

**MINUTES
COUNCIL WORK SESSION
OCTOBER 6, 2003
4:00 PM**

PRESENT: Mayor Rietz, Council Member-at-Large Goodnature, Council Members Nordin, Jorgenson, Pacholl, Chamberlain, Christopherson, and Koch

ABSENT: None

STAFF PRESENT: Jon Erichson, Jim Hurm, David Hoversten, and Tom Dankert

ALSO PRESENT: Austin Daily Herald and Austin Post Bulletin (4:43 P.M.)

Mayor Rietz called the meeting to order at 4:05 p.m.

City Administrator Jim Hurm discussed his conversation with League of Minnesota Cities' attorney Tom Grundhoefer. Mr. Grundhoefer noted the Minnesota cities that were originally listed at the last work session are still going forward with the approval of the Letter of Agreement with Allco. Mr. Hurm went on further to discuss the editorial in the Austin Daily Herald, disagreeing that this is an ethical decision by the council but rather a philosophical question.

Council Member Dick Pacholl noted he and Mr. Dankert called both Mr. Grundhoefer and the City of Rapid City to see what happened. Council Member Pacholl noted he was satisfied that the issue had been resolved and that Rapid City would be looking favorably upon this in the very near future. Council Member Pacholl reiterated that this decision tonight does not bind the council. We will have other approvals to make before everything is finalized. This decision tonight only states that we are willing to go forward at this point, but we may change our mind when the final deal gets pulled together.

Council Member Koch noted he had a philosophical difference with this issue. Large corporations do not need these sorts of tax incentives, and we all know that if the big corporations do not pay the tax, the citizens will. Mr. Koch also stated that if we do go through with this transaction, he would like the escrow deposited into safe governmental agencies to ensure there are no escrow deficiencies down the road.

Council Member-at-Large Goodnature stated he would like to get some of the federal history behind the decision to allow this sort of transaction in the Internal Revenue Code. Council Member-at-Large Goodnature also stated that the Herald editorials in the past have supported tax free zones, and this proposal is essentially the same rationale. Additionally, Council Member-at-Large Goodnature stated this is not a financial band-aid. This money would be used to retire debt and add capital facilities, not to fix the operating budget. Council Member Jorgenson agreed, stating that this has never been about fixing the operating budget as this is one-time money.

Council Member Christopherson stated he understands Council Member Koch's philosophy, but how is this any different than a tax increment financing district, a JOBZ zone, or issuing tax exempt debt by the city?

Mayor Rietz noted that we can't be cavalier here. She stated that if Council is against this proposal for philosophical reasons, we would request a 'no' vote tonight. Please don't vote 'yes' tonight only to change your vote for philosophical issues down the road, as significant dollars will be expended by Allco to appraise our facilities. Mr. Hoversten noted the Letter of Agreement states that the city will proceed in good faith on the proposal.

Council Member Chamberlain stated that if some council members feel this is a "dirty" scheme, he would expect a 'no' vote on this issue; however, Council Member Chamberlain noted that most people also deduct their home interest on their tax returns. This is allowable under the IRS, as is the city of Austin entering into a lease proposal with Allco. Council Member Chamberlain stated this is a legal and ethical transaction that is allowed by the IRS. Council Member Chamberlain also stated that he may not agree with the law, but right now that is the law.

Council Member Koch noted corporate America does not need this tax deduction. JOBZ zones are for smaller businesses. This proposal helps out a huge conglomerate reduce their taxes, which means we will eventually pay more. Council Member Chamberlain disagreed, further noting Congress passed this into law and willingly allows this to happen. City Attorney David Hoversten noted those are all philosophical issues Council needs to deal with. The original intent may have been to help mass transit systems raise much needed capital to invest into their systems.

Council Member-at-Large Goodnature questioned Mr. Hoversten's opinion as a citizen. Mr. Hoversten noted at first take he agreed with Council Member Koch, but as he read more on it, he noted he became more enthused about the possibilities. Mr. Hoversten noted the citizens deserve hard core evidence and legal opinions that have the law firm's (Dorsey & Whitney) name and reputation behind them before this would have final approval. Mr. Hoversten noted no transaction is 100% risk-free, but risk can be mitigated to a small risk. This would be the job of a Dorsey & Whitney to provide.

Council Member Pacholl questioned if we approve the Letter of Agreement tonight, it does not mean this is the final approval and a "done deal." Mayor Rietz and Mr. Hoversten stated that was correct.

With no further items on the agenda, motion by Council Member Nordin, seconded by Council Member Jorgenson to adjourn the meeting at 5:03 p.m. Carried 7-0.

Respectfully submitted,

Director of Administrative Services