

**MINUTES**  
**CITY COUNCIL CHARTER MEETING**  
**July 6, 2010**  
**5:30 pm**  
**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, Tom Dankert, Jeanne Howatt, Jon Erichson, Craig Hoiium, David Hoversten, Brian Lovik, Kim Underwood, and John Mueller Krueger.

OTHERS PRESENT: Post Bulletin, Austin Daily Herald. Gordon W. Anderson. Bonnie Lee. Dan Franklin, Larry Dolphin, Bruce Huffer, Harlan Griese, Jim Davis, Marv Repinski, Lee Hansen, Lyndon Leining, Larry Gorden, Paul Hirsch, Carlton Thomson, Jason Korfhage, Bob Leining, Diane Kiker, Diane Jorgenson. Public.

Moved by Council Member Austin, seconded by Council Member-at-Large Anderson, approving the agenda. Carried.

Moved by Council Member Austin, seconded by Council Member Pacholl, approving the minutes of June 21, 2010 and. Carried.

Gordon W. Anderson, 2702 3<sup>rd</sup> Avenue SW, said the ‘no parking’ signs downtown have not been removed. These signs should have been removed immediately following the parade, and the business owners are hurting. Public Works Director Jon Erichson will check on this.

Bonnie Lee presented the City Art Award choice entitled “Swingin’”. Ms. Lee is the painter. The bridge was called the swinging bridge, she noted. It was taken down approximately 15 years ago.

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

Licenses:

Food: McDonald's, 1402 14<sup>th</sup> Street NW, Austin  
Food: McDonald's, 1009 West Oakland Avenue, Austin  
Food/Mobile: Faye Pedersen dba Faye's Concessions, Austin  
Garbage Hauler: Stewart Sanitation, Owatonna, MN  
Master Plumber: K & S Heating & Plumbing, Rochester, MN

Claims:

- a. Pre-list of bills.
- b. Emily Kretler, 1703 4<sup>th</sup> Avenue SW. This claim has been referred to the city attorney to protect the city's interest.

Carried.

A public hearing was held on sanitary sewer project 1-B-07. The amount to be assessed is \$3,035,066.74 at 5% interest.

Mayor Stiehm said Council met in work session to discuss the improvement project prior to this meeting on this. There is another option the City is now considering, he said. Public Works Director Jon Erichson said the first public hearing on the assessments was held June 21. Our involvement on this project, he noted, was per the residents' request.

To date, the City has received 72 written objections to the assessment; Mr. Erichson emphasized that the objections were to the assessment, not to the project. The total number of objections to the assessment has increased since the previous public hearing on June 21, not decreased. In reviewing this project and objections, he said, the City has looked at the risk tolerance. If the assessments per residential equivalent unit is \$15,590.17, the objectors' total costs are a little over \$1.2M of an (approximate) \$3M project. Also, the City could potentially accrue additional costs in defending any litigation – possibly \$200,000 plus city staff time. Mr. Erichson provided Council with a number of options: 1) the project could proceed as identified, but with the number of objections it is difficult to look at this project, 2) the entire project could be dropped, but there still would be unresolved issues, or 3) a new, different project could be presented. The objections received were based on a variety of issues, some of which related to the cost which is very high for certain property owners. Some objected to the city's assertion that their property value would increase equal to the amount of the assessment. Some don't like the idea of being annexed into the city. And some objected with the reason that they updated their system within the last several years. Mr. Erichson said objections were received until now. The new project as presented at the previous work session would involve only those annexed parcels in the Woodhaven Addition, which is at the very far end (north) in the annexed area. No objections were received from those residents. Also, this is the area that has been identified by the MPCA as imminent public health threats. This project would require a low pressure system. Certain parcels would need to be converted from gravity to low pressure. With this project, new bids would be taken and costs might change due to the changed scope of the project. A new feasibility report would be made. There are compliance issues with some properties in this area that would not be serviced. Complaints could be filed on these properties and compliance inspections would then be accomplished by Mower County. Additional time would

allow for the flexibility to pursue some grants. Mr. Erichson noted that the City has been able to lower the interest rate on the current project from 5.5% to 5%. If Council continues this hearing to the next meeting to wait for some objections to be dropped, they would need to take action at the next council meeting (July 19) as the bid package must be awarded by August 9. Tonight's hearing is just for the assessments.

