

MINUTES
COMMON COUNCIL ADJOURNED MEETING
MONDAY, JUNE 18, 2001
5:30 P.M.
COUNCIL CHAMBERS

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

MEMBERS ABSENT: *None*

OTHERS PRESENT: Media. Public.

Added to the agenda are the following items: a master subordination agreement and estoppel certificate for the Murphy Creek project, and a master disbursement agreement for the Murphy Creek project.

Moved by Council Member-at-Large Chaffee, seconded by Council Member Christopherson, adopting agenda with additions. Carried.

Minutes were corrected on the roll call vote for calling a hearing for vacation of a public right-of-way in the Lone Oak Addition from 7-0 to 6-1. (Christopherson – nay). Moved by Council Member Nordin, seconded by Council Member Poppe, approving the council minutes of June 4, 2001. Carried.

Council Member Jorgenson introduced Sue Register and her son John Register of the Boy Scouts.

Linnea Burtch, Oakland Park, spoke to Council regarding a judge's order for the park management to build a storm shelter for the park. Also, a mobile home was placed in the new section, which was not to be put in until the storm shelter was done. Community Development Director Craig Hoium also received a call on the mobile home and has investigated this incident. He has indicated to the park managers that one of the conditions for the expansion of the park is that that portion of the park could not be occupied until the storm shelter was completed. Mr. Hoium said there was no way anyone could live in that home until that has been completed. Mr. Hoium has met with the park manager, reviewed the developer's agreement and conducted an inspection for the storm shelter. Some minor issues have not yet been completed, but Mr. Hoium said that if a storm does come through, the storm shelter is available. The second issue is that there needs to be handicap hardware put on one of the entrances. Some hard surfacing needs to take place in the expansion part of the building, but it is graded in a way that it can still be used. Ms. Burtch also asked when the park equipment and new drainage would be put in the new park. Mr. Hoium has also reviewed this with the park manager. The manager has ordered the equipment for the new park. New drainage was almost completed when the new curb and gutter was put in.

City Engineer Jon Erichson said there is one portion left to be completed in the southwestern corner. Mr. Erichson also explained the drainage system in the new park expansion.

Moved by Council Member Jorgenson, seconded by Council Member Nordin, approving the consent agenda. Carried. Consent agenda is as follows:

Licenses:

Temporary food: Welcome Center, Inc., 308 4th Avenue NW for July 8
Rotary Club for August 21
Piggy Blue's Bar-B-Que, Inc., 323 N. Main St.
Master plumber: Rochester Plumbing & Heating Co., Inc., 2728 7th Street NW,
Rochester
Cab driver: Earl Alexander, 506 2nd Street SE
Peddling: The Southwestern Co., 2451 Atrium Way, Nashville, TN

Claims:

- (a) Financial and Investment Reports.
- (b) Pre-list of Bills.
- (c) Property of First Farmers & Merchants, 128 N. Main Street. This claim has been referred to the City Attorney to protect the City's interest.
- (d) Calvin R. Lee, 806 9th Street SE. This claim has been referred to the City Attorney to protect the City's interest.

Moved by Council Member Jorgenson, seconded by Council Member-at-Large Chaffee, resolving the Common Council into a Board of Adjustments and Appeals. Carried.

A public hearing was held for a 720-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 Scott and Tammy Wilson, 1305 6th Street SE. This variance is for the construction of a 24' x 40' accessory building addition. Community Development Director Craig Hoium said this property is surrounded by R-2 and R-1 districts. The proposed location is 16 feet from the east property line and 26 feet from the north property line. No responses were received after notices were sent. The Planning Commission brought up two issues: the structure would be 12 feet in height, and the matter of statutory requirements relating to keeping the spirit and intent of the ordinance and also addressing undo hardships. Mr. Hoium said it was important to consider the surrounding land uses. The Planning Commission recommended approval of this variance. Council Member Jorgenson asked if the nearest structure was a residence. Part of the property that this structure would be built on is part of an old, abandoned railway. Council Member Poppe stated she was very against this variance because it would be a large garage accessory building in a residential area.

