

**MINUTES**  
**COMMON COUNCIL CHARTER MEETING**  
**August 5, 2002**  
**5:30 P.M.**  
**Council Chambers**

**MEMBERS PRESENT:** Mayor Rietz, Council Member-at-Large Chaffee, Council Members Goodnature, Christopherson, Poppe, Nordin and Lang.

**MEMBERS ABSENT:** Council Member Jorgenson.

**OTHERS PRESENT:** Media. Public. Spud Bothun. Bob Thistle and Terri Heaton of Springsted. Randy Disted, Minnesota Parks and Rec.

The following changes were made to the council agenda: The kennel license was removed from the Consent Agenda and placed under Petitions and Requests. Items 16, 20 and 22 were removed (a developer agreement for Milwaukee Roundhouse Addition and two requests to remove junk at residences). Added to the agenda: a one-year leave for a library employee, temporary rearranging of hours/employees at the library, permitting a sick leave donation of 55½ hours for an employee. Also added to the agenda: an adult-use business ordinance and a zoning ordinance for certain businesses including adult-use businesses to be allowed in the I-3 Industrial Business District. The council meeting will also close, as passed by motion in the Finance/Personnel Committee Meeting, to discuss AAO negotiations and labor contract, along with the alleged violations of city policy by Fire Chief Dan Wilson.

Moved by Council Member-at-Large Chaffee, seconded by Council Member Nordin, adopting the agenda. Carried.

Moved by Council Member Christopherson, seconded by Council Member Nordin, approving the council minutes of July 15, 2002. Carried.

Randy Disted of the Minnesota Parks and Recreation Association recognized Austin and Parks and Rec Director Denny Maschka as recipient of the Award of Excellence for the Veterans Pavilion.

Spud Bothun reported that through surveillance and pressure from the Neighborhood Watch Program, three meth houses have been removed from his neighborhood. The Neighborhood Crime Watch met on August 1 for Brats in the Park; the event was successful and well attended.

Moved by Council Member-at-Chaffee, seconded by Council Member Nordin, approving the consent agenda as follows:

Licenses:

Master plumber: K&S Heating & Plumbing, 4205 Hwy 14 West, Rochester, MN

Claims:

Pre-list of bills.

Carried.

The Clerk's Office received an application for a kennel license from Barbara and Carlos Lilly, 913 – 14<sup>th</sup> Avenue SE. Community Development Director Craig Hoium stated that there are ordinances addressing R-1 restrictions, including a limit of three animals. Districts allowing kennel licenses include B-2, B-3, and I-2, and when permitted, must be 100 feet from the property line.

Moved by Council Member Poppe, seconded by Council Member Christopherson, denying application for kennel license. Carried.

Community Development Director Craig Hoium said staff, Council and the Planning Commission has worked on adopting an adult-use business ordinance for four years. Mr. Hoium said this ordinance is for protecting the public interest and its citizens, and it also considers present adult-use business owners. The ordinance identifies the findings and purpose; the spacing requirements, including 1000 feet from parks, churches and other community property, 300 feet from trails, 500 feet from residential districts, and 200 feet from other adult-use businesses. The Ordinance Committee initially reviewed this ordinance in December 2001. The Committee recommends approval of the ordinance.

Moved by Council Member Lang, seconded by Council Member Poppe, that the City Attorney prepare the ordinance. Carried.

Moved by Council Member Lang, seconded by Council Member Poppe, that the ordinance be advanced to the first reading. Carried.

Moved by Council Member Lang, seconded by Council Member Poppe, for adoption of the first reading. 5-0. Carried. Council Member Nordin abstained.

Moved by Council Member Lang, seconded by Council Member Poppe, that the ordinance be advanced to the third and final reading. Carried.

Moved by Council Member Lang, seconded by Council Member Poppe, for adoption and publication of the ordinance. 5-0. Carried. Council Member Nordin abstained.

One ordinance reading was accidentally omitted for approval of this last ordinance. City Attorney David Hoversten said two ordinance readings is sufficient.

The Ordinance Committee also has recommended approval of an adult-use business zoning ordinance. These businesses would be regulated to a 53-acre area in the Northeast Industrial

Park. Council Member Goodnature asked if surrounding businesses were aware of this ordinance. Mr. Hoiium said they were not informed.

Moved by Council Member Lang, seconded by Council Member Poppe, adopting an ordinance for zoning adult-use businesses. 5-1. Carried. Council Member Christopherson voted nay.

Moved by Council Member Lang, seconded by Council Member Poppe, that the ordinance be advanced to the first reading. 5-1. Carried. Council Member Christopherson voted nay.

