

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

**AMES, IOWA**

**DECEMBER 18, 2007**

The regular meeting of the Ames City Council was called to order by Mayor Campbell at 7:00 p.m. on December 18, 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 also present.

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

1. Motion approving payment of claims
2. Motion approving minutes of regular meeting of December 4, 2007, and special meeting of December 11, 2007
3. Motion approving the following renewals of beer and wine permits & liquor licenses:
  - a. Class B Beer – Swift Stop #6, 125 6<sup>th</sup> Street
  - b. Class B Beer – Swift Stop #7, 2700 Lincoln Way
  - c. Class B Beer – Casey’s General Store #2298, 428 Lincoln Way
  - d. Class B Beer – Char’s, 3100 S. Duff Avenue
  - e. Class C Liquor – Aunt Maude’s, 543-547 Main Street
  - f. Class C Liquor – O’Malley & McGee’s Mexican Café, 716 S. Duff Avenue
  - g. Class C Liquor – Tip Top Lounge, 201 E. Lincoln Way
  - h. Class C Liquor – WestCyde Wings, 3706 Lincoln Way
  - i. Class C Liquor & Outdoor Service Privilege – The Café, 2616 Northridge Parkway
  - j. Class C Liquor & Outdoor Service Privilege – Hazel’s Kitchen, 1407 University Boulevard
  - k. Class E Liquor, B Wine & C Beer – Cub Foods, 3121 Grand Avenue
4. Motion approving 5-day Class C Liquor license for Ames Best Pies for a wedding reception at 2321 North Loop Drive
5. Motion accepting Report of Contract Change Orders for November 15-30,2007
6. RESOLUTION NO. 07-517 approving appointment of Council Member Dan Rice to Ames Convention & Visitors Bureau Board of Directors
7. RESOLUTION NO. 07-518 approving designation of City representatives to Central Iowa Regional Transportation Planning Alliance (CIRTPA)
8. RESOLUTION NO. 07-519 approving amendment to Equal Employment Opportunity and Affirmative Action Policy Statement to include non-discrimination in employment based on gender identity
9. RESOLUTION NO. 07-520 approving purchase of one minibus through the state-wide bid process completed by Region 15
10. RESOLUTION NO. 07-521 approving monetary increase of \$22,530.95 to existing contract with Hydro-Klean, Inc., Des Moines, Iowa, for additional sanitary sewer cleaning
11. RESOLUTION NO. 07-522 approving payment to the Union Pacific railroad for Scholl Road Grade Crossing Surface Repair in the amount of \$33,755.36
12. RESOLUTION NO. 07-523 approving contract and bond for Power Line Relocation Project, Boone County Road E-26

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 VACATION OF EASEMENTS IN FOUNTAINVIEW SUBDIVISION:** The public hearing was opened by Mayor Campbell. No one wished to speak, and the hearing was closed.

Moved by Popken, seconded by Goodman, to adopt RESOLUTION NO. 07-524 approving the vacation of public utility and surface water flowage easements in Parcel A of Fountainview Subdivision.

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

**WEST TOWN SUBDIVISION PRELIMINARY PLAT:** This item was pulled from the agenda at the request of Chelan Daybreak, LLC.

**AMENDMENT TO PURCHASE AGREEMENT WITH HABITAT FOR HUMANITY FOR 2125 FURMAN AVENUE:** Moved by Popken, seconded by Goodman, to adopt RESOLUTION NO. 07-525 approving an amendment to the Purchase Agreement with Habitat for Humanity to allow rehabilitation to be completed on or before May 31, 2008 and closing to a qualified homebuyer to be completed on or before June 30, 2008, for 2125 Furman Avenue.

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

**LAND USE POLICY PLAN AMENDMENT TO IDENTIFY LAND USES FOR GOVERNMENT LAND AND ENVIRONMENTALLY SENSITIVE LAND:** Planning and Housing Director Steve Osguthorpe commented that the City's Land Use Policy Plan (LUPP) Map currently identifies lands owned by governmental agencies as "Government/Airport" (S-G/A) and "University Affiliated." There are no underlying land use designations identified for those properties. According to Mr. Osguthorpe, properties within those areas are occasionally sold to private individuals, and that change in ownership then prompts consideration of an appropriate land use and zoning district designation. In those cases, the new owner has no way of knowing what land use is consistent with City policies because the LUPP and Zoning Maps assume that the land will remain under government ownership. This can result in incremental decision-making and may not facilitate an analysis of the broader public good.

According to Mr. Osguthorpe, environmentally sensitive lands in the City area also at risk of incremental zoning proposals. Currently, those lands are designated "Agricultural" because that is a use that will be least affected by the environmental constraints of the property. He pointed out that the Agricultural zoning designation has been applied, in some cases, more as a holding zone. Permanent zones for those lands are determined only as individual development proposals are submitted, which, again, leaves owners to speculate on how the land might otherwise be zoned.

