

MINUTES
COMMON COUNCIL ADJOURNED MEETING
TUESDAY, JANUARY 16, 2001
5:30 P.M.
COUNCIL CHAMBERS

MEMBERS PRESENT: Mayor Rietz, Council Member-at-Large Chaffee, Council Members Goodnature, Jorgenson, Christopherson, Poppe, and Lang.

MEMBERS ABSENT: Council Member Nordin.

OTHERS PRESENT: Angie Sheimo, Kelsey and Jordan White; Liliana Sylvestry, Director of The Welcome Center; Cindy Samuel, Spamtown Festival Director; Steven Carroll and neighbors.

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

Moved by Council Member-at-Large Chaffee, seconded by Council Member Jorgenson, approving the council minutes of December 27, 2000 and January 2, 2001. Carried.

Mayor Rietz recognized Angie Sheimo for helping to save Kelsey and Jordan White from a recent house fire. Fire Chief Dan Wilson presented Angie with a plaque.

Liliana Sylvestry, Director of The Welcome Center, gave a presentation on the Center. (See attached)

Moved by Council Member Jorgenson, seconded by Council Member Lang, approving the consent agenda as follows:

Licenses:

Massage therapist: Jodi Johanns, RR 5, Box 109, Albert Lea

Hotel/motel: Austin Lodge, LLC dba AmericInn Motel & Suites, 1700 8th Street NW

Food: Scott Everson dba The Taco Shoppe, Oak Park Mall, 1301 18th Avenue NW.

Renaissance Pizza, Inc. dba Dominos Pizza, 106 So. Main Street

Sign: LSE Acquisitions, Inc. dba Lawrence Sign Co., 945 Pierce Butler Rte., St. Paul, MN 55104

Master Plumber: Gerald S. Mullenbach dba Harris Companies, 909 Montreal Circle, St. Paul, MN 55102

Concrete: Binc Corp. dba Binkley Equipment Co., 65156 200th St., Elkton, MN 55933

Claims:

- (a) Financial and Investment Reports.
- (b) Pre-list of Bills.
- (c) Property of Janelle Hunstinger, 1910 2nd Avenue SE. This claim has been referred to the City Attorney to protect the City's interest.

Carried.

A public hearing was held to reassess unpaid properties. The City must pass a resolution to reassess the unpaid (three) assessments on forfeited property, an annual requirement.

Moved by Council Member-at-Large Chaffee, seconded by Council Member Jorgenson, adopting a resolution to reassess the unpaid assessments on forfeited property. 6-0. Carried.

Moved by Council Member Jorgenson, seconded by Council Member Poppe, resolving the Common Council into the Board of Adjustments and Appeals. Carried.

A public hearing was held for a 620-square-foot variance from City Code limiting accessory structures to no more than 1000 square feet in an "R-1" Single-Family Residence District requested by Steven Carroll, 2406 12th Avenue SW. Community Development Director gave a summary of Mr. Carroll's request. On September 12, 2000, the Planning Commission reviewed the variance request. The Planning Commission recommended denial. On September 18, 2000, the City Council reviewed the variance request. The matter was continued to October 2, 2000 so that Mr. Carroll and neighbors would meet and work out a different site plan. The Mayor and Council reviewed a memo at this time from Community Development Director Craig Hoium which offered three alternatives: 1) reduce the size of the structure, 2) relocate the structure to the northwest corner amongst some trees; or 3) require a minimum height of trees if located in the northeast corner. At the public hearing on October 2, 2000, the City Council denied the variance request. Mr. Carroll requested the variance again, and on December 12, 2000, the Planning Commission recommended denial by a 7-0 vote. Council Member Goodnature asked if there are other structures in the area this large. Mr. Hoium replied that there have been other requests, but it is important to look at each property individually. Mr. Hoium then referred to the Dunlops whose whole backyard is screened by mature trees, and they were granted a variance. Council Member Christopherson questioned flexibility in the setbacks. Mr. Hoium replied that the setbacks for the proposed building were all in compliance. Council Member Christopherson then asked Mr. Hoium if this was a matter of aesthetics. Mr. Hoium referred him to the Findings of Fact which state specific guidelines by State Statute that need to be looked at. Council Member-at-Large Chaffee asked if this building would have 10-foot steel sidewalls. Mr. Hoium replied that the city building code does not specify building materials. Council Member Lang stated that the size of the structure shouldn't be a hindrance because of the size of the property. Mr. Carroll said the structure would be made of a non-rusting steel and would be painted. Former City Council Member Dick Pacholl said that there was a precedent set years ago when some similar variances were granted. Tim Davis, 2403 11th Avenue SW, said three structures have recently been built in that area that have come within City Code. Mr. Davis argued that this planned structure would be double the size of the house, too large for that area. Mr. Carroll said that it was within his rights to apply for a variance. Council Member Goodnature asked if Mr. Carroll would build at 1000 s.f. if the variance was denied. Mr. Carroll replied he would have to.

Moved by Council Member Poppe, seconded by Council Member-at-Large Chaffee, adopting a resolution for the Findings of Fact and denying the petition for certain property located at Lot 2, Block 2, Austin Homesteads. 4-2. Carried. Council Members voting nay.

