

**MINUTES**  
**CITY COUNCIL ADJOURNED MEETING**  
**MONDAY, MARCH 20, 2006**  
**5:30 P.M.**  
**COUNCIL CHAMBERS**

MEMBERS PRESENT: Mayor Rietz, Council Members McAlister, Baker, Dick Pacholl, Scott Pacholl, Hecimovich and Nordin. Council Member-at-Large Christopherson.

MEMBERS ABSENT: None.

OTHERS PRESENT: Austin Daily Herald. Austin Post Bulletin. KAUS. Cheryl Corey. Nancy Larsen, Janet Anderson, Sue Stevenson, Marcel Edoh, Scott Munson, Trish Wiechmann, Gema Alvarado, Marni Surdy, Lindsey Miller, Bridgitte Campbell, Lise Mittag; Jeanne Sheehan, Tom Baudler, Pat Lunn, Kim Duncomb.

Item numbers 11, 12, and 13 – public hearings for zoning requests in connection with the proposed Walmart development will be continued to April 17.

Moved by Council Member Hecimovich, seconded by Council Member Scott Pacholl, approving the agenda. Carried.

Moved by Council Member-at-Large Christopherson, seconded by Council Member Hecimovich, approving the council minutes of March 6, 2006. Carried.

Cheryl Corey, Director of the CVB, gave the annual report. The CVB is funded through the 3% lodging tax. They have recently received a \$2000 Hormel Foundation grant, which was used to buy a laptop computer and printer. The CVB currently has two people on staff: Director Cheryl Corey and Carol Anderson, who is the sales and marketing coordinator. The City of Austin hosted 32 major conventions in 2005.

The Human Rights Commission received 93 entries for this year's annual essay contest. This is a statewide essay contest, and this is the fourth year we have held the contest. This year, the entries were judged by a local writers group, and the winners received savings bonds from local banks. The winners were as follows:

First place: Gema Alvarado  
Second place: Lindsey Miller  
Third place: Marni Surdy

Several Human Rights Commission members and two teachers – Bridget Campbell and Lise Mittag – were in attendance.

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

Licenses:

Tattoo Establishment – transfer: Unusual Expressions Tattoo & Piercing,  
Lori Willert to Steven Kish, 105 1<sup>st</sup> Street NW  
Food/Mobile: Taqueria Guerrero, 700 2<sup>nd</sup> Avenue NW  
Food: Tienda Hidalgo, 1000 4<sup>th</sup> Avenue NE  
Bekannten's Pub & Grill, 119 3<sup>rd</sup> Avenue NE  
Cigarette: Bekannten's Pub & Grill, 119 3<sup>rd</sup> Avenue NE  
Concrete: Image Builder, 310 3<sup>rd</sup> Avenue SE  
Novelty Machine Premise: Bekannten's Pub & Grill, 119 3<sup>rd</sup> Avenue NE  
Exempt Gambling (raffle): United Catholic Schools Foundation @ St. Edward  
Corcoran Center, June 23  
Food – temporary: Austin Early Riser Kiwanis, June 17 and July 4  
Excavation: Morem's Tree, 3608 4<sup>th</sup> Street NW

Claims:

- a. Financial and Investment Reports.
- b. Pre list of Bills.
- c. Alvin Redwing, 903 9<sup>th</sup> Avenue SE. This claim has been referred to the city attorney to protect the city's interest.

Carried.

City Engineer Jon Erichson gave a brief background on the street improvement projects. The following five public hearings are projects which were identified in the Capital Improvement Program. Informational meetings for adjacent property owners have been held and city council public hearings authorizing the work to be done have been held. The public hearings tonight are for approving the assessments. Mr. Erichson briefly explained the city assessments policies and the four methods of payment.

A public hearing was held on street and sidewalk improvement assessments on Project 1-A-06, Burr Oak Area. The amount to be assessed is \$98,711.79 at 6.5% for 15 years. No objections were received, and there was no public comment.

Moved by Council Member Hecimovich, seconded by Council Member Nordin, adopting a resolution declaring the cost. 7-0. Carried.

Moved by Council Member Dick Pacholl, seconded by Council Member-at-Large Christopherson, adopting a resolution adopting the assessment roll. 7-0. Carried.

A public hearing was held on street and sidewalk improvement assessments on Project 2-A-06, 2<sup>nd</sup> Street NE (1<sup>st</sup> Avenue to 4<sup>th</sup> Avenue). The amount to be assessed is \$73,776.78 at 6.5% for 15 years. No objections were received, and there was no public comment.

