

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

AMES, IOWA

DECEMBER 4, 2007

The regular meeting of the Ames City Council was called to order by Mayor Campbell at 7:00 p.m. on December 4, 2007, in the City Council Chambers in City Hall, 515 Clark Avenue. Present from the Ames City Council were Doll, Goodman, Larson, Mahayni, Popken, and Rice. *Ex officio* Member Luttrell was absent.

PROCLAMATION FOR INTERNATIONAL HUMAN RIGHTS DAY: Mayor Campbell proclaimed December 10, 2007, as International Human Rights Day. Accepting the Proclamation were Amber Corrieri, Mary Jo Mattila, and Bronwyn Beatty-Hansen, representing the Ames Human Relations Commission.

CONSENT AGENDA: Moved by Rice, seconded by Popken, to approve the following items on the Consent Agenda:

1. Motion approving payment of claims
2. Motion approving minutes of regular meeting of November 20, 2007, and special meeting of November 27, 2007
3. Motion approving the following renewals of beer and wine permits & liquor licenses:
 - a. Class C Beer & B Wine – Kum & Go #113, 2801 E. 13th Street
 - b. Class C Beer & B Wine – Kum & Go #214, 111 Duff Avenue
 - c. Class C Beer & B Wine – Kum & Go #215, 4506 Lincoln Way
 - d. Class C Beer & B Wine – Kum & Go #216, 203 Welch Avenue
 - e. Class C Liquor & Outdoor Service – Cazador Mexican Restaurant, 3605 Lincoln Way
4. Motion approving Outdoor Service Privilege for Outlaws, 2522 Chamberlain Street
5. Grand Avenue Extension right-of-way acquisition:
 - a. RESOLUTION NO. 07-506 accepting the transfer of land from the state of Iowa
 - b. RESOLUTION NO. 07-507 approving Purchase Agreement with Midwest Centers LP
 - c. RESOLUTION NO. 07-508 approving Tenant Purchase Agreement with HyVee, Inc.
6. RESOLUTION NO. 07-509 approving agreement with Hap's Air Service, Inc., for hangar leases
7. RESOLUTION NO. 07-510 approving Downtown Facade Grant for 230-232 Main Street (second floor)
8. RESOLUTION NO. 07-511 approving contract with Willey, Inc., of Ames, Iowa, in the amount of \$21,048.67/car for six 2008 Ford Crown Victorias for the Police Department at a total cost of \$126,292.02
9. RESOLUTION NO. 07-512 approving contract and bond for 2007/08 Sidewalk Safety Program
10. RESOLUTION NO. 07-513 accepting completion of Water Supply Wells Nos. 25, 26, and 27 (Divisions 2 & 2A–Raw Water Main)
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 spoke during this time.

HEARING ON SALE OF 608 DURRELL CIRCLE: The public hearing was opened by Mayor

Campbell. No one wished to speak, and the hearing was closed.

Moved by Mahayni, seconded by Goodman, to adopt RESOLUTION NO. 07-514 approving the sale of 608 Durrell Circle to Habitat for Humanity of Central Iowa in the amount of \$57,500.

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

STATUS OF WOLFORD DEVELOPMENT SUBMITTAL REQUIREMENTS RELATED TO REGIONAL COMMERCIAL DEVELOPMENT AT I-35 AND E. 13TH STREET: City Attorney

Doug Marek stated that he would be giving a preliminary report on the status of the submittals at this meeting; however, there are some issues for which he has requested additional information, and that is forthcoming.

Mr. Marek said that, per the Developer's Agreement, Wolford Development Options had until December 1, 2007, to provide proof of title to the land, equity capital and financing, and binding leases or purchase agreements. Under the Agreement, because December 1, 2007, fell on a Saturday, it was continued until the next business day, which was December 3, 2007. On November 30, Bill Bartine, the attorney for Mr. Wolford hand-delivered to the City Clerk recorded Warranty Deeds and the Title Opinion. The other required materials, because they contained proprietary information, were shown to Mr. Marek. So as to not have the confidential materials be part of the City's records, Attorney Marek agreed to meet with Mr. Bartine at his office to review the documentation in detail. Mr. Marek's review was finished late this afternoon.

The Council was informed by Mr. Marek that, under the Agreement entered into approximately two years ago (in 2005), Wolford Development Options is bound to construct, on the north side, a facility with a minimum size of 498,000 square feet. It was clear to Mr. Marek that Wolford Development Options did acquire the land prior to the December 1, 2007, deadline; Warranty Deeds have been recorded. The Title Opinion, however, does indicate that it is subject to a mortgage loan, and Mr. Marek requested more detailed information on the conditions imposed. Mr. Bartine and Mr. Wolford were in agreement that they would get that information from the lender. According to Mr. Marek, his concern was that the closing on the real estate occurred before the Agreement was recorded; therefore, any commitments under the Mortgage Agreement would have priority over the Developer's Agreement. The Developer's Agreement with Mr. Wolford does contemplate that all the covenants in the Agreement will run with the land and be binding, not only on Wolford Development Options, but on any subsequent owners of the property. Mr. Marek said if the development did not go forward and there was foreclosure on the property, it would be possible that, if the City did not take measures to protect itself, the mortgage holder would not be subject to the Developer's Agreement. He was pursuing an acknowledgment, from the lender, that the Agreement with the City would have priority. Mr. Marek thinks that he will receive the acknowledgment in the next several days. He reiterated that it was clear that Mr. Wolford had closed on the land. His only concern was that it was subject to a mortgage.

