

MINUTES
CITY COUNCIL CHARTER MEETING
July 7, 2008
5:30 P.M.
Council Chambers

MEMBERS PRESENT: Mayor Stiehm. Council Members McAlister, Austin, Dick Pacholl, Scott Pacholl, Hecimovich and Martin. Council Member-at-Large Christopherson.

MEMBERS ABSENT: None

STAFF PRESENT: Jim Hurm, Jon Erichson, Craig Hoium, Tom Dankert, Jeanne Howatt, David Hoversten, Dan Wilson, Ann Hokanson, Kim Underwood, and Paul Philipp.

OTHERS PRESENT: Post Bulletin, Austin Daily Herald. Marian Clennon. Marv Repinski. John Muellerleile. Bob Wilson. KAAL. Thompson. Ken Trom. Gary Manggaard. Joe Public.
Dave Crnkovic.

After the pledge of allegiance, the Mayor called for a moment of silence in respect of Denny Maschka who passed away June 22, 2008. A rose was placed on his desk.

Junk removal requests for 20a, 20b and 20d were removed from the agenda.

Item 22, Approving a change of date for street closing request from Downtown Association, was added to the agenda.

Moved by Council Member Hecimovich, seconded by Council Member-at-Large Christopherson, approving the agenda as amended. Carried.

Moved by Council Member Hecimovich, seconded by Council Member Martin, approving the minutes of June 13, 2008 and June 16, 2008. Carried.

The winner of the city purchase award from the annual art show was announced and congratulated. John Muellerleile won with his digital on canvas of an eagle and flag. The art piece is entitled "E Pluribus Unum".

Gary Manggaard, who works at Thirsty's Bar, spoke to Council. The bar would like to use the street and parking lot/alley behind the bar on August 2. City Attorney David Hoversten said the city ordinances require requests for street closings be made via an application. Mr. Manggaard said he will make an application for the July 21st council meeting.

Joe Crnkovic, 301 15th Street SE, spoke to Council opposing the removal of the Oakland Avenue bridges and how it would be detrimental during a flood. Mr. Crnkovic also referred to a manhole in his neighborhood that has never been fixed. Mr. Erichson said there have been a number of studies regarding the flooding, and these have been done by outside engineering firms. Their studies show that removal of the bridges would not have an impact on flooding. Mr. Erichson noted that that area would have filled up in less than a minute at the 25 cfs flow. Erichson will have his department look at the manhole.

Moved by Council Member Hecimovich, seconded by Council Member-at-Large Christopherson, approving the consent agenda as follows:

Licenses:

Concrete: Hutch & Sons Builders LLC, 18408 540th Avenue

Excluded Bingo: American Legion Auxiliary @ Mower County Fair, August 5-10

Excavation: Michels Corporation, Buffalo, MN

Food: The Morning Grind, 301 1st Avenue SW

Tattoo Establishment: Jason Reinartz, 714½ 4th Avenue NE

Tattoo Artist: Jason Reinartz, Austin

Cab Driver: Terry K. Arens

Temporary On-Sale Liquor: Marcusen Ball Park Association at Marcusen Ball Park, August 23

Temporary 3.2 Beer On-Sale: Grand Meadow Lions at the Mower County Fairgrounds Grandstand, August 5-10

Temporary Food: Relay for Life @ the Mill Pond, August 2 & 3

Claims:

- a. Pre-list of bills.
- b. Maria Renteria, 110 E. 11th Street, Albert Lea. This claim has been referred to the city attorney to protect the city's interest.
- c. Brad Matthews, 213 4th Avenue NE. This claim has been referred to the city attorney to protect the city's interest.
- d. Dan Ash, 611 4th Avenue SW. This claim has been referred to the city attorney to protect the city's interest.
- e. Heidi Goodnature, 2013 6th Avenue NE. This claim has been referred to the city attorney to protect the city's interest.

Carried.

The City received two bids for the Oakland Avenue underpass project. One bid is below the engineer's estimate. Bids are as follows:

Ulland Bros.	\$ 1,605,438.75
Heselton Construction	2,830,433.55
Engineer's Estimate	\$ 2,078,698.75

This project will be funded through 75% federal aid and 25% state aid (gas tax). Mr. Erichson recommended awarding the bid to Ulland Bros. contingent upon approval of the bid documents by MnDOT.

