

MINUTES
COMMON COUNCIL ADJOURNED MEETING
MONDAY, DECEMBER 21, 1998
5:30 P.M.
COUNCIL CHAMBERS

MEMBERS PRESENT: Mayor Rietz, Council Member-at-Large Purcell, Council Members Dahlback, Chaffee, Poppe, Maxfield, and Lang.

MEMBERS ABSENT: Council Member Romo. Mayor Rietz left at 7:50.

OTHERS PRESENT: News Media. Mickey Jorgenson and Gloria Nordin.

Boy Scout Troop 113 presented the colors. Mayor Rietz presented badges for Citizenship and Community to Boy Scout Troop 113.

Mayor Rietz announced that Items 9 and 10 public hearings have been canceled. Moved by Council Member Chaffee, seconded by Council Member Poppe, approving the agenda. Carried.

Moved by Council Member Dahlback, seconded by Council Member Poppe approving the minutes of December 7, 1998. Carried.

Moved by Council Member-at-Large Purcell, seconded by Council Member Chaffee, approving the consent agenda. Carried.

Moved by Council Member Chaffee, seconded by Council Member Maxfield, for the Common Council to adjourn itself into a Board of Adjustment and Appeals.

A public hearing was held on request from Arthur and Delores Clennon, 2021 1st Avenue SE, for a 2' - 8" variance governing the minimum corner side yard setback in an "R-1" Single Family Residence District for the construction of a 10' x 17' deck. The Planning Commission has recommended approval.

Moved by Council Member Chaffee, seconded by Council Member Lang, for the Board of Adjustment and Appeals to adjourn itself back into a Common Council.

Moved by Council Member Chaffee, seconded by Council Member Maxfield, approving the variance.

A public hearing was held on request from Austin Housing and Redevelopment for a rezoning from an "R-1" Single Family Residence District to an "R-2" Multi Family Residence District for property in Bolcomb Addition. Zoning Administrator Craig Hoium

said this action was a part of the project on the Whittier School/Rogers Industries site. Four single-family dwellings have been acquired by the HRA and been torn down. HRA will be constructing a 32-unit housing development. The Planning Commission has recommended approval.

Kyle Klaehn of KK Specialty Inc., 309 3rd Avenue SE asked Hoium how the proposed zoning compared with what was to the east and north. Hoium replied that it was I-1 to the northwest and I-1 to the west. Klaehn suggested that the proposed project was not fair and asked Council how it would affect his business. Mayor Rietz asked Klaehn to explain "not fair". Klaehn said the acquisition of property was not fair, what was being offered for Rogers Industries - its value. Mayor Rietz assured Klaehn that a fair price is being offered with a fair market appraisal. Council Member Dahlback reminded Klaehn that the market value of the property is not necessarily the same as the owner's value on the property, as is the case with the airport property acquisition and floodplain properties. Council Member Lang stated that he does not want to see any business treated unfairly; he has attended many HUD meetings and being fair is not only to the individual but to all residents. Lang stated that this project would clean up the area and would be an added attraction to his (Klaehn's) business. Klaehn said he was not happy with the lack of communication by the City to the surrounding business/property owners. Council Member Lang stated that he has talked with Rogers Industries numerous times and would've talked to Klaehn had Klaehn come to him to talk. Lang stated that he wanted what was best for the area and best for Austin and that anything would be an improvement over what the area has been.

Janet Leger, 401 3rd Avenue SE, asked if the City would say that the surrounding neighbors would not fit in after the townhomes are in.

Larry Hanson, owner of Hill Heating, said Roger Bastyr owns over seven acres of the property and is taking advantage of that.

Bob Ford, 310 3rd Ave SE, asked if surrounding property owners would be required to put up fences and asked if present buildings would be considered eyesores and be condemned. Zoning Administrator Hoium replied that as long as it's in conformance with an I-1, no further restrictions would be required. Council Member-at-Large Purcell stated that since Hoium has been at his job, he has been rewriting ordinances and enforcing regulations all over the city. Purcell stated that Ford may be required to live up to ordinances already in place.

Moved by Council Member Poppe, seconded by Council Member Chaffee, that the City Attorney prepare an ordinance on the aforesaid rezone request. 5-1. Council Member Dahlback opposed. Carried.

Moved by Council Member Poppe, seconded by Council Member Chaffee, to move the ordinance to the first reading. Carried.