Dan Franklin, 24558 546<sup>th</sup> Avenue, said the area has an imminent health hazard; laws are being broken. Everyone here has had a time to voice their opinions, he said. We have received the arbitrated settlement from the State of Minnesota. We have been informed that if the project is completed by November 15, there will be no fines. City Engineers Steven Lang and Jon Erichson have provided the best system at a low cost. This project needs to be accomplished in a short time or property owners will need to put in holding tanks at a cost of \$100/month or some will be fined \$500 per month. Mayor Stiehm added that we do have pollution. It doesn't matter what the City is doing. If these properties are noncompliant, the State will come in.

Larry Dolphin, representative for the Izaak Walton League Chapter 10, thanked staff and Council for working hard to clean the Cedar River. We have known about this problem for a long time. In 2007, he and two other members of the Izaak Walton League went on the Cedar River to measure e. coli bacteria. No less than four straight-line pipes were found. The e. coli bacteria count was extremely high. The area was then annexed with the idea that the City would provide sanitary sewer. Mr. Dolphin said he understands that it costs something, but not approving the project will not reduce costs. And we would still be considering a solution five years from now. He said the Izaak Walton chapter unanimously supports the project.

Mayor Stiehm clarified that if Council does elect to continue the hearing, that doesn't say that we (absolutely) won't do the entire project.

Bruce Huffer, 24181 548<sup>th</sup> Avenue, said he has been involved with the project for a very long time. He is concerned about the process. Many agencies have been involved. Everyone has had opportunities to come up with the best solution, and this is the best solution. He is concerned that after all this work, a minority could overshadow the majority.

Council Member Clennon said that no one is opposed to stopping the straight-line pipes. But, she said, I am opposed to bringing in households that have fixed their problems (septic systems) and now are being asked to pay for sewer. Now everyone is being asked to have one neighborhood pay for them. Council Member Clennon stated that after all the promises of Mr. Erichson sitting down and talking with the residents being assessed, those meetings weren't held. Mr. Erichson replied that he left messages with several residents and spoke with others; a number of attempts were made to talk to people. While a few people removed their objections, he decided that in talking to some, people were not going to be removing their objections.

Council Member McAlister said he would like to give a chance for the audience to speak. He asked Council to be silent until the public speaks.

Harlan Griese said he could handle \$1300 per year for the sewer system; he can't handle \$16,000 for a mound system. He added that Albert Lea is going around to area farmers and checking their compliancy. If they are not compliant, they have to put in mound systems.

Mayor Stiehm said the City is still pursuing grants, but there is nothing in place right now.

Mr. Griese added that mound systems do not work, plus some do not have the room for one. It isn't going to get any cheaper, he said.

Mayor Stiehm asked for raised hands on who was pro project, and who was against. The room was evenly divided pro and against.

Jim Davis, 54239 236<sup>th</sup> Avenue (Royal Manor Addition), said he sympathizes with the people in Woodhaven Addition. But this has been going on a number of years now and they should have known about the problem when they bought their property. If Council goes ahead with this project, they know they would be breaking the law. Close to half of the residents would be affected (those who objected). He noted that many can rebuild their mound system. In 1980 his mound system was compliant. But at this time it is not going to cost me \$16,000 to update. We shouldn't subsidize them (Woodhaven) when no one else is subsidizing us.

Mayor Stiehm noted that the complaints aren't just for valuations; there are different reasons for the objections.

City Attorney David Hoversten said there has been discussion tonight that the assessments are illegal. The law, he explained, says that the City cannot assess more than what the actual valuation increase. If in court it is proved that the value of property has increased by \$16,000 with this project, the City will prevail. Testimony will be provided including testimony on replacement of current systems, as well as testimony from other experts. The City could make the argument that without the city sanitary sewer system, some properties are unable to be sold. The City has many arguments to make.