Relating to equity capital and financing, Mr. Marek apprised the Council that Wolford Development

Options does have a binding financing agreement. There were some details that he preferred to have included; those have been requested and are forthcoming.

According to Mr. Marek, there is a requirement for binding leases or purchase agreements for a minimum of two major anchor stores totaling a minimum of 160,000 square feet, for additional retail new to the Ames market as of 2004 of 80,000 square feet, and additional minor anchors totaling a minimum of 40,000 square feet. Mr. Marek stated that, from the records he reviewed, it was clear that the requirement for binding leases or purchase agreements had not been met by Wolford Development Options. There are draft agreements, preliminary agreements, letters of intent, and evidence of ongoing negotiations. Mr. Wolford has contacted and is engaged in negotiations with retail outlets that would fit each of the categories required under the Agreement. Mr. Marek said his review indicates that none fit the requirement of binding leases or purchase agreements. There is a complete signed purchase agreement for one of the major anchors, but it is not binding, and there is a complete lease agreement that is out for signature. Computing the square footage based on the retail categories, it appears to Mr. Marek that, with the ongoing negotiations, letters of intent, and offers, it would be close to the total square footage required in each category.

According to City Attorney Marek, in the next several days, he will have ongoing communication with Mr. Wolford's attorney and be receiving additional documentation. As soon as he is confident that the fee simple title requirement has been satisfied, he will notify the City Clerk, who will then forward the Zoning Ordinance for publication. Under the terms of the Agreement, the Zoning Ordinance would then become effective. Assuming he has appropriate documentation, Mr. Marek will then arrange with Mr. Wolford's attorney for the recording of the Agreement. At that point, the covenants would then be binding and would run with the land. As soon as Mr. Marek is satisfied and able to give a formal Opinion on the adequacy of the financing statement, he will forward a letter to the Mayor and City Council for the City records.

Mayor Campbell summarized that, once the City Attorney learns that the lender is willing to agree with the stipulations of the Agreement between the City and Wolford Development Options, without any further City Council action, he will direct the City Clerk to publish the Ordinance. Mr. Marek concurred, stating that, based on the motion directing the City Clerk to withhold publication, further Council action would not be required; proof of fee simple title is what is required.

Council Member Rice asked about the leases reviewed by Mr. Marek. Mr. Marek advised that of the ones he had reviewed, there were none that would fall within the definition as being binding. He said that there were some in lease form, but not finalized. There were also provisions conditioning the leases and the purchase agreements and are probably awaiting final approval. Many of them were contingent upon satisfaction of other things such as purchasing the land.

Mr. Rice clarified that the lease requirement deadline was not met, but the City's remedy would still be the same whether the requirement is met next week or ten weeks from now. He asked Mr. Marek to comment on the City's remedies. Mr. Marek advised that there are two remedies that are contemplated under the Agreement for failure to meet a deadline: (1) amend or repeal the rezoning classification of the land or (2) not provide any permits that would be applied for by the developer. There is also a provision in the Agreement that indicates that, by not taking action, the City does not

waive any right to seek either remedy; the remedies are cumulative. Mr. Rice pointed out that there is really no clear deadline for anything at this time. Mr. Marek said that the City could grant permits and authorize proceeding with construction even though certain requirements have not been met; it is not precluded from doing so.

Council Member Rice pointed out that there remains a pending lawsuit against the City. Attorney Marek commented that there was a Declaratory Judgment action filed by the Advocates for Responsible Urban Design against Wolford Development Options and the owners of the parcels before they were acquired by Wolford. Months later, the City was added as a party. In April 2007, there was a hearing on a Motion to Dismiss; that lawsuit dealt with the status of the unpublished Zoning Ordinance and whether a Protest would be valid in an attempt to rezone. There were other issues, but the lawsuit did ask that the original rezoning be set aside by the court. No action has been taken on that since the hearing on the Motion in April. The Motion to Dismiss was based, in part, on the Iowa Supreme Court Opinion on the City of Dubuque case where a challenge to a rezoning had been initiated and it was not done within 30 days after the rezoning. The Court held that it had to have been done by a Writ of Certiorari; those were the grounds to dismiss. If the Motion to Dismiss is granted, it will be a non-issue. There could be an appeal filed, however. If the Motion is denied, the case would proceed as a civil lawsuit. Council Member Popken asked if the publishing and recording of the Rezoning Ordinance and Developer's Agreement would have any effect on the case. Mr. Marek explained that there has not been a lot of court action in that type of case; there's no precedent, but it could be a factor.

In relation to the remedy of rezoning the property, Council Member Popken asked if the rezoning process would change. Attorney Marek said that it would be the same as any Council-initiated rezoning, i.e., a motion to refer would be made, it would go through the normal zoning ordinance change procedure, it would be subject to public notice and a public hearing, etc. It would also be subject to the same protest procedures in that the property owner would be able to protest the rezoning. Mr. Marek advised that there would be a super-majority vote requirement as well, i.e., five votes.

