, seconded by Doll, to approve the following items on the Consent Agenda:

1. Motion approving payment of claims
2. Motion approving minutes of regular meeting of October 9, 2007, and special meeting of October 16, 2007
3. Motion accepting Report of Contract Change Orders for October 1 - 15, 2007
4. Motion approving renewal of the following beer permits and liquor licenses:
  - a. Class C Beer & B Wine – Southgate Expresse, 110 Airport Road
  - b. Class C Beer & Class B Wine - Wheatsfield Grocery, 413 Douglas Avenue
  - c. Class C Liquor - Legends American Grill, 119 Stanton Avenue, Ste. 701
  - d. Class C Liquor & Outdoor Service Privilege - Element/Chaser’s, 2401 Chamberlain Street
  - e. Class C Liquor & Outdoor Service Privilege - The Meeting House, 823 Wheeler Street, Ste. 4
  - f. Class C Liquor & Outdoor Service Privilege - Thumbs, 2816 West Street
  - g. Class E Liquor, Class C Beer & Class B Wine - The Keg Shop, 218 Welch Avenue, Ste. 3

- h. Class E Liquor, Class C Beer & Class B Wine - Target T-1170, 320 S. Duff Avenue
5. Motion approving new Class C Liquor license for Papa's Corner, 2430 Lincoln Way, subject to issuance of Certificate of Occupancy
  6. Motion approving new Class C Liquor license for Es Tas Stanton, 216 Stanton Avenue, subject to issuance of Certificate of Occupancy
  7. Motion setting December 4, 2007, as a Regular City Council Meeting and canceling November 27, 2007, Regular Meeting
  8. Motion setting December 11, 2007, as Council Workshop instead of Regular Council Meeting
  9. Motion approving encroachment permit for existing parking spaces at 535 South Duff Avenue
  10. Motion approving encroachment permit for sign at 314 Main Street, Ste. 200
  11. RESOLUTION NO. 07-470 approving Voting Delegates for the National League of Cities Congress of Cities
  12. RESOLUTION NO. 07-471 approving City's Investment Report for quarter ending September 30, 2007
  13. RESOLUTION NO. 07-472 approving revision to COTA Mini-Grant for Story Theater Company
  14. RESOLUTION NO. 07-474 awarding contract for Power Plant Boiler Chemical Treatment Program to G.E. Water & Process Technologies of Omaha, Nebraska, in the amount of \$184,256.34
  15. RESOLUTION NO. 07-475 approving Change Order Nos.1-3 for 2006/07 Water Systems Improvements (Water Main Replacement - Beach Avenue)
  16. RESOLUTION NO. 07-476 accepting completion of Hunziker Youth Sports Complex Paving Project
  17. RESOLUTION NO. 07-477 accepting completion of 2006/07 Water System Improvements Program (Water Service Transfers)
  18. RESOLUTION NO. 07-478 accepting completion of Pearle Avenue Reconstruction Project
  19. RESOLUTION NO. 07-479 accepting completion of 2006/07 Collector Street Rehabilitation Program (Northwestern Avenue from 6<sup>th</sup> to 13<sup>th</sup> Street)
  20. RESOLUTION NO. 07-480 accepting completion of 2006/07 Collector Street Rehabilitation Program (24<sup>th</sup> Street)
  21. RESOLUTION NO. 07-481 accepting completion of 2007/08 Neighborhood Curb Program (North Riverside)
  22. RESOLUTION NO. 07-482 accepting completion of Diesel Fire Suppression Pump Installation Project at Power Plant
- Roll Call Vote: 6-0. Resolutions declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

**PROFESSIONAL SERVICES AGREEMENT FOR PHASE I OF THE RAW WATER MAIN LOOP PROJECT:** Council Member Larson noted that easements and land acquisition will need to occur for this Project to be completed. He recommended that the City follow the approach of Context-Sensitive Solutions to receive public input from the affected landowners. Water and Pollution Control Director Dunn explained that the City is embracing the Context-Sensitive Solutions philosophy for this Project. The very first step in this process will be for the City to hold a public meeting with all potentially impacted landowners. The purpose of that meeting will be to allow property owners an opportunity to discuss what they feel will be the impacts to their land by this Project. Staff will also explain the project's importance at that public meeting.

Moved by Larson, seconded by Goodman, to adopt RESOLUTION NO. 07-473 approving the Professional Services Agreement with Fox Engineering for Raw Water Main Loop Project, Phase I, in an amount not to exceed \$70,000.

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

**PUBLIC FORUM:** No one wished to speak at this time.

**HEARING ON MAJOR SITE DEVELOPMENT PLAN FOR THE SHOPS AT EAST PRAIRIE:**

Planner Jeff Benson described the actions that had been taken towards the approval of the Lifestyle Center Subdivision to be located at 3499 East 13<sup>th</sup> Street, which is northeast of the intersection of Interstate 35 (I-35) and East 13<sup>th</sup> Street. The City Council had acted on changes to the Land Use Policy Plan, annexation, Overlay District Ordinance, Rezoning, and Master Plan. Steps 6 and 7 will be considered at this time, which include subdivision of the property and the Major Site Development Plan (MSDP). The only approval remaining for the buildings that are a part of the MSDP would be approval of the Building Permits. The Final Plat will also need to be approved by the City Council.

