

M I N U T E S  
CITY COUNCIL MEETING  
October 5, 2020  
5:30 PM  
Council Chambers

MEMBERS PRESENT: Mayor Stiehm. Council Member-at-Large Jeff Austin

MEMBERS APPEARING ELECTRONICALLY: Council Members Steve King, Paul Fischer, Rebecca Waller, Laura Helle, Jason Baskin and Joyce Poshusta

MEMBERS ABSENT:

STAFF PRESENT: City Administrator Craig Clark, Director of Administrative Services Tom Dankert, Police Chief David McKichan, Park and Rec Director Kevin Nelson, Fire Chief Jim McCoy, City Attorney Craig Byram and City Clerk Ann Kasel

STAFF APPEARING ELECTRONICALLY: Public Works Director Steven Lang, Planning and Zoning Administrator Holly Wallace, Library Director Julie Clinefelter, Human Resources Director Trish Wiechmann, Officer Joshua Bradley

OTHERS APPEARING ELECTRONICALLY: Corey Hauer, Mark Nibaur, Austin Daily Herald

PUBLIC PRESENT: Curtis Sorenson, Arland Prestidge, Jean Prestidge

Mayor Stiehm called the meeting to order at 5:30 p.m.

Additions to the Agenda:

Additional Backup

9. Grass assessment objection information.
11. Administrative citations objection information.

Consent Agenda

4. Licenses:
  - Excavation: Boring Brothers, Inc., Zimmerman
  - Excavation: Michels Utility Services, Inc., Brownsville

(res) 19. Approving a Towards Zero Deaths grant agreement with the State of Minnesota.

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

Moved by Council Member Fischer, seconded by Council Member King, approving Council minutes from September 21, 2020. Carried.

## CONSENT AGENDA

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

### Licenses:

Concrete: Knutson Construction, Rochester  
Sign Installation: Vector Sign, Stillwater  
Tree Service: Travis' Tree Service, Albert Lea  
Excavation: Boring Brothers, Inc., Zimmerman  
Excavation: Michels Utility Services, Inc., Brownsville

### Claims:

- a. Pre-list of bills
- b. Financial and Credit Card Reports.

Carried.

## PUBLIC HEARINGS

A public hearing was held for an administrative citation issued to Bicabut, Inc. dba the Bakery II Lounge for failing to keep an orderly bar in accordance with COVID-19 orders issued by the Governor. The typical first offense for this type of violation is \$500 but the Council has broad discretion as to the punishment if it chooses to impose the citation. City Attorney Craig Byram presented three police reports as background for the factual information on the case.

Bicabut owner, Curtis Sorenson, 303 27<sup>th</sup> Avenue NW, stated that COVID has been difficult on the business. He stated he was inspected by the MN Department of Health on July 20<sup>th</sup> and was found to be in compliance. He noted that he has trained his staff about COVID precautions and the staff should know the guidelines. He admitted that he is at fault and the bartender that was working on the night in question no longer works for his business.

Mr. Byram stated that the Council has the discretion to affirm the administrative citation and issue the punishment. He recommended a \$500 fine. He noted that the Austin bar community will be watching this for future enforcement issues.

Mayor Stiehm stated the City wants business compliance but he does not want to punish the businesses.

Council Member Helle stated the \$500 fine is reasonable for the facts of the case and affirm the citation.

Council Member Waller agreed with Council Member Helle and stated that mask compliance is difficult. She stated she would also support a lower fine.

Mr. Sorenson noted he has purchased over 800 masks in the last two weeks.

Council Member King stated it is a clear violation of the State's orders but would like a \$250 fine.

Council Member Poshusta asked if a fine issued then would there be regular compliance checks.

Mr. Byram stated compliance checks are always available as a tool for law enforcement but they would not be required as a result of the citation.

Council Member Poshusta stated she was okay with lowering the fine but would like to affirm the citation.

Council Member Fischer stated he would like the fine to be \$250.

