

MINUTES
CITY COUNCIL CHARTER MEETING
January 5, 2004
5:30 P.M.
Council Chambers

MEMBERS PRESENT: Mayor Rietz, Council Member-at-Large Goodnature, Council Members Jorgenson, Koch (5:32), Pacholl, , Christopherson, Nordin and Chamberlain.

MEMBERS ABSENT: None

OTHERS PRESENT: Austin Post Bulletin. Austin Daily Herald. Leroy Doe and Frank Dennison. Bob Thistle.

One item was added to the agenda: Motion in support of the denial of a county conditional use permit requested by Kent Harrington.

Moved by Council Member Jorgenson, seconded by Council Member Chamberlain, adopting the agenda. Carried.

Moved by Council Member Jorgenson, seconded by Council Member Pacholl, approving the minutes of December 15, 2003. Carried.

The following 2003 retirees were honored and received a plaque:

Larry Helgeson – Park and Rec Dept – 27 years of service

Pat Waletzki – Police Dept – 33 years of service

Leroy Doe (in attendance) – Wastewater Treatment Plant – 35 years of service

Frank Dennison (in attendance) – Street Dept – 28 years of service

Moved by Council Member Jorgenson, seconded by Council Member Koch, approving the consent agenda as follows:

Consent Agenda

Additional 2004 license renewals:

Hotel/Motel: Countryside Inn, 3303 W. Oakland Avenue, Austin

Master Plumber: Jim & Dudes Plbg & Htg, Inc., 724 West Clark Street, Albert Lea
Superior Companies of Rochester, 1244 60th Avenue NW, Rochester

Mike Carstens Plumbing & Heating, 2215 4th NW, Austin

Knutson Plumbing, PO Box 127, Austin

Dave's Plumbing Heating & Refrigeration, Box 173, Rose Creek, MN

Soft Water Installation: MI Water, 1411 Gilbert Street, Charles City, IA

Excavation: Allen Olson dba Olson Grading, 88584 240th Street, Austin

R W Johnson, 2208 4th Street NW, Austin
Food: Hardee's of Austin II, 1300 14th Street NW, Austin
Hardee's I, 5701 Kentucky Avenue #101, Crystal, MN
Tienda Mexico, 1000 4th Avenue NE,
El Mariachi, 227 N Main, Austin
Jalisco Market, 233 N. Main, Austin
Applebee's, 404 18th Avenue NW, Austin
El Palacio de la Cumbia, 229 3rd Avenue NE, Austin
Sign installer: LaCrosse Sign Co., 1450 Oak Forest Drive, Onalaska, WI
Lawrence Sign Co., 945 Pierce Butler Route, St. Paul, MN
Commercial Hauler: Waste Management, 25237 7th Avenue, Clarks Grove, MN
Garbage Hauler: Waste Management, 25237 7th Avenue, Clarks Grove, MN
Cigarette: El Palacio de la Cumbia, 229 3rd Avenue NE, Austin

Claims:

- a. Pre-list of bills.
- b. Donna Howley, 1303 8th Avenue NW. This claim has been referred to the city attorney to protect the city's interest.
- c. John Lenway, 711 13th Avenue Sw. This claim has been referred to the city attorney to protect the city's interest.
- d. Inez Waters, 310 2nd Avenue NE, Apt 103. This claim has been referred to the city attorney to protect the city's interest.

Carried.

A public hearing was held for the 5-Year Capital Improvement Plan 2004-2008 and authorizing issuance and sale of \$1,380,000 General Obligation Improvement Bonds, Series 2004. City Finance Director Tom Dankert presented the Capital Improvement Plan, which is actually a finance plan for the next five years. The Council has previously approved this Plan with the exception of the Downtown Study and Comprehensive Plan; more information was requested on these items before approval. In front of the Council for approval tonight is requesting authorization to issue bonds for the Central Garage. State statutes now require issuing bonds such as this for debt at a public hearing. Total cost of the Central Garage is approximately \$5.38 Million. The City has set aside approximately \$4M, and the issuance of bonds is for \$1.38M. Date of the bond sale is scheduled for the February 17 council meeting. Council Member Lynn Koch questioned how much is saved by banking the amount versus borrowing. Mr. Dankert says roughly \$160,000 could be added on over the 10 years with the bond issue. Mr. Dankert also noted two changes to the 5-Year Plan: The City is cash-flowing the difference in the lease payments from Austin Packaging Company and the corresponding bond payments. This transaction is from the Building Fund, and it will eventually be paid. Another change refers to the six-point, five-year plan and the use of fund balance.