Mr. Benson recalled that the City Council had approved rezoning the property in question to Regional Commercial with the exception of a Planned Industrial area to the east side of the south parcel. He noted, however, that the Council had directed the City Clerk not to publish or record the Ordinance until the developer had provided proof of ownership of all the property. Staff is recommending a condition be placed on approval of the Preliminary Plat and Major Site Development Plan that the rezoning must take effect. According to Mr. Benson, it is not unusual for a Preliminary Plat to be conditional on rezoning. He also advised that the MSDP references parcels of land, however, those parcels do not yet exist; the parcels will exist once the Final Plat is recorded. Staff is recommending that any approval of the MSDP be conditioned upon the City receiving a recorded copy of the Final Plat.

Preliminary Plat. Planner Ray Anderson explained that a Preliminary Plat shows how the land is divided into lots, as well as public streets, utility improvements, easements/access for public utilities, lot sizes, sidewalks, and bike paths. Mr. Anderson said that the site covered by this Preliminary Plat totals 139.64 acres. The Plat includes 23 lots proposed for development, ten (10) lots for access and road right-of-way purposes, two (2) outlots for storm water management, and one (1) outlot to serve as a landscape buffer (the Ketelsen Marsh buffer zone). The minimum lot size is one acre, which meets the requirements for Planned Regional Commercial. The maximum lot size shown on the Plat is 55.12 acres.

According to Mr. Anderson, the approved Master Plan for this site shows the bicycle path on the north side of East 13<sup>th</sup> Street. The City's Traffic Engineer has recommended that the location of the bicycle path be moved to the south side of East 13<sup>th</sup> Street due to traffic conflicts that might occur with potential future improvements to the I-35 interchange. The developer is being required to install the ten-foot-wide path from the I-35 right-of-way line all the way to the Subdivision. As development occurs on the south side, the path would have to be extended to the east boundary (570<sup>th</sup> Avenue). Mr. Anderson instructed that a Minor Amendment to the Master Plan, which is

approved administratively, will need to be filed to reflect the bike path's location on the south side all the way to 570<sup>th</sup> Avenue.

Mr. Anderson specified that the land located to the east of the proposed Lifestyle Center Subdivision is designated for Planned Industrial land use on the LUPP Map. Upon development of the land as Industrial, increased traffic volumes would most likely require the addition of a west-to-south-bound "loop" ramp located in the northwest quadrant of the interchange. Its purpose would be to separate conflicting westbound left-turn movements from oncoming eastbound through movements.

Per Mr. Anderson, the developer has met the Master Plan stipulations regarding setbacks.

Request for Waiver of Sidewalk Requirement in the Right-of-Way for 570<sup>th</sup> Avenue. Planner Anderson stated that there is a sidewalk shown on the Plat along 570<sup>th</sup> Avenue that would go from East 13<sup>th</sup> Street to the north boundary of the Subdivision. It is a four-foot-wide sidewalk in the public right-of-way that is required by subdivision regulations. Mr. Anderson noted that the developer has requested that the Council grant a waiver of the requirement for that sidewalk. To grant a waiver, the Council must find that strict compliance with the requirement for sidewalk would result in extraordinary hardship to the applicant or would prove inconsistent with the purpose of the regulations because of unusual topography or other conditions. Section 23.403(14) in the Municipal Code addresses requirements for sidewalks. It states that a minimum of a four-foot-wide sidewalk shall be installed in the public right-of-way along each side of any street within residentially and commercially zoned areas and along at least one side of any street within industrially zoned areas.

The developer asserts that the request for a waiver should be granted by the City Council not because of an extraordinary hardship or unusual topography, but because:

1. The land to the east of the proposed subdivision is zoned "Industrial," which requires sidewalk on only one side of the street. The land to the east of the Subdivision is not inside the corporate limits of Ames and is zoned "A-1" (Agricultural). The Land Use Policy Plan Map for the City does designate land to the east of the proposed subdivision as "Planned Industrial."
2. The sidewalk, if required, would lead to Ketelsen Marsh. The developer believes that it would be more appropriate to construct the sidewalk on the other side of 570<sup>th</sup> Avenue, away from the natural approach to the Marsh.
3. The bicycle path and sidewalk along East 13<sup>th</sup> Street, which will be constructed by the developer, will provide convenient access and connectivity to the City-wide sidewalk system.

Major Site Development Plan. Planner Jeff Benson reminded the Council that it approved the Master Plan for all property within the Northeast Gateway Overlay District on December 19, 2006. The Master Plan is conceptual and sets out how the overall development will meet the design standards of the City's Zoning ordinance. The MSDP contains the design detail needed to understand how the Master Plan will be carried out on each property. A comprehensive review of the MSDP has been performed by staff from all affected departments (Public Works, Building Inspections, Fire, Water and Pollution Control).

According to Mr. Benson, a Major Site Development Plan applies to specific platted lots. The MSDP under consideration includes all of the property within the “ring road” of the Lifestyle Center, the required marsh buffer in Outlot A, the stormwater features in Outlots B and C and the entry roads: Lots C, D, F, and H. The major anchor stores on Lots 2 and 4 are not included at this time; they will be brought in separately.