The City Attorney stated that he will provide additional information to the City Council as soon as it is available. Mr. Rice said that he thought it would be best to give the update at a public meeting.

Holly Fuchs, 806 Brookridge Avenue, Ames, said that she sees this as an opportunity to change the zoning on East 13th Street and hopes that the City Council will take advantage of that opportunity. She gave the following reasons: (1) If the zoning is not changed, Ames will be waiting indefinitely until Mr. Wolford can meet the financing or leasing arrangements. (2) A better use for the land in question is industrial, and large industrial sites are desirable. (3) The costs to Ames will outweigh the benefits. She estimates that Ames will see a one-time gain of \$2 million, but that would be reduced by the cost to individuals for driving to the mall, which she estimates as \$0.90/round trip. (4) It would help improve shopping in Ames. Independent business persons are uncertain whether to start up businesses because they do not know what their competition will be.

Joe Rippetoe, 419 Pearson Avenue, Ames, said that the public is not supportive of this development; the developer failed to meet his obligations, and the City has a remedy available; and, there is a real

opportunity cost to doing nothing. He referenced a scientific poll taken three or four years ago that asked what Ames residents thought about this development. According to Mr. Rippetoe, 50% of those polled were against it and 35% of those polled were in favor of it. Mr. Rippetoe said that “no one has presented a shred of evidence that there was anything wrong with that poll, and more importantly, no one has presented a shred of evidence since that indicates the opinions of the public might have changed since that time.” He repeated that the developer has failed; there are no binding leases or purchase agreements. Mr. Rippetoe told the Council that it has a remedy available, i.e., to rezone the land for industrial uses. It is his understanding that there might be some hesitancy on the part of Council members to do that because it would be very complicated and area landowners would protest. He told the Council to remember that Wolford Development has bought some land, there are new owners in the area, and the group who protested “and thwarted the Council’s actions” a year and one-half ago is not the same group; a lot of that group “has taken Wolford’s money and gone to the bank. So it’s game over for them.” There’s new owners in the area, and the Council should not speculate about what kind of protests there might be. In Mr. Rippetoe’s opinion, there is an incredible opportunity cost of doing nothing. He advised that there was “nearly a lease signed” by Kohl’s and Old Navy for South Duff locations, and “it was practically a done deal” until this Council - five of the six - changed course and let Wolford proceed. According to Mr. Rippetoe, that was lost retail opportunity for Ames “because Wolford had the Council tied up.” His information now is that Kohl’s is looking at a new location as are other retailers in the south part of Ames. He sees that as lost opportunities because the retailers have their hands tied as long as the Council allows Wolford to “string the City along.” What he has heard from people is that they simply want a few specific stores to come to Ames, and the longer the City waits on Wolford Development, the more the retailers back off from making their own deals, getting their own land, putting up their own stores, and coming into this market.

Dick Johnson, 3315 Ridgetop Road, Ames, said that he really believes that there have been a lot of circumstances beyond the control of Mr. Wolford that have caused the delay in proceeding with this development. He pointed out that when the last approval by the City Council finally did come about, it was at a time during the year when retailers are not focusing on building new stores or making that type of commitment as much as they are on their sales; the period from November through January is a very important part of the year for retailing. He urged the Council to give Mr. Wolford an opportunity to finalize the leases. Retailers want to know for sure if he has approval to build. Mr. Wolford has demonstrated that he has the financing. He has demonstrated a commitment to Ames for a long time, has bought the ground, and has put a lot of personal time and resources into this project. Mr. Johnson asked the City Council to work with Mr. Wolford to see this through. It is part of Ames becoming a regional center, not just a little town. When the City passed the 50,000 population threshold, that opened up a lot of things for Ames, and part of that is Ames being viewed as a regional center; this fits in with that. He urged the City Council to take action to allow the time necessary for this project to move ahead successfully.

Catherine Scott, 1510 Roosevelt, Ames, told the City Council to remember that Mr. Wolford agreed to the December 1 deadline, and if that wasn’t a good time to be getting leases, then he should not have agreed to that date. Ms. Scott referenced the “sub-prime mortgage crisis,” stating that there could be a commercial loan crisis next. Ames cannot support two large regional commercial centers, so “someone will probably default somewhere along the line.” Ms. Scott asked the Council, if it

does not use the remedy to rezone the land to industrial use, to think very hard about how much time it might be willing to wait. She thinks the citizens and businesspeople of Ames deserve to know how much longer this is going to go on.

Andy Bock, 2818 Oakland, Ames, agrees that Ames' tax base and retail options need to be addressed, and people have stated that Ames is being held up on both of those. He advised that he supports rezoning the land to industrial, but thinks that there is an immediate task that the Council could take action on during the budget hearings and that is to allocate funds to install the infrastructure that is needed for development of industrial uses beyond the Wolford site. He hopes that the City would not wait for Wolford to do that.