Staff has developed a draft land use map identifying proposed land uses for environmentally sensitive lands and for government lands should they ever be developed by private individuals. It was initially presented to the City Council on February 20, 2007. Joint meetings with other governmental entities and an open house allowing full public review were held. Mr. Osguthorpe

reviewed the draft LUPP Map. He explained that a separate map had been developed that shows all environmentally sensitive land as an overlay (Environmentally Sensitive Lands Overlay Map).

Director Osguthorpe brought the Council's attention to a letter that staff received today from Cathy Brown, Planner, on behalf of Iowa State University (ISU). According to Mr. Osguthorpe, in her letter, Ms. Brown stated that the proposed land uses for the property owned by ISU were generally acceptable, but suggested the following be considered:

1. The areas near 24<sup>th</sup> and Stange Road, commonly known as University Village and Schilleter Village, should reflect a High-Density Residential land use.
2. The area near University Boulevard and S. 16<sup>th</sup> Street, commonly known as the College of Veterinary Medicine, should reflect a University-Affiliated land use.
3. The Village/Suburban Residential designation should extend to encompass the area near State Avenue known as the Curtiss Farm.
4. The southwest corner of the intersection of Stange Road and Blankenburg, commonly known as Veenker Golf Course, should reflect a Low-Density Residential land use.

Mr. Osguthorpe pointed out that the Planning & Zoning Commission had not seen the above suggestions from Iowa State University. It had requested to be notified of any significant changes recommended by ISU.

Council Member Popken asked about the designation for the old Middle School athletic fields. It appears that it is zoned for commercial use. Assistant City Manager Bob Kindred pointed out on the map that it is zoned for Low-Density Residential and Highway-Oriented Commercial, just east of Wendy's Restaurant. Director Osguthorpe explained that staff felt Low-Density Single-Family was not the best use as it was along the Lincoln Way corridor. Mr. Popken commented that there seems to be some underutilized commercial properties in that corridor currently, and it might not be desirable to designate additional land as commercial. Council Member Larson asked if there had been public input received on that particular site. Mr. Osguthorpe advised that no comments were received concerning that specified property during the public forums. Mr. Larson said that he would be interested in hearing what the development community thinks is the best use for that site. He thinks that it is important to get it right the first time or at least allow some flexibility in the Plan if someone has a better idea in the future. Council Member Popken recommended that City staff send a copy of the report to the Ames School Board and request written comment.

Moved by Popken, seconded by Goodman, to refer this item back to staff to review the recommendations contained in the letter from Iowa State University, to additionally review the land use designation for the property owned by the Ames School District known as the old Middle School athletic fields, and to seek input from private and public sectors on the best use of that ground.

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

**LAND USE POLICY PLAN AMENDMENT TO PROVIDE EXCEPTIONS TO THE LOCATIONAL CRITERIA FOR CONVENIENCE COMMERCIAL NODE (CVCN):**

Director Osguthorpe provided background on this issue, which began with a request to rezone land at the intersection of Stange Road and Bloomington Road from Suburban Residential Medium-Density to Convenience Commercial Node. Ultimately, both City staff and the Planning & Zoning Commission recommended denial of the rezoning because the requested zoning designation was inconsistent with the Land Use Policy Plan. The applicant then submitted a request to amend the LUPP to bring it in line with the proposed rezoning request. The amendments proposed included exception criteria that would allow consideration of a Convenience Commercial Node closer than two miles to existing villages, nodes, and commercial areas. It was noted by Mr. Osguthorpe that the Planning & Zoning Commission had recommended approval of the amendments at its meeting of August 15, 2007. Further discussion ensued at the City Council's September 25, 2007, meeting culminating in direction being given to staff to draft language, as follows:

1. Convenience Commercial Nodes would only be allowed in certain areas.
2. Only one Convenience Commercial Node would be allowed per village.
3. The LUPP amendment would include qualifying language (must still be consistent with the other goals of the LUPP), e.g., if there is already a grocery store in the village, another one would not be allowed.
4. The only uses allowed in the Node would be a grocery store and a convenience store.
5. A Convenience Commercial Node would be allowed if it is within one-half mile from an existing area zoned for residential.