Moved by Council Member Lang, seconded by Council Member Nordin, approving the variance. 6-1. (Poppe – nay).

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

A public hearing was held for a requested amendment to the Comprehensive Plan which would change the future land use map from a low density residential land use to a high density residential land use: The Oaks Condominium Units 100 through 149, 1200 18th Avenue NW, Austin, Minn.

Community Development Director Craig Hoium stated that these amendments to the Comprehensive Plan do not relate to any requested land use change. Mr. Hoium stated that in looking over some various public hearings and looking at our future land-use plan, the recommended changes actually fit the existing land-use better than what was initially shown on the future land-use plan. The Oaks Condominiums is currently zoned as an R-2 district. The second amendment request is an undeveloped, 1½ acre-parcel located in an R-2 district. The Planning Commission has recommended that both parcels should be high density, residential land use on the Comprehensive Plan future land use map. Mr. Hoium referred to the Murphy Creek area which is a high density, residential land use area, similar to what the Oaks Condominiums parcel is. Council Member Lang asked if the high density could be conformed into commercial use. Mr. Hoium said that that would have to go through a public hearing process. For example, he explained, if someone wanted to put a convenience store on the 1½ parcel, either way (low density or high density residential land use), they would have to do two things: petition to amend the future land use map to a commercial land use, and petition to rezone the property to a business district. Council Member Lang asked if the Oaks would lose some of their protection by doing this. Mr. Hoium said that actually, they are currently a high density residential land use. The 1½ acre parcel adjacent would provide more assurance that some of their open area or any future land uses in the surrounding area would be maintained. Council Member Christopherson asked if this would change their tax classification. Mr. Hoium said it would not. Mr. Hoium also said that the net effect would be nothing. The Planning Commission recommended approval for both parcels.

Moved by Council Member Lang, seconded by Council Member Poppe, for the City Attorney to prepare the ordinance. Carried.

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

Moved by Council Member Lang, seconded by Council Member Poppe, for adoption of the first reading. 7-0.

Moved by Council Member Lang, seconded by Council Member Poppe, to move the ordinance to the second reading. 7-0.

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

Moved by Council Member Lang, seconded by Council Member Poppe, to move for adoption and publication of the ordinance. 7-0.

A public hearing was held for a requested amendment to the Comprehensive Plan which would change the future land use map from a low density residential land use to a high density residential land use: W. 294.51 ft., S 230 ft. NW¼, NW¼, Sec. 34, Township 103, Range 18, 1.56 Acres, Austin, Minn.

Moved by Council Member Lang, seconded by Council Member Poppe, for the City Attorney to prepare the ordinance. Carried.

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

Moved by Council Member Lang, seconded by Council Member Poppe, for adoption of the first reading. 7-0.

Moved by Council Member Lang, seconded by Council Member Poppe, to move the ordinance to the second reading. 7-0.

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

Moved by Council Member Lang, seconded by Council Member Poppe, to move for adoption and publication of the ordinance. 7-0.

A public hearing was held for a requested amendment to the Comprehensive Plan which would change the future land use map from a low density residential land use to an arterial commercial land use (3.41 acres), N½, SE¼, Section 5, Township 102, Range 18, Austin, Minn. Community Development Director Craig Hoium said there has been no petition for change of land use, conditional use permit or variance. The requests are very similar to the previous two amendment requests. This parcel is currently a used car lot and new car dealership and is currently zoned as a B-2 district. The future land use plan is currently a low density residential land use district. The recommendation from the Planning Commission is to change this site from a low density residential land use to an arterial commercial land use. Mr. Hoium clarified that this parcel is the Mel Saxton's Ford dealership property. Mr. Hoium also clarified that this change would not affect taxes because Mr. Saxton is not changing his land use or expanding his property.