Moved by Council Member Jorgenson, seconded by Council Member Nordin, adopting a resolution authorizing issuance and sale of bond. 7-0. Carried.

Minnesota State Statutes requires the City to pass a resolution designating depositories for checking and investments for the year. The resolution remains the same as 2003 except for some company name changes.

Moved by Council Member Jorgenson, seconded by Council Member Nordin, adopting a resolution designating depositories for checking and investments of public funds for 2004. 7-0. Carried.

The City must also, by State Statute, pass a resolution designating the official newspaper. Neal Ronquist has submitted a quote at \$4.15 per column inch, a 4% increase from 2003. Council Member Goodnature asked City Attorney to explain why Austin Daily Herald is the only qualifying newspaper. Mr. Hoversten said the Austin Post Bulletin does not qualify due to the fact that its main business office is not within the city. This matter was discussed and reviewed by both he and an attorney for the Post Bulletin. That attorney concurs with Mr. Hoversten.

Moved by Council Member Nordin, seconded by Council Member Jorgenson, designating the official newspaper for the City of Austin for the year 2004. 6-1. Carried. Council Member Goodnature voted nay.

John Blake, videotaper for city meetings, has resigned but will fill in as a back-up. An agreement has been prepared to hire Shawn Martin for the same position. The agreement calls for \$11 per hour with a minimum of 2-½ hours paid for each meeting. (Preparation time is required before meetings.) Tom Dankert said the city pays for all videotaped meetings – City Council, Planning Commission and School Board meetings. Mr. Dankert also noted that his wages are paid through the cable access channel fees.

Moved by Council Member Christopherson, seconded by Council Member Nordin, adopting a resolution approving the agreement with Shawn Martin. 7-0. Carried.

All municipalities are required to perform an audit at fiscal year-end, December 31 for the city. The quote from LAWCO, LLP for this year's audit has increased considerably, mainly due to the GASB 34 federal requirements. Mr. Dankert recommended approval.

Moved by Council Member Christopherson, seconded by Council Member Nordin, adopting a resolution approving the quote from LAWCO. 7-0. Carried.

Moved by Council Member Pacholl, seconded by Council Member Christopherson, adopting a resolution granting licenses for sale of Sunday hard liquor on-sale, Sunday wine on-sale licenses and 3.2 beer on and off-sale. 7-0. Carried.

A feasibility report for the 2004 sidewalk improvement projects was previously approved by Council in December, and a hearing was called. The feasibility report requested a public hearing for January 19. That date falls on a national holiday, so the resolution must be rescinded and the public hearing called again for February 2.

Moved by Council Member Jorgenson, seconded by Council Member Christopherson, rescinding Resolution No. 12431. 7-0. Carried.

Moved by Council Member Christopherson, seconded by Council Member Nordin, calling a hearing for February 2, 2004 for the 2004 sidewalk project, SW quadrant, Project 3-C-04. 7-0. Carried.

As established by state law, a motion must be passed annually if the city chooses to not waive statutory tort limits. The City has always chosen to *not* waive these limits. If we did waive the limits, the city could be subject to no limits on liability.

Moved by Council Member Nordin, seconded by Council Member Jorgenson, to not waive statutory tort limits. Carried.

One individual has applied and does meet state statute requirements and our ordinance requirements for a senior deferral. The individual applying must meet income and residency requirements. When the property is sold, the assessment is due, plus interest from the date of the resolution to the date of sale.

Moved by Council Member Jorgenson, seconded by Council Member Christopherson, adopting a resolution approving the deferment. 7-0. Carried.