Mr. Osguthorpe added that there are locational criteria to ensure the compatibility and overall sustainability of each Convenience Commercial Node location. He listed the standards that should be used to locate CCN land uses in Village/Suburban Residential areas within the New Lands Area, as follows:

1. Convenience Commercial Nodes should not be located closer than two miles to an existing neighborhood commercial area, Convenience Commercial Node, and/or village commercial center development except:
  - a. A Convenience Commercial Node may be allowed if it is within one-half mile from an existing area zoned for Village Residential; and,
  - b. There may be no more than one Convenience Commercial Node allowed under this exception for each village; and,
  - c. The uses allowed in the proposed CVCN under this exception are restricted to a convenience store (which may include gasoline and food sales – no sit-down restaurants) and/or a grocery store, as long as the uses are not already present in the neighboring village; and,

- d. There is no additional vacant land remaining in the nearby village suitable for a convenience store and/or grocery store; and,
- e. The proposed Convenience Commercial Node will not create adverse impacts to existing infrastructure; and,
- f. The proposed Convenience Commercial Node is consistent with all other goals and objectives of the LUPP; and,
- g. Implementation of the use restrictions allowing a Convenience Commercial Node under this exception is ensured through a developer's agreement, which must be finalized prior to the City Council's final zoning approval.

Council Member Larson asked if an analysis had been done by staff to define grocery stores; some contain cafeterias, florists, banks, etc. City Attorney Marek advised that there are distinguishing qualifications for convenience stores as well as grocery stores.

The Council members were told by Director Osguthorpe that, if the request for amendments is approved, developers would have the opportunity to request modifications to the LUPP to create a new Convenience Commercial Node and request the associated rezoning of the land. He emphasized that no specific site or development would be approved at this meeting.

Council Member Rice advised that he remains concerned about the size of any commercial development near a village. He referenced the Commercial Lands Needs Assessment and the amount of land that was indicated to be necessary for future commercial use.

Sue Ravenscroft, 455 Westwood, Ames, said that she finds the process somewhat discouraging in that the City has an approved Land Use Policy Plan, yet developers very often buy land and then ask the City to rezone it to make things convenience for a small group of citizens. According to Ms. Ravenscroft, if the amendments are approved, it will undermine the citizens' collective will, the LUPP would become less credible, and citizens will continue to lose faith in its City Council. She sees this as an exercise in stealth spot-zoning. According to Ms. Ravenscroft, if the amendment is approved, it would violate the LUPP's first goal, which is to achieve growth while considering existing economic interests. She advised that the norm for grocery stores is to have approximately 11 square foot/household; there are 20,000 households in Ames, but currently there is well over 200,000 square feet of grocery. Ms. Ravenscroft asked the Council to conduct an Economic Impact Study before making its decision. If it turns out to be needed, she encouraged the City Council to find a way to build the grocery store within the Village.

Dr. Wendy White, 3702 Ashton Drive, Ames, advised that she lives in the townhome community immediately adjacent to the proposed commercial development at Bloomington and Stange. Ms. White indicated her opposition to the proposed shopping plaza. She feels that the linking of a Commercial Node to another commercial center (village) is contrary to the Commercial Node concept. The proposed linkage creates a commercial corridor, which is contrary to the principles of the LUPP. She believes that if the alternative wording is approved, the City will lose control over what is built once the land is rezoned to commercial. Size is also a concern for Ms. White

as the proposed development would be more than twice the size of the West Ames HyVee shopping plaza. It is unclear to her why the version that limits commercial development to a grocery store and convenience store would require 13 acres. She also brought up design standards, stating that it is important for people to realize that, should the amendments be approved, the design standards that would apply would be the existing standards for Convenience Commercial Nodes; these would allow floodlights, street signs, and parking lots in front of the building. Also, the facing on the buildings is required to be only 50% brick. Ms. White urged the City Council to deny the proposed amendments.

Dr. White then read a statement of John Belcher and Tanya Zanish-Belcher, 2916 Roxboro, Ames, who were unable to attend this meeting. They moved into a condo in the Northridge Heights area, but had no idea that there would ever be commercial near them and specifically chose the area due to its residential nature and its nearness to Somerset Village. They are very unhappy to hear of the proposed commercial development at Bloomington and Stange, and if they had known that information, they would not have purchased a home in that location. To them, the existing grocery stores are not out of range. They do not want a shopping plaza nearby with its constant traffic of cars and semi-trucks, parking lot lights, cement, and people around at all hours. Constant rezoning makes it difficult for people to purchase a home in Ames. They feel cheated and worry about the value of their property.

Joanne Olson, 3817 Columbine Avenue, Ames, asked that the City Council deny the amendments for the following reasons: (1) The property in question is on the edge of the Hayden Watershed Boundary. Council should very seriously consider the environmental impacts that commercial development would have on that Watershed. Light pollution should also be considered. (2) The current shopping issue needs to be reviewed. More money won't be spent; it will just be spent in different places. She said that since she had moved to Ames, the North Grand area has been declining in its stability, and she is concerned about the long-term livelihood of that commercial space. Ms. Olson pointed out that it would be convenient to have commercial outlets always a block away from home, but there are environmental impacts. Aesthetics of the area should also be considered.

Holly Fuchs, 806 Brookridge Avenue, Ames, said that she believes there needs to be additional exception criteria. She wonders if Ames can support another grocery store and doesn't want to lose the Downtown Fareway store. Ms. Fuchs does not like to see commercial developments in Ames built in the Gilbert School District. If it is needed, she prefers that the City figure out a way to place the development in the Village.