Mr. Benson reviewed the landscaping requirements for parking lots. He pointed to the large areas of bioswales at the south end of the parking lot. This has resulted in a much larger green space. Normally, trees are required 50' on center; however, in this development, trees are being provided every 30 or 35' on center. Native species trees at 30- to 35-foot spacing will define the space along the roads with sidewalks connecting the Lifestyle Center to the future buildings on outlots north and south of the Lifestyle Center. Trees and shrubs of mostly native species will buffer views of the parking lots from Interstate 35. Staff has determined that the parking lot landscaping meets the ordinance requirements. Mr. Benson also advised that the landscaping buffer between Ketelsen Marsh and the Lifestyle Center meets all the standards as provided by the ordinance. The developer still needs to finalize an agreement with Story County to provide for the permanent protection and maintenance of the buffer.

According to Mr. Benson, when the City Council approved the Master Plan for this project, it included a stipulation deferring approval of the Shopping Street space between the specialty stores. He advised that the landscape and hardscape features in the Major Site Development Plan have satisfied this stipulation. A raised 1 ½-foot-high median has been placed down the center of the Shopping Street to provide a habitat where plants can thrive. Many trees have been placed in that median to divide the space into two separate spaces. Benches, trash receptacles, decorative lights, and lots of perennial and native flowers have been added. A major courtyard will be located in the center of the development and smaller courtyards will be installed at the front of each anchor.

Mr. Benson noted that the ordinance requires using masonry as an accent material on every face of every building. Masonry may be comprised of brick, stone, or reconstructed stone. Brick and/or reconstructed stone will be used on this project. The developer has met the standards; however, staff has requested that the drawings be made more clear so it can be determined exactly which materials are being used and at what location. It was also stated by Mr. Benson that there are design guidelines pertaining to building walls that face a public street. On two of the building walls that face I-35, staff feels that the developer has not met the guidelines to show a lot of architectural variations. There is a very specific list of features in Section 29.1109(14)(h); the developer will need to choose from that list to meet the guideline.

As noted by Mr. Benson, the earlier design identity element was windmills, but it was felt that that was a difficult image to work with at various scales and it was not broad enough. The theme for the entry landscaping along East 13<sup>th</sup> Street, the primary entry feature, and the entry monument signs is now prairie architecture in a prairie landscape. Tiles integrated with the Lifestyle Center will interpret the theme of inventors rooted in Iowa State University. Commemorative markers in the Shopping Street will have information celebrating inventors from Iowa State.

In summary, Mr. Benson stated that staff believes the overall design meets all standards, and staff recommends that the City Council make the finding that the guidelines and standards of the Overlay District have been met and that the purposes of parking lot landscaping have been met.

Developer Comments. Ian Macaskill, Architecture Plus, described the events that had transpired during the past ten months since approval of the Master Plan. He clarified that the major anchor stores are not part of the MSDP. They will be submitted as their own MSDPs; however, the parking area, which is constructed by the developer, is included with this submittal. Parking has been reduced in the main Shopping Street to include additional green space. Sidewalks will now come all the way in to the center from the out-parcels.

Regarding building design, Mr. Macaskill advised that the developer constructs the building shell. The buildings will be changed to meet particular tenant's requirements; some flexibility will occur. If one of the spaces is not leased, Wolford Development will construct the store front.

To provide the necessary parking for the Lifestyle Center in a park-like setting was a major challenge; however, Mr. Macaskill believes that they have met that challenge. More greenspace and landscaping have been included. Mr. Macaskill showed a series of artist's renderings depicting the amenities of the Plan.

Craig Erickson, Landscape Architect with Shrive-Hattery, further explained components of the landscape plan. He stated that the trees represented on the drawings show what they will look like in five years.

Public Comments. Mayor Pro Tem Mahayni opened the public hearing.

Scott Bauer, 2415 Yorkshire Circle, Ames, Chairman of the Board of the Ames Chamber of Commerce, asked the City Council to approve the Preliminary Plat and Major Site Development Plan. He pointed out that the developer has met the expectations laid out by the City. The Chamber looks forward to the increased revenues from the 1% Local Option Sales Tax that goes to property tax relief and community betterment. Mr. Bauer said that the Plans also meet three of the Council's 2007/08 goals: (1) expanded entertainment and shopping opportunities; (2) encouragement of innovative and attractive community development; and (3) possible annexation of the industrial land east of the proposed mall to be part of the bio-economy. Mr. Bauer also asked the Council to grant the waiver of the sidewalk requirement asked for by the developer. He said that the developer has asked for no financial concessions from the City, such as tax abatement, which the City has given to other businesses; in fact, the developer will pay more out-of-pocket than others have to locate businesses in Ames. Also, this project extends the necessary utilities across the Interstate at little cost to the City for a possible and much-needed commercial and industrial park east of the Lifestyle Center property. With those benefits, the "sidewalk to nowhere" becomes less important.

John Russell, 1916 Polk Drive, Ames, Chairman of the Board of Directors of the Ames Economic Development Commission (AEDC), indicated that this project has received resounding approval by the AEDC. There is opportunity for retail sales, and with those sales, sales tax will increase; with increased sales tax comes an increase in the Local Option Sales Tax, which further benefits Ames

Schools and tourism. From the annual study conducted by the AEDC, it has been determined that this type of amenity would be helpful in recruiting workforce to Ames, which is another reason why they are supportive of this development. The AEDC feels that it is very important that this development take place because it would be the driver towards a fully served industrial business park on the east side of the Interstate. The AEDC feels that the developer has met all requirements of the City zoning standards and development codes, and it encourages approval of the Plans and granting the waiver of the sidewalk requirement pertaining to 570<sup>th</sup> Avenue.