Council Member Hecimovich questioned the \$1M difference between the two bids. Mr. Erichson said his was “not concerned” as he would not have recommended awarding the bid to Heselton at that amount. Mr. Erichson clarified that there are actually three bridges which will be removed. Two bridges at 3rd Street are side-by-side. He said the start date is much later than hoped, probably August 1. The project includes the bridge removals, signal lights, material fill, temporary asphalt surface for the winter, and in the spring, they would reclaim the asphalt and add the concrete surface.

Moved by Council Member Hecimovich, seconded by Council Member McAlister, adopting a resolution awarding the bid to Ulland Bros. 7-0. Carried.

A resolution authorizing eminent domain was presented to Council. City Attorney David Hoversten said its purpose is to comply with statutory requirements to acquire property. This is authorization to proceed in the event no settlement can be reached.

Council Member Hecimovich confirmed with Mr. Hoversten that this is pertaining only to the property that the City acquires (i.e., Blocks 19 and 30) for the justice center.

Council Member Dick Pacholl said that if the jail/justice center was being built outside the city, we would never have had to acquire. Now it is costing us, he said. He indicated he didn't know who was not satisfied. Mayor Stiehm said he didn't know of any problems (in negotiating) now. Mr. Hoversten said the only reason this resolution would be required is if they can't come to an amicable solution. In that case, appraisals are required, and the property owner has the right to appraise on his/her own. This is followed by negotiations. After that, if there is still no agreement in price, three independent appraisers are required. If either party disagrees with those appraisals, then they would proceed to a hearing by a jury.

Moved by Council Member Hecimovich, seconded by Council Member McAlister, adopting a resolution authorizing the acquisition of certain real estate by eminent domain for the development of a jail/justice center. 6-1. Carried. Council Member Dick Pacholl voted nay.

Ken Trom spoke to Council regarding the requests by the Mower County Fair Board 8. This has been an ongoing agreement for 24-25 years, at least. In return, the County stores the city's stage, mows Sterling Park, allows the street sweeper to dump materials on the fairgrounds' blacktop pad, allows dumping of snow and the use of the fairgrounds for soccer play. The County requests the needs of the city flusher, fire protection, and the possible use of street barricades.

Moved by Council Member Hecimovich, seconded by Council Member Dick Pacholl, approving requests of the Mower County Fair Board in exchange for services during the Mower County Fair August 5-10. Carried.

Marcusen Park is now owned by the City of Austin but managed and maintained by the Marcusen Park Baseball Association. The ball park was flooded in 2004 and was recently flooded in 2008. They have a lease with the city. According to the lease, in a few years they will begin repaying the city about \$4000 for their share of the 2004 flood recovery cost, which is the local share. The damages for this year's flood are expected to be close to \$11,000, and we are expecting FEMA to cover 90% of those costs. The remaining 10% would be the Marcusen Park Baseball Association's cost. The park was needed to be readied for a tournament on July 3 so this clean-up has already been accomplished. Council is requested to provide the approximate \$11,000, with the knowledge that there would be a chance of not getting full reimbursement. The kick-off meeting with FEMA is tomorrow.

City Attorney Hoversten clarified that this act is to approve funds not in the budget. The lease will set forth the obligations of the Association.

Moved by Council Member Hecimovich, seconded by Council Member-at-Large Christopherson, approving capital expenditures of up to \$11,000 for flood damage clean-up at Marcusen Park. 7-0. Carried.

The Austin Area Commission for the Arts is requesting a renewal for their gambling premises permit. The Commission has until September 30 to come into compliance (to donate 80% of its net proceeds within 12 miles of City Hall). Administrative Services Director Tom Dankert said we have never had any problems with them in the past and expects the proceeds to show up in the next report. He recommended the resolution be approved contingent on fulfilling the donations.

Moved by Council Member Hecimovich, seconded by Council Member-at-Large Christopherson, adopting a resolution approving the gambling premises permit renewal application from the Austin Area Commission for the Arts at Bobbe Jo's. 7-0. Carried.

Moved by Council Member Hecimovich, seconded by Council Member-at-Large Christopherson, adopting a resolution approving the gambling premises permit renewal application from the Austin Area Commission for the Arts at Torge's. 7-0. Carried.

