

MINUTES
COMMON COUNCIL CHARTER MEETING
July 7, 2003
5:30 P.M.
Council Chambers

MEMBERS PRESENT: Mayor Rietz, Council Members Jorgenson, Koch, Pacholl, Goodnature, Christopherson, and Nordin

MEMBERS ABSENT: Council Member Chamberlain

OTHERS PRESENT: Austin Daily Herald. Austin Post Bulletin. Public. Mike Robbins. Donna Robbins. Dixie King.

Added to the agenda: Tammy Schneider will present her winning painting from the 2003 Heart of America Festival Art Show/Competition; Motion setting a hearing to approve an amendment to the comprehensive Plan involving future land use of the Burr Oak Manor property located at 400 10th Avenue NW from a low density residential to a high density residential land use. Changed on the agenda: Item No. 14 – a resolution from a motion; Item no. 21 – a resolution from a motion. Removed from the agenda: Item No. 22, Motion to approve a new capitalization policy.

Moved by Council Member Nordin, seconded by Council Member Pacholl, adopting the agenda as amended. Carried.

Page 5, paragraph 4 of the June 16, 2003 city council minutes – ‘Goodnature’ added. Moved by Council Member Christopherson, seconded by Council Member Jorgenson, approving the June 16, 2003 city council minutes as amended.

Tammy Schneider presented her winning painting depicting Worlein Park entitled “Red, White, and Blue”. Her painting won the annual 2003 Heart of America Festival Art Show and Competition.

Mayor Rietz greeted a former council member, Donna Robbins. Ms. Robbins served on the Council for eight years beginning in 1976. She was the first woman council member in Austin.

Mike Robbins, of Robbins Furniture, addressed Council on what he said has been a problem for a number of years, which is parking downtown. He said that with the retirement of the “meter maid” (Pat Waletzki), the problem has increased. He said he has received more complaints from customers and sales reps on the lack of parking. On June

20, a meeting to address this problem was held at the Chamber of Commerce with several business owners in attendance. They came up with the following ideas.

1. Additional people (police) or should be subcontracted to check for parking violations. These people could be paid minimum wage.
2. Customer Only parking in front of businesses and the courthouse. The amount of parking spots would depend on the size of the business.
3. The County should not allow their employees to park in the two-hour spots and then move their cars. The County should address this problem with the City's help.
4. Build a parking ramp.
5. Increase the parking fine. A \$25 fine was discussed.

Mr. Robbins asked Council to pass a motion to resolve the problem. Mayor Rietz noted that on tonight's agenda was a resolution to increase fines.

Council Member Koch asked if a one-hour time limit around the courthouse would alleviate the shell game problem. Mr. Robbins said it may or may not. He said this would depend on enforcement. Council Member Jorgenson said Mr. Robbins had noted many items which involve enforcement. She would like to see this matter discussed at the next City-County meeting. She added that she thought a \$25 fine is too high. Mr. Robbins said Austin's fee has been way too low for too long, and he added that parking fines in the Cities could cost \$175. He stated that there should have been a gradual increase. Council Member Goodnature said he thought this problem may take a while to work out, noting that the Council would be fairly resistant to rehire another employee to handle parking citation. Council Member Goodnature noted that Robbins Furniture has it the worst and he found no parking around 9:00 that morning. He suggested that the city allow temporary parking for businesses, at least on a temporary basis. Council Member Goodnature has no problem with a higher fine as long as there is consistent enforcement. Terry Miller, manager of Emotions, agreed that there are problems with the loss of parking enforcement. He said the county employees take every spot downtown. Mayor Rietz noted she would like that added to the City-County agenda. Mayor Rietz asked if it would help if there would be a spot made available behind Emotions. Mr. Miller said yes, that would help. City Attorney David Hoversten stated that it is not legal to designate special parking spots on city streets for businesses as streets are considered public right-of-way. It is "not proper use of municipal authority." He noted that the City had tried to designate spots for Cedar Valley Services a number of years ago and it was determined that it couldn't be done. Mr. Hoversten said public right-of-ways can be used if when it does not interfere with the stated use, but the Council would be on "very shaky ground" if they designated streets and/or alleyways. Chamber of Commerce Director Sandy Forstner said this is a complex issue. There needs to be more longer term parking. Chief Philipp noted he knows that the problem is there, and the department will monitor and handle fines. The police will be rotating on inspections.

Dixie King, 203 3rd Avenue SW, addressed Council regarding her neighbor's fence. Her neighbor received a permit on September 28, 2002 after it was built. The fence is supposed to be 20 feet back from the sidewalk; it is only 16 feet and 10 inches from the

sidewalk. Ms. King said her house is 23 feet from the sidewalk, which is 7 feet past her house. She said she was told she needed to hire an attorney, and she does not feel that she should have to hire an attorney. Community Development Director Craig Hoium said he has had a discussion with the property owner and advised him that he could do one of two things: 1) have Mrs. King apply for a permit, or 2) move the fence. Mr. Hoium said the last he knew, the property owner was going to move the fence. He said his department would follow up on this matter soon.