Rev. Marv Repinski suggested people read his ten-point statement in the paper to move beyond this impasse. He noted that the financial commitment asked of the residents seems to be the primary issue. As he said during a work session, he is willing to look for grant money, realizing that this is a hardship for some. He added that to postpone would cost a larger area of the city or county to pay more. Additionally, we need to be responsible to the state regulations too. He encouraged people to pray on this matter.

Lee Hansen, 24591 546<sup>th</sup> Avenue (Woodhaven Addition), said he has been involved with the project for a long time. Right now we have a very well designed system, and it

would be very affordable. He said the residents in the annexed area were annexed in under the premise of getting sanitary sewer service. "I feel the City has a responsibility to do so," he noted.

Lyndon Leining, 54248 236<sup>th</sup> Street, objected to being assessed for his extra lots. He intentionally bought his extra land, he said, for a future (sanitary sewer) system. This seems "intrinsically unfair." The extra land he bought for being responsible now seems like a burden. And he will never try to sell the lots. He agrees the project should be done, but it needs to be more fair. There are some straight-line systems in Mower County and the State came up with a proposal to try to take care of them, but it was too expensive. But Austin has figured it out: assessing those individuals with additional land. He said the City wants to assess \$16,000 to homeowners with a \$30,000 house for an 8-inch PVC pipe. And because it is a government project, that doubles or triples the cost of the project right away, he said. He would rather use local merchants than seeking contracts (outside the area).

Larry Gorden, 54750 245<sup>th</sup> Street (Woodhaven Addition), said he has a lot big enough for more systems, plus he is in compliance; however, he is a "staunch supporter." He had a new system installed in 1979. He has had it replaced once at an excess cost of \$15,000. Now he's looking at replacing it again at another \$15,000-\$16,000. He said mound systems do not last forever. If we don't install the sewer system, he would need to install another system in 15 years.

Mayor Stiehm asked Mr. Erichson what the life expectancy is for city sewer. Mr. Erichson replied that some of the system is 100 years old.

Paul Hirsch, 24095 542<sup>nd</sup> Avenue (north of Royal Manor Addition), said he doesn't have a problem with the cost; however, he has two houses plus seven lots, which is a hardship. He would be assessed with nine residential equivalency units for a total of \$1500 per month. He said he wouldn't mind being assessed for one or two. It would be nice to work out something for this area.

Mayor Stiehm said if he didn't pay for his property assessments, then the entire city would have to pay for his; it would be spread out to all the taxpayers.

Carlton Thomson, 54748 237<sup>th</sup> Street (Ramsey Park), said the Cedar River goes through the heart of Austin so therefore, he thinks the assessments should be spread out to the entire city. He doesn't see any work being done on finding grants.

Mayor Stiehm said the City is continuing to work on seeking grant funding. He added that an area was annexed six years ago, but the City did not help those residents.

Jason Korfhage, 24022 547<sup>th</sup> Avenue, said he put in a mound system 15 years ago. He received numerous bids, from \$6500 to \$18,000, depending on the grade of the system (good, bad or middle). He paid \$8000. A mound system, we are told, would cost \$15,000. Would that \$15,000 mound system be for a good, bad or middle system? This

idea of whether a mound system would last 10, 15 or 30 years is like discussing how long a roof lasts. There are many things one can do to a mound system to maintain it, which would not be the same cost as new. There is much technology and improvement in the systems, including aerobic digesters which will double the capacity. Mr. Korfhage said he and his wife built outside Austin specifically to avoid the various laws. This annexation was forced on us. He has several lots he would need to pay on.

Mayor Stiehm reiterated that the City did not initiate this project.

Al Layman, 24069 547<sup>th</sup> Avenue (east of the Old Mill Restaurant), spoke in favor of the project. The process was upfront, honest, and all property owners were encouraged to attend meetings all the way. He has the greatest respect to those who worked to solve the issues. This is a difficult vote, he acknowledged, in consideration of the written objections, but the annexed area residents asked to be annexed in order for the City to provide sewage. He noted that 38 people did not vote in the initial vote, 33 voted 'no' for service, and 73 voted 'yes'. This (sanitary sewage) is the very reason why we proceeded with annexation. He asked if it is now fair for those non-participants to raise their voices high in opposition.