Council Member Popken asked the City Attorney to comment on the requirements and timeline to install infrastructure via the Developer's Agreement. Attorney Marek stated that there are different provisions in the Agreement for extension of water mains. One provision states that if there is development in the area and there is a need for water east of 570th Avenue, the City may give notice to Wolford Development, and the developer would then be required to install that water main. Infrastructure requirements are triggered by applications for permits to proceed with that one exception.

Mayor Campbell asked Mr. Marek to recap the City Council's action or inaction possibilities. Attorney Marek advised that the remedies contemplated in the Agreement are cumulative; by passing up an opportunity, the City Council does not waive its right to take that action. He said, however, that he would recommend, if it is clear that the City Council is not inclined to take action in the future, it should make that clear. If the developer continues on reliance of the inaction of the Council, it would put the City in a more difficult position.

Council Member Rice said that Wolford Development Options could have purchased the land a long time ago so the leases could have been negotiated in time to meet the deadline. Mr. Marek replied that there was a huge variety of contingencies in the leases, and the purchase of the land could have occurred immediately after the signing of the Agreement; closing on the purchase of the land occurred on November 28, 2007.

Mr. Marek advised that the City does have the option of naming a certain period of time to wait before seeking any of its remedies, but it is not required to do so. Mr. Marek said that there may be advantages of doing so; if the Council does not take action to rezone the land, the developer will continue to move forward, which would include expenditure of additional funds for the developer. Mayor Campbell pointed out that the verbiage in the Agreement states that the Council "may" take action. Mr. Marek concurred that the December 1 date could be changed at any time in the future; however, it would be helpful if the City Council would send the message of its inclination.

Council Member Larson respectfully disagreed with Mr. Rippetoe's allegation that there was "not a shred of evidence" that people wanted a mall. He is not sure what scientific poll Mr. Rippetoe was referring to, however, he had reviewed the Resident's Satisfaction Survey and found that there were 35 respondents who commented that they wanted the new mall to proceed; that is by far more than any one single item in the four pages of comments. There were only four that said not to build the

mall. That Survey would then indicate that approximately 90% of those offering an opinion wanted the new mall. Mr. Larson said he relies heavily on the Resident's Satisfaction Survey to provide guidance.

Attorney Marek reiterated that once verification is received from the lender, all of the requirements will be met to permit the City Clerk to publish and record the Rezoning Ordinance; that issue does not need to come back to the City Council.

UPDATE ON DEMAND-SIDE MANAGEMENT PROGRAM: Electric Services Director Donald Kom explained that the City had created programs to encourage the reduction of electricity usage. He advised that \$400,000 was budgeted to encourage conservation through the use of rebates and participation in energy-saving programs. A report was given on usage of air conditioner rebates and other programs and the resulting reduction in energy consumption. Mr. Kom reviewed the expenses associated with the Demand-Side Management Program to date. There are several large programs, primarily in the commercial lighting category, pending. New programs are also being reviewed. Council Member Popken encouraged the consistent reduction of demand, not only peak load. Council Member Larson suggested that the programs be promoted more extensively. He recommended that the brochures be sent with the utility bills. Council Member Goodman recommended that the pay-back period be included in the City's brochures. Public Relations Officer Susan Gwiasda explained how the Demand-Side Management Program had been promoted and described plans for further promotion.

Holly Fuchs, 806 Brookridge Avenue, Ames, said that she would like bright shining street lights and bright shining lights on commercial buildings replaced. Mr. Kom said that if there is a specific area that should be looked at, the City would be happy to do so.

Andy Bock, 2818 Oakland Avenue, Ames, pointed out that there is mercury in light bulbs, and in Ames, they sometimes end up in the Resource Recovery Plant and are burned at the Power Plant. He advised that LED bulbs do not present a mercury hazard on disposal. Mr. Bock also said that two-way communication on air conditioners could possibly eliminate the need for monthly meter reading, and he suggested that be added to the bidding documents. Regarding large-scale projects that reduce energy consumption, Mr. Bock asked the Council to consider a loan program where utility bills could be used to pay off the loan over ten (10) or 15 years. Director Kom said that there are advances in automated meter reading, and the City's Meter Superintendent is always looking for efficiencies. There may be cost-effective measures that could be taken in the future; e.g., combining electricity meter reading with other utilities (water, natural gas).

UPDATE ON UNIT NO. 7: Power Plant Engineer Mark Weldon advised that there was a successful start-up of Unit No. 7 last Wednesday; however, there was a tube leak in the boiler on Thursday. A hydrostatic test was taken tonight; however, it failed, which indicated additional leaks in the boiler. The start-up was smooth, and all indications are that the turbine generator's repairs have been successful. Attention is now turned to the boiler. Small tube leaks are common after a chemical cleaning of the boiler.

CHANGE ORDER NOS. 20 AND 21 FOR UNIT NO. 7 TURBINE GENERATOR OVERHAUL WITH COTTER TURBINE SERVICE: Moved by Goodman, seconded by Popken, to adopt RESOLUTION NO. 07-515 approving Change Order Nos. 20 and 21 for Unit No. 7 Turbine Generator Overhaul.