Moved by Council Member Nordin, seconded by Council Member Pacholl, approving the consent agenda as follows:

Licenses:

Novelty machine: Hiawatha Bar, 433 10th Street NE, Austin
Food: Burger King, 1409 4th Street NW, Austin
Food: Alicia Bakery, 1017 2nd Avenue NE, Austin
Food Transfer: Diamond Dave's, Oak Park Mall, Austin
Cigarette Transfer: Diamond Dave's Oak Park Mall, Austin

Claims:

- a. Pre-list of bills.
- b. Janiffer Miller, 33386 890th Avenue. This claim has been referred to the city attorney to protect the city's interest.
- c. Anna Dalager, 900 2nd Avenue NW. This claim has been referred to the city attorney to protect the city's interest.
- d. Florence Lenocho. This claim has been referred to the city attorney to protect the city's interest.

Carried.

A public hearing was held relating to the vacation of a public right-of-way in Murphy's Creek. City Engineer Jon Erichson said this would allow the property to be more buildable; it does not affect the street.

Moved by Council Member Pacholl, seconded by Council Member Nordin, adopting a resolution appointing vacation commissioners. 6-0. Carried.

A public hearing was held relating to the vacation of a public right-of-way, Fourth Street NE. This vacation would allow Hormel R&D's expansion to occur. The requested vacation is to re-route the driveway.

Moved by Council Member Christopherson, seconded by Council Member Pacholl, adopting a resolution appointing vacation commissioners. 6-0. Carried.

A public hearing was held on the final assessment for Project 2-B-00, Norman Park water and sewer. Norman Park is an area located west of 22nd Street and north of 8th Avenue

NW. There are a number of hearings in this process; the area is still in the process of being annexed. The township has approved the annexation. Council would be approving the assessment policy. The total assessment is \$40,772.29. Jack Wittkopp, 2400 8th Avenue NW, likes the policy of deferring part of the assessment. Council Member Jorgenson said his is an unusual circumstance; however, this project has been a long time coming.

Moved by Council Member Jorgenson, seconded by Council Member Christopherson, adopting a resolution approving the final assessment for Norman Park water and sewer, Project 2-B-00. 6-0. Carried.

The downtown merchants have requested street closures in connection with the annual Crazy Days. It will be held one day this year on Tuesday, July 29.

Moved by Council Member Christopherson, seconded by Council Member Pacholl approving the street closings. Carried.

Moved by Council Member Christopherson, seconded by Council Member Nordin, adopting a resolution setting a hearing on proposed assessments for Project 2-B-03, Sanitary Sewer for 4th Drive SW. 6-0. Carried.

Moved by Council Member Christopherson, seconded by Council Member Nordin, adopting a resolution setting a hearing on proposed assessments for Project 2-B-03 Water for 4th Drive SW. 6-0. Carried

At the June 16, 2003 city council meeting, the Council approved an organized hunt at the Nature Center for the control of the deer population. Nature Center Director Larry Dolphin said this was an ecological problem, and he was in communication with the DNR about a possible hunt. Because the city ordinances prohibit hunting in the Nature Center and prohibits dangerous weapons within city limits, it was found necessary to amend the ordinance to allow for a controlled hunt with permission by Council.

Moved by Council Member Nordin, seconded by Council Member Christopherson, to prepare the ordinance to allow organized hunts within the J.C. Hormel Nature Center for the purpose of animal population control. 6-0. Carried.

Moved by Council Member Nordin, seconded by Council Member Christopherson, for adoption of the ordinance. 6-0. Carried.

The City has received a request from Herrick and Potach Dental Office to turn an existing tree trunk on the boulevard of 1st Drive NW into a chainsaw toothbrush. This request was reviewed by Planning and Zoning and the Park and Rec Department, and neither had any objections. There will be no advertising on the tree trunk. All costs will be paid by the dental office. Council Member Christopherson asked if this request had ever been requested before. City Engineer Jon Erichson said no, not in a public right-of-way.

There exists other chainsaw structures in town, but not in public right-of-ways. Council Members Christopherson and Goodnature wanted the Council to step back in this decision to make sure that we would be treating everyone the same and also to think about setting a precedence. City Attorney David Hoversten said he did not believe there had been any precedence set before on this matter. He noted that the two council members have identified several issues. This matter would seem “benign” on face value, but Council must ask if this would interfere with the public use of the boulevard. Also, Council must consistently treat everyone equally. (Would Council approve a carved swastika on the city boulevard?) He said this question ultimately falls to the city council. City Engineer Jon Erichson said only the trunk is left of the tree. If this is not carved, the Park and Rec Department will grind down the trunk. Mayor Rietz noted this is a fun idea; it would add to the uniqueness of the property. Council Member Jorgenson noted that the cost would probably be prohibitive to most people.