Moved by Council Member Lang, seconded by Council Member Poppe, for adoption of the first reading. 5-1. Carried. Council Member Christopherson voted nay.

Moved by Council Member Lang, seconded by Council Member Poppe, that the ordinance be advanced to the second reading. 5-1. Carried. Council Member Christopherson voted nay.

Moved by Council Member Lang, seconded by Council Member Poppe, that the ordinance be advanced to the third and final reading. 5-1. Carried. Council Member Christopherson voted nay.

Moved by Council Member Lang, seconded by Council Member Poppe, for adoption and publication of the ordinance. 5-1. Carried. Council Member Christopherson voted nay.

The HRA requires a resolution be passed annually for adoption of its yearly tax levy budget to support part of its budget. This tax levy budget in the amount of \$114,173 was discussed and approved by the HRA Board. The following is a breakdown of the budget.

**BUDGET**

Professional services	\$30,000
Austin Courtyard debt service	19,000
Austin Courtyard Reimb City PILOT	10,000
Travel	8,000
Communications	3,000
Commissioner fees	3,600
Legal	5,000
Miscellaneous	2,000
Special project expenses	<u>33,573</u>

Total requested budget	\$114,173
------------------------	-----------

**TAX COMPUTATION**

2002 Market value – City of Austin	\$792,870,600
Tax capacity available to the HRA	<u>x .000144</u>
Tax levy allowed for year 2003	\$114,173

Moved by Council Member Lang, seconded by Council Member Nordin, adopting the HRA tax levy budget for the fiscal year ending September 30, 2003. 6-0. Carried.

City Engineer Jon Erichson presented Council with an agreement between the City and Weyerhaeuser for an individual control mechanism which authorizes the discharge of wastewater from Weyerhaeuser to the WWTP. This agreement places limits on flow and strength from Weyerhaeuser and provides for strong waste charges for all wastewater that exceeds limits as per ordinance. If Weyerhaeuser exceeds the amount, costs are associated. Council Member Christopherson asked Mr. Erichson if this matches or exceeds the MPCA standards. Mr. Erichson replied 'yes'.

Moved by Council Member Christopherson, seconded by Council Member Nordin, adopting a resolution approving the agreement with Weyerhaeuser for an individual control mechanism. Carried. 7-0.

City Engineer Jon Erichson said a new unfunded mandate law will require the City of Austin to obtain a permit for stormwater discharges in 2003. The League of Minnesota Cities is coordinating an effort to develop a Stormwater Guide Plan. In order for Austin to participate in this program, the cost would be \$5000 from the contingency line item.

Moved by Council Member Christopherson, seconded by Council Member Nordin, adopting a resolution approving funding for the state-mandated stormwater discharge permit for 2003. Carried. 6-0.

Council received a report of the commissioners for the vacation of a public right-of-way in Austin Commercial Center. No action was taken. This report will lay over to the August 19<sup>th</sup> council meeting for final approval.

Three years ago, the City received back from the State funds from overfunded Police and Fire pension accounts. At that time, the State required a resolution stating how the City would spend these funds (i.e., police funds for police expenditures and fire funds for fire expenditures). During the budgeting process, the City has passed budget resolutions to expend the assets. Director of Administrative Services Tom Dankert requested Council pass another resolution to give greater latitude in the expenditure of these funds:

**POLICE ASSETS:**

1. Purchase of vehicles and related equipment.
2. Purchase of any other assets attributable to the Police Department.

**FIRE ASSETS:**

1. Purchase of fire emergency equipment.
2. For the use in training needs.
3. Purchase of any other assets attributable to the Fire Department.

Moved by Council Member-at-Large Chaffee, seconded by Council Member Christopherson, adopting a resolution approving the revised plan for the expenditure of the residual assets from the merged police and fire consolidated accounts. 6-0. Carried.

Two changes for voting places have been made this year. Voters in the First Ward, First Precinct will now vote at Austin Public Library (from Pickett Place); and voters in the First Ward, Second Precinct will now vote at Austin High School (from Sumner School). Polls will be open 7:00 am to 8:00 pm. September 10<sup>th</sup> is the date of the primary election. A resolution stating voting places must be passed and published each election year.

Moved by Council Member-at-Large Chaffee, seconded by Council Member Christopherson, adopting a resolution designating the voting places for the city, utility, county and state primary election to be held on September 10, 2002, and also for the general city, utility and state election to be held on November 5, 2002. 6-0. Carried.

Moved by Council Member-at-Large Chaffee, seconded by Council Member Christopherson, adopting a resolution designating the judges of election for the primary election and general election to be held in September and November, 2002. 6-0. Carried.