Catherine Scott, 1510 Roosevelt, Ames, spoke against approval of the sidewalk waiver. She felt that a sidewalk is another pedestrian and cyclist opportunity on the site. Ms. Scott is concerned about the lack of shade on the site before the trees mature and asked for some of the structures that have wooden slats, e.g., the structures at the Iowa City Ped Mall. She asked that the commemorative markers be placed out of the way of pedestrians. Ms. Scott said that she is unclear how far into the site CyRide will go. Other concerns expressed by Ms. Scott were: the durability of the buildings, repeated requests for approval of Major Site Development Plans, and who would pay for the “loop” to access the Interstate. She believes that “it is a different world now from when this project first was presented.” There is so much more awareness of global warming and the need to live sustainably. Ms. Scott said that she had recently read that General Growth has decided not to build a large mall in Wisconsin; they are going to mixed-use development, and she is concerned that this development has taken so long that Ames is “already out of date before it turned the first spade.”

Holly Fuchs, 806 Brookridge, Ames, expressed the following concerns that she has with this project: (1) the lack of shade until the trees mature; (2) the Council would approve the Plan with several uncertainties, e.g., floodplain issues have not been resolved and land ownership has not been completed; (3) false fronts are involved; she does not like artificial facades; (4) raised planter beds should not be constructed as low planter beds allow for the water to run off to benefit the plants; and, (5) the 35' high sign, which she hopes is not neon-lit. Ms. Fuchs also asked for clarification of the developer’s responsibilities pertaining to traffic. According to Mr. Fuchs, increased sales taxes might not happen. Lastly, she is in favor of the sidewalk being required on 570<sup>th</sup> Avenue.

Joe Rippetoe, 419 Pearson Avenue, Ames, said, in his opinion, there are three major problems with the Major Site Development Plan:

1. There is not an approved Traffic Impact Study. Submission of a Traffic Impact Study is required under the Developer’s Agreement between Wolford Development and the City of Ames. According to Mr. Rippetoe, the developer’s submission at this time is clearly incomplete.
2. The proposed site plan is part of a Rezoning Agreement for 322 acres, and the Development Agreement calls for the developer to purchase all the land before the rezoning is final.

As of today, according to Mr. Rippetoe, the developer has purchased approximately 77 acres of land; none of the three major conditions for the rezoning have been met: title to the land, proof of financing, proof of retail leases. He does not believe a Major Site Plan had ever been approved before the conditions for rezoning had been met.

3. The review process is flawed: Proof of ownership of the land, proof of financing, proof of leasing are not complete.

Mr. Rippetoe believes that the MSDP is being brought to the Council at this time because of: (1) the upcoming Council election or (2) the developer is seeking a favorable headline that can be sent to potential lenders and tenants. According to Mr. Rippetoe, "It is a way to jump-start something that isn't working." In Mr. Rippetoe's opinion, it would be "unbelievably premature" for the City Council to approve the Plan at this meeting.

Jim Bloedel, 3001 Hemlock Circle, Ames, indicated that he is a strong advocate for "moving on." Any issue, particularly one this complex, could be the subject of endless study; however, it is definitely time to move on. He said that there has been published data and presentations that point towards serious concerns regarding the healthy growth of the City. It was pointed out that while Ames has closed schools, several similarly sized communities have had significant economic growth. Other communities are voting on bond issues tonight to build new schools and decrease crowding. Mr. Bloedel referenced presentations made to community groups by Peter Orazem pointing out the City's precarious economic circumstances and the fact that Ames needs private-sector growth just to maintain its current level of income and employment. Mr. Bloedel urged the City Council to make a decision tonight that will be an important step towards that growth - a step that will also improve quality of life, and hopefully, persuade people to choose Ames as the place to live.

Daryle Vegge, 5128 Schubert Street, Ames, urged the City Council to unanimously approve the Major Site Development Plan and Preliminary Plat. He agreed with Catherine Scott that things have changed since this issue first surfaced; it has taken a long time, but it is time to move on. The issue was controversial, and the City Council received a lot of public input. A task force was formed, and design standards were created. Mr. Vegge pointed out the purpose of the O-GNE Overlay is to require that commercial development results in high-quality development that is representative of the most-desirable design quality and character that exists in the community. He quoted an excerpt from the staff report, which states that the applicant has complied with the City's general development standards as well as the development standards for the Planned Regional District. Professionals, as well as the community, have spent a lot of time on this issue. All things are in place, and it is time to move ahead with this development.

Eve Doi, 1324 Mayfield Drive, Ames, a representative of the Ames Chamber of Commerce and the Economic Development Commission, advised that one of their goals is to improve the business climate for their current and future members. She asked for the City Council's cooperation in making that happen. Ms. Doi said that she also represents the Young Professionals of Ames. She asked the City Council to think about those whom they want to keep here and those whom they want to attract. People come to Ames for many reasons and will utilize the resources in this community. She asked the Council to move forward with this project.

There being no one else wishing to speak, the hearing was closed.