A public hearing was held for a variance from the minimum green space of 20 percent for commercial development sites located in a "B-2" Community Business District. The petitioner, Jon Boyer, owner of Precision Signs, is requesting a 13 percent variance from City Code. The property is surrounded by commercial and residential districts. The petitioner has placed a 10'x12' accessory structure onto an existing retail property. The petitioner was under the misunderstanding that once the permit application was made, he could proceed with the project. Council Member Goodnature asked if there would be a problem in the future with other variance requests if this were to be granted. The Planning Commission stated that this structure would not adversely affect the surrounding neighborhood. Mr. Hoium stated that it was important to look individually, property by property. Noting that there was one nay vote from the Planning Commission, Council Member-at-Large Chaffee asked what the reason was for this vote. Mr. Hoium replied that he believed that the vote was from Gordon Kuehn and that the nay vote related to the structure being in place prior to the variance. Council Member Lang stated that we have had this problem for years. He believes the City should set guidelines and abide by them. City Attorney David Hoversten said State law provides for variances; it would be illegal if all variances were denied. Mr. Hoversten said that if a variance was denied arbitrarily and capriciously, the petitioner could overturn the ruling. The Council must work within the state law and case law. The purpose for the hearing is for the Council to hear all the facts and circumstances. Council Member Lang referred to the city's home rule charter and the Comprehensive Plan. Mr. Hoversten said general policy isn't binding, but pieces of evidence are used in the decision. Council Member Goodnature asked if there were some consistency in the granting of variances, would there be challenges in court? Mr. Hoversten replied that every situation is unique, whether it is location, use, surrounding districts, etc. Mr. Hoium added that the whole system is to examine a particular piece of property. Mr. Hoium then stated that the property is surrounded by residential and commercial land uses. Many properties are very close to property lines because setbacks were quite different years ago. Steven Carroll stated that this is just a personal preference of what each council member wants.

Moved by Council Member Lang, seconded by Council Member Jorgenson, approving the variance. Carried.

Moved by Council Member Jorgenson, seconded by Council Member-at-Large Chaffee, adjourning the Board of Adjustment and Appeals into the Common Council.

Spamtown USA Festival Executive Director Cindy Samuel requested permission for street closings, serving of beer and food vendors for the Spamtown USA Festival Street Dance to be held July 6, 7:30 p.m. to midnight. This would include the closing of Main Street between 2nd Avenue and 4th Avenue, 3rd Avenue from Main Street to the alley and sidewalks in front of the plaza area. These requests are basically the same as in years past. Council Member-at-Large Chaffee commended the good management of the street dance.

Moved by Council Member Jorgenson, seconded by Council Member-at-Large Chaffee, approving the street dance request for Friday, July 6, 2001 on Main Street. Carried.

City Administrator presented a purchase agreement and lease agreement approval with Adrianus Struyk, owner of the property known as Spanky's Bar at the corner of Second Avenue NE and 1st Street NE. This parcel of property in Block 19 is included in T.I.F. District No. 10. The purpose of the establishment of this TIF district is to renew certain properties. The parties have been negotiating for several weeks and have now come up with a tentative agreement of purchase. The City would then lease back until Mr. Struyk is relocated. Funding is from the T.I.F. 10 bond sale proceeds. A

closing is tentatively set for February 1. Council Member Lang asked if no extension would be included in the lease. Mr. McGarvey replied that it is Mr. Struyk's goal to be moved as soon as possible -- by June 1, if not earlier. Council Member Lang noted that Austin Cab has been vacant for years; he doesn't want to see this linger. Council Member Goodnature asked what is to be done with the property. Mr. McGarvey stated that once it is acquired as public property, there is flexibility depending on what happens on that block. One option is for an apartment complex. Council Member Jorgenson commented that it is with regret that this building would be removed. Ms. Jorgenson thinks this building has charm and would hate to see it go.

Moved by Council Member-at-Large Chaffee, seconded by Council Member Goodnature, adopting a resolution approving a purchase agreement and lease agreement with Adrianus Struyk for property located at 201 2nd Avenue NE. 5-0. Council Member Lang abstaining.

Moved by Council Member Lang, seconded by Council Member Jorgenson, adopting a resolution approving 3.2 beer on-sale license for Piggy Blue's Bar-B-Que. 6-0. Carried.

The U.S. Army Corp of Engineers has requested that the City of Austin formalize our request for an updated feasibility study for the City of Austin. The formal application is not a contractual obligation, and a cost-sharing agreement would be required to complete the feasibility study if the cost exceeds \$100,000. This study would be in conjunction with the Soil and Conservation Service and would include the entire Cedar Rivepr watershed.

Moved by Council Member-at-Large Chaffee, seconded by Council Member Lang, adopting a resolution requesting the feasibility study. 6-0. Carried.

Moved by Council Member Jorgernson, seconded by Council Member Lang, setting a public hearing for February 5, 2001 on the Small Cities Development Program for the Whittier Neighborhood-Cedar View Housing Project upon its completion. Carried.

REPORTS:

DCA: George Brophy reported on two companies the DCA has been working with. One company is looking for capital support and another large company is looking at establishing itself somewhere in southern Minnesota.

A Finance/Personnel Committee meeting was set for January 22 at 4:00.

A Fire Committee reminder for January 17 at 4:30.

Council Member Goodnature reported on the very helpful conference he and Pete Christopherson attended in Fairmont -- The League of Minnesota Cities Conference for Newly Elected Officials.

A Public Works Committee meeting was set for January 25 at 4:30.

A Police Committee meeting was set for January 24 at 9:00 a.m.

Frank Skiness asked Council if they would be discussing water management at their upcoming work session. This will be discussed.

Mayor Rietz encouraged all to attend the Coalition meeting in Winona next summer.

The State of the City Address will be January 18 at 4:30.

Moved by Council Member Jorgenson, seconded by Council Member Christopherson, adjourning the meeting to February 5, 2001. Carried.

Adjourned: 6:55 p.m.

Approved: February 5, 2001

Mayor: _____

City Recorder: _____