Bob Thistle and Terri Heaton of Springsted Inc. presented recommendations for \$1,220,000 General Obligation Improvement Bonds, Series 2002A. These bonds are for the infrastructure for the Cook Farm site and for street improvement project on 6<sup>th</sup> and 3<sup>rd</sup> Avenues SW. The bonds are for 15 years at 4.13%. They would be bid on September 16<sup>th</sup> to the lowest bidder and approved by Council at the September 16<sup>th</sup> council meeting.

Moved by Council Member-at-Large Chaffee, seconded by Council Member Nordin, adopting a resolution authorizing issuance and sale of \$1,220,000 G.O. Improvement Bonds, Series 2002A. 6-0. Carried.

Moved by Council Member Poppe, seconded by Council Member Christopherson, setting a public hearing on August 19<sup>th</sup> before the Board of Adjustments and Appeals to consider a 4'-6" variance from city code governing the minimum sideyard setback of 5 feet in an R-1 Single Family Residence District, requested by Douglas Oldenburg, 1205 – 8<sup>th</sup> Street SW. Carried.

The City Council passed an ordinance on April 2, 2001 allowing the installation of fiber optic system in the city right-of-way for Austin Ford-Lincoln-Mercury. This request was made in anticipation of increasing the physical size of the dealership. This project did not occur, and City Engineer Jon Erichson advised that the Council rescind the ordinance.

Moved by Council Member Lang, seconded by Council Member Poppe, that the city attorney prepare the ordinance. Carried.

Moved by Council Member Lang, seconded by Council Member Poppe, that the ordinance be advanced to the first reading. Carried.

Moved by Council Member Lang, seconded by Council Member Poppe, for adoption of the first reading. 6-0. Carried.

Moved by Council Member Lang, seconded by Council Member Poppe, that the ordinance be advanced to the second reading. 6-0. Carried.

Moved by Council Member Lang, seconded by Council Member Poppe, that the ordinance be advanced to the third reading. Carried.

Moved by Council Member Lang, seconded by Council Member Poppe, for adoption and publication of the ordinance. 6-0. Carried.

The City has received a request from the HRA to use the public right-of-way to install a cable system between their two apartment buildings (Chauncey and Courtyard). The City has allowed this type of use previously and would allow this current request with the following conditions:

1. There is no conveyance by the City of any title or interest in the property.
2. The right and privilege is granted only to the HRA.
3. The HRA is responsible for securing all the permits.
4. The HRA will be responsible to contract for locating the cable crossing as part of the Gopher One Call System.
5. If the system ceases to operate, the HRA will be required to remove the system and restore the public right-of-way.
6. HRA will hold the City of Austin harmless from all liability or loss that the City may sustain concerning the installation and operation of the cable.

Moved by Council Member Lang, seconded by Council Member Poppe, that the city attorney prepare the ordinance. Carried.

Moved by Council Member Lang, seconded by Council Member Poppe, that the ordinance be advanced to the first reading. Carried.

Moved by Council Member Lang, seconded by Council Member Poppe, for adoption of the first reading. 6-0. Carried.

Moved by Council Member Lang, seconded by Council Member Poppe, that the ordinance be advanced to the second reading. 6-0. Carried.

Moved by Council Member Lang, seconded by Council Member Poppe, that the ordinance be advanced to the third reading. Carried.

Moved by Council Member Lang, seconded by Council Member Poppe, for adoption and publication of the ordinance. 6-0. Carried.

The City has received a request for subdivision of property northeast of Cedar Valley Services. In accordance with Austin City Code Chapter 13, the city council may waive platting requirements for minor subdivisions. The subdivision request is to accommodate approximately 23 off-street parking stalls. Austin Utilities has requested a 15-foot wide easement along the south edge for utility purposes. The City Engineer has also indicated that the City may want to plant trees between this area and 4<sup>th</sup> Street. City Engineer Jon Erichson said 4<sup>th</sup> Street NW is a County State-Aid street. The County intends to make application for widening this street; it is included in their 5-year plan. Council Member Christopherson asked if this land is owned by Cedar Valley Services. Community Development Director Craig Hoium said this has been petitioned by Joe Fuhrman.

Moved by Council Member Christopherson, seconded by Council Member Nordin, adopting a resolution approving the subdivision waiver. 6-0. Carried.

Moved by Council Member Christopherson, seconded by Council Member Nordin, granting the Planning and Zoning Department the power to contract for the removal of junk at 1704 – 1<sup>st</sup> Avenue SE, Anderson/Danley property. Carried.