Council Member Popken requested clarification about the Traffic Study and signage. John Joiner advised that the Traffic Study is complete. It was forwarded to the Federal Highway Administration (FHWA), which deferred its authority to the Iowa Department of Transportation (IDOT), stating that it had no impact on the Interstate system. Four minor comments were received from the IDOT. Contact has been made with the District IDOT representatives; they have no additional comments.

Council Member Mahayni asked if CyRide would stop at the Welcome Center. Mr. Joiner confirmed that there is a CyRide turnaround within the complex; it will be an intermodal point. Mr. Macaskill pointed out the location of the turnaround on the map.

In answer to one of Holly Fuchs' concerns, Mr. Macaskill advised that none of the Center's signs will be neon-lit.

Council Member Rice said that, to him, there are three major obstacles to approval of the Plat: title to land, financing, and retail leases. He asked the developer to share the names of the companies that have signed retail leases. Mr. Rice added that he had just come from "Business After Hours" at North Grand Mall, which is planning on many new stores. He doesn't believe that Ames can support two malls, and he wondered where Mr. Wolford's tenants are coming from and what they might be. Mr. Rice stated that he needed to know that information before he could move this project forward.

Regarding land ownership, Bucky Wolford, President of Wolford Development, Chattanooga, TN, advised that they will close on all the land by December 1, 2007. Wolford Development closed on one-third of the land approximately one year ago. The developer has recently acquired the Payer parcel of property, which is the eastern portion from the Rueter property over to 570<sup>th</sup> Avenue. They plan to exercise their purchase options and close on the remaining properties by the December date specified in the Developer's Agreement. Attorneys are now in the process of preparing Title Opinions. Mr. Wolford said that he is also buying property on the south because the Development Agreement required him to do so. They are, however, required to develop the property on the north side before development may occur on the south side. Also per the Agreement, he is acquiring Industrial property to the east of 570<sup>th</sup>. Regarding financing, Mr. Wolford pointed out that he would not be able to buy the property if the finances were not in order. Appraisals have been and are being done. Also, his banker will be issuing a letter stating that financing is available for the construction of the project. Regarding retail leases, Mr. Wolford advised that they have many Letters of Intent that have been executed by tenants. Two of those are for mini anchors new to the Ames market. Mr. Wolford explained that tenants want to make their own announcements about their new stores. Representatives from the third mini anchor will be visiting Ames this week. Letters of Intent have been executed by the department stores. Mr. Wolford said that it had been very difficult to get people to move forward on this project "not knowing what the reality is here." He recalled that after the Developer's Agreement was approved and signed, there was a time period of several months where there was discussion about rescinding the rezoning and LUPP change. That presented problems for Wolford Development, as people in the retail market who are not familiar with Ames do not understand why they would not be welcomed with open arms. Mr. Wolford said that it has made it difficult, but they will get there.

Council Member Rice asked what happens if everything is not done by the December 1, 2007, deadline.

City Attorney Doug Marek advised that there are three requirements: (1) Title Opinions need to be prepared by attorneys proving that ownership in fee simple has been obtained for the subject property by December 1, 2007; (2) proof of equity financing needs to be provided to the City by December 1, 2007; and, (3) proof of short-form leases or purchase contracts. These documents need to be submitted to the City and a determination will be made by the City Attorney whether they satisfy the conditions. If any of those requirements are not met, the remedy under the Agreement with the developer is that the City may take steps to rescind or modify the zoning. The Agreement does not become binding until the Zoning Ordinance is published, and therefore, in effect. The Agreement also provides that waiver of any one of those does not preclude exercising other options later; it is not “all or nothing” by December 1, 2007. The publishing of the Ordinance is tied to the purchase of the land. At that point, the Agreement becomes binding on the land. At the time that the Zoning Ordinance was finally approved, the City Clerk was directed not to publish until there was proof of ownership of the land. Council Member Larson asked if the lack of any of those at this time precludes the City Council from approving the items on this Agenda. Attorney Marek advised that they are unrelated.

Mr. Wolford indicated that the waiver of sidewalk requirement is being requested under the “other” category allowed in the Municipal Code. He indicated that, when discussions about this project first began, he had meetings with the family members of the Ketelsen Marsh. It was at first thought that it would be desirable for this development to have a connection to Ketelsen Marsh, e.g, a trail through the buffer area. During those meetings, which included the Director of Story County Conservation, family members expressed very strongly that they did not want any kind of connection between the development and the Marsh. The sidewalk, if constructed, would dead-end right next to Ketelsen Marsh. The pavement will end at the northern end of the development, and from that point forward, it will be a gravel road. Mr. Wolford said he was trying to make sure that he did not violate the desires of the Ketelsen Family. He said the other aspect is that under the City’s ordinance, a sidewalk in an industrial area is only required on one side. In this particular situation, with Ketelsen Marsh located to the north, it is more appropriate for the sidewalk to be on the east side of 570<sup>th</sup> Avenue. Mr. Wolford realizes that the City has not annexed the industrial land at this point, but it appears that it will be considered in the future. If the sidewalk is going to be required, Mr. Wolford offered a compromise: Wolford Development would construct the sidewalk to the first entrance off of 570<sup>th</sup>; otherwise, the sidewalk would go nowhere.