Moved by Council Member Poppe, seconded, by Council Member Chaffee, to move the ordinance to the second reading. 5-1. Carried.

Moved by Council Member Poppe, seconded by Council Member Chaffee, for adoption of the second reading. 5-1. Carried.

Moved by Council Member Poppe, seconded by Council Member Chaffee, to move the ordinance to the third and final reading. Carried.

Moved by Council Member Poppe, seconded by Council Member Chaffee, for the adoption and publication of the ordinance. 5-1. Council Member Dahlback opposed.

A public hearing was held on request from Greg Johnson for a rezoning from an "R-1" Single Family Residence District to an "B-2" Community Business District. Zoning Administrator Hoium said this parcel which is west of the Target/Rainbow Foods development was recently annexed in by the petitioner. In view of the city's Comprehensive Plan for growth in business and retail development, the Planning Commission unanimously recommended approval. Council Member Maxfield reminded Council to keep in mind the possibility of a frontage road.

Moved by Council Member Dahlback, seconded by Council Member Poppe, that the City Attorney prepare an ordinance on the aforesaid rezone request. Carried.

Moved by Council Member Dahlback, seconded by Council Member Poppe, to move the ordinance to the first reading. Carried.

Moved by Council Member Dahlback, seconded by Council Member Poppe, to move the ordinance to the second reading. 6-0. Carried.

Moved by Council Member Dahlback, seconded by Council Member Poppe, for adoption of the second reading. 6-0. Carried.

Moved by Council Member Dahlback, seconded by Council Member Poppe, to move the ordinance to the third and final reading. Carried.

Moved by Council Member Dahlback, seconded by Council Member Poppe, for the adoption and publication of the ordinance. 6-0. Carried.

A public hearing was held on request from Robert and Sheila Helmers for a rezoning of Lots 1, 2 and 14 on the west side of 14th Street NW and south of 8th Avenue NW from an "R-2" Multi Family Residence District to a "B-2" Community Business District. Zoning Administrator Hoium gave a brief history of the area. Prior to 1975, Lots 1 and 14 had plumbing and auto repair businesses. On 11/3/75, the City adopted a Comprehensive Plan with a new zoning ordinance and zoning map. Lots 1 and 14 and the immediate surrounding area was zoned "R-2" making the existing commercial uses nonconforming. Ten years ago,

Mr. Helmers acquired the property. July 1989 Helmers had the use of the nonconforming use changed to another nonconforming. The property has been classified as this nonconforming use since then.

Hoium said that the Planning Commission at its meeting heard several complaints on the property: car alarms going off at night, lack of off-street parking, a devaluation of surrounding property, an incompatibility with surrounding neighbors, and the probability of the flooding of adjacent rear yard areas from storm runoff from Lot 2 being filled. Hoium said that the petitioner addressed the Planning Commission with three issues relating to his property being reviewed: 1) the lots were previously used for plumbing and auto repair, 2) petitioner disagrees with devaluation of property 3) regarding the offstreet parking, before the widening of 14th Street, there was plenty of offstreet parking. Hoium said the Planning Commission unanimously recommended denying the rezoning saying that it was not compatible or consistent with surrounding land uses and City Code Section 11.80, Subd. 1 states that the encouragement of nonconforming uses or the expansion of shall not be promoted, and this nonconforming land use is currently permitted under Council action dated back to 1989 and as specified in Section 11.80 of Austin City Code. Council Member Lang stated that one law should be made for everyone. Council Member Dahlback said that Council Members Romo, Chaffee, Poppe and himself had attended the Planning Commission meeting and are in opposition to this request. Council Member Dahlback said Helmers is increasing what's already a bad situation: Used cars are all over the neighborhood during snow removal. High beam flood lights are on. Car alarms go off. Council Member Dahlback said Helmers has lost trust of his neighbors and needs to be more cooperative with them. Council Member Lang reiterated that there should be one law and that he is against "spot zoning". City Attorney Hoversten stated that the action before the Council does not only concern Lots 1 and 14. What is being discussed, Hoversten said, is the adding of one lot and then the rezoning of the three lots to a B-2 district. This is a rezoning issue, Hoversten said. What's at stake, Hoversten stated, is would there be any adverse affect to surrounding uses with the rezoning to a B-2 district. Hoversten also stated that the Council also needs to consider if the rezoning would reduce value of the abutting property owners' property.