The City of Austin has an Individual Control Mechanism with Weyerhaeuser. Weyerhaeuser is being bought out by International Paper Company. Council must approve the transfer of the Individual Control Mechanism to International Paper Company.

Moved by Council Member Hecimovich, seconded by Council Member-at-Large Christopherson, approving the transfer of the agreement from Weyerhaeuser to International Paper Company. 7-0. Carried.

Council is requested to approve an agreement with LELS which addresses Field Training Officer pay. That issue is not addressed in the current contract. The proposed agreement is consistent with what is in the police supervisors' contract.

Moved by Council Member-at-Large Christopherson, seconded by Council Member Austin, adopting a resolution authorizing the Mayor and City Recorder to sign a Memorandum of Understanding with the LELS regarding Field Training Officer pay. 7-0. Carried.

Moved by Council Member Dick Pacholl, seconded by Council Member-at-Large Christopherson, appointing Catalina Ferreira-Truong to the Library Board, fulfilling a term to expire 12-31-10. Carried.

A change order is needed in association with Phase 8 of the Flood Mitigation Project. Unexpected utility relocation work was recently completed. It included the following:

1. Force main offset – the relocation of the Hormel force main in order to allow for construction of new storm and sanitary sewers
2. Sanitary sewer MHs – required to connect into Hormel's 30-inch gravity sewer
3. Removal of buried demolition material at the old flour mill site, south of 4th Avenue NE

This work was unexpected because it was not where it was shown to be. The project was completed on weekends. The total cost of the project was \$72,000, which is paid out of a DNR grant, local sales tax funding, and a \$100,000 Hormel matching contribution.

Council Member Dick Pacholl questioned the demo material that was found. City Engineer Jon Erichson said a clay fill was found at the demolition site, which was found to be very porous. The concrete walls are still there, he said.

Council Member McAlister confirmed with Mr. Erichson that it was not unusual that the site was not well documented. Erichson said they had hydro excavated but did not find it. It was on the totally opposite side of the road. Erichson said it would have been part of the bid had they known about it.

Council Member Hecimovich questioned where this is. Mr. Erichson explained that it is by the Hope Street lift station, next to what was known as Hope Street. This waste is pumped all the way to the Waste Water Treatment Plant. If it loses power, it has the ability to pull gravity to the WWTP before sewer backs up at the plant.

Moved by Council Member-at-Large Christopherson, seconded by Council Member Hecimovich, adopting Change Order No. 1 for the Flood Control Project, Phase 8. 7-0. Carried.

The Committee-of-the-Whole has previously reviewed recommendations for salary increases.

Council Member Dick Pacholl confirmed with City Administrator Jim Hurm that cost items other than salary would be discussed (later) for the city attorney.

Moved by Council Member Hecimovich, seconded by Council Member McAlister, adopting a resolution setting the salary for the human resources director. 6-1. Carried. Council Member Martin voted nay.

Moved by Council Member Hecimovich, seconded by Council Member Dick Pacholl, amending the employment agreement of the director of administrative services. 5-2. Council Member Martin and Council Member-at-Large Christopherson voted nay.

Moved by Council Member Dick Pacholl, seconded by Council Member-at-Large Christopherson, setting the salary for the police chief and amending the uniform allowance. Carried. 6-1

Moved by Council Member Hecimovich, seconded by Council Member Dick Pacholl, adopting a resolution amending the employment agreement of the city attorney. Carried. 6-1. Council Member Martin voted nay.

Moved by Council Member-at-Large Christopherson, seconded by Council Member Hecimovich, setting a public hearing for July 21 for rezoning of property from an R-0 Multi-Family Office District to a B-3 Central Business District, requested by the Red Cross. 7-0. Carried.

Moved by Council Member-at-Large Christopherson, seconded by Council Member Hecimovich, setting a public hearing for July 21 for an amendment to the Comprehensive Plan, petitioned by Roger Derrick for the Fox Pointe development. Carried.

Moved by Council Member Hecimovich, seconded by Council Member-at-Large Christopherson, setting a public hearing for July 21 for the preliminary review regarding a requested amendment to the existing Planned Unit Development, petitioned by Roger Derrick for the Fox Pointe development. 7-0. Carried.

