

MINUTES
CITY COUNCIL CHARTER MEETING
February 1, 2010
5:30 P.M.
Council Chambers

MEMBERS PRESENT: Mayor Stiehm. Council Members Brian McAlister, Jeff Austin, Dick Pacholl, Steve King, Marian Clennon and John Martin. Council Member-at-Large Janet Anderson.

MEMBERS ABSENT: None.

STAFF PRESENT: Jim Hurm, Jon Erichson, Craig Hoium, Tom Dankert, Jeanne Howatt, David Hoversten, Brian Lovik, Kim Underwood, Ann Hokanson, Brian Krueger, John Mueller and Trish Wiechmann.

OTHERS PRESENT: Post Bulletin, Austin Daily Herald. Joe Millie, Ross Johnson, Gerald Kelly. Craig Patrick. Marv Repinski. Cheryl Corey and representatives from the Convention & Visitors Bureau.

Added to the agenda: a resolution approving MnDOT District 6 grant application for the 14th Street/10th Place NE project.

Moved by Council Member Austin, seconded by Council Member Pacholl, approving the agenda as amended. Carried.

Moved by Council Member-at-Large Anderson, seconded by Council Member King, approving the minutes of January 19, 2010. Carried.

Gerald Kelly told Council that at one point, Austin was rated one of the top 10 towns, and the fire chief at the time, Alex Miller, and the firefighters worked well with each other. Mr. Kelly is opposed to spending \$10,000 for the Wisconsin company to assist in the hiring of an interim fire chief.

Mayor Stiehm introduced John Mueller and Brian Krueger who will be temporarily sharing the chief's duties. Detective Brian Krueger introduced the newly sworn-in officer Ross Johnson. Mr. Johnson has worked for the City of Lakeville and has most recently been employed fulltime as a recruiter for the National Guard.

Detective Krueger introduced and pinned Joe Milli, who is being promoted to sergeant. Officer Milli has over 24 years with the Austin Police Department; he is taking Sgt Erickson's spot.

Mayor Stiehm read a proclamation for League of Women Voters *Making Democracy Work* Month. The LWV is celebrating its 90th anniversary.

Moved by Council Member Austin, seconded by Council Member-at-Large Anderson, approving the promotion of Officer Joe Milli to sergeant. Carried.

Moved by Council Member Austin, seconded by Council Member King, approving the consent agenda as follows:

Licenses:

- Adult Use Business: Paradise Island, 117 2nd Avenue NE, Austin
- Cab Driver: Leon Underdahl, Austin
- Commercial Hauler: Best Disposal, LLC, Blooming Prairie, MN
- Excavation: Ellingson Drainage, Inc., West Concord, MN
- Food: S&H dba K.F.C., 1403 18th Avenue NW, Austin
- Food: Salvation Army, Soup Kitchen, 409 1st Avenue NE, Austin
- Exempt Gambling: United Catholic Schools Foundation @ St. Edward's Corcoran Center, April 24, 2010
- Garbage Hauler: Best Disposal, LLC, Blooming Prairie, MN
- Massage Therapist: Jessica Beske, Austin
- Master Plumber: Lake Country Plumbing, Inc., Waconia, MN
- Master Plumber: Plumbers Service Inc., Rochester

Claims:

- a. Pre-list of bills
- b. Bonnie Mogen, 610 9th Street SW, Austin. This claim has been referred to the city attorney to protect the city's interest.

Carried.

On the regular agenda was the second reading for an ordinance providing regulations for the erection of wind energy conversion systems. Council Member Austin said he originally voted for this ordinance (at the first reading on January 19). But since then he has heard from quite a few citizens, and there is some confusion on how the ordinance works. He said Council needs to revisit the proposed ordinance and create some more discussion so citizens have more understanding.

Moved by Council Member Austin, seconded by Council Member Martin, to table the ordinance. Carried.

Moved by Council Member Austin, seconded by Council Member King, appointing Kristi Beckman to the Human Rights Commission. Carried.