David Durland, 3310 Preston Circle, Ames, said that he lives near the area in question and believes that there is an overwhelming desire for a grocery store and additional development at Bloomington and Stange. He thinks that if North Grand would have kept their stores in order, they would not be faced with this problem. Mr. Durland is not sure of anything that can be done to protect that from happening.

Dan Nutini, 3614 Farnham Drive, Ames, advised that he supports a CCN in the proposed area. He believes that residents desire more commercial choices in North Ames. A gas station, grocery store, and convenience store would improve the quality of life for neighborhood residents, but

those are not the only services that are desired in the area. Mr. Nutini said that adding restrictive language to an outdated LUPP would only further the lack of commercial choices for residents by limiting business competition in the open market. He thinks that it is time to let consumer demand geographically dictate where services should be provided and embrace the idea that competition is a healthy and natural component to the success of any area.

Al Campbell, 2432 Welbeck Drive, Ames, voiced his support for revisiting rezoning the area in question.

Fred Greiner, President of Fareway Stores, wished to quell the rumors about the store in Downtown Ames. He said Fareway has been in Ames since the 1930's. They would like another store on the north side of Ames, but the downtown store will stay open. They have reviewed the building guidelines and architectural standards of the CCN, and they are willing to comply with all the standards. The store will have downcast lighting, the store hours will be 8 AM to 9 PM, the store will be closed on Sundays, and they would be a good fit for a CCN. Mr. Greiner commented that the CCN could be enhanced by a bank, convenience store, and a medical clinic.

Elizabeth Kosiel, 3902 Westlawn, Ames, voiced her opposition to the amendments. She does not understand the need for the vast commercial node that is being considered. Ms. Kosiel said that she formerly lived in Anchorage, Alaska, which became over-commercialized with strip malls. She thinks it's sad that Americans need convenience nodes in their backyards.

Troy Weary, 2725 Cambridge Drive, Ames, said that he and his wife built a home in Somerset four years ago. He urged the City Council to approve the LUPP amendments.

Steve Moore, 2421 Dalton Circle, Ames, said that he would be in favor of amendments that would promote thoughtful growth in the area in question. Mr. Moore thinks that there is nothing to draw people to Somerset Village now. It is his feeling that additional competition would actually enhance the area and be good for not only Somerset, but Ames, as a whole.

Martha Clifford, 3909 Brookdale Circle, Ames, asked the Council to carefully consider offering these services to North Ames residents. She thinks that by allowing the commercial development, it would be helpful to Somerset as well as to area residents.

Marc Peterson, 2530 Somerset, Ames, said that he and his family love living in Somerset Village; however, the biggest thing that is lacking is additional commercial development. He would like to see a convenience store and a grocery store in the area. Mr. Peterson feels that the village concept has been successful, and he is in favor of the proposed amendments.

Joe Rippetoe, 419 Pearson Avenue, Ames, expressed his fear that if Fareway is built in North Ames, the Fareway in downtown would close. He asked that Mr. Greiner be asked why Fareway is unable to meet the standards in Somerset since he has stated that they would be able to meet the standards of the CCN. According to Mr. Rippetoe, there is a record of downtown Fareway store closings in Boone and Nevada, and he is skeptical that the Downtown Ames store would stay open.

Ron Frantzen, 2418 Ridgetop Circle, Ames, feels that the proposal is absolutely great for the north

part of Ames. He supports allowing a grocery store, bank, convenience store, car wash, and medical clinic facilities to be located in the area and does not see why those services would not fit into the neighborhood.

Don Heuss, 2137 Prairie View East, Ames, stated that he is in favor of the proposed amendments. He feels that the Land Use Policy Plan that he personally worked on ten (10) or 15 years ago was not a document carved in stone. Ames is losing revenue to outside communities. It is a progressive community, and viable changes should be made to encourage development. Mr. Heuss does not believe that it is the City's job to tell Fareway or any other retailer how to develop their property or whether there is going to be enough business. As a business person, Mr. Heuss said developers would not request to develop in Ames if they did not feel it would be viable.