Council Member Baskin stated he supports affirming the citation and a \$500 fine.

Council Member-at-Large Austin spoke in support of the citation and the \$250 fine.

Moved by Council Member-at-Large Austin, seconded by Council Member Waller, affirming the administrative citation and assessing a \$250 fine. Carried 7-0.

City Clerk Ann Kasel noted the public fall assessment hearings on the agenda. For each type of assessment, the individual property owners were mailed a notice of hearing and a public notice was also published in the Austin Daily Herald.

A public hearing was held for assessments for miscellaneous sidewalk and driveway projects.

There were no public comments.

Moved by Council Member Fischer, seconded by Council Member-at-Large Austin, adopting a resolution declaring the cost of improvement for miscellaneous sidewalk and driveway projects. Carried 7-0.

Moved by Council Member King, seconded by Council Member-at-Large Austin, adopting the assessment roll for miscellaneous sidewalk and driveway projects. Carried 7-0.

A public hearing was held for the assessment of 2019-2020 snow removal.

There were no public comments.

Moved by Council Member King, seconded by Council Member Waller, adopting a resolution for assessments for 2019-2020 snow removal. Carried 7-0.

A public hearing was held on assessments for 2020 junk and garbage removal.

Corey Hauer stated that he does not feel that he has been given due process for his administrative citations issues. He noted that the City employees have not used the provided contact information to reach the owners. He noted that he cannot evict tenants in the time of COVID.

Mayor Stiehm stated the tenants of the property are required to take care of the property.

Planning and Zoning Administrator Holly Wallace stated the ordinance does not require notice for additional violations in a 24-month period. The property owner had multiple violations in the 24-month time period. She stated the zoning department will occasionally call or e-mail property owners or managers in addition to the letters that the City sends.

Mr. Hauer stated that his wife is an attorney and he does not believe that he was given due process for the zoning violations and that the incidents happened on different properties. He also stated he had a permit from the City to replace windows at the property and that was the second violation.

Ms. Wallace stated that the permit was pulled after the second violation.

Mr. Byram noted that the citation appeal period has passed.

Director of Administrative Services Tom Dankert noted that Mr. Hauer is appealing an administrative citation and the item we are actually discussing is junk and garbage properties.

Council Member Helle noted she would like to go forward with the assessment. She noted that Mr. Hauer is not the first property owner to state that communication with the Planning and Zoning department is not up to par. She stated she wished it would have come to the Council earlier in the process so it could have been reviewed as an appeal.

City Administrator Craig Clark noted that the ordinance requires certified mail. He stated the landlord can levy the cost against the tenant if there are violations.

Council Member Waller agreed with Council Member Helle and she stated she would like to see better communication in the Planning and Zoning Department.

Council Member King stated the notice needs to be served via certified mail to confirm receipt by the owner.

Council Member Poshusta spoke in support of the assessment since the citation was not appealed.

Council Members Fischer and Baskin agreed.

Council Member-at-Large Austin stated the letters could also be sent via e-mail for better communication from the Planning and Zoning Department. He would like to see improved customer service.

Mr. Hauer stated he would like additional information sent via e-mail.

No additional public comments were received.

Moved by Council Member-at-Large Austin, seconded by Council Member Fischer, adopting a resolution for assessments for 2020 junk and garbage removal. Carried 7-0.

A public hearing was held for the assessments for 2019-2020 grass and weed removal.

Arland Prestidge and Jean Prestidge stated they received a certified letter for notice of grass mowing in July. He stated he had a property manager mow the property but received a bill for the mowing. Ms. Prestidge stated she was unhappy with the communication from Park and Rec.

Parks and Recreation Director Kevin Nelson stated the grass on the property wasn't mowed and he spoke with Ms. Prestidge repeatedly.

There were no additional public comments.

Moved by Council Member Fischer, seconded by Council Member King, adopting a resolution for assessments for 2019-2020 grass and weed removal. Carried 7-0.