Glenn Thaisen, 1502 7th Avenue NW and owner of Lot 13, stated that he is 50% surrounded by Helmers. Thaisen corrected Hoium saying that the storm runoff would go into his property. Thaisen also stated that having a new building on the lot doesn't necessarily mean that the area is cleaned up. Thaisen expressed his desire that the law would be applied allowing no further expansion.

Randy Wagoner, 1506 7th Avenue NW, stated his concern for increased traffic in consideration of children in the neighborhood. Ed Arons, 1410 8th Avenue NW, also stated his concern for increased traffic and for car alarms. Arons stated that with further expansion, the business would not fit with surrounding area uses.

Robert Helmers then spoke saying he acquired the property ten years ago and the land use has always been commercial property. Since 1948, Helmers said it was a used car lot and a

body shop, never a multi family dwelling. Helmers said he cleaned up the area when he moved in and the house on Lot 2 was a very poor house, that no one would have bought the house. Helmers also cited two other businesses - Southwest Sales and Reed's Gas/Groceries which have received a rezoning from R-2 to B-2.

Darlene Thaisen, 1502 7th Avenue NW, stated that Helmers is not appreciative of property that others have.

Diane Titus stated that there have been many problems with Helmers including the lighting, parking, cars blocking mailboxes.

Council Member Chaffee said Helmers has not had good public relations with the neighbors and that the neighbors have very viable complaints and that Helmers should have worked with the neighbors. Council Member Dahlback stated that Southwest Sales (Glen Medgaarden) worked with his neighbors and went the extra mile to be a good neighbor.

Moved by Council Member Dahlback, seconded by Council Member Poppe, denying the rezoning request of Mr. Helmers' Lots 1, 2 and 14, Block 2 in Auditors Plat of Outlots in the NW¹/₄ of the NE¹/₄ of the NE¹/₄ of Section 4, Township 102 N, Range 18 West, Austin, MN from "R-2" to "B-2" as recommended by the Planning Commission. 5-1. Council Member Lang opposed. Carried.

A public hearing was held on request from Verne Kehret for a rezoning from an "R-2" Multi Family Residence District to an "B-2" Community Business District. Zoning Administrator Craig Hoium said that previously, the land was where Gopher Distributing and Bonanza were. Kehrets own Holiday Dodge and will be relocating the business. The Planning Commission recommended the approval with the reason that this land parcel and zoning classification is consistent with the adjacent zoning district to the north.

Moved by Council Member Dahlback, seconded by Council Member Poppe, that the City Attorney prepare an ordinance on the aforesaid rezone request. Carried.

Moved by Council Member Dahlback, seconded by Council Member Poppe, to move the ordinance to the first reading. Carried.

Moved by Council Member Dahlback, seconded by Council Member Poppe, to move the ordinance to the second reading. 6-0. Carried.

Moved by Council Member Dahlback, seconded by Council Member Poppe, for adoption of the second reading. 6-0. Carried.

Moved by Council Member Dahlback, seconded by Council Member Poppe, to move the ordinance to the third and final reading. Carried.

Moved by Council Member Dahlback, seconded by Council Member Poppe, for the adoption and publication of the ordinance. 6-0. Carried.

City Engineer Jon Erichson presented a request of Council to approve the purchase of wetlands from Geneva Township in mitigation of 3.1 acres of Type II wetlands improperly filled in 1991 by the City as part of the Industrial Park site development. The City had had plans to add an acre of wetlands to the Nature Center but the EPA will not allow this due to the airport expansion.

Moved by Council Member Poppe, seconded by Council Member Chaffee, to prepare a resolution approving the purchase of the wetlands. Carried.

Moved by Council Member Poppe, seconded by Council Member Chaffee, adopting said resolution. 6-0. Carried.

City Administrator Patrick McGarvey presented the approval of the 1999 - 2001 Labor Agreement with the Austin Employees Association.

Moved by Council Member Poppe, seconded by Council Member Chaffee, to prepare a resolution approving the Agreement. Carried.

Moved by Council Member Poppe, seconded by Council Member Chaffee, to adopt said resolution. 6-0. Carried.

City Administrator Patrick McGarvey presented the approval of the 1999 - 2001 Labor Agreement with UAW Local 867.

Moved by Council Member Poppe, seconded by Council Member Chaffee, to prepare a resolution approving the Agreement. Carried.

Moved by Council Member Poppe, seconded by Council Member Chaffee, to adopt said resolution. 6-0. Carried.