Moved by Council Member Lang, seconded by Council Member Poppe, for the City Attorney to prepare the ordinance. Carried.

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

Moved by Council Member Lang, seconded by Council Member Poppe, for adoption of the first reading. 7-0.

Moved by Council Member Lang, seconded by Council Member Poppe, to move the ordinance to the second reading. 7-0.

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

Moved by Council Member Lang, seconded by Council Member Poppe, to move for adoption and publication of the ordinance. 7-0.

A public hearing was held for a requested amendment to the Comprehensive Plan which would change the future land use map from a low density residential land use to an arterial commercial land use: Lot 1, Pine Manor Addition, Austin, Minn. Community Development Director Craig Hoium explained that this public hearing is somewhat different than the other three requests. This request was petitioned by Ron Wieseler for the above described property. The parcel is currently located in an R-2 Multiple Residence District. It is surrounded by R-2 districts which consist mostly of high density residential development, B-2 district and R-1 districts. Mr. Hoium explained that, unlike the zoning map, the future land use map does not specifically follow established property boundaries. The petition was brought on by the petition of a rezoning to a B-2 district. This zoning classification conditionally permits automobile sales. Mr. Hoium stated that a very important part of this conditional use is that automobile sales may not be permitted within 50 feet of an "R" (residential) district. This matter was discussed in depth by the Planning Commission. The petitioner is aware that he would be restricted to conducting auto sales 50 feet from the south property line of the parcel, and he would also be required to provide a 6-foot high fence and landscaping for a buffer. Council Member Christopherson asked if this request has ever been denied before, and if so, why. Mr. Hoium said that as far as he knows, it has not. Council Member Lang said he talked to a member of the City Planning Commission from the 70s. He said this area was rezoned to be a buffer so that it could not exceed into the residential area. Council Member Lang said this land was offered for sale to another commercial area and was denied the zoning change. Council Member Lang also expressed concern over some areas being allowed to have these zoning issue changes and others are not. He noted two that were allowed and one in the northwest that was denied because it was called spot zoning.

Moved by Council Member Lang, seconded by Council Member Goodnature, for the City Attorney to prepare the ordinance. 5-2. Carried. (Lang, Goodnature – nay)

Moved by Council Member Lang, seconded by Council Member Christopherson, to move the ordinance to the first reading. Carried.

Moved by Council Member Lang, seconded by Council Member Christopherson, for adoption of the first reading. 5-2. (Lang, Goodnature – nay)

Moved by Council Member Lang, seconded by Council Member Christopherson, to move the ordinance to the second reading. 5-2. (Lang, Goodnature – nay)

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

Moved by Council Member Lang, seconded by Council Member Christopherson, to move for adoption and publication of the ordinance. 5-2. (Lang, Goodnature – nay)

A public hearing which was continued from the May 21st council meeting was held for rezoning of property at 2601 W. Oakland Avenue owned by Ronald and Lori Wieseler from an R-2 Multi-Family Residence to a B-2 Community Business District for a proposed used-car dealership. The Planning Commission looked at the issues in Mr. Hoium's report, referencing to the Comprehensive Plan and its findings from the May 15th Planning Commission meeting. The Planning Commission unanimously recommended the rezoning. Bob Helmers told Council to look at Mr. Saxton's request some years back to expand onto the front lot, and his request was denied.

Moved by Council Member Lang, seconded by Council Member Nordin, for the City Attorney to prepare the ordinance. Carried. 5-2.(Lang, Goodnature – nay).

Moved by Council Member Lang, seconded by Council Member Nordin, to move the ordinance to the first reading. Carried. (Lang, Goodnature – nay).

Moved by Council Member Lang, seconded by Council Member Nordin, for adoption of the first reading. 5-2. (Lang, Goodnature – nay).

Moved by Council Member Lang, seconded by Council Member Nordin, to move the ordinance to the second reading. 5-2. (Lang, Goodnature – nay).