Chuck Winkleblack, 105 S. 16<sup>th</sup> Street, Ames, said that much has been made about what has happened in Somerset Village. He pointed out that the development began in 1997. There are only two streets that have currently not been developed; there are only 35 available undeveloped lots. Mr. Winkleblack showed an illustration of the commercial development on the west side of Stange Road. There are approximately ten acres of commercial land in Somerset. That equates to approximately 140,000 square feet of commercial development, and there is a little less than 20,000 square feet of building space that has not been developed on the west side of Stange. Mr. Winkleblack noted that the Village design was never intended to be a sea of parking; the buildings are all very close to the street. He pointed out that the CCN guidelines were developed to fit within Suburban Residential development. The developers would like to build a primary care facility, not a specialty clinic, on the site in question. The amount of parking necessary for a primary care facility cannot be accommodated in Somerset, and if placed there, would destroy the intent of the Village design. There are 30 businesses currently operating in Somerset. Referencing stormwater management, Mr. Winkleblack advised that the site in question is located in the Ada Hayden Watershed. Another pond will need to be built, and they will have to release at different rates than normal, but that has all been factored in to the proposed development. He asked for a show of hands from those in attendance who supported the proposed amendments, and the majority of those in attendance indicated their support.

Don Lambert, 2506 Bristol Drive, Ames, asked Mr. Winkleblack if there was enough room in the Village for the type of development being proposed. Mr. Winkleblack indicated that there was not. Mr. Lambert indicated his support for the amendments, which would allow the proposed development close to the Village.

Jane Vajgrt, 3033 Burnham Drive, Ames, said that small grocery store markets built in other communities are not succeeding because they are too small. A lot of senior citizens live in or around the area in question, and "they like a smaller grocery store." She referenced smart growth principles: walkability, biking, and short-drive distances, and said that there are many residents who would benefit from the proposed development.

Andi Smith, 3112 Burnham, Ames, said that she is very much in favor of the proposed amendments. She believes that it is extremely important to be mindful of change; things change, and she wants to see Ames grow. Ms. Smith has a problem with the City Council not wanting to see growth. It is necessary if you want young families to move here and people to stay here.

Brett Severance, 3209 Harrison Road, Ames, said that he has lived here for approximately three years and has been frustrated by the lack of growth in Ames. This proposal is exciting for him and his family. He does not want to see 400 apartments built in the area; this is a much better option. Mr. Severance urged the City Council to approve the amendments to allow not only a grocery store and a convenience store, but also a medical center and other businesses in the area in question.

John Nervig, 2808 Hampton Street, Ames, described his fondness for Somerset Village. He wonders what will happen to Cub Foods after the WalMart opens on South Duff. In Mr. Nervig's opinion, it is possible that Cub Foods would close, which would leave all grocery stores in the south part of Ames. He believes that the amendments should be approved so that a Fareway store could be built.

Jake Vogel advised that he is the Manager of Somerset Pharmacy, 2709 Northridge Parkway, Ames. He commented that he is not afraid of direct competition; it is healthy. Mr. Vogel is in support of the development and all the uses being proposed. He pointed out that there is only one medical clinic in Ames with a population of nearly 60,000, and he would like it to be possible for other doctors to locate there. He asked for clarification on whether McFarland Clinic would be allowed to have a HyVee Pharmacy in their building and whether Walgreens would be considered a grocery store. Mr. Vogel would not be opposed to that, but wanted to know how that would work.

Council Member Doll asked why a grocery store cannot locate in Somerset Village. Mr. Winkleblack said a lot of it has to do with building placement. Somerset design guidelines and the related costs associated with those are also issues. There physically is no room left to accommodate a grocery store.

Council Member Rice asked to know what the status is on the land owned by the Ames Community School District west of the current commercial area. Mr. Winkleblack advised that it is his understanding that the School District is working on a comprehensive land use study. However, the public infrastructure is not in place to support commercial development there; Stange was to be the arterial road. Bloomington was to be widened, a stop light put in, and the traffic was to come down Stange, not around George Washington Carver. There are no turning lanes on the west end of Aspen or on the west end of Northridge Parkway, and to put that much traffic on already problematic intersections would not be wise.

Council Member Larson referenced a petition signed by 28 business owners formerly sent to the City Council; that represents nearly unanimous support. He commented that concerns had previously been expressed by this Council that the proposed type of development might inhibit the businesses in Somerset. Mr. Winkleblack advised that the uses being proposed will not be in direct competition with the uses already located in Somerset. The majority of business owners have indicted to him that the proposed development will enhance their investments.

Council Member Mahayni asked Mr. Winkleblack to comment on the competition for available commercial space. Mr. Winkleblack advised that, in its early stages, Somerset was intended to be a limited retail area. Inquiries about Somerset are received weekly; however, the lack of traffic now on Stange is always an issue. Also, the buildings look wonderful, but that comes at a price;

retail has a difficult time paying the higher costs for the required design standards.

Council Member Larson advised that he had received 159 e-mails, of which 143 were in support of some version of commercial development being allowed. In addition, he said that the majority of those people were in support of allowing all uses.

Council Member Rice said that many people from whom he received e-mails were unaware of the proposed size of commercial development in this area. He is very concerned over the size of the proposed development; overall acreage is key for him.

Moved by Rice, seconded by Popken, to adopt a resolution approving the Land Use Policy Plan text amendments to provide exception criteria to the locational criteria for the Convenience Commercial Node, as directed by Council on September 25, 2007, with the addition of (h) that the Convenience Commercial Node must be two to five acres in size.