The 12th Avenue NE project is a planned improvement project for 2010, and the funding for that project will come from federal and state aid. The proposed design width will limit parking to one side of the roadway. City Engineer Jon Erichson said that parking should be allowed on the south side due to the fact that fewer homes are on the north side, plus there is a proposed trail on the north side as well.

Council Member Pacholl questioned Mr. Erichson on what is happening with the development on the north side of 16th Avenue. Mr. Erichson said that could be attributed to the economy; however, two permits were issued in late 2009 for that area. The developer has completed all the infrastructure improvements for the development except for the last coat of asphalt, which will occur in 2010.

Moved by Council Member Pacholl, seconded by Council Member Austin, adopting a resolution restricting parking on 12th Avenue NE to the south side of the road. 7-0. Carried.

Moved by Council Member King, seconded by Council Member Austin, adopting a resolution approving 3.2 beer on-sale license for New China, 1906 8th Street NW, Austin. 7-0. Carried.

Human Resources Director Trish Wiechmann briefly discussed a flowchart of officer replacements, hirings and promotions. The retirement of Sgt Jim Erickson created a promotion to sergeant, which Council just approved for Joe Milli. If Council authorizes the filling of the captain's position, the process for a new hiree would begin and a promotion to captain's position would begin internally. The chief's position may or may not be internal; if Council approves filling the position, that process would begin. Also to be discussed is whether the police chief's position would still include emergency management. Ms. Wiechmann said this will be a three- to four-month process. And if the chief's position is filled internally, that would trigger another entry level position.

Moved by Council Member Austin, seconded by Council Member King, authorizing to fill the police captain position. Carried.

Moved by Council Member Austin, seconded by Council Member Pacholl, authorizing to fill the police chief position. Carried.

Council Member Austin said he attended an interview session along with the Fire Civil Service with the individual in attendance who the firm RW Management Group, Inc. is recommending for interim fire chief. Council Member Austin said it was a good interview. He noted that some firefighters were in attendance at the same meeting, and they were in favor as well.

Moved by Council Member Austin to adopt a resolution approving an agreement with RW Management Group, Inc. to provide interim fire chief management services and approving an interim fire chief.

Council Member Clennon said she was also at the interview; she noted that the individual has a lot of education and appears well qualified, but her concern is that the company has never done business in Minnesota. He also admitted never having been an interim fire chief, she noted.

Council Member Austin said the candidate has served as fire chief in Cross Lake, Minnesota.

Council Member King seconded the motion. 5-2. Council Member Clennon and Martin voted nay.

In 2006, the City Council approved an agreement with ASCAP for music performance. ASCAP owns approximately half of the music rights, and the City pays about \$300 per year for the license. If the City did not sign such an agreement, we would risk a lawsuit. The music license covers music performed in any of the City's facilities, including open skating and music played between hockey periods. BMI, who claims to own the other half of music rights, is requesting a music license now.

Council Member Pacholl said he does not agree with the proposed agreement, and he was opposed to the ASCAP license also. He questioned if we even use it (music) much. His personal feeling is that it is con game, a racket. Council Member Pacholl said he doesn't think we should have piped-in music if we have to have this license.

Council Member King said it would be irresponsible to not sign; it's all about being in compliance. He sees it as very necessary.

Council Member-at-Large Anderson said it is the cost of doing business, whether at the library, at any events, at the arena, or at any city-sponsored event. The amount of money covers a broad range, she noted.

Council Member Pacholl said it wouldn't cover the bandshell or the symphony, and those are public functions. Council Member-at-Large Anderson replied that those presenting at those functions are responsible for paying the fee.

Moved by Council Member Austin, seconded by Council Member King, adopting a resolution to enter into a music performance agreement with BMI. 6-1. Carried. Council Member Pacholl voted nay.

A new signal light project is planned for 2010 at Oakland Avenue and Main Street. The design of the new signal light affects the Christmas decorations. Staff has provided four different options. At the work session, the Committee-of-the-Whole determined to not have Christmas decorations at that location and to look at putting these decorations somewhere else downtown in the future.