Moved by Council Member Hecimovich, seconded by Council Member Nordin, adopting a resolution declaring the cost. 7-0. Carried.

Moved by Council Member Hecimovich, seconded by Council Member Dick Pacholl, adopting a resolution adopting the assessment roll. 7-0. Carried.

A public hearing was held on street and sidewalk improvement assessment on Project 3-A-06, East Side Lake (11<sup>th</sup> Street NE to 15<sup>th</sup> Street, 5<sup>th</sup> Avenue to 8<sup>th</sup> Avenue). The amount to be assessed is \$285,732.41 at 6.5% for 15 years.

Council Member Baker questioned what the total cost of the project would be. Mr. Erichson said it would be \$1.14M. He said that figure is an estimate because the flood mitigation component is not part of the assessment and that the Council will address/approve that project separately.

Council Member Hecimovich questioned when 5<sup>th</sup> Street NE was improved. Mr. Erichson said it was about five years ago.

Council Member Baker noted that \$700,000 was the figure for the East Side Lake project from the Capital Improvement Program. Mr. Erichson said that at the time of the writing of the CIP, the exact scope of the work had not been identified. Also, there are a large number of small lots and so the assessment was higher.

Moved by Council Member Nordin, seconded by Council Member Hecimovich, adopting a resolution declaring the cost. 6-1. Carried. Council Member Baker voted nay.

Moved by Council Member Nordin, seconded by Council Member Hecimovich, adopting a resolution adopting the assessment roll. 6-1. Carried. Council Member Baker voted nay.

A public hearing was held on street and sidewalk improvement assessment on Project 7-A-05, 3<sup>rd</sup> Avenue NE (1<sup>st</sup> Street to 4<sup>th</sup> Street NE). The amount to be assessed is \$86,500.71 at 6.5% for 15 years.

Council Member Dick Pacholl questioned if the decorative streetlights are included with this project. Mr. Erichson said the Council approved the project with the streetlights included by a vote of 5-2.

Moved by Council Member Hecimovich, seconded by Council Member Nordin, adopting a resolution declaring the cost. 6-1. Council Member Dick Pacholl voted nay.

Moved by Council Member Nordin, seconded by Council Member Hecimovich, adopting a resolution adopting the assessment roll. 6-1. Council Member Dick Pacholl voted nay.

A public hearing was held on street and sidewalk improvement assessment on Project 12-A-05, 1<sup>st</sup> Avenue SE (2<sup>nd</sup> Street to 4<sup>th</sup> Street). The amount to be assessed is \$34,741.75 at 6.5% for 15 years.

The City will advertise for bids on April 17.

Moved by Council Member Nordin, seconded by Council Member Hecimovich, adopting a resolution declaring the cost. 6-1. Carried. Council Member Dick Pacholl voted nay.

Moved by Council Member Hecimovich, seconded by Council Member Nordin, adopting a resolution adopting the assessment roll. 6-1. Carried. Council Member Dick Pacholl voted nay.

Moved by Council Member Dick Pacholl, seconded by Council Member Hecimovich, resolving the Common Council into the Board of Adjustments and Appeals. Carried.

A public hearing was held for a 3.1% variance from the minimum 20% green space for property located in the 900-1200 blocks of 18<sup>th</sup> Avenue NW.

Moved by Council Member Hecimovich, seconded by Council Member Nordin, to continue the hearing to April 17. 6-1. Carried. Council Member Dick Pacholl voted nay.

A public hearing was held for a rezoning of property located in the 1200 block of 18<sup>th</sup> Avenue NW from an R-2 Multi Family Residential District to a B-2 Community Business District.

Moved by Council Member McAlister, seconded by Council Member-at-Large Christopherson, continuing the hearing to April 17. 6-1. Council Member Dick Pacholl voted nay.

A public hearing was held on preliminary plat of property to be known as Plehal/Dolan Addition in the 900-1200 blocks of 18<sup>th</sup> Avenue NW.

Moved by Council Member Hecimovich, seconded by Council Member Nordin, continuing the hearing to April 17. 6-1. Council Member Pacholl voted nay.