Council Member Larson clarified that, if that motion is approved, it would only allow convenience stores and grocery stores. He does not agree with limiting the development to two to five acres in size. Mr. Larson explained that the land in question has a strange configuration, and he doesn't know what else it could be used for except for apartments.

Council Member Popken said that he looked at the history behind the LUPP, and the issue of proximity of Convenience Commercial to the Village is not new. Mr. Popken read excerpts from the LUPP regarding commercial vitality. His concern is that the CVCN would be located too close to the commercial area in the Village; that is why his support would be limited to a convenience store and a grocery store.

Mr. Larson again referenced the petition from business owners in Somerset; he did not hear from one who did not want all the uses being recommended by the applicant.

Council Member Mahayni asked why Planning staff had not made a recommendation on this request. Director Osguthorpe explained that staff was responding to a directive given it by the Council; they had outlined the benefits and the drawbacks of the proposed amendments.

Council Member Mahayni said that he believes the City Council is following the wrong process. He referenced his profession as a planner and stated that the motion on the table constituted spot-zoning. The LUPP says a CVCN may be two to five acres with a maximum of ten acres in size, and Mr. Mahayni does not think that should be changed. It is also his belief that it is not the role of the Council to dictate to business owners. He pointed out that the majority of those expressing an opinion had indicated support for the expanded proposal, and he believes that is most consistent with the LUPP, the Zoning Ordinance, and for hospital-medical uses.

Council Member Doll said that he is bothered that future commercial developments in CVCNs would be limited to having only convenience stores and grocery stores. Council Member Rice said that he would be willing to allow other uses as long as the maximum size would be two to five acres.

Council Member Goodman said that the concept of the size being dictated as two to five and a maximum of ten acres originated to create some freedom due to the configuration of lots. He cannot support a diminished size mainly because he sees this as a very uniquely configured area. Council Member Mahayni commented that he thinks the size was determined to allow for a mix of related activities. It was pointed out by Council Member Larson that, according to Mr. Winkleblack, medical clinics require three times more parking than other retail needs; clinics need 15 stalls per 1,000 sf of building.

Roll Call Vote: 2-4. Voting aye: Popken, Rice. Voting nay: Doll, Goodman, Larson, Mahayni. Motion failed.

Moved by Goodman, seconded by Popken, to adopt a resolution approving the Land Use Policy Plan text amendments to provide exception criteria to the locational criteria for the Convenience Commercial Node, as directed by Council on September 25, 2007, i.e., allowing only a convenience store and a grocery store.

Council Member Goodman said that the community wants Somerset to be a strong commercial area. He believes that having a convenience store and a grocery store will enhance the uses already located in Somerset, and predictability is good for business investment. Council Member Doll pointed out that there is an option that allows uses to grow as the needs grow, and he is not supportive of limiting the uses. Council Member Mahayni again objected to the process. He pointed out that the City Council is a policy-making body, and it should not micro-manage. Mr. Mahayni again emphasized that allowing only a convenience store and a grocery store would be spot-zoning. Council Member Goodman reiterated his concerns about allowing certain commercial uses to be located so close to the Village.

Roll Call Vote: 3-3. Voting aye: Goodman, Popken, Rice. Voting nay: Doll, Larson, Mahayni. Motion failed.

Moved by Goodman, seconded by Popken, to adopt RESOLUTION NO. 07-528 approving the Land Use Policy Plan text amendments to provide exception criteria to the locational criteria for the Convenience Commercial Node, as directed by Council on September 25, 2007, with a change made to (c) to allow for a convenience store, grocery store, and medical offices and clinics.

Council Member Doll advised that he continues to have a problem with limiting the uses. Council Member Goodman defended his stance, stating that it creates undue pressure on business owners. He reminded the City Council that he was attempting to find a compromise that would allow some additional services; "something is better than nothing." Council Member Larson pointed out that no one can anticipate what might happen two years down the road, but developers need to plan for adequate infrastructure.

Moved by Goodman, seconded by Larson, to amend the motion to allow car washes as an acceptable use.

Council Member Larson pointed out that "there is a line drawn in the sand," and he, too, wants something to move forward. He would be willing to support the motion, as amended.

Mr. Winkleblack urged the City Council to move something forward. He advised that if a financial institution is not an allowed use, there will be one small triangular piece of land that will be vacant; it might be left vacant due to its configuration.

Director Osguthorpe clarified that permitted uses in CVCNs include offices and that includes medical offices and clinics.

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

Roll Call Vote on Motion, as Amended: 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.

The meeting recessed at 10:00 p.m. and reconvened at 10:06 p.m.