Council Member Dahlback presented an ordinance approving specifying the size of structures requiring a moving permit and the licensing of contractors moving structures. The ordinance was devised to come into compliance with state statutes. The ordinance will not require permits for moving structures which do not exceed 120 s.f. Ordinance Committee has recommended the ordinance.

Moved by Council Member Dahlback, seconded by Council Member Poppe, that the City Attorney prepare an ordinance on the aforesaid rezone request. Carried.

Moved by Council Member Dahlback, seconded by Council Member Poppe, to move the ordinance to the first reading. 6-0. Carried.

Moved by Council Member Dahlback, seconded by Council Member Poppe, for adoption of the seconded reading. 6-0. Carried.

Moved by Council Member Dahlback, seconded by Council Member Poppe, to move the ordinance to the third and final reading. Carried.

Moved by Council Member Dahlback, seconded by Council Member Poppe, for the adoption and publication of the ordinance. 6-0. Carried.

Moved by Council Member Dahlback, seconded by Council Member Poppe, to prepare a resolution approving moving permit fee change. Fee for moving buildings to 120 s.f. will be \$25, houses will be \$100. There will be a \$100 deposit for the police escort. Leftover monies will be refunded; additional monies to be billed.

Moved by Council Member Dahlback, seconded by Council Member Poppe, to adopt said resolution. 6-0. Carried.

Council Member Dahlback presented an ordinance clarifying the definition of both domestic and nondomestic animals and addressing the keeping of said animals. Council Member-at-Large Purcell stated that the ordinance was made to serve all citizens, not just one. Council Member Dahlback said the ordinance will prohibit poisonous snakes such as boas and rattlesnakes. The ordinance also categorizes animals under five categories. The ordinance also will prohibit bees. Those citizens who have recently been annexed in and who own horses will be given 30 days to comply. Enforcement will not begin until spring.

Moved by Council Member Dahlback, seconded by Council Member Poppe, that the City Attorney prepare an ordinance on the aforesaid. Carried.

Moved by Council Member Dahlback, seconded by Council Member Poppe, to move the ordinance to the first reading. Carried.

Moved by Council Member Dahlback, seconded by Council Member Poppe, to move the ordinance to the second reading. 6-0. Carried.

Moved by Council Member Dahlback, seconded by Council Member Poppe, for adoption of the second reading. 6-0. Carried.

Moved by Council Member Dahlback, seconded by Council Member Poppe, to move the ordinance to the third and final reading. Carried.

Moved by Council Member Dahlback, seconded by Council Member Poppe, for the adoption and publication of the ordinance. 6-0. Carried.

Council Member Dahlback presented an ordinance addressing unlawful acts applying to nuisances related to the keeping of animals. Unlawful acts included in this ordinance are:

1) failure to have a license tag, 2) owning a dangerous animal, and 3) interference with City employee in the performance of duty to enforce this Code Section, and 4) barking. Council Member-at-Large Purcell said he believes 50-60% of dogs are not licensed and that the majority of telephone calls received have been about complaints of barking dogs. Purcell also recommended publishing this ordinance more than three or four times, especially in the spring. Most citizens do not know there are exercise areas in parks for dogs, Purcell said.

Moved by Council Member Dahlback, seconded by Council Member Poppe, that the City Attorney prepare an ordinance on the aforesaid. Carried.

Moved by Council Member Dahlback, seconded by Council Member Poppe, to move the ordinance to the first reading. Carried.

Moved by Council Member Dahlback, seconded by Council Member Poppe, to move the ordinance to the second reading. 6-0. Carried.

Moved by Council Member Dahlback, seconded by Council Member Poppe, for adoption of the second reading. 6-0. Carried.

Moved by Council Member Dahlback, seconded by Council Member Poppe, to move the ordinance to the third and final reading. Carried.

Moved by Council Member Dahlback, seconded by Council Member Poppe, for the adoption and publication of the ordinance. 6-0. Carried.

Moved by Council Member Dahlback, seconded by Council Member Poppe, that the City Attorney prepare an ordinance redefining dangerous animals. Carried.

Moved by Council Member Dahlback, seconded by Council Member Poppe, to move the ordinance to the first reading. Carried.

Moved by Council Member Dahlback, seconded by Council Member Poppe, to move the ordinance to the second reading. 6-0. Carried.

Moved by Council Member Dahlback, seconded by Council Member Poppe, for adoption of the second reading. 6-0. Carried.

Moved by Council Member Dahlback, seconded by Council Member Poppe, to move the ordinance to the third and final reading. Carried.