The Boy Scouts are planning a soapbox derby race for July 3, 2004 at Skinners Hill. They have requested a street closing of 9th Place SW from 7:00 am to 2:00 pm. This event has been approved by the July 4th festival committee. Public Works Director Jon Erichson recommended approval.

Moved by Council Member Christopherson, seconded by Council Member Nordin, approving the street closing. Carried.

Interstate Power and Light Company (IPL) is conducting a subsurface environmental investigation of a historic manufactured gas plant formally located at 109 4th Street SE, currently occupied by Double KK Specialty, Inc. The investigation includes adjacent property, which is owned by the City of Austin. An access agreement between the City and IPL to access this city property was completed on September 22, 2003. As part of the investigation, MWH proposed to install two monitoring wells on this same city property. Mr. Erichson recommended approval. Council Member Koch questioned who would be responsible if anything was found. Mr. Erichson said this would most likely be worked out with the MPCA, who would probably find funding; this would not be at our cost. Mr. Erichson also said he did not know how long this would be monitored – possibly 30 to 60 days.

Moved by Council Member Christopherson, seconded by Council Member Nordin, to approving installation of monitoring wells on city-owned property. Carried.

Moved by Council Member Jorgenson, seconded by Council Member Christopherson, setting a public hearing for January 20 with the Board of Adjustments and Appeals for a 12-foot variance from City Code governing the minimum corner sideyard setback of 12 feet, 6 inches in an R-1 Single Family Residence District, requested by Marea Pappas, Elaine Pappas, and Rose Pappas. Carried.

The Mower County Board has received a request for a conditional use permit for property north of the Elmhurst Addition, north of Harrington and Midwest Diesel. The County Board Planning Commission recommended approval. Community Development Director Craig Hoium recommended supporting denial of this request based on the items listed in the memo, listed below.

- 1) During this public hearing, the City of Austin expressed concerns relating to the (5) standards that must be met when approving a conditional use permit as identified in Mower County Zoning Ordinance 14-31. (See attached) The City of Austin addressed each of these conditions during this public hearing giving testimony that not one of the standards would meet this proposed conditional land-use. (See attached letter dated December 30, 2003 to the Mower County Planning Commission)
- 2) Clarification should be made with this property in question as to whether a conditional-use is already in place for this property relating to the mini-storage land-use. If so, what are the restrictions of the existing C.U.P. and shouldn't this requested C.U.P. be an amendment to the permit currently in place?
- 3) Discussion during this public hearing clarified that there are not any sanitation facilities currently for the truck business on this site, nor are there any plans for the installation of these facilities for the proposed land-use. Is this permissible by Mower County Ordinances or M.D.H. standards to operate or develop a commercial/industrial site without sanitation facilities?
- 4) The noise levels of the proposed equipment, trucks and tractor loaders are excessive and would be offensive to the adjacent residential properties.
- 5) Mower County Ordinance 14-17(a) requires that a site plan be submitted for developments such as this. (See attached) Does the site plan for this proposed land-use identify clearly:
 - Property lines
 - Complete plans for grading, drainage, landscaping, building location, dimensions of all buildings, drive and access to public roadways, display and storage areas, screening and greenbelts.
- 6) Access to the proposed site is across property owned by the City of Austin. This property is not public right of way but a platted outlot.
- 7) This proposed land-use is not in compliance to the City of Austin future land-use map. (See attached)

This request is for a pre-mix operation; mixing would not be on-site. City Engineer Jon Erichson said this is not favorable for the City of Austin due to the truck traffic, the surrounding residential neighborhood and the potential residential use of surrounding property. Mr. Hoium said as for meeting the Mower County Comprehensive Plan, the request does not meet any of their five necessary conditions for the area. Also, this property may be annexed, and it is not serviced by the sanitary sewer. Mayor Rietz suggested working with Harrington to find a more appropriate piece of property. Mr. Erichson noted that Austin Redi-Mix had requested property west of (then) Nelson Wheel Estates but was turned down by the county board there. He said Mr. Harrington's family currently owns the property in question. Council Member Goodnature suggested asking the County Board to table the matter out of "sheer courtesy". He said this matter was raised "quickly"; he would like a chance to go on-site and/or talk with Mr. Harrington. Mr. Erichson said that Council's action tonight would be just to make a recommendation; it would not be binding. Mr. Erichson noted the County Board might have to make a recommendation at tomorrow's meeting to be within the required 60 days from the date of application. Mr. Erichson proposed the argument that the proposed business did well; nothing

