

**MINUTES**  
**CITY COUNCIL ADJOURNED MEETING**  
**MONDAY, JANUARY 19, 2010**  
**5:30 P.M.**  
**COUNCIL CHAMBERS**

MEMBERS PRESENT: Mayor Stiehm. Council Members McAlister, Austin, Pacholl, King, Clennon and Martin. Council Member-at-Large Anderson.

MEMBERS ABSENT: None.

STAFF PRESENT: Jon Erichson, Craig Hoium, Tom Dankert, Jeanne Howatt, David Hoversten, Ann Hokanson, Kim Underwood, Brian Lovik and Brian Krueger. Steven Lang and Denny Bissen.

OTHERS PRESENT: Austin Post Bulletin, Austin Daily Herald. Andy Erichson, Ulland Bros. Bob Clark, Betty Beckster. Katie Hansen. Firefighters Tim Olsen and Chris Grunewald.

The meeting was called to order at 5:30 pm.

Added to the agenda: A resolution amending Post Retirement Healthcare Savings Plan for non-union, exempt employees.

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

Council Member Clennon requested two changes to the December 21, 2009 minutes. Moved by Council Member Clennon, seconded by Council Member-at-Large Anderson, approving the minutes of December 21, 2009 and January 4, 2010. Carried.

The City of Austin and Ulland Brothers Construction have been awarded the 2009 Project of the Year for the Oakland Avenue Underpass project by the Minnesota Public Works Association. Public Works Director Jon Erichson said this is very good publicity for the City and can be useful for grant writing. Mr. Erichson displayed before & after pictures of the underpass. One of the goals of the project, he said, was to eliminate long term maintenance of the bridges. The need for the bridge was no longer needed due to the trains not using the track any more. Mr. Erichson said that the bridge had had a low height and the road geometrics were poor. In addition the signal light intersection was dangerous, and there were flooding issues. Project planning began in 2001. Ulland Bros., a local firm, had the project. The estimated cost of the project was just under \$1.6M, and the final cost was right at the budget amount. Citizens had expressed

concerns of the increased flooding potential; Mr. Erichson noted there were several reasons refuting this argument. First, the amount of the water that settled in this area was very small, and second, 43 cubic yards of fill came out of the flood plain where houses had been razed. He noted that this area will flood again. He said the temporary asphalt placed in the fall worked well. The concrete was “rubbelized” and mixed with an aggregate base. We received many compliments on the landscaping project. The old rails were incorporated into the landscaping project.

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

Licenses:

Cigarette: Knauer’s Market, 121 1<sup>st</sup> Avenue NW, Austin  
Commercial Hauler: Waste Management of So MN, Clarks Grove, MN  
Concrete: Heimer Concrete, 2021 1<sup>st</sup> Avenue SE, Austin  
Consume & Display, Danny’s Place, 613 10<sup>th</sup> Drive SE, Austin  
Excavation: Dan Strand Construction, Blooming Prairie, MN  
Food/Mobile: Earl’s Ice Cream, Austin  
Food: Danny’s Place, 613 10<sup>th</sup> Drive SE, Austin  
Food: Knauer’s Market, 121 1<sup>st</sup> Avenue NW, Austin  
Food: Savory Skillet, 107 11<sup>th</sup> Avenue NE, Austin  
Food: St. Augustine Council of Catholic Women, St. Augustine’s Church  
Garbage Hauler: Waste Management of So MN, Clarks Grove, MN  
Garbage Hauler: Y Waste Removal, Inc., Austin  
Massage Therapist: Lynn McNutt Cunningham, Austin  
Master Plumber: DCP Plumbing, Farmington, MN  
Master Plumber: Geno’s Plumbing & Heating, 220 Elizabeth, Albert Lea, MN  
Master Plumber: Harty Mechanical Inc., 1600 1<sup>st</sup> Avenue SE, Austin  
Master Plumber: Dave’s Plumbing, Heating & Refrigeration, Rose Creek, MN  
Novelty Machine Premise: Danny’s Place, 613 10<sup>th</sup> Drive SE, Austin  
Sign Installer: Nagle Signs, Inc., Waterloo, IA

Claims:

- a. Investment Report.
- b. Pre-list of Bills.

Carried.

The City annually reviews the assessment rates, with the goal of charging fifty percent of the project costs. Last year, that percentage was not obtained. The street improvements in the post office area in 2009 skewed the overall percentage because assessments were made to only one side of the street. In addition, that area had many corner lots so the corner lot policy affected the assessments as well. For these reasons and also due to the economy, Public Works Director Jon Erichson recommended keeping the assessment rates as is.

Moved by Council Member Austin, seconded by Council Member Pacholl, adopting a resolution approving the 2010 assessment rates. 7-0. Carried.