Council Member Larson recalled sitting in on meetings about the Marsh. He said that Story County Conservation officials stated that they did not want pedestrians at the Marsh because hunting occurs there. He agreed that the sidewalk would be going nowhere unless Ketelsen Marsh were going to be opened up as a recreational venue for people to walk or ride bikes. If that were the case, Mr. Larson felt that it should be a bike path rather than a sidewalk. It makes more sense to him to approve Mr. Wolford’s compromise to construct the sidewalk to the first entrance to the Center on 570<sup>th</sup> (Lot 7).

Council Member Popken said that it was his impression that Story County Conservation officials did not want the design for the Lifestyle Center to be integrated with the Marsh. He felt that meant that they did not want people to park in the Lifestyle Center parking lot and walk to the Marsh. In his opinion, what is at issue here is a sidewalk on a public street.

Council Member Goodman stated that Ames has a lot of sidewalks that go nowhere; they come from decisions such as this. He prefers that the sidewalk would go to the second entry on 570<sup>th</sup>. Mr. Wolford indicated that the developer would be willing to go to the second entrance. The issue is not a financial one; it is a matter of purpose. He pointed out that there is a sidewalk coming out of the major anchor on the north side of the development, and it would serve pedestrians who want to access the Center on that side. Council Member Popken said that there is industrial zoning on the other side of the street. Industrial does allow office buildings, and there could be pedestrian traffic there.

Mr. Goodman stressed that multi-modal transportation and equal access to the entire community is important. A reasonable compromise would be to require the sidewalk to the last auto entrance. He thinks overall this is a great development and this sidewalk will not stand in the way of a great business opportunity for Mr. Wolford.

Council Member Larson said he is surprised that they “are trying to squeeze this last tiny bit out of the developer” on this. He said that if commercial develops on the east side, if the property is annexed, it would be more beneficial and make more sense for the sidewalk to be located on the side where commercial development exists. Otherwise, people in the buildings on the east side of the street would have to cross the street to get to the sidewalk.

Council Member Doll pointed out that there are ways to access the development by multi-modal transportation without the construction of the sidewalk in question.

Council Member Rice stated that he is still concerned about three “gaping spots” (empty spaces) - the three undecided anchors. Scale has been an issue for him on this whole development. He complimented the architect for giving up on the windmill theme. Mr. Rice does not believe that traffic will flow well inside the development. He again asked the developer to share who the major anchors will be.

Moved by Doll, seconded by Larson, to adopt a resolution approving the requested sidewalk waiver. Roll Call Vote: 3-3. Voting aye: Doll, Larson, Mahayni. Voting nay: Goodman, Popken, Rice. Motion failed.

Moved by Goodman, seconded by Rice, to adopt RESOLUTION NO. 07-490 approving the sidewalk waiver for Lot 6 and Outlot A (the section north of the last auto entrance). Vote on Motion: 4-2. Voting aye: Doll, Goodman, Mahayni, Rice. Voting nay: Larson, Popken. Resolution declared adopted, signed by the Mayor, and hereby made a portion of these minutes.

Moved by Popken, seconded by Goodman, to adopt RESOLUTION NO. 07-483 approving the Preliminary Plat, with the following stipulations:

1. Public improvement plans shall be submitted to the Public Works Department for review and approval prior to installation of public improvements and prior to submittal of the Final Plat.
2. Public utility easements shall be included on the Preliminary Plat for all public utility lines prior to submittal of the Final Plat. The width of public utility easements shall be 15 feet for water, 15 feet for storm sewer, and 20 feet for sanitary sewer.
3. Lots "A" and "B" shall be dedicated to the City of Ames as public street right-of-way at the time of approval of the Final Plat.
4. Lots C, D, E, F, G, H, I, and J, as shown on the Preliminary Plat, shall, at the time of Final Plat approval, be established as access easements, to which the City of Ames shall be named as a party.
5. The access easement, shown on the Preliminary Plat as crossing Lot 3 to provide access to Lot 2, to which the City of Ames is a party, shall be established at the time of approval of the Final Plat.
6. The access easement, shown on the Preliminary Plat as crossing Lot 5 to provide access to Lot 4, to which the City of Ames is a party, shall be established at the time of approval of the Final Plat.
7. At the time of construction of street improvements for East 13<sup>th</sup> Street, the developer shall construct the bicycle path, ten (10) feet wide, along the south side of the East 13<sup>th</sup> Street right-of-way, from the I-35 right-of-way to Lot "H", as shown on the Preliminary Plat.
8. At the time of construction of street improvements for East 13<sup>th</sup> Street, the developer shall construct the public sidewalk, four (4) feet wide, along the right-of-way for East 13<sup>th</sup> Street between Lot "H" and 570<sup>th</sup> Avenue.
9. A Master Plan minor amendment with the change in location of the bicycle path as shown on the Preliminary Plat for the Lifestyle Center Subdivision shall be submitted by the applicant and approved by City staff.
10. The "PRC" (Planned Regional Commercial) and "O-GNE" (Northeast Gateway Overlay) District zoning designations shall take legal effect.
- 11 Sidewalk will be required on 570<sup>th</sup> Avenue except on Lot 6 and Outlot A (the section north of the last auto entrance).

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

Moved by Rice to approve the Major Site Development Plan with the stipulation that it come back to the Council after the 11 conditions placed on its approval are met.  
Motion died for lack of a second.