A public hearing was held for assessments for the abatement of hazardous housing.

There were no public comments.

Moved by Council Member King, seconded by Council Member Waller, adopting a resolution for the assessment of the abatement of hazardous housing. Carried 7-0.

A public hearing was held for assessments for administrative citations.

There were no public comments.

Moved by Council Member King, seconded by Council Member-at-Large Austin, adopting a resolution for the assessment of Park and Recreation administrative citations. Carried 7-0.

Moved by Council Member-at-Large Austin, seconded by Council Member Fischer, adopting a resolution for the assessment of zoning administrative citations. Carried 7-0.

Moved by Council Member-at-Large, seconded by Council Member Waller, adopting a resolution for the assessment of rental housing administrative citations. Carried 7-0.

Moved by Council Member Fischer, seconded by Council Member-at-Large Austin, adopting a resolution for the assessment of sump pump administrative citations. Carried 7-0.

Moved by Council Member-at-Large Austin, seconded by Council Member Poshusta, adopting a resolution for the assessment of fire code administrative citations. Carried 7-0.

A public hearing was held for the assessment of tree removal bills.

There were no public comments.

Moved by Council Member Poshusta, seconded by Council Member Fischer, adopting a resolution for the assessment of tree removal bills. Carried 7-0.

A public hearing was held for the assessment of sewer and concrete construction bills.

There were no public comments.

Moved by Council Member-at-Large Austin, seconded by Council Member Waller, adopting a resolution for the assessment of sewer and concrete construction bills. Carried 7-0.

#### PETITIONS AND REQUESTS

Moved by Council Member King, seconded by Council Member-at-Large Austin, appointing Edward Hinchecliffe to the Library Board, term expiring December 31, 2020. Carried.

Public Works Director Steven Lang requested the Council approve a MnDOT grant agreement for funding at the Austin Municipal Airport. He noted that the State's share of the project is zero but the agreement needs to be signed regardless.

Moved by Council Member-at-Large Austin, seconded by Council Member Waller, approving a MnDOT grant agreement for the Austin Municipal Airport. Carried 7-0.

Moved by Council Member-at-Large Austin, seconded by Council Member King, accepting donations to the City of Austin.

Planning and Zoning Administrator Holly Wallace provided a flood mitigation progress report for the Mower County All-Hazard Mitigation Plan stating that one property was removed from the flood plain, construction was completed on a \$4.8 million flood levee mitigation project, a \$2.4 million sewer lining project and the beginning design stages were completed for a \$9 million flood protection project at the Waste Water Treatment Plan.

Moved by Council Member King, seconded by Council Member Waller, authorizing the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at 506 15<sup>th</sup> Avenue SW, Meh Property. Carried.

Moved by Council Member Fischer, seconded by Council Member King, authorizing the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at 1921 Oakland Avenue E, Ruble Property. Carried.

Moved by Council Member King, seconded by Council Member Helle, authorizing the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at 1500 4<sup>th</sup> Avenue NW, Home For Now, LLC Property. Carried.

Police Chief David McKichan requested the Council approve a Toward Zero Deaths grant agreement in the amount of \$20,125 with the State of Minnesota.

Moved by Council Member-at-Large Austin, seconded by Council Member King, approving a Towards Zero Deaths grant agreement with the State of Minnesota.

## REPORTS

Council Member Helle stated the Austin Arts Center is doing a community author discussion on Saturday, October 10<sup>th</sup>. She added that she appreciates the work of the City and County elections staff.

Council Member Fischer thanked the departments for their violation work.

Council Member Baskin also thanked the elections staff for their work.

City Administrator Craig Clark stated the CARES funding is going to be allowed for public safety purposes.

Moved by Council Member-at-Large Austin, seconded by Council Member Fischer, adjourning the meeting to October 19, 2020. Carried.

Adjourned: 7:16 p.m.

Approved: October 19, 2020

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

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