**AMENDMENT TO ECONOMIC DEVELOPMENT AGREEMENT WITH BIO-FORCE NANOSCIENCES, INC.:** City Manager Steve Schainker advised that the Chief Financial Officer of BioForce Nanosciences had submitted a request for an extension of the time required to meet the employment targets set out in the City's Revolving Loan Fund and Community Investment Fund agreements. Mr. Schainker stated that payments on the loans have been made in a timely manner. He noted that the loan agreements contain a provision for a penalty if the company does not provide 30 full-time jobs in Ames. Per the agreement, those jobs were to have been created by February 28, 2007; however, the City Council granted an extension to December 31, 2007. As of February 2007, the company employed 21 full-time, with 18 of those positions being in Ames. At present, its full-time employment is 23; 19 of those positions are in Ames. In addition, there are two full-time positions that are presently open and will be filled as soon as appropriate candidates are located.

Mr. Schainker stated that the company alleges that it did not reach the number of full-time positions by December 31, 2007, due to a shortfall in sales that resulted in the need for fewer production positions. It also did not secure the level of equity financing that it had planned, which meant that it was not able to create some of the positions in research and development. According to Mr. Schainker, the company is requesting that the December 31, 2007, date be extended to December 31, 2008.

Moved by Mahayni, seconded by Popken, to adopt RESOLUTION NO. 07-526 approving an amendment to the Economic Development Agreement with Bio-Force Nanosciences, Inc., to extend the job creation deadline to December 31, 2008, contingent upon continued timely payments of loan principal and interest being made.

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

**REQUEST TO JOIN THE IOWA METROPOLITAN COALITION:** Assistant City Manager Bob Kindred said that he and Mayor Campbell attended a meeting on September 27, 2007, concerning the possibility of the state's larger cities joining together to advance their legislative priorities. He advised that the purpose of the Coalition would be to unite larger cities with similar concerns in

an organization intended to enhance communication and advance their common interests in effectiveness in legislative matters. Its mission is to develop sustainable communities for businesses and families through economic growth and good local government. Examples given of possible Coalition issues were conversion of commercially assessed apartment buildings to condominiums, allowing for assessment at the roll-back residential rate; the financial impacts of residential roll-back; and strengthening local control over issuing or rescinding liquor licenses. According to Mr. Kindred, the City of Waterloo chose not to participate in this initiative; however, the other nine largest cities are presenting the Coalition agreement to their city councils for approval. He advised that a member city may withdraw from the Coalition by giving six months notice before the beginning of a fiscal year. It appears to be a two-year commitment.

City Manager Schainker said that he believes the Iowa League of Cities assumes that cities will maintain their membership; this would be in addition to the Iowa League.

Moved by Larson, seconded by Goodman, to adopt RESOLUTION NO. 07-527 approving the request to join the Iowa Metropolitan Coalition, subject to the other eight cities participating.

Mr. Kindred advised that dues for the City of Ames would be \$7,538.43 and approximately twice that amount for 2008/09. The funds will be used by the Coalition to hire a Director of Government Affairs to staff the initiative during the legislative session.

Holly Fuchs, 806 Brookridge Avenue, Ames, referenced the mission statement of the Coalition, and said that she felt they should add "which is influenced by quality of life." Ms. Fuchs also believes that the dues should be lower for Ames.

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

**UPDATE ON WOLFORD DEVELOPMENT SUBMITTAL REQUIREMENTS:** City Attorney Doug Marek stated that he had received the additional information that he had requested on the priority of the agreement that the City has with Wolford compared to the mortgage. Regarding financing, it appeared to him that Wolford had met that standard, but he had requested additional information on that as well. At the time Mr. Marek had reviewed the leases on December 3 and 4, there had been no binding leases. He reported that by Friday of last week, he had received evidence of the subordination of the mortgage, and based on that, he had indicated to the City Clerk that it was appropriate to publish the Zoning Ordinance. It was published on December 14, 2007, and the zoning to Regional Commercial went into effect on that date. The Developer's Agreement and Zoning Ordinance, including proofs of publication, were recorded today.

Mr. Marek stated that he had analyzed the additional financing documents using projected construction costs for a facility of the design and square footage being proposed based on numbers provided by the City Assessor and the City's Inspections Division, and it is clear that the financing is clearly adequate. A summary of the status of leases has also been provided. The names of the retail outlets have been removed from that summary.

Also, Mr. Marek advised that, on December 6, 2007, the District Court entered an Order granting

Summary Judgment against the Advocates for Responsible Urban Design; that was the Declaratory Judgment action that had been filed by that advocacy group against the then-property-owners of the site. It challenged the property owners' ability to protest. The City of Ames and Wolford Development Options were later named in that lawsuit. The hearing was held in April. There is a 30-day period of appeal (from December 6, 2007). According to Mr. Marek, an appeal to the Supreme Court, if filed, could taken up to a year.