Mr. Weldon explained why the Change Orders were necessary and who performed the work. Council Member Larson asked what precautions the City was taking to ensure that the subcontractors were being paid. City Attorney Marek indicated that the City did not have any contracts with the subcontractors; its contract is with Cotter Turbine Service.

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

REPORT ON AMENDMENT PROCESS FOR URBAN FRINGE PLAN: Planning & Housing Director Steve Osguthorpe advised that staff members from the Cities of Ames and Gilbert and Story County had met and prepared a proposal for an amendment process, which reflected input from the three governing bodies.

It was stated by Mr. Osguthorpe that the Gilbert City Council had discussed the process and was ready to proceed with considering any pending amendments. Although Gilbert is concerned about the requests overburdening staff, it is willing to wait and see if that becomes a problem. The Story County Board of Supervisors has also reviewed the process. A letter outlining Story County's concerns was received today and placed around the dais.

Mr. Osguthorpe noted that currently, one request for a change to the Framework Plan Map is pending (from David Norris). Mr. Norris is asking to change the designation of land from Agriculture and Farm Service to Rural Residential. Staff knows of two other requests that might be made once a process is set up.

The process for changes to the Ames Urban Fringe Plan was described by Planner Jeff Benson. It was pointed out by Director Osguthorpe that unanimous approval by all three jurisdictions of any amendment would be required. Council Member Larson commented that it did not seem logical to him to require unanimous approval since some requests would not affect all three jurisdictions. He said, by requiring that, one jurisdiction would have the power to veto a change that is not within its two-mile fringe. City Manager Schainker said that if there was something that the City Council did not agree with, a joint meeting among the three entities should be scheduled. Mr. Osguthorpe reviewed the options before the Council.

It was noted by Council Member Larson that the Plan had initially included Boone County, but at its own request, was omitted from the Plan. However, now the Boone County Board of Supervisors has asked for accommodations to be included in the Plan that would allow its Comprehensive Plan to reference the Ames Plan as the guide for the part of Boone County that is within the Ames Urban Fringe. He thinks that further complicates the Ames Plan. Mr. Osguthorpe commented that Boone County's Comprehensive Plan does not reflect the Ames Urban Fringe Plan. He recommended, however, that the Boone County Board of Supervisors be included in the next joint meeting among

Ames, Gilbert, and Story County. Council Member Goodman said he interpreted the request such that Boone County only wanted to reference the Ames Plan in its Comprehensive Plan. Planner Benson said that Boone County wants some changes made to the Ames Plan and then be allowed to reference it in their Comprehensive Plan.

Council Member Doll said that he takes issue with allowing one jurisdiction to have veto power. There are times when jurisdictions might be competing with each other for new businesses, and it would allow one jurisdiction to slow down the process for its own benefit. According to Mr. Osguthorpe, the thinking was that it took all three jurisdictions to approve the Ames Fringe Plan, so it should take all three entities to approve an amendment to the Plan.

Council Member Larson again asked that input be sought from developers and/or those persons who would be asking for amendments. He does not see the proposed process, which was to bring the three or four entities together under 28E Agreements, as simplifying the old process.

Director Osguthorpe reviewed the concerns identified by the Story County Board of Supervisors regarding the process. There was confusion expressed as to what was meant by the suggestion to structure the process along the lines of the Conference Board.

Chuck Winkleblack, 105 S. 16th Street, Ames, stated that this issue had been discussed for over ten years, and he is not convinced that there will ever be agreement on a plan. He believes that the most effective tool that could be used to solve most of the problems would be annexation. Mr. Winkleblack thinks that the area most directly affected would be north of Ames (between Ames and Gilbert). He referenced the need to protect the watershed. Mr. Winkleblack thinks it is unrealistic to believe that Story County; Gilbert, with a population of less than 1,000; and Ames, with a population of over 50,000; will agree 100% on every project. He is bothered, not only as a developer, but also as a resident of Ames, that the City of Gilbert would have veto power over what Ames does and over what is beyond its two-mile fringe. He questioned whether that would be in the City of Ames' best interest to give up that kind of control. Also, according to Mr. Winkleblack, within two to three years, there will be no land available for development in North Ames. There will still be demand to build homes in North Ames, which will then force the houses to be built outside the City's boundaries. He pointed out that still adds traffic on Ames' streets, but adds to Story County's property tax base. Even though it has not been discussed recently, that issue has not gone away. The key components of the process are roads, storm sewer, and sanitary sewer. Mr. Winkleblack implored the City Council to take a serious look at lot availability and noted that if the ground were annexed, the City would handle the requests through its own development process.

Lowell Kingsbury, 24215-580th Avenue, Ames, said that he owns approximately 190 acres located near the Truckstop. It is timber and flood ground. He told the Council that when he purchased the property, it was considered floodplain; to build on it requires the developer to raise the ground one foot above the 100-year flood level. Mr. Kingsbury said that he had the opportunity to sell that property to Menard's; however, the City Council denied that development. According to Mr. Kingsbury, the City missed a chance to have a nice 50-acre timber park that would have been similar to Brookside park. He has been told to put the area back to agricultural use.