Moved by Council Member Lang, seconded by Council Member Nordin, to move the ordinance to the third and final reading. Carried. (Lang, Goodnature – nay).

Moved by Council Member Lang, seconded by Council Member Nordin, to move for adoption and publication of the ordinance. 5-2. Carried. (Lang, Goodnature – nay).

Moved by Council Member Poppe, seconded by Council Member Nordin, to adopt a resolution citing Findings of Fact. 5-2. Carried. (Lang, Goodnature – nay).

The cities of Albert Lea and Austin have submitted a preliminary capital budget request application for the Blazing Star Trail project to be included in the 2002 State Bond Bill. This request is for a multipurpose, paved pedestrian trail from the west side of Austin, Minnesota to Myre-Big Island State Park in Freeborn County where it will connect to a previously funded trail segment from the state park to Albert Lea. It will be for a 16-mile trail at \$2.5M and would be maintained by the DNR.

Moved by Council Member Nordin, seconded by Council Member-at-Large Chaffee, adopting a resolution approving the agreement. 7-0.

The SPAM TOWN USA Festival Board of Directors has sent a letter of requests for the Festival, including clean-up assistance; barricades; 'No Parking' signs; Fire Department, LEC, and Park and Rec assistance; and street closings. Council Member Christopherson asked if boaters would have public access during the festival. Boaters would not have access on July 4th through July 7th.

Moved by Council Member Lang, seconded by Council Member-at-Large Chaffee, approving the requests. Carried.

The City of Austin and Mower County would like to share sign equipment. The County would buy into its share for \$5000. An agreement between the two bodies of government states that both parties will own the equipment equally, and both will be responsible for maintenance and repair of the equipment. The equipment will be housed at the City's Sign Department.

Moved by Council Member Christopherson, seconded by Council Member Jorgenson, adopting a resolution approving the agreement. 7-0. Carried.

Community Development Director Craig Hoium presented a developer's agreement for the Rosenthal 2nd Addition development. The agreement identifies the necessary public improvements for the new subdivision. The development includes 26 single-family lots, public right-of-way extensions of 2nd Street SW, 3rd Street SW and 17th Place SW and all other necessary public infrastructure. The agreement identifies the public improvements; the costs of the improvements, which are approximately \$300,000; and lists security that will be provided to the City of Austin to assure that they are completed. The agreement is between the City of Austin, Austin Utilities, and the developer.

Moved by Council Member-at-Large Chaffee, seconded by Council Member Christopherson, adopting a resolution approving the developer's agreement. 7-0. Carried.

Community Development Director Craig Hoium presented a developer's agreement for the Lickteig 2nd Addition Phase I development. The agreement identifies the necessary public improvements for the new subdivision. Phase I of the development includes a 72-unit market rate apartment complex, 4 single-family lots, public right-of-way extension of 22nd Avenue SW and the installation of all necessary infrastructure. The improvements are just under \$200,000. The agreement includes the City of Austin, Austin Utilities and Richard Lickteig.

Linnea Burtch expressed disappointment that she was not notified of this proposed development, stating that she may have wanted to move her manufactured home. Community Development Director Craig Hoium stated that State law requires notification of property owners within 350 feet of the property being reviewed. Mr. Hoium also stated that the City is required to put a legal notice in the newspaper 10 days prior to the hearing, which was done.

Moved by Council Member-at-Large Chaffee, seconded by Council Member Christopherson, adopting a resolution approving the developer's agreement. 7-0. Carried.

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

The City Planning Commission has approved a sign appeal from Precision Signs for the erection of a fascia wall sign that would exceed the allowable two square feet of sign face area for properties located within an A-1 Agricultural, Recreational, Conservation District. The proposed sign would exceed City Code by 22 square feet. The location for the sign is the new Hormel hangar. The reason for the size of the sign is that it is a considerable distance from the runway of the airport. The petitioner, Jon Boyer, was under the impression that the sign would not require a permit since it was on city property. The Planning Commission recommended approval. Council Member Christopherson asked Mr. Hoium to clarify since this is (perhaps) the second time Mr. Boyer has been before the Council after the fact. He told Mr. Hoium to tell Mr. Boyer that maybe next time the Council may not be so gracious.