Moved by Council Member King, seconded by Council Member Austin, approving Option #1 (not displaying Christmas decorations at this location) for the Oakland Avenue/Main Street Project 2-C-10. Carried.

Moved by Council Member Austin, seconded by Council Member Pacholl, establishing a temporary ethics committee. Carried.

The City has been awarded a federal grant for railroad crossings at 8th Avenue SE. This grant was applied for several years ago and includes railroad flashing light signals and gates, constant warning circuitry, and LED lenses. The total cost of the project is \$161,928, with the City of Austin paying \$16,192.80 (10%). This project is scheduled for 2010.

Moved by Council Member Austin, seconded by Council Member King, adopting a resolution approving an agreement with the State of Minnesota and DM&E Railroad for 8th Avenue SE railroad crossing signals and gates. 7-0. Carried.

Craig Patrick spoke to Council regarding his proposal to rent the Riverside Arena for a NAHL team. Mr. Patrick said the venture is good for the city, and would be good for development of individuals as well as developing athletes.

Marv Repinski asked Mr. Patrick if there could be some promise that hiring for staff would be primarily from the Austin area. Mr. Patrick said the operations, bus driver, AV technician could come from this area. It is likely that the head coach and assistant coach would not be from here.

Mayor Stiehm said he was very excited about this venture. This is a community-minded program.

Cheryl Corey, executive director of the CVB, said the CVB is unanimously behind this proposal. This will be great for kids, the city, park & rec, ice time, lodging, gas stations, restaurants and more. She estimates profits for the area could be at least \$112,500 and possibly up to \$937,500 annually. Ms. Corey provided a letter of support which is attached to these minutes.

Council Member King noted that if Mr. Patrick leaves after his two-year agreement, we would still have a better equipped arena.

Council Member Clennon noted that despite the fact that this would be great for kids and businesses, she is still responsible to the taxpayers. She asked Mr. Patrick if he could provide some kind of guarantee for the second year. City Attorney David Hoversten said terminology is already in the agreement that addresses this issue. If Mr. Patrick defaults before the end of his lease term (two years), all the improvements would be at his cost in the form of a bank letter of credit.

Council Member Pacholl commented on the current interest in hockey, and that it appears that it is more popular now than when the Mavericks (another NAHL team) were here (in the 1980s).

Council Member Austin reported that the Park& Rec Board has given unanimous support to Mr. Patrick. Council Member Austin said that on a personal note, he is a lifelong citizen and after meeting Mr. Patrick and hearing his idea of investing his dream here, he is impressed with him. This is a win-win opportunity.

Council Member-at-Large Anderson said that with the recent LGA cuts, we have been asking where might more revenue come from, adding that \$70,000 is investment well worth the money as we will get that back and more. Plus, it will generate a lot of community interest.

Mr. Hoversten confirmed for Council Member Martin that the letter of credit is for \$70,000.

Council Member McAlister said he has to look at the \$70,000 cost to the City and the fact that this will be revenue neutral for two years. Hopefully we will be paid back in the third year. The other problem is if we have to make significant cuts, \$70,000 more will have to be cut somewhere else. Council Member McAlister said he has to vote his conscience; however, the agreement is better with the letter of credit.

Moved by Council Member Austin, seconded by Council Member King, adopting a resolution approving a rental agreement with Craig Patrick, NAHL owner. 5-2. Council Member Martin and McAlister voted nay. Council Member Martin said he was voting nay because of the risk factor.

The foregoing agreement is contingent on the lessee obtaining a 3.2 malt liquor license. Mr. Hoversten said there is a current ordinance which prohibits liquor on public property. There is an allowance for nonprofits and temporary activities in the arena, but not for this rental agreement. If the arena has a restaurant serving at least 30 people, it would be allowed. To make sure we comply with state statutes, Mr. Hoversten has amended our ordinance. Mr. Patrick would then need to apply for the license.