According to Mr. Osguthorpe, the next steps depend on the priorities of the three jurisdictions, as follows:

1. If the City Council supports the proposed amendment process, it can direct staff to contact the Story County Board of Supervisors and the Gilbert City Council to seek a date for a joint meeting to consider specific amendments.
2. If the City Council believes that it is more important for all governing bodies to agree on the process before proceeding, it can direct staff to seek a date for a joint meeting to discuss this amendment process with the Story County Board of Supervisors and the Gilbert City Council.
3. If the City Council is not completely satisfied with the proposed amendment process, but believes that it is more important to consider pending requests for amendments, it can direct staff to contact the Story County Board of Supervisors and the Gilbert City Council to seek a date for a joint meeting. Specific amendments as well as changes to how that process works would be discussed at that meeting.

Council Member Larson asked if the City could revert back to its former process to expedite approval or denial of the pending requests. Planner Benson explained how the former process worked. According to City Manager Schainker, the City of Ames only had approval authority if the land were to be subdivided; otherwise, it had no say even if the land in question was located within two miles of Ames.

Moved by Goodman to support the amendment process including the three bullet points in Story County's letter and direct staff to schedule a joint meeting with Gilbert and Story County as soon as possible to consider other specific amendments.

Motion withdrawn.

Moved by Goodman, seconded by Mahayni, to support the proposed amendment process and direct staff to contact the Story County Board of Supervisors and the Gilbert City Council to seek a date for a joint meeting to consider specific amendments.

Council Member Larson advised that he cannot support that motion as he is not completely satisfied with the proposed amendment process.

Motion withdrawn.

Moved by Popken, seconded by Larson, to direct staff to seek a date for a joint meeting to discuss the amendment process with the Story County Board of Supervisors and the Gilbert City Council.

Moved by Mahayni, seconded by Doll, to amend the motion to include inviting Boone County Board of Supervisors to the meeting.

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

Vote on Motion, as Amended: 6-0. Motion declared carried unanimously.

The meeting recessed at 9:45 p.m. and reconvened at 9:52 p.m.

REPORT ON ADDITIONAL USES FOR GREEK HOUSES: Planning & Housing Director Steve Osguthorpe reminded the Council that, after considering a request for variances needed to convert the Delta Chi Fraternity to a bed and breakfast, the Zoning Board of Adjustment had asked the City Council to examine whether the zoning codes of the City should be changed to facilitate the reuse of such Greek houses when they are no longer used as a student fraternity or sorority, and the Council then directed staff to examine the issue.

Director Osguthorpe explained that City staff had presented the Report on Additional uses for Greek Houses to several different groups affiliated with the Greek System as well as to the South Campus Area Neighborhood (SCAN). From those discussions, staff had drawn the conclusion that changing allowable uses was not a high priority for either the Greek System or the SCAN.

According to Mr. Osguthorpe, this Report was also discussed with the Planning & Zoning Commission at its November 7, 2007, meeting. The Commission told staff that it would be worthwhile to make it somewhat easier to reuse Greek houses, but the priority of the issue was not great enough to have staff spend a great deal of time on it.

Staff asked the City Council for direction as to whether to proceed any further with this issue, and if so, whether to complete further research or to prepare a specific Code amendment for public hearing and potential ordinance adoption.

Moved by Goodman, seconded by Doll, to direct that staff take no further action on this issue.
Vote on Motion: 6-0. Motion declared carried unanimously.

REPORT ON SNOW REMOVAL PROCESS IMPROVEMENTS: City Manager Schainker explained that the results of the most-recent Citizen Satisfaction Survey revealed a significant decrease in satisfaction with snow plowing on major and neighborhood streets and with ice control at intersections. Public Works Director John Joiner advised that a team of City employees involved in those tasks was formed to develop ideas for improving those services. Employees have met since last spring to discuss what works well and what improvements could be considered.

Mr. Joiner cited the near-term, on-going, and long-term actions being recommended by the team. The philosophy, supported by the City Manager, is that snow and ice control should be approached as a city-wide emergency. It was highlighted by Mr. Joiner that a number of the recommended actions call for City employees from a variety of departments to work together to provide the best service possible. Ways in which property owners and residents could aid and cooperate in the effort were also given by Mr. Joiner.

Council Member Rice said that it appeared to him that the sidewalks in the Highway-Oriented areas, most specifically along Lincoln Way and South Duff, never get cleared.

Holly Fuchs, 806 Brookridge Avenue, Ames, shared her personal experience with streets in Ames not being plowed promptly and bike paths not being cleared.

ORDINANCE REGULATING PARKING ON SOUTH 5TH AND SOUTHEAST 5TH STREETS:

Moved by Goodman, seconded by Rice, to pass on first reading an ordinance regulating parking on South 5th and Southeast 5th Street.

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

ORDINANCE REZONING PROPERTY LOCATED AT 218 LINCOLN WAY: Moved by Mahayni, seconded by Doll, to pass on second reading an ordinance rezoning property located at 218 Lincoln Way to establish the “O-H” (Historic Preservation Overlay) District and designate the property as a local historic landmark.

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

ORDINANCE ESTABLISHING DESIGN CRITERIA FOR PROPOSED LOCAL HISTORIC LANDMARK LOCATED AT 218 LINCOLN WAY: Moved by Doll, seconded by Popken, to pass on second reading an ordinance establishing design criteria for a proposed local historic landmark located at 218 Lincoln Way.