Attorney Marek said that, since a deadline was missed, according to the Agreement, the City Council has the ability to repeal the Zoning Ordinance or rezone the property; however, inaction does not mean that the City Council relinquishes its right to do so. Mr. Marek stated that it was his advice that the Council not let a long period of time pass before giving some indication of what it is inclined to do. He believed that it was appropriate to request more information from Wolford Development Options, and he has done so through Mr. Wolford's attorney, Bill Bartine. Mr. Marek advised the Council to set some sort of timeline for conditions as it would be helpful to the process; however, under the Agreement, the Council does not give up the right to rezone at a later time by inaction at this time.

Bill Bartine, Belin Law Firm, 2000 Financial Center, Des Moines, Iowa, told the Council that the report on leases is accurate. It is very good news as far as where they are on the leases. There are many Letters of Intent and lots of interest. On the basis of what they currently have, they are very close to meeting the criteria in the Agreement for lease compliance. He said that it would be reasonable to ask where they are with lease compliance after two years, but there really isn't much to lease until you have final approval of a project. The benchmark is usually the building site plan approval; that approval was not obtained until the end of October 2007. The site plan was initially filed in July or August, but discussions ensued about the status of the Zoning Ordinance. With the discussions that transpired over the status of the Zoning Ordinance, there was an eight-month period at the start of the project that was basically "dead time." He talked to the development team today and will be meeting the first part of January about platting and infrastructure. Mr. Wolford's goal is to start construction between May and August 2008. He will have the leases signed by then and be ready to turn dirt.

According to Mr. Bartine, one lease is out for signature, there are many Letters of Intent, and there are many outstanding proposals. The anchor stores are handled through Memorandum of Understanding documents; they buy their pad, rights to parking, etc. He pointed out that Mr. Wolford has made a lot of commitments to this project, including purchasing approximately \$6 million worth of land. He really has only had about two months since approval of the plan to get leases signed.

Mary Richards, 3217 West Street, Ames, said that she was a citizen who had watched and listened to the protracted discussions about the wisdom of building a new retail commercial center. She said that she was struck by the high proportion of arguments based on questionable or imaginary facts and ignored facts. Ms. Richards read her chronological review of the "supportable facts." Referencing the report of Dr. Kenneth Stone, Professor Emeritus, Ms. Richards told the City Council that they "should decide to pull the plug on a project that was never financially justified."

Joe Rippetoe, 419 Pearson Avenue, Ames, reiterated the reasons he gave at the meeting on

December 4, 2007, why the City should take measures to rezone the property back to Industrial. According to him, if it does not do that, the Council members would not be protecting the contractual interests of its citizens. He again referenced polling that had been done by the Vernon Company, which had been paid for by the Tribune and published in its January 12, 2004, edition. Mr. Rippetoe urged the City Council to start the rezoning process tonight.

Council Member Rice said this could go on as an infinite item until Wolford decides to build if the City Council does not do something; that would hold up a lot of things in Ames that he would like to see grow. He said that one lease over that amount of time does not “cut it,” and he continues to believe that it is not going to work because the market may not be there.

**ORDINANCE REGULATING PARKING ON SOUTH 5<sup>TH</sup> AND SOUTHEAST 5<sup>TH</sup> STREETS:**

Moved by Mahayni, seconded by Doll, to pass on second reading an ordinance regulating parking on South 5<sup>th</sup> and Southeast 5<sup>th</sup> Streets.

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

**ORDINANCE REZONING PROPERTY AT 218 LINCOLN WAY:** Moved by Goodman, seconded by Popken, to pass on third reading and adopt ORDINANCE NO. 3934 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 Mahayni, to pass on third reading and adopt ORDINANCE NO. 3935 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 Doll, to pass on third reading and adopt ORDINANCE NO. 3936 pertaining to insurance requirements for fireworks.

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

**COMMENTS AND FUTURE AGENDA ITEMS:** Moved by Rice, seconded by Mahayni, to refer to staff letter from Attorney Larry Curtis requesting waiver of subdivision regulations for properties located at 1281, 1283, and 1287 XE Place.

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

Moved by Popken, seconded by Rice, to direct staff to look into and report back to the City Council with a recommendation on using multi-modal level of service for future analyses.

Vote on Motion: 5-0-1. Voting aye: Doll, Goodman, Larson, Popken, Rice. Voting nay: None. Abstaining: Mahayni. Motion declared carried.

Council Member Larson asked for an update on enforcement of Snow Ordinance. City Manager Schainker explained that he had authorized a delay in the enforcement of that Ordinance due to citizens not being able to obtain the necessary supplies to melt the thick layer of ice that had

accumulated during the last storm.

**ADJOURNMENT:** Moved by Doll, seconded by Goodman, to adjourn the meeting at 11:05 p.m.

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Diane R. Voss, City Clerk

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Ann H. Campbell, Mayor