Moved by Council Member Goodnature, seconded by Council Member Pacholl, to table the item to the next city council meeting. Carried.

The City Council, on an annual basis, must authorize who can do business (investments and financial transactions) with the City. Historically, the city council has approved the list of these businesses at the beginning of each year. One business, Edward Jones, would like to be added as a broker for the City of Austin.

Moved by Council Member Jorgenson, seconded by Council Member Christopherson, authorizing the firm of Edward Jones to buy and sell city investments. Carried.

Moved by Council Member Christopherson, seconded by Council Member Nordin, to adopt a resolution approving on-sale liquor license transfer to Bueno Management Inc. dba Diamond Dave’s. 6-0. Carried.

Moved by Council Member Nordin, seconded by Council Member Christopherson, to adopt a resolution approving Sunday on-sale liquor license transfer to Bueno Management Inc. dba Diamond Dave’s. 6-0. Carried.

Before Item No. 17, Council Member Jorgenson questioned the legality of her and Council Member Koch conferring with the city attorney privately. City Attorney David Hoversten said it is available to ask for legal advice, but it is inappropriate to request to speak privately at a public meeting. It is appropriate outside of the meeting.

Moved by Council Member Nordin, seconded by Council Member Christopherson, adopting a resolution to set a public hearing for July 21 for a rezoning from an R-1 Single-Family Residential District to a Planned Development District for property located at 400 10th Avenue NW, requested by Schammel Properties. 6-0. Carried.

Moved by Council Member Christopherson, seconded by Council Member Nordin, setting a hearing for July 21 for variances on a rear yard setback, front yard setback, and

lot coverage in an R-1 Single Family Residence District and in a Community Business District, requested by Stephen Echert. Carried.

Moved by Council Member Christopherson, seconded by Council Member Nordin, to set a public hearing for July 21 for a 1152-square-foot variance from City Code limiting accessory structures to no more than 1000 square feet in an R-1 Single Family Residence District. Carried.

Mayor Rietz has recommended two people for the Library Board to replace Father Paul Nelson and Maria Acosta. Both have moved out of town. Recommended to replace Father Nelson is Pastor Pat Toschak from the First United Methodist Church, and recommended to replace Maria Acosta is Alma Cotter, a full-time employee at the Welcome Center.

Moved by Council Member Nordin, seconded by Council Member Jorgenson, approving the appointments. Carried.

Chief Paul Philipp has introduced a fee increase to the parking citations. The State has recently put a \$3 surcharge on each parking citation. Chief Philipp is requesting the following fee schedule:

Citations	\$10.00
Late notices	\$15.00
Complaint	\$20.00 plus court costs

Council Member Jorgenson questioned if it would be inconvenient to increase the fines to \$10 now and then possibly increase more in the near future. Chief Philipp said the problem is with printing the tickets. He said the most complaints he receives are about barking dogs and parking tickets. He has received calls from people living outside the city who have received tickets in Austin. After receiving the tickets, they have claimed that they won't come back to Austin so raising fees is a "tricky deal." Council Member Nordin commented that raising the fees now and then again in the near future would be confusing. Council Member Goodnature said he would like to see the staff research this problem, including looking into a nonrepetitive camera solution. He said we need a more permanent solution.

Moved by Council Member Goodnature, seconded by Council Member Pacholl, to table this matter.

The City of Austin, as part of the airport expansion project, is required to remove a city-owned hangar. The grant from MnDOT will pay for 60% of the costs; the City of Austin is responsible for 40%, or \$65,000, which has been budgeted as part of the airport project. Council Member Goodnature questioned the sequence of events. City Engineer Jon Erichson said the move would likely take place the end of August. The City has acquired the old Hormel hangar. The City is going to move the old Dibble hangar to a different location.

Moved by Council Member Pacholl, seconded by Council Member Nordin, accepting the grant for removal of the city-owned hangar. Carried.

As part of the 18th Avenue NW project, the City and Mower County made an informal agreement regarding maintenance. City Engineer Jon Erichson is now presenting a formal agreement between the government entities for maintenance of 18th Avenue NW from 4th Street NW to TH 218. The City is not responsible for costs of the project, but now assumes maintenance responsibilities. Mr. Erichson added that at this time with the budget cuts, he would have preferred not to add this to the city maintenance, but at the time of the informal agreement, the current budget constraints were unknown.

Moved by Council Member Jorgenson, seconded by Council Member Nordin, adopting a resolution approving the agreement. 6-0. Carried.