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

ORDINANCE PERTAINING TO INSURANCE REQUIREMENTS FOR FIREWORKS PERMITS: Moved by Goodman, seconded by Mahayni, to pass on second reading an ordinance pertaining to insurance requirements for fireworks.

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

DEER FEEDING ORDINANCE: Moved by Mahayni, seconded by Goodman, to pass on third reading and adopt ORDINANCE NO. 3933 prohibiting the feeding of deer.

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

BUDGET GUIDELINES: Finance Director Duane Pitcher and Budget Officer Carol Collings were present to highlight City budget issues that will be of concern during the next fiscal year.

Mr. Pitcher said that the City continues to experience relatively favorable economic conditions with unemployment remaining under the national average and moderate growth. There has been a slowdown in new construction and property valuation increases. Sales tax receipts for the prior fiscal year and information from the Iowa Department of Revenue and Finance indicate growth in retail sales at a rate lower than inflation. Staff is forecasting Local Option Sales Tax Revenue to increase only 1.24% from the current fiscal year (FY) to FY 2008/09 Requested. Investment earnings for the current year have improved over the Adopted and are expected to continue into FY 2008/09. Increases in the cost of energy are expected to have a negative impact on the City’s budget. The increased cost of certain building materials will have a negative impact on some Capital Improvement projects, especially for Electric Services.

Fund Balances. Balances for all major funds ended FY 2006/07 at or near budgeted amounts except for the Homewood Golf Fund, which ended the year lower than expected. Additional fee increases may need to be considered for the next golf season. The General Fund ended FY 2006/07 with a higher than expected balance. In keeping with the Council's policy, one-time available balances will be used to fund planned capital expenditures in the current year.

Fire and Police Retirement and IPERS. The City's contribution rate to the Municipal Fire and Police Retirement System of Iowa (MFPRSI) will decrease from 25.48% to 18.75%, which equates to a total reduction in costs of \$400,000 from the 2007/08 Adopted. The City's rate peaked at 28.21% in 2006.

A series of increases has been passed by the State Legislature for the Iowa Public Employees Retirement System (IPERS) to raise the combined contribution rate from 9.45% to 11.45% over four years. The cost of the contribution rate increase will be approximately \$48,000 for the City.

Health Insurance. The City continues to benefit from implementation of health program changes recommended by the City Health Insurance Team. Rate reductions for health insurance will result in savings of approximately \$150,000 from the Adopted. For FY 2008/09, health insurance rates are budgeted to increase approximately 10% from the lower adjusted rates for FY 2007/08.

Rollback and Valuation. The rollback rate on residential property will again reduce the tax base. For FY 2008/09, 44.0803% of assessed residential value will be taxed, down from 45.5596% in FY 2007/08. Industrial property will be taxed at 100% of assessed valuation. Commercial property will be taxed at 99.7312% of assessed valuation. The combination of rollback rates will result in a \$34,344.030 (1.8%) reduction in taxable valuation or \$358,409 in property tax revenues. The rollback change alone will require an increase of \$0.19/thousand in the property tax rate to provide the same property tax funding as in FY 2007/08. It is anticipated that the combination of rollback and slowdown in construction and property tax valuation will result in an increase of taxable valuation of less than 2% for the second straight year.

Local Option Sales Tax Revenues. For the current year, local option sales tax receipts are expected to be \$73,862 lower than the Adopted.

ASSET Funding. Assistant City Manager Sheila Lundt said that the City's current allocation to ASSET is \$891,297, which represents a 5.9% increase over the 2006/07 allocation. For current year contributions, the County's increase was 2%, United Way was 1% over, and the Government of the Student Body (GSB) was unable to fund any increase. The Joint Funders Meeting will be held on December 13. It is anticipated that the increase in funding from Story County, United Way, and GSB will be the same as last year.

Ms. Lundt advised that, for FY 2008/09, 24 agencies are requesting \$956,770, which is 7.3% more than the FY 2007/08 allocation. There are two new requests for City funds: the Volunteer Center of Story County for \$5,000 and Good Neighbor for \$13,500. Ms. Lundt said that 11 of the agencies have requested increases between 3 and 5%, four are between 5 and 10%, and four have requested more than a 10% increase. Two agencies are requesting less than their current allocations.

Staff is recommending a 4% increase in ASSET funding (to a total cost of \$926,949), which is an increase of \$35,652. At this time, it is not known what level of funding the other ASSET agencies are planning to allocate.

According to Ms. Lundt, the ASSET volunteers have done a good job applying the funding. She reviewed the priorities as previously determined by the Council: (1) an emphasis on assistance to low- and moderate-income families, (2) meeting basic needs, (3) crisis intervention, and (4) prevention.

COTA Funding. Assistant City Manager Lundt advised that the current allocation is \$105,316. She reminded the Council that the COTA allocation was frozen at \$91,461 for FYs 2003/04 and 2004/05 due to a reduction in state funding and Local Option Tax revenues. For FY 2007/08, Council approved an 8% increase to fund COTA at a level that would offset the two years of frozen funding. For FY 2008/09, COTA requests total \$144,350 for annual grants. Staff is recommended a 4% increase to COTA (to \$109,529) to be used for annual grants and mini-grants. Normally, approximately \$7,000 is set aside for mini-grants.