A draft wind energy conversion system ordinance has been reviewed by the Planning Commission and City Council. Included in the backup is a redrafted ordinance which would permit roof-mounted units. It would also allow the systems under a conditional use permit in most districts; most notably, they would be allowed in residential districts. Community Development Director Craig Hoiium noted that this would allow all people the opportunity to have one, and it would allow for them on school properties which are located in residential districts, adding that residential districts make up 45% of the city. Large towers would not be allowed in I-1 districts. Guy wires would not be allowed. The Planning Commission recommended approval of this redraft with two nay votes. Those two commissioners voting against said the systems should not be in residential districts. Mr. Hoiium said that with the setbacks, the wind energy conversion systems should meet the state decibel levels.

Council Member Austin said the redrafted ordinance is “very good and workable.” He wonders if the process hasn’t been tainted somewhat due to the attention of one business owner’s (Jim Stiles, Super Fresh) proposal for a wind turbine, though Stiles has said he won’t be erecting one for a couple of years. Council Member Austin also noted the required setbacks and the cost are still prohibitive for many. Council still should be “open and forward-thinking. We shouldn’t restrict a good thing.”

Council Member-at-Large Anderson agreed with Council Member Austin. This draft ordinance would enable wind energy systems in school settings for which grants may be available. These also could be incorporated into the curriculum and used as an educational tool.

Council Member Austin reiterated Planning Commissioner Stutzman by saying that these units still need approval via a conditional use permit.

Council Member McAlister reminded everyone to remember the threat of a wind tower (Jim Stiles/Super Fresh), and this will happen again if we approve the installation of wind energy in other areas. If Council wishes to encourage alternate energy, we should encourage solar, not wind, and the push probably wouldn’t be there if it weren’t for the grant subsidies. Council Member McAlister also reminded everyone that conditional use permits cannot legally be denied for the reason that you don’t like it. There are various legal requirements for approving and denying the conditional uses.

Bob Clark, Oak Park Village, said Super Fresh where a proposed wind turbine would be erected, is right across the fence. He commented on the Planning Commission’s approval of the ordinance at its last meeting and how fast they approved it. He questioned how far the wind turbine would be from him. Mr. Hoiium said there would be 240 feet to the nearest residential structure and 120 feet to the property line.

Betty Beckster, Oak Park Village, said she received a grant for wind turbine in California, but in the end they ended up paying more in taxes. She questioned who would be liable for damages resulting from a tornado. Ms. Beckster noted that a wind turbine would be considered an “attractive nuisance” by state statute, which would

require a fence. She asked why the City isn't developing a wind farm that could provide energy.

Moved by Council Member Pacholl, seconded by Council Member-at-Large Anderson, for the ordinance to be prepared. 5-2. Council Members McAlister and Martin voted nay.

Moved by Council Member Pacholl, seconded by Council Member King, for adoption and publication of the ordinance. 5-2. Council Members McAlister and Martin voted nay. Motion failed. Ordinance requires unanimous approval on the first reading.

Katie Hansen, 200 9<sup>th</sup> Street SW, has requested an appeal to the denial of a fence permit. The petitioner is proposing to relocate a portion of the fence currently in place adjacent to the driveway to minimize the visual obstruction when backing out from the garage. Community Development Director Craig Hoiium noted the petitioner had the fence constructed for a special needs child. Ms. Hansen is proposing to alter the fence 45 degrees to improve the vision in the sideyard area. Notification was sent to adjacent property owners, and the Zoning Department did not receive any calls on the matter.

Ms. Hansen spoke to Council saying her child doesn't understand boundaries, doesn't understand when being yelled at. It is like talking to a deaf person, she said. She said the school system has recommended the fence to provide visual stimulus for the child, and the County has supplied the money to construct the fence.

Council Member Pacholl said he has seen other fences the same height which are located on corner lots. The 45-degree adjustment will make a difference.

Council Member King noted that the Zoning Department did not have any resistance from the neighbors.

Moved by Council Member King, seconded by Council Member McAlister, approving the appeal for the fence. 6-0. Carried. One abstention. Council Member Clennon abstained because the petitioner is a relative.

Mr. Hoiium said there are six-foot high fences as Council Member Pacholl referred to; this ordinance was amended five to six years ago.

Moved by Council Member Austin, seconded by Council Member McAlister, granting the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at 199-121 3<sup>rd</sup> Avenue NE, James Fisher property. Carried.

Two of the three Wastewater Treatment Plant pump houses have failed; however, one unit has been salvaged. The variable frequency drive (VFD) units are five and 15 years old. The VFDs provide the required pumping for all of the domestic wastewater and are required to perform 24/7. Public Works Director Jon Erichson requested Council replace the two oldest units at the estimated cost of \$40,000. He noted that the third pump is new.