Bob Langan, 24003 547<sup>th</sup> Avenue, asked who would be paying for sewer to go through the railroad property or Austin Utilities. Mayor Stiehm said the City (Austin Utilities) would pay for their assessment, and there is no assessment against the railroad. Mr. Langan said their property taxes to the City are another \$1000 and asked if some of this money wouldn't pay for this. Mayor Stiehm replied that for a number of years taxes were not raised in the city so an increase had to be made. Plus, the tax reimbursement schedule to Lansing Township provides for only 10% to the City for this year (the other 90 goes to Lansing Township).

Diane Kiker, 24036 534<sup>th</sup> Avenue, said they have a large yard and are planning on building an addition which will cause the additional property that they own to be unbuildable, yet they would be assessed for both properties. Their addition is being held up because of this. Also, another property next to hers has more square footage but isn't being assessed any more.

Mayor Stiehm said this is a worthy project, but we will have to take a look at some of the (perceived) unfair assessments.

City Engineer Jon Erichson said staff reviewed the various objections and how they divided the lots up. In doing so, they looked at the property and at potential uses. The Kiker house is clearly on Lot 7. Lot 10 has been platted, and it is obvious that someone envisioned a 110-foot frontage by 150-foot depth. This is a nice sized lot on which someone could easily build a house. If we reduce the number of parcels for this project, the costs will go up.

Mayor Stiehm encouraged Mrs. Kiker to speak with Mr. Erichson later.

Dianne Jorgenson, 3412 11th Street NE, stated that in “no way” would the septic system (sewer system) raise the value of her home.

City Attorney David Hoversten said it is the position of the City that the improvements *would* increase the value of her property in line with the value of the assessment. Some people objected to this, saying that this is illegal. That is not the case. If these citizens appeal their assessment to the district judge, the judge will determine whether it is legal or illegal.

Mayor Stiehm reiterated that the City did not subsidize other sections when we installed sanitary sewer. In addition, it will be ten years before the City receives 100% of the property taxes.

City Administrator Jim Hurm stated that an appraised value is different than an assessed value. Some would argue that appraised values are higher.

Mr. Erichson said the City tried to acquire easements to provide the lowest potential cost. He said that in Ms. Jorgenson’s case, there are a lot of utilities there which makes it easier to hook into. The question was, would the easement affect the value (not the assessment affecting the value). The easement would not affect the value. The City was not able to secure easements because it would be immediately in front of the property. They would have needed to remove half of the county road which would have increased the project cost. The City is always looking to get the lowest cost. Also, the wastewater treatment plant does not operate with property taxes; rather, it is funded one hundred percent through user fees. He noted that staff looked at numerous sources for funding – many supplied assistance to low to moderate income people but they found that the grants required 51% of the recipients to be of low to moderate income, which does not fit this project. The City pursued a Public Facilities Authority Loan, but the City came in at number 45 which was the cut-off for the loans. As for outright grants we received 191 points, which was just below the cut-off. There were a number of efforts to search for assistance, but the problem is the 51% low to moderate income level requirement.

Bob Allen said he has no buyers.

Roger Jorgenson, 3416 11<sup>th</sup> Street NE, complained of the smell from the sewage. He pointed out at that the City said they would be constructing sanitary sewer for all or none at the beginning. He questions why now, all of a sudden, some are being left out. He objected to the mayor saying it was “too bad” that people would be losing their homes. Mayor Stiehm said that his comment on that was not in the right context; he was not being sarcastic.

Mr. Erichson noted that the final annexation was determined by mediation. There is an area identified that the City cannot initiate annexation for five years, according to the annexation agreement. He said if there are compliance issues with the properties that were not annexed, they would receive follow-up through Mower County. In 2006, 115

people voted for annexation. An ad hoc committee was the facilitator for this vote. This was done independently of Lansing Township and the City of Austin.