The City of Austin has received a request to lease property for a new airport hangar to Lynden Leining. The City will extend the taxiway approximately 100 feet to accommodate the hangar construction. The hangar will be privately owned, and the owner of the hangar will lease the property from the City of Austin. Council Member Nordin noted that the City should regulate the colors of the hangars, and she gave the example of the Owatonna airport. Council Member Goodnature agreed, saying there should be some uniformity. City Engineer Jon Erichson said the lease could state a color requirement (e.g. earth tones), and approved by the city engineer.

Moved by Council Member Jorgenson, seconded by Council Member Pacholl, approving the airport hangar lease. 6-0. Carried.

Council Member Jorgenson requested the opportunity to make a brief statement before the next item, which is setting a hearing for the amendment to the Comprehensive Plan involving future land use of the Burr Oak Manor property located at 400 10th Avenue NW. Council Member Jorgenson said she is not opposed to an apartment building on that property, but she *is* opposed to the Schammel Properties plan on that particular piece of property. She noted that the size of the apartment building complex is not decreasing, and the size of the land is not increasing. She is asking the Council to consider not approving this plan. Council Member Jorgenson noted that should would be in favor of taking a building down and adding parking. She noted that when 40-some property owners come to meeting after meeting, she must take this issue seriously. She said when the vast majority is opposed to the project, she would listen.

Moved by Council Member Nordin, seconded by Council Member Pacholl, setting a hearing to approve an amendment to the Comprehensive Plan involving future land use of the Burr Oak Manor property located at 400 10th Avenue NW from a low density residential to a high density residential land use. 4-2. Council Members Jorgenson and Koch voted nay.

REPORTS:

City Administrator Jim Hurm has received a letter and check from the Hormel Foundation in the amount of \$3443.98 for the telescope upgrade.

Mr. Hurm has also received a booklet on final actions of law summaries from the League of Minnesota Cities, and it is available for reading. Also available is the recent edition of 'Senior Happenings' from the Mower County Senior Center.

George Brophy referred to a graph which noted that manufacturing jobs are being lost in the U.S. and in Minnesota. Mr. Brophy has been working with a new technology center in Dexter which will be employing 50 employees. They are currently employing 20, 18 who live in Mower County, and the majority of those 18 come from Austin.

City Administrator Jim Hurm reported that the majority of council members attended the JOBZ meeting. JOBZ is a bill which would create a tax-free zone, particularly for manufacturing. An effort to create a zone is now moving ahead and is now in the hands of the county commissioners. The participants would be several counties in the southern region.

Council Member Nordin has received a complaint e-mail regarding the noise level at the Weisfest. She requested that this be looked into. Council Member Christopherson noted he thought the concert was a good thing for Austin and that it adds to the quality of life.

Council Member Goodnature asked if the Park and Rec had passed a motion against smoking in the parks. Mayor Rietz said they did, and they also realize that "it doesn't have any bite". City Attorney David Hoversten said to carry the force of law would require an ordinance prohibiting smoking in parks. The Park and Rec Board merely passed a letter for the purpose of letting the public know. Assisting officers in enforcement would require an ordinance. Council Member Goodnature said that this action by the Park and Rec Board should be made clear.

Council Member Koch, referring to downtown parking, asked if there was available parking in the Methodist Church parking lot. City Engineer Jon Erichson said he believed there was permits available in that lot. The north half is available for permits, but it is 99.9% full with students.

Council Member Goodnature asked what the difference is with renting a parking lot space on public property and providing parking on the street. City Engineer Jon Erichson said the difference is how the property is acquired. With parking, there are no restrictions placed upon the public right-of-way.

Moved by Council Member Pacholl, seconded by Council Member Nordin, removing the proposed tobacco ordinance from Matters In Hand. Carried.

Mayor Rietz thanked the hundreds of volunteers who help with the 4th of July events.

Frank Lorenzen is moving out of Austin leaving an appointment to be made to the Utility Board. Anyone interested should apply by July 25. An appointment will be made at the August 4 city council meeting.

The Blandin Foundation is sponsoring a sixth Blandin Community Leadership group. September 8-12 are the dates for the retreat. The Blandin Community Leadership program has been in existence since 1987 to develop leaders in outstate Minnesota. Applications must be returned by August 7.

Council Member Jorgenson inquired about the clean-up after the July 4th parade. City Engineer Jon Erichson said this was monitored; everyone picked up very well. Mayor Rietz thanked the Street Department for the clean-up, which was handled very quickly.

Moved by Council Member Jorgenson, seconded by Council Member Nordin, to adjourn the meeting to July 21, 2003.

Adjourned: 7:09 p.m.

Approved: July 21, 2003

Mayor: _____

City Recorder: _____