Moved by Council Member Poppe, seconded by Council Member Christopherson, granting the Planning and Zoning Department the power to contract for the removal of junk at 1205 – 9<sup>th</sup> Avenue SW, Noyola property. Carried.

Moved by Council Member Christopherson, seconded by Council Member Nordin, granting the Planning and Zoning Department the power to contract for the removal of junk at 607 – 8<sup>th</sup> Avenue NW, Thackeray property. Carried.

Moved by Council Member-at-Large Chaffee, seconded by Council Member Nordin, permitting a one-year leave of absence for Sandy Kjarland, Library employee. Carried.

Moved by Council Member-at-Large Chaffee, seconded by Council Member Nordin, allowing the Library Director to temporarily adjust the 20-hour employee to 30 hours and the 14-hour employee to 20 hours. Carried.

Moved by Council Member-at-Large Chaffee, seconded by Council Member Nordin, allowing city employees to donate sick leave totaling 55½ hours to a city employee, Sandy Kjarland. Carried.

Mayor Rietz opened discussion on the Neighborhood Watch Program meeting that was held on Tuesday, July 23<sup>rd</sup>. Due to a serious family situation, Council Member Jorgenson had to miss tonight's meeting but will set another Neighborhood Watch Program meeting. Council Member Goodnature noted that the Council *is* listening; the July 23<sup>rd</sup> meeting was a dramatic meeting with over 100 people in attendance. He said council members can become defensive, but it behooves them not to take things personally. "We can always do a better job, whatever we do." Council Member Goodnature said this is challenging. "The Police Department and City can only do so much. It is absolutely necessary for the public to be involved." Council Member Poppe questioned the safety of making interested citizens of

this program (those who had signed the sign-up sheet) available. Police Chief Paul Philipp said he believed it was Council Member Jorgenson's intention to try to connect those people who are interested in starting up programs. Spud Bothun said he has found that most people on drugs are paranoid; his Neighborhood Watch group – a group of 30 people – is not afraid of these people. Council Member-at-Large Chaffee suggested the website on the Neighborhood Watch Program which has been started by Council Member Goodnature be handled through the city. This, he said, might make people less apprehensive of joining the program. Council Member Goodnature said he hoped that the group would be completely citizen-controlled and not be connected with government because the tendency is to leave things up to us (the government). Spud Bothun said he believed this is going to take government and everyone because it is such a big problem. He added that strength is in unity. Mayor Rietz noted that law enforcement is a concern all over: In recent Coalition of Minnesota Cities and League of Minnesota Board meetings, two major projects in Willmar and Worthington have involved building new jails and police departments.

#### REPORTS:

After receiving a complaint from a citizen, Council Member Goodnature checked on the poor condition in which northwest Todd Park was left after the baseball tournament. He asked if the City charges for these tournaments. Parks and Rec Director Denny Maschka said state and national tournaments don't receive funds. He said the area had been picked up on both weekend mornings, garbage cans are emptied each day. Mr. Maschka said the department is used to this; it's just part of the process. Mayor Rietz asked if it would be helpful to announce prior to play to use the trash cans. Mr. Maschka said this probably would not help; the department just plans on picking up after games.

Council Member Nordin: The Parks and Rec Board monthly board meeting will be August 7 at 5:15.

Council Member-at-Large Chaffee: A Finance/Personnel Committee meeting was set for August 19 at 3:30.

Public Works Director Jon Erichson: The City will spray for mosquitos tonight in coordination with the county fair and the growing mosquito population.

Finance Director Tom Dankert: A Budget Work Session – two to three hour session – was set for August 14 at 6:00 in the conference room.

City Administrator Pat McGarvey said he and the Mayor heard all governor candidates at the Coalition meeting, and next year will be tough financially. The Coalition is hoping to keep the base, plus \$60M of inflation in Local Government Aid.

City Attorney David Hoversten stated the council meeting will publicly close to discuss two separate issues in private session: 1) the alleged violations by the fire chief, pursuant to Minnesota Statute 13D.05(2); and 2) labor negotiation strategy for the AAO, pursuant to Minnesota Statute 13D.03(1).



Moved by Council Member-at-Large Chaffee, seconded by Council Member Poppe, to close the meeting for issue #1. Carried.

Moved by Council Member-at-Large Chaffee, seconded by Council Member Poppe, to close the meeting for issue #2. Carried.

Moved by Council Member-at-Large Chaffee, seconded by Council Member Christopherson, to reopen the meeting. Carried.

Moved by Council Member-at-Large Chaffee, seconded by Council Member Goodnature to adjourn.

Adjourned: 8:23 p.m.

Approved: August 19, 2002

Mayor: \_\_\_\_\_

City Recorder: \_\_\_\_\_