The Park & Rec Board has met and recommended Kim Underwood as interim director upon the recent passing of Denny Maschka. The Board also recommended establishing the salary at \$62,500.

Moved by Council Member Hecimovich, seconded by Council Member Dick Pacholl, approving the Park & Rec Board's recommendation of Kim Underwood as interim Parks & Rec director with an annual salary of \$62,500. Carried.

Moved by Council Member Dick Pacholl, seconded by Council Member-at-Large Christopherson, granting the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at Leuning property, 801 15th Street NE. Carried.

Moved by Council Member Dick Pacholl, seconded by Council Member-at-Large Christopherson, granting the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at Bolinger property, 1815 3rd Street NE. Carried.

Moved by Council Member Hecimovich, seconded by Council Member-at-Large Christopherson, granting the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at Nelson/Bustad property, 411 2nd Street SE. Carried.

Moved by Council Member Dick Pacholl, seconded by Council Member Hecimovich, granting the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at Williamson property, 707 11th Avenue SW. Carried.

The City previously contracted with SEH to conduct a feasibility plan addressing flood mitigation in the North Main area and what the costs would be. A study was done with computer modeling. It was found that the area could be protected via the following:

1. 5600 feet of flood barrier on the west side of the Cedar River and 1900 feet on the east side
2. Infrastructure modifications to sanitary and storm sewer
3. Four road raises and street modifications
4. Storm water pump station
5. Property acquisition

The City of Austin adopted the plan and implemented the first phase of construction. The next phase of the total project would be to develop engineering plans for the remaining phases of work and to proceed with this work as money becomes available. The City has recently submitted a \$5M grant application to the DNR and an application to Department of Commerce.

Council Member Hecimovich questioned whether the culverts under I-90 and by East Side Lake are high enough. Mr. Erichson said the water at the Cedar River did not come up to the river though it was close. It did not retain the water so there would be no modifications to that bridge. The river did not back up because of the bridges there. As

for the box culverts, they have acted as a restriction in the past. This is a project of MnDOT's to replace in 2009, and they are currently going through a selection process now for hiring the engineer. After the '78 flood, there was a study on this. We have asked MnDOT to include that study with this one. Mr. Erichson said when the project is underway, there would probably be detours created and a lot of coordination involved. The project is tentatively set for 2009.

Moved by Council Member Hecimovich, seconded by Council Member Dick Pacholl, adopting a resolution accepting the proposal from SEH for flood mitigation design work along North Main Street, with 50% funding from the \$3,160,000 MnDOT grant, and 50% from the local option sales tax. 7-0. Carried.

Moved by Council Member Dick Pacholl, seconded by Council Member Austin, approving the change of date for the street closing request from the Downtown Association from July 24 to July 17. Carried.

Reports:

Council Member Martin questioned the 17th Street NE road which has been dug out for a year. Mr. Erichson said the bid has been awarded for this project. There was preliminary work done by Austin Utilities. The project will be complete soon.

Council Member-at-Large Christopherson noted that the Park & Rec Board did also have a timeline to have a full-time director in place. He asked if they had the authority to go forward with the search with the human resource director's input.

Council Member Dick Pacholl moved that the Park & Rec Board proceed with the search. Seconded by Council Member-at-Large Christopherson. Christopherson said he would like to have a work sheet for Council to serve as a stepping stone for any new direction.

Council Member Hecimovich said it would be nice to know what kind of requirements are generally required for park and rec directors. We would want to get someone with Denny Maschka's attributes. Running the athletic aspect is one thing, but the parks aspect is also very important. There is a lot to know about running parks.

Council Member Dick Pacholl amended his motion to have Council's input on expectations for a new Park & Rec director and to have a written report forwarded to the Park & Rec Board. Council Member-at-Large Christopherson seconded the motion.

Council Member-at-Large Christopherson thanked the workers and volunteers who helped make the 4th of July festivities great once again.

Mayor Stiehm announced that the next quarterly League of Cities meeting is scheduled for July 17 in Brownsdale.

Moved by Council Member Hecimvoich, seconded by Council Member-at-Large Christopherson, adjourning the meeting to July 21, 2008.

Adjourned: _____ 6:31 pm _____

Approved: _____

Mayor: _____

City Recorder: _____