Moved by Goodman, seconded by Larson, to adopt RESOLUTION NO. 07-484 making a finding that the Major Site Development Plan meets:

1. The guidelines and standards of the “O-GNE” (Northeast Gateway Overlay District); and,
2. The purposes of landscaping requirements for surface parking lots, as described in Section 29.403(4a) of the Municipal Code;

and, approving the Major Site Development Plan with the following conditions:

1. The PRC and O-GNE zoning designations must take legal effect.
2. The Final Plat must be recorded with Story County.
3. The orientation or dimensioning of handicapped parking spaces on the Major Site Development Plan must be changed to provide an eight-foot-wide striped area on the passenger side of all parking spaces that are designated as van-accessible.
4. On the Major Site Development Plan, easements must be shown for all public storm sewers (except building drainage lines), sanitary sewer mains and water mains, and the plans must indicate that all public utilities must be constructed to Urban Standards Specifications for Public Improvements.
5. City staff shall review and approve an updated Stormwater Management Plan.
6. The locations shown on the landscaping plans and the Traffic Signage Plan for the speed tables shall be coordinated. (Locations may be selected at the developer’s discretion.)
7. Drainage easements shall be shown on the Major Site Development Plan for all stormwater detention ponds.
8. A discharge pipe for the bioswale in the northwest corner of the parking lots must be shown on the Major Site Development Plan or infiltration rates must be provided in the Stormwater Management Plan indicating that there will be no standing water that would require a discharge pipe.
9. On the Major Site Development Plan, specific material types and material locations shall be shown that meet the building design standard for accent materials.

10. On the Major Site Development Plan, the architectural variations referenced by Section 29.1109(14)(h) shall be shown on two facades that face Interstate 35: the west facade of Building 200 and the west facade of Building 900.
11. On the Major Site Development Plan, higher light levels at the pedestrian crossings within the Lifestyle Center Shopping Street shall be provided.

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

It was noted that after City staff certifies approval of the Major Site Development Plan, the following conditions must be met:

1. The comments on the Construction SWPPP Review Checklist shall be followed before the Grading and Stormwater Permit will be issued.
2. The mechanical rooms for Building 900 (Cinema) and for the two major anchor stores must be shown on the future building plans before Building Permits will be issued.
3. Post Indicator Valves shall be installed in locations approved by the Fire Department as the fire supply water lines are installed during construction.

The meeting recessed at 9:00 p.m. and reconvened at 9:07 p.m.

**HEARING ON GRAND AVENUE EXTENSION POWERLINE RELOCATION PROJECT:** The public hearing was opened by Mayor Pro Tem Mahayni. No one wished to speak, and the hearing was closed.

Moved by Goodman, seconded by Rice, to adopt RESOLUTION NO. 07-485 approving final plans and specifications and awarding a contract to Michels Power of Neenah, Wisconsin, in the amount of \$154,500.

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

**HEARING ON 2007/08 SIDEWALK SAFETY PROGRAM:** The Mayor Pro Tem opened the public hearing and closed same after no one asked to speak.

Moved by Goodman, seconded by Doll, to adopt RESOLUTION NO. 07-486 approving final plans and specifications and awarding a contract to Ames Concrete Contractors of Ames, Iowa, in the amount of \$63,109.10.

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

**REQUEST FOR WAIVER OF SUBDIVISION REQUIREMENTS FOR PROPERTY LOCATED ON 550<sup>TH</sup> AVENUE IN STORY COUNTY:** Seana Perkins, Planner, advised that the City has received

a request for approval of a proposed subdivision located directly west of 550<sup>th</sup> Avenue, east of U. S. Highway 69, south of Ken Maril Road, and north of 265<sup>th</sup> Street. The property is located south of the corporate limits of Ames. It was noted by Ms. Perkins that this request came before the Council on September 12, 2006, and was postponed to afford staff time to discuss certain covenants with the property owner. Staff did discuss the covenants with the property owners; however, Robert Musselman, who owns one-third of the property, did not wish to sign the covenants. The new proposal via a letter dated September 27, 2007, provided additional clarification of the circumstances surrounding the proposed subdivision.

According to Ms. Perkins, Story County has conducted a L.E.S.A. evaluation on the subject property and determined that it is high-value agricultural land. The property is zoned A-1, which requires a minimum of 35 acres to be allowed to construct a home on it. Story County staff has advised that, due to the high L.E.S.A. score and the restrictive lot area, it would be difficult for the property owner to further develop the property for residential use.

Ms. Perkins stated that, in this case, City staff does not support the requirement of covenants for the following reasons:

1. The applicant has no intention of developing residential uses on this site.
2. Under the current zoning and with the high value L.E.S.A. score, Story County would not support residential development on this site.
3. Rezoning of this property by Story County would be inconsistent with the Urban Fringe Plan.
4. The site's "Agricultural and Farm Service" designation through the Urban Fringe Plan is not conducive to development.
5. The site is not designated as a Priority Growth Area in the LUPP.
6. Public infrastructure is not proposed or requested through this subdivision request.

It was noted that the platting requirements of Story County will need to be met and a copy of the recorded Plat of Survey delivered to the Ames City Clerk.

Moved by Rice, seconded by Popken, to adopt RESOLUTION NO. 07-487 approving waiver of subdivision requirements for Robert Musselman's property located on 550<sup>th</sup> Avenue in Story County, with the following stipulation:

1. The platting requirements of Story County must be met and a copy of the recorded Plat of Survey delivered to the Ames City Clerk.