Moved by Council Member Christopherson, seconded by Council Member Nordin, approving the sign appeal. Carried.

Moved by Council Member Christopherson, seconded by Council Member Nordin, granting the Planning and Zoning Department the power to contract for the removal of garbage and automotive parts at 508 12th Avenue NW. Carried.

HRA Director Kermit Mahan has asked the Council to approve a Master Subordination Agreement and Estoppel Certificate relative to the financing of the Murphy Creek project. This establishes the area of priority for payout in the event of a default or a buyout.

Moved by Council Member Lang, seconded by Council Member Nordin, adopting a resolution approving the agreement. 6-1. Carried. (Council Member Christopherson – nay).

HRA Director Kermit Mahan has asked the Council to approve a Master Disbursement Agreement which declares that the Housing Financing Agency is in charge of the disbursement of the funds in the subordination agreement.

Moved by Council Member Lang, seconded by Council Member Nordin, adopting a resolution approving the agreement. 6-1. Carried. (Council Member Christopherson – nay).

REPORTS:

HRA: Chauncey Apartments had a grand opening/ribbon cutting.

DCA: No report.

CVB: The CVB's focus will not change to pursue more convention business as was relayed in a recent newspaper article. They are pursuing the bus tour business, especially with the opening of the Spam Museum.

The CVB, along with the Chamber of Commerce, is planning a get-together with speakers at the Ruby Rupner Auditorium from 6:30 – 9:00. Businesses impacted by the opening of the museum will be invited.

The Fond du Lac, Wisconsin tour was in Austin for 3 days/2 nights and will be planning a return "mystery" tour.

The Park and Rec Department has submitted a 5-year capital improvement plan, everything from parks to equipment.

The Friends of the Nature Center will proceed with looking into the acquisition of more land for the Nature Center. This was approved at the Finance and Personnel Committee meeting.

The Spamtown Belle is running. Rides are given Wednesdays, 5:00 – 8:00 pm and Saturdays and Sundays, 5:00 – 8:00 pm.

A Public Works Committee meeting will be held June 19 at 4:30.

A Fire Committee meeting will be held Monday, June 25 at 4:30.

Council Member Jeanne Poppe inquired of Chief Paul Philipp about the 6th Avenue/7th Avenue SE area and crime prevention. Some of the neighbors have indicated they would like to hold a meeting with their concerns. Chief Philipp said that Council Member Nordin has spoken with some of the neighbors. Also, Officer Steve Wald is responsible for the Neighborhood Watch Program, and the neighbors should share any names with him. Chief Philipp has had the police officers and community service officers there more frequently to deal with some of the noise-related problems, cars, etc. Council Member Poppe referred to a house frequently has been targeted by paint. Also, a bridge was painted. She said the concern is the gang and what is happening down there. Chief Philipp said the City is quick to remove paint, gang symbols so that it doesn't become more of a problem.

A Port Authority quarterly meeting will be held on Wednesday, June 27 at 4:30.

A Finance/Personnel Committee meeting will be held July 2 at 3:30 pm.

Mosquito spraying was scheduled to start tonight, but due to the high water, it was decided that spraying would not be very effective. Spraying will probably start next week.

Chief Philipp said Officer Steve Wald also does crime prevention with landlords and housing facilities in the community. One meeting has been held already and was very successfully; the next meeting is next month.

The budget process will be starting late this week; Mr. Dankert will be receiving information for the 2002 budget requests

Moved by Council Member Nordin, seconded by Council Member Jorgenson, to adjourn the meeting to July 2, 2001. Carried.

Adjourned: _____ 7:45 pm _____

Approved: _____

Mayor: _____

City Recorder: _____