Council Member Pacholl asked how this license would differ from 3.2 beer at Marcusen Park. Mr. Hoversten said our ordinances allow for the use of liquor at Todd Park; it is the same for Marcusen Park.

Council Member Martin said he will vote nay because this decision was made too fast with just one discussion at a work session.

Moved by Council Member Pacholl, seconded by Council Member King, for the city attorney to prepare the ordinance. 5-2 Carried. Council Member Clennon and Martin voted nay.

Moved by Council Member Pacholl, seconded by Council Member Austin, for adoption and publication of the ordinance. 5-2. Motion failed because of the Charter requirement of unanimous approval at the first reading. The second reading of the ordinance may be scheduled again for the next council meeting on February 16 in which approval requires simple majority vote.

As part of the North Main Street flood mitigation, the City of Austin needs to acquire permanent and temporary construction easements on the west side of the Cedar River to I-90 (seven parcels) and three other parcels. We have received a proposal from Jones, Haugh & Smith for easement descriptions and drawings at a cost of \$500 per parcel. The funding for the seven parcels on the west side of the Cedar River will come from DNR flood mitigation funds (50%) and local option sales tax (50%). The funding for the other three parcels will come from 100% local option sales tax.

Moved by Council Member Austin, seconded by Council Member King, adopting a resolution accepting the proposal from Jones, Haugh & Smith to acquire temporary and permanent construction easements for the North Main Street flood mitigation. 7-0. Carried.

In December of 2009, Council approved a subdivision for property adjacent to Clasen-Jordan Mortuary to accommodate the sale of property. The request has since been revised to accommodate the facility expansion at the mortuary. Notices have been sent to utilities.

Moved by Council Member Austin, seconded by Council Member Pacholl, adopting a resolution (correcting the draft resolution to reflect the correct legal description), with necessary easements. 7-0. Carried.

Moved by Council Member Austin, seconded by Council Member King, setting public hearing for February 16, 2010 for a rezoning of property located at 300 2nd Street SW from R-1 to R-2, petitioned by Gary T. Corcoran. 7-0. Carried.

As a member of MnDOT District 6, we are eligible for certain transportation grants. A 2010 street maintenance project at 14th Street/10th Place NE meets grant criteria through the following factors:

- Provides access to an industrial park
- The City of Austin currently owns and is marketing 13 acres for development. This property is located on a developed interchange.
- The City of Austin has approved a development agreement for the property immediately adjacent to the proposed project that includes a new hotel development.
- The proposed project is identified in the City of Austin Capital Improvement Plan.
- The proposed project is part of the City of Austin's Municipal State Aid System.

Moved by Council Member Austin, seconded by Council Member King, adopting a resolution approving MnDOT District 6 grant application for the 14th Street/10th Place NE project. 7-0. Carried.

REPORTS

Council Member Austin has attended a recent Health Advisory Committee meeting. It was reported that 11,000 vaccines have been given, which is 28% of the county. Fifty percent of school-age children have been vaccinated. Council Member Austin thanked the medical reserve corps who volunteer at these clinics.

Council Member Austin also reported on a statewide health program promoting environmental change. Some of the goals the Council has adopted such as promoting bike racks, biking signage, etc. are included in this program.

Council Member-at-Large Anderson has attended the Southeastern Minnesota Cities League of Municipalities meeting and the Mower County League of Cities meeting. Both meetings discussed safety training, and that there is an option for cities to be working together to reduce costs. She would like this added to a future agenda for discussion. There was discussion at both meetings what’s currently happening and how to approach the State. The next League of Municipalities meeting will be Thursday, April 15.

City Administrator Jim Hurm reported that the City has received a \$168,000 from the Hormel Foundation to be used for the Main Street Project, the Nature Center’s educational program, AMCAT, and the Blandin Community Leadership Program.

Moved by Council Member Austin, seconded by Council Member King, adjourning the meeting to February 16, 2010.

Adjourned: 6:35 pm

Approved: February 16, 2010

Mayor: _____

City Recorder: _____