Moved by Council Member Austin, seconded by Council Member King, authorizing bidding for WWTP Variable Frequency Drives. Carried.

The Minnesota Chiefs Association has recommended a firm to provide services relating to an interim fire chief. The cost for their services is \$10,000.

Council Member King asked what the logic is for hiring the firm. City Administrator Jim Hurm said there are three reasons: to make sure we comply with state law in the interim process, 2) to gain an outside perspective and offer a report upon completion, and 3) to give a break to the commander (Brian Lovik) who has had to postpone some days off. The Department is down by one person but the costs for this service fairly equal the costs of the service (\$9000-\$10,000 per month).

Council Member Clennon questioned if we should be working with this particular firm; she noted they have never done business in Minnesota. Mr. Hurm noted the recommended candidate is from Minnesota. Council Member Clennon questioned if the City had checked into other firms. Mr. Hurm said they had not, but there aren't many firms who do this.

Firefighter Tim Olson questioned why the City waited until now— 19 days past the retirement of the Chief – to start a search when the Chief let the Administration know in June of his retirement. Also, he questioned why the City would spend \$10,000 for “not knowing what you're going to get.” He described the process as “cramming it down our throats,” adding that it seems “fishy” to him.

Council Member Austin said the City is not bound to pick an interim chief from the firm. He also referred to a state statute on the process that requires a 20-day period from the time of the Civil Service meeting to when the position can be posted. He understands Olson's concerns about not having leadership at the fire station. We will proceed as fast as possible.

Mr. Olson said the simplest solution is often the easiest.

Mayor Stiehm reiterated that this situation is also being used as a consulting service. They can say what they want to say, and then they'll be gone. This will be an outside source and very valuable.

Mr. Olson said the council members know what Austin needs.

Council Member King agreed with the Mayor saying that an outside perspective is what is needed.

Council Member Pacholl said Council was not informed until December.

Chris Grunewald, firefighter and president of the Local 598 Firefighters Association, asked if the City would make a second agreement with the firm if a candidate was not chosen. Mr. Hurm said that was not the plan.

Mr. Grunewald asked if the interim chief would be responsible on a day-to-day basis and be responsible during emergency scenes. Mayor Stiehm thought that person would rely heavily on personnel on the scene.

Council Member McAlister said he could not buy the argument that someone from the outside would not know our community and therefore would not be valuable. He referred to the School District who recently hired a new administrator from outside the community. Also, noted Council Member McAlister, if Commander Lovik applies for the chief's position, it would be awkward for him. He added that the interim chief would not be allowed to apply.

Moved by Council Member Austin, seconded by Council Member Pacholl, authorizing up to \$10,000 relating to an interim fire chief. 5-2. Council Members Clennon and Martin voted nay. Carried.

Moved by Council Member-at-Large Anderson, seconded by Council Member Pacholl, Appointing Marilyn Prenosil to the HRA Board. 6-0. 1 Abstain. Carried. Council Member Clennon abstained.

Moved by Council Member Austin, seconded by Council Member Pacholl, adopting a resolution declaring a hazardous structure at 202 4<sup>th</sup> Street SE, David Milton property. 7-0. Carried.

In order to be eligible for State and Federal funding, the City had to complete a historical and archaeological study. Bolton Menk was awarded that Phase I study, and the information was submitted to the State Historical Preservation Office (SHPO). SHPO responded by requesting additional information. Staff met with them on January 7, and they are still requiring a number of things. A proposal from Bolton Menk for this additional information is \$16,480. Public Works Director Jon Erichson said this additional study request is "extremely frustrating," but we need to provide it in order to apply for the grant. If we do receive the grant, he said, the payback is in the hundreds. Mr. Erichson said report refers to the "medical building," which is the building directly west of the swimming pool; this is not referring to the current hospital.

Moved by Council Member Austin, seconded by Council Member-at-Large Anderson, adopting a resolution accepting proposal from Bolton Menk for historical archaeological study in connection with the North Main flood control. 7-0. Carried.

Moved by Council Member Austin, seconded by Council Member Pacholl, adopting a resolution amending Post Retirement Healthcare Savings Plan for non-union, exempt employees. 7-0. Carried.

REPORTS:

Council Member McAlister requested additional information in the future for the appointees to the various boards.

Council Member Martin thanked the Human Rights Commission for sponsoring the presentation on Martin Luther King Day.

Council Member Clennon also thanked the Human Rights Commission. Also, ARC-Mower County held their grand opening at the Senior Center last week

Council Member-at-Large Anderson also thanked the Human Rights Commission for the presentation.

Moved by Council Member King, seconded by Council Member Austin, adjourning the meeting to February 1, 2010. Carried.

Adjourned: 6:52 pm

Approved: February 1, 2010

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

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