Moved by Council Member Dahlback, seconded by Council Member Poppe, for the adoption and publication of the ordinance. 6-0. Carried.

Moved by Council Member Chaffee, seconded by Council Member Poppe, approving the Mayor's appointments to various Boards, Commissions and Committees. Carried.

Moved by Council Member Dahlback, seconded by Council Member Chaffee, to prepare a resolution granting 1999 licenses for sale of on-sale hard liquor, 3.2 beer on and off-sale, Sunday hard liquor on sale and Sunday wine on-sale. Carried.

Moved by Council Member Dahlback, seconded by Council Member Chaffee, to adopt said resolution. 5-0. Council Member Lang abstaining.

City Engineer Jon Erichson presented a resolution setting Sewer User Rates for 1999 for the City of Austin. The Environmental Services Committee recommended the raise in rates for adequate funding for the wastewater treatment plant, and it also recommended extending summer averaging to include September.

Moved by Council Member Chaffee, seconded by Council Member Poppe, to prepare a resolution setting the 1999 Sewer User Rates. Carried.

Moved by Council Member Chaffee, seconded by Council Member Poppe, to adopt said resolution. 6-0. Carried.

City Engineer Erichson presented a resolution setting Sewer User Rates for 1999 for Mapleview. The rates are in line with Austin's and include additional fees.

Moved by Council Member Chaffee, seconded by Council Member Poppe, to prepare a resolution setting Sewer User Rates for 1999 for Mapleview. Carried.

Moved by Council Member Chaffee, seconded by Council Member Poppe, to adopt said resolution. 6-0. Carried.

Moved by Council Member Chaffee, seconded by Council Member Poppe, to prepare a resolution waiving subdivision regulations as requested by Gary Knudson.

Moved by Council Member Chaffee, seconded by Council Member Poppe, to adopt said resolution. 6-0. Carried.

Moved by Council Member Maxfield, seconded by Council Member Chaffee, to prepare a resolution setting a hearing for Monday, February 1, 1999 on request from Eastside Development Corporation for vacation of a city street. Carried.

Moved by Council Member Maxfield, seconded by Council Member Chaffee, to adopt said resolution. 6-0. Carried.

Moved by Council Member Maxfield, seconded by Council Member Lang approving Central Garage equipment purchases. Carried.

Moved by Council Member Dahlback, seconded by Council Member Poppe, that the City Attorney prepare an ordinance adopting the new State Building Code. Carried.

Moved by Council Member Dahlback, seconded by Council Member Poppe, to move the ordinance to the first reading. Carried.

Moved by Council Member Dahlback, seconded by Council Member Poppe, to move the ordinance to the second reading. 6-0. Carried.

Moved by Council Member Dahlback, seconded by Council Member Poppe, for adoption of the second reading. 6-0. Carried.

Moved by Council Member Dahlback, seconded by Council Member Poppe, to move the ordinance to the third and final reading. Carried.

Moved by Council Member Dahlback, seconded by Council Member Poppe, for the adoption and publication of the ordinance. 6-0. Carried.

Council Member Maxfield requested a change in the minutes of 12-7-98 to include Maxfield and Lang as council members present.

CVB: A new liaison will be needed as Council Member Maxfield will be stepping off the Council. CVB will have a retreat January 20 with a board meeting from 12:00 - 1:00 and a planning meeting from 1:00 - 3:00.

Council Member Poppe announced that the 4:00 Finance Committee prior to the council meeting will reconvene after the meeting.

Council Member Chaffee thanked those council members going off the council - Joanne Maxfield, Bob Dahlback and Tom Purcell for their hard work.

Moved by Council Member Dahlback, seconded by Council Member Poppe, to remove the animal ordinance from Matters in Hand. Carried.

Port Authority has elected Dick Chaffee to succeed Bob Dahlback as president effective January 5.

Council Member-at-Large Purcell inquired as to the status of the sign for AmericInn. Zoning Administrator Hoium said this was approved at the Planning Commission meeting and objectors have 15 days to appeal. Purcell asked if the approval of the new sign would add to the number of signs between 4th Street and Highway 218 which the City has restrictions on. Hoium said no. Purcell then warned the new Council that they would be continually challenged to put up signs.

Moved by Council Member-at-Large Purcell, seconded by Council Member Lang to adjourn. Carried.

Adjourned: 7:50 p.m.

Approved: _____

Mayor: _____

City Recorder: _____