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

**SALE OF GENERAL OBLIGATION BONDS:** City Treasurer Roger Wisecup advised that bids were accepted this morning on approximately \$9.6 million General Obligation Bonds. The Bonds have again been assigned a Aaa rating by Moody's. Ten bids were received and evaluated by Public Financial Management (PFM), the City's bond counsel, and City staff.

Tionna Pooler, Senior Management Consultant with PFM, gave the results of the bid. The proceeds will be used for street improvements and construction of the aquatic center. The ten bids covered 16 banks from six states. The cost on the debt came in at 3.67%, which is much lower than anticipated. That results in interest to be paid over the life of the Bonds being approximately \$540,000 less than anticipated. The underwriter also bid a price that was higher than what was planned for, and the result of that is an additional \$125,000 to be spent on projects. PFM recommended that the City award the sale of the Bonds to Piper Jaffray, which came in with the lowest interest rating.

Moved by Larson, seconded by Popken, to adopt RESOLUTION NO. 07-488 awarding sale of General Obligation Bonds, Series 2007A, in an amount not to exceed \$9,630,000, to Piper Jaffray. Roll Call Vote: 6-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

**CONTRACT FOR PUBLIC RESTROOMS:** City Manager Schainker advised that a letter was received from Michael Yeagle, Director of Operations for Campustown Property Management, indicating a desire to terminate the City's formal arrangement for public use of the private restrooms. Mr. Yeagle expressed a willingness to make restrooms available to the public at 200 Stanton on an experimental basis without any charge to the City. Mr. Yeagle's intent is to monitor this situation for approximately eight weeks to determine if any problems associated with vandalism occur at this site. If not, Mr. Yeagle is willing to continue to make these restrooms available to the public and possibly revisit including the restrooms at 303 Welch Avenue.

Mr. Schainker stated that the Student Affairs Commission, at its meeting of October 18, 2007, unanimously supported voiding the city's contract with Campustown Property Management and supported experimenting with the public use of the restrooms at 200 Stanton for the next eight weeks. Mr. Schainker felt it appropriate that the City continue to assist with the placement of applicable signage.

According to Mr. Schainker, since the restrooms have never been open to the public, no payments have been made under the Contract, and the 30-day notification period had not elapsed, the appropriate action would be for the City Council to void the Contract.

Moved by Rice, seconded by Goodman, to adopt RESOLUTION NO. 07-489 voiding the Contract with Campustown Property Management for public restrooms. Roll Call Vote: 6-0. Resolution declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

**DEER FEEDING ORDINANCE:** Moved by Goodman, seconded by Rice, to pass on first reading an ordinance prohibiting the feeding of deer.  
Roll Call Vote: 6-0. Motion declared carried unanimously.

**DANGEROUS DOMESTIC ANIMALS ORDINANCE:** Moved by Doll, seconded by Rice, to pass on second reading the Dangerous Domestic Animals Ordinance.  
Roll Call Vote: 6-0. Motion declared carried unanimously.

**TRANSIENT MERCHANT ORDINANCE:** Moved by Doll, seconded by Larson, to pass on second reading the revised Transient Merchant Ordinance.  
Roll Call Vote: 6-0. Motion declared carried unanimously.

**ORDINANCE ESTABLISHING THE UNIVERSITY-IMPACTED AREA WEST URBAN REVITALIZATION AREA:** Moved by Doll, seconded by Rice, to pass on second reading an ordinance establishing the University-Impacted Area West Urban Revitalization Area.  
Roll Call Vote: 6-0. Motion declared carried unanimously.

**STUDENT AFFAIRS COMMISSION ORDINANCE:** Moved by Goodman, seconded by Doll, to pass on third reading and adopt ORDINANCE NO. 3929 regarding the Student Affairs Commission.  
Roll Call Vote: 6-0. Ordinance declared adopted unanimously, signed by the Mayor, and hereby made a portion of these minutes.

**COMMENTS AND FUTURE AGENDA ITEMS:** Council Member Rice said that he had heard the fireworks associated with the ISU Homecoming at Midnight on October 19 louder than he had ever heard them before. It was obvious to him that using smaller shells did not work to mitigate the noise. He had no complaints from the public, however.

Referencing the recent Campustown Safety Walk, Council Member Rice advised that cleanliness of the sidewalks in Campustown repeatedly surfaced as an issue. He asked to know the status of the sidewalk cleaner. Public Works Director Joiner advised that he is working with the Fleet Services Director for machine demonstrations. Council members will be contacted to see demonstrations in the future.

Moved by Popken, seconded by Mahayni, to direct staff to give a ten-minute report on the progress and marketing of Electric Services Demand-Side Management.  
Vote on Motion: 6-0. Motion declared carried unanimously.

Moved by Larson, seconded by Popken, to direct staff to give an update on Unit #7, place on the agenda a closed session to discuss options, and direct the City Clerk to find the first available date after test data has been collected following reinstallation.  
Vote on Motion: 6-0. Motion declared carried unanimously.

**ADJOURNMENT:** Moved by Doll, seconded by Goodman, to adjourn the meeting at 9:34 p.m.

---

Diane R. Voss, City Clerk

---

Ann H. Campbell, Mayor