in the conditional use permit would preclude them from growing. Council Member Koch noted he would abstain from any vote for business reasons. Council Member Jorgenson noted that in discussions on the HRA Board, there have been discussions on further development of Murphy's Creek. Also, the Oak Park Village development is planning on moving north. There is nothing stopping further development of Mr. Harrington's business. Council Member Goodnature agreed, yet there could be the same argument posed on down the line when the Cook Farm is developed – especially this area is being considered for a new jail, a new justice center, and by Quality Pork. Council Member Goodnature objected to the time factor; he said he cannot vote without any facts. City Engineer again noted that requested CUP does not meet the Mower County Comprehensive Plan. Council Member Christopherson said he would like to see rebuttal statements on the five points so as to see both sides, not just one side. Mr. Erichson said this area should also be annexed; it is 100% surrounded by city property.

Moved by Council Member Pacholl, seconded by Council Member Goodnature, to table the matter for more information. 5-1. Council Member Jorgenson voted nay. Council Member Koch abstained.

Council Member Chamberlain said he would like a vote to ask the County Board to delay the project if possible.

Motion by Council Member Goodnature, seconded by Council Member Chamberlain, to inform the Mower County Board that the City of Austin has an extreme interest in the conditional use permit request of Kent Harrington, that the City of Austin has a few concerns regarding the conditional use permit, and respectfully requests the County Board to delay on a decision granting the request as long as possible (within the 60-day application time) to obtain more information. Carried.

REPORTS:

City Administrator Jim Hum noted that the next scheduled council meeting would normally meet on the 19 but due to the Martin Luther King, Jr. Day holiday, the council meeting will be moved to the 20th. The council work session will take place immediately following the council meeting.

The draft code of ordinance, our revised code, is scheduled to be up on the website by Friday, January 16. Council Member Goodnature asked for an explanation of the code book. Mr. Hurm said this includes the city charter and the code includes the different sections of the law for the City of Austin. The Council will be asked to vote to approve the revised code in February. This revision is basically a “clean-up” of our ordinances. As state law changes over the years, the city revises its laws as well as incorporating all the news laws passed over the law few years.

Mr. Hurm reported on the pending items.

The street improvement project informational meetings are tentatively scheduled for January 22 at 5:30.

Library Director Ann Hokanson said circulation is solid. Annual per capita number for items taken out nationwide is six items. In Minnesota, it is 12. Austin exceeded that by over 2% in December, which was a 15% increase from the previous December.

The Mower County League of Municipalities will meet in Mapleview on Thursday, January 15. Council Member Pacholl and Jim Hurm are planning to attend. Dan Wilson will be the speaker.

Holly Drennan of the CVB will report to Council at the first meeting in February.

Moved by Council Member Pacholl, seconded by Council Member Christopherson, to remove the matter of swimming pool fencing from Matters In Hand. Carried.

Mayor Rietz commended the work of the Community Services Officers: Ernesto Cantu, George Percival and Jim Dugan on their work with animal complaints. Prior to their duties, the mayor had had several calls regarding animal complaints, but in the past years, this has all but been eliminated.

John Mueller discussed the new scheduling at the Police Dept. Days are longer (10 hours per day), but it does cut down on overtime and officers enjoy the extra day off as the schedule is five days on and three days off. It has helped with morale.

Moved by Council Member Jorgenson, seconded by Council Member Nordin, to adjourn the meeting to January 20, 2004.

Adjourned: _____ 6:35 p.m. _____

Approved: _____ January 20, 2004 _____

Mayor: _____

City Recorder: _____