Vern Altenburg, 54765 237<sup>th</sup> Street, owns two lots. He said he can't afford that much money every month. Mayor Stiehm referred to the senior deferral program for Mr. Altenburg.

At this point, Mayor Stiehm called for order in the Chambers.

Mr. Altenburg said he can't afford the assessments now, and he won't be able to afford them in five years.

Bob Allen, 77185 135<sup>th</sup> Street, asked Council when they were going to make up their minds about not servicing the Ramsey area. They all have (septic) systems, he said, and they don't need the sewer. Mayor Stiehm said the decision would be made in two weeks.

Sue Allen, 77185 135<sup>th</sup> Street (Ramsey Park Addition), questioned if businesses get charged as businesses. Mr. Erichson replied that the businesses were evaluated according to the wastewater needs. Ms. Allen then asked about the (old) Neilson Addition lots. Mr. Erichson said that to answer that, he would need more information as to the question.

Larry Rosecke, 54170 244<sup>th</sup> Street, questioned assessments for those with more than one assessment, as in the case of those who sell one of the lots. Mayor Stiehm replied that once they are assessed, they remain assessed. Mr. Erichson said those are based on land use at the time of assessment.

Based on discussion in the previous work session and tonight's testimony, Council Member Austin made a motion to continue the hearing to July 19 at 5:30 see if written objections would be removed. Motion was seconded by Council Member Pacholl.

Mayor Stiehm noted that if Council voted to not service some of the areas, then the County would take over. If some properties in those areas are not in compliance, they would be shortly.

Moved by Council Member Austin, seconded by Council Member McAlister, adopting a resolution approving the form of the ballot for City Charter amendments. 7-0. Carried.

Moved by Council Member Pacholl, seconded by Council Member Austin, adopting a resolution designating the voting places for the city, utility, county and state primary election to be held on August 10, 2010, and also for the general city, utility, county and state election to be held on November 2, 2010. 7-0. Carried.

Moved by Council Member Austin, seconded by Council Member-at-Large Anderson, adopting a resolution designating judges of election for the primary and general elections. 7-0. Carried.

Moved by Council Member-at-Large Anderson, seconded by Council Member Austin, approving the Austin City Council Code of Conduct. 5-2. Carried. Council Members Clennon and Martin voted nay.

Moved by Council Member Pacholl, seconded by Council Member King, approving the Citywide Standards of Conduct. 5-2. Carried. Council Members Clennon and Martin voted nay.

Moved by Council Member Austin, seconded by Council Member Pacholl, approving the Standards of Conduct at Public Meetings. 5-2. Carried. Council Members Clennon and Martin voted nay.

Moved by Council Member Pacholl, seconded by Council Member Austin, approving requests of Mower County Fair Board in exchange for services during the Mower County Fair August 10-15 and the National Barrow Show September 11-15. Carried.

Council has previously reviewed refunding of bonds to refinance the Chauncey Apartments.

Moved by Council Member Pacholl, seconded by Council Member Austin, for preparation of an ordinance refunding of gross revenue bonds issued by the Austin Housing and Redevelopment Authority. Carried.

Moved by Council Member Pacholl, seconded by Council Member Austin, for adoption and publication of the ordinance. 7-0. Carried.

Moved by Council Member Austin, seconded by Council Member Pacholl, adopting a resolution approving the Operating Deficit Guaranty Agreement for the HRA refunding of Chauncey Apartments. 7-0. Carried.

Moved by Council Member Austin, seconded by Council Member King, granting the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at 1005 3<sup>rd</sup> Avenue NE, Trevino property. Carried.

Moved by Council Member King, seconded by Council Member Austin, granting the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at 1705 3<sup>rd</sup> Avenue SE, Sanchez property. Carried.

Moved by Council Member King, seconded by Council Member Austin, granting the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at 503 8<sup>th</sup> Avenue SE, Wakefield property. Carried.

Moved by Council Member King, seconded by Council Member Austin, granting the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at 911 12<sup>th</sup> Avenue NE, Hebl property. Carried.