Moved by Goodman, seconded by Mahayni, to approve a 4% increase in ASSET funding (to a total cost of \$926,949) and a 4% increase to COTA (to a total cost of \$109,529).

Council Member Larson pointed out that input garnered at the Council workshop held on November 27, 2007, indicated that there might be a need for additional services. He asked if additional requests were anticipated or if those services were included in the agency's requests already submitted. Ms. Lundt gave the percentages of increase for several agencies that would be associated with the types of services that were indicated to be needed.

Motion withdrawn.

Moved by Goodman, seconded by Popken, to approve a 7.3% increase in ASSET funding (to a total cost of \$956,770).

Council Member Doll indicated his concern that a dependency will be created if only the City of Ames continues to increase ASSET funding to meet the agencies' requests. Council Member Goodman pointed out that the net increase last year equated to 3.55% as some funding was returned.

Council Member Larson said that, at first glance, he is concerned that United Way's contribution is so low even though it has had very successful fundraising campaigns. He is hopeful that United Way representatives will look at the increased need when making its decision on funding ASSET.

Ms. Lundt stated that, as the Human Services Campus Feasibility process continues, staff may approach the Council for additional Local Option Sales Tax dollars in the Spring or Summer 2008 to help support that process.

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

Moved by Goodman, seconded by Mahayni, to approve a 4% increase in COTA funding (to a total cost of \$109,529).

Council Member Rice said that there is an apparent need for additional funding for COTA, perhaps not a 37% increase over last year, but more than 4%. He has not had adequate time to review the information presented tonight and will not support the motion.

Vote on Motion: 5-1. Voting aye: Doll, Goodman, Larson, Mahayni, Popken. Voting nay: Rice. Motion declared carried.

City Manager Schainker pointed out that there are routine requests that have been put into the FY 2008/09 budget out of the Local Option Tax Fund. He asked if the Council wanted to show the amounts zeroed-out and possibly have them added back after the budget hearings.

Moved by Goodman, seconded by Popken, to show allocations out of the Local Option Sales Tax Fund to Partner Cities and Public Art, but remove the Ames Historical Society and Hunziker Youth Sports Complex until budget wrap-up.

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

Debt Service. Mr. Pitcher advised that the addition of the Furman Aquatic Center will add approximately \$0.46/thousand to the property tax rate and equate to approximately \$889,000 in additional property taxes. Staff is confident that debt service cost to property tax payers will be under the forecasted amount.

Utility Rates. Water, sanitary sewer, storm water, and electric utilities will all require rate increases within the five-year term of the capital planning process to support increased operating costs and Capital Improvement Plans. Water and Electric Departments are in the process of planning large-scale capital plant improvements that will require multiple rate increases in the coming years. Council may be asked to consider implementing the electric rate increase early during the lower winter rate season.

Resource Recovery. The Resource Recovery Plant continues to have positive improvements in efficiency and its overall financial situation.

Service Level Improvements. Both Police and Fire have increased, and expect to further increase, use of technology to improve service and efficiency, including the use of mobile data terminals and improved dispatching systems. The GIS Coordinator duties will be absorbed by existing staff in the Public Works Department and existing and planned additional staff in the Information Services Division. The proposed FY 2008/09 budget will include the addition of an Information Services employee to provide technology services in Police, Fire, and city-wide GIS duties. There may be additional FTE changes included in the recommended budget.

City Hall Space Needs. City Manager Schainker advised that, in response to space challenges at City Hall, an employee team was formed to study the issue and provide options. Final decisions and associated cost estimates for the solutions will not be available prior to final Capital Improvements

Plan decisions being made. Unanticipated monies from the General Fund balance may be utilized to pay for short-term solutions and a consulting contract to analyze the long-term solutions involving available basement and Police Department space.

City Manager Schainker told the Council members that if there were specific service levels that they would like staff to increase or change, they should so indicate. Council Member Goodman said that he had heard from members of the community that an economic development position might be needed in the City organization. Mr. Schainker advised that it works best for business persons to start with the Ames Economic Development Commission (AEDC). He pointed out that the City provides funding to the AEDC for that purpose. Mr. Goodman thinks that it might create a more positive perception to have a City staff person handle economic development requests, especially for smaller businesses. Council Member Larson concurred. He wants to make sure that the 1% from the Local Option Tax Fund goes for economic development, rather it funds a City position or be allocated to the AEDC.

COMMENTS AND FUTURE AGENDA ITEMS: Council Member Rice welcomed a new large property owner to Ames.

Council Member Mahayni acknowledged the excellent service provided by Mary Greeley Medical Center President Kim Russell for the past 12 years. Ms. Russell will be leaving Ames for Lincoln, Nebraska.

ADJOURNMENT: Moved by Doll, seconded by Goodman, to adjourn the meeting at 11:24 p.m.

Diane R. Voss, City Clerk

Ann H. Campbell, Mayor