Moved by Council Member King, seconded by Council Member Austin, granting the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at 616-616½ 10<sup>th</sup> Drive SE, Hauer property. Carried.

Moved by Council Member Austin, seconded by Council Member Pacholl, resolving the City Council into the Sign Board of Appeals. Carried.

John and Joanne Gedker have submitted a sign appeal request to erect a free-standing subdivision sign in the rear yard area of their property. There are three separate code issues involved: *a) Temporary signs advertising an undeveloped subdivision or a housing development of six or more units may be erected at dedicated street entrances to the subdivision or development, b) Signs shall be removed as soon as more than 60% of the lots or units are sold, developed and/or occupied. The sign shall also be removed one year after erection if no development occurs, and c) The area of a development sign shall not exceed 24 square feet. The height shall not exceed eight feet.* The location of the proposed sign is in the northwest corner of 16<sup>th</sup> Avenue and 29<sup>th</sup> Street SW adjacent to a twin home development. The proposed sign would be four feet wide by eight feet high. The Planning Commission recommended approval but with the stipulation that the sign had to be placed 25 feet north of the south property line, not in the public right-of-way as presented. Since then, the residents called the next day after the Planning Commission meeting and asked that this request be put on hold to discuss with the residents. The current proposal is for a portable sign – similar to a metal real estate sign. The sign would be five feet wide by 2.5 feet high. The location is within private property. Any illumination would be done with portable solar lights. Discussion followed on whether this sign was temporary or permanent. Community Development Director Craig Hoium said the proposed sign would be portable.

Moved by Council Member King, seconded by Council Member-at-Large Anderson, approving the sign appeal petitioned by John and Joanne Gedker/Meadows Addition Twin homes. 6-1. Carried. Council Member McAlister voted nay.

Moved by Council Member Austin, seconded by Council Member King, adjourning the Sign Board of Appeals and resolving back into the City Council. Carried.

Park & Rec Director Kim Underwood has applied for \$10,000 Twins Fields for Kids program grant. The \$10,000 required City match has already been met with the project replacement costs from last year's tornado. The grant would provide funding to move the on-deck circle to the outside of the playing field, and fence that in as an extension of the dugout. Windscreens would be added behind the player benches.

Moved by Council Member Austin, seconded by Council Member King, accepting the Twins Community Fund Grant. Carried.

REPORTS:

In connection with the 4<sup>th</sup> of July, Council Member Martin thanked the veterans and their families.

Council Member Clennon thanked Commander Brian Lovik for stepping in as acting fire chief. This is Lovik's last council meeting in the position.

Council Member-at-Large Anderson noted that the 4<sup>th</sup> of July Freedom Festival and the fireworks were sensational; it is a great event for the city, she said.

Park & Rec Director Kim Underwood announced the "Born Learning Trail" event sponsored by Community Education, the United Way and Park & Rec. The event will be held July 8 from 1:00 to 3:00 pm. On the same day there will be an opportunity for free swimming from 3:30 to 5:30. This is one of four free swim dates which is being sponsored through a Statewide Health Improvement program grant run through the Mower County Public Health Department. The second night for a free swim is scheduled for the evening of July 16. In addition, there are three Sundays in July in which free swimming will be offered – July 11, 18 and 25. Those free swim dates are offered via a library bequest from the Walter Wienke estate.

Lt. John Mueller thanked the Police Reserves for their work during the 4<sup>th</sup> of July celebration.

A video from the League of Municipalities annual meeting was presented. The League has put together a video to market to the public to obtain ways to work on the state budget.

Mayor Stiehm also noted the successful 4<sup>th</sup> of July celebration. He thanked the veterans. He also thanked Sandy Forstner and Jeff Baldus from the Chamber of Commerce and Kim Underwood from Park & Rec who helped coordinate the 4<sup>th</sup> of July festivities.

Moved by Council Member-at-Large Anderson, seconded by Council Member Austin, adjourning the meeting to July 19, 2010.

Adjourned: 7:48 pm

Approved: July 19, 2010

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

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