Moved by Council Member Dick Pacholl, seconded by Council Member-at-Large Christopherson, adopting a resolution appointing Mike Steichen (First Ward), Phyllis Prybelski (Second Ward), Tom Purcell (Third Ward), and Jerry Wolesky (Representative At-Large) to represent the City of Austin on the Board of Review to be held April 19. 7-0. Carried.

The Committee-of-the-Whole has reviewed a request from Austin Utilities to have the Charter Commission review an amendment to the City Charter regarding municipal utilities. Essentially, the amendment would change the terms “water, electric, gas and power” to “municipal utility,” which would mean any publicly owned utility system. The current wording of Chapter 11:28 was drafted in 1904. At that time, of course, technology was very simple and so the wording here regarding municipal utilities is very straightforward. What was not public utilities then is now considered to be public utilities. In that light, the Utilities Board has asked that the meaning here be enlarged. That would give Austin Utilities the flexibility to engage in

other types of activities, including data transmission. The actual type would be a separate discussion and would be considered at another point down the road.

Tom Baudler, Chairman of the Utilities Board, said the Charter needs some updating, and this is mainly a housekeeping task. This could potentially allow for a medical alert system, which is currently being used in Freeborn County. To do anything like this would require flexibility in the City Charter. Mr. Baudler reminded Council that Austin Utilities is a nonprofit organization. He added that the Utilities Board voted unanimously for the City Council to take this action.

City Attorney David Hoversten said that Austin Utilities Board is a publicly elected body and would still need to have the approval of the city council for specific actions. Mr. Hoversten urged the council to “focus on the essential nature” of the request.

City Administrator Jim Hurm said there was some wording in the City Code referring to some other municipal services, and that the Charter and City Code should be consistent.

Council Member-at-Large Christopherson said he was initially skeptical but has done his “homework,” including talking with Austin Utilities General Manager Jerry McCarthy. He wants to make sure there is a level playing field. He has questions on such a broad change. Council Member-at-Large Christopherson said this would put government in direct competition with private companies.

Council Member Baker said he has struggled with this issue. He said that his hope is that these services would first be provided by a private company. But if a private company doesn’t want to do it, when do we say ‘okay’ to what private business can’t get done?

Utilities Board Commissioner Baudler said this would depend on the composition of the Utilities Board and its philosophies. If something Austin Utilities could handle and be beneficial to the public and, as a whole, be just as good or better and cheaper, then the public benefits.

Council Member Nordin said she think this depends upon the requests or the demand of the service. She believes the medical alert system is something the public would want.

Council Member Hecimovich said he wouldn’t want to hinder anything to be more progressive.

Utilities Commissioner Jeanne Sheehan has received many questions from constituents. She said we need to keep first things first. She said she is very aware of the pros and cons of offering what private companies offer. Those aspects can be viewed once the City Charter is changed.

Council Member-at-Large Christopherson questioned if this new charter change would increase bureaucracy or create bigger government.

Pat Lunn, from Austin Utilities, said the Utilities sees this as increasing flexibility and creating new ideas. The current City Charter is “unduly restrictive” and Austin Utilities can’t explore

different services that currently exist in other municipalities, including a medical alert system offered by Freeborn Mower Cooperative. He does not see it as good business to not expand.

Council Member-at-Large Christopherson said if the amendment will not include any limitations, he would vote no. But he said he was willing to meet them half-way.

Mayor Rietz said this needs to go to the Charter Commission and then back to the City Council for a 7-0 vote in order for a Charter change.

Council Member McAlister said he can't believe that Council is having this conversation. He said the competition is not even here. In 1970, he said, the internet was not around. If we don't approve it now, we will reconsider this every year? It's better to approve it now and not get 30 years behind. There are always certain risks with any change, but he said to not approve this would be crazy. He said if you really believe that we should not be competitive, we should sell Austin Utilities. (Where does one begin and at what point do you end?)

Council Member-at-Large Christopherson said the key services are gas, water, electricity. Now we're experiencing change, and that's what he struggles with. We must do this in a very thoughtful manner, he said. "This change is too broad."

Moved by Council Member Nordin, seconded by Council Member Hecimovich, adopting a resolution requesting the Charter Commission to recommend an amendment to the Charter regarding municipal utilities. 7-0. Carried.

Utilities Commissioner Tom Baudler gave Council a written thank-you from the girls' hockey team for extending the time Packer Arena is open.

Chief Paul Philipp requested the authority to offer a conditional job offer for an officer to temporarily replace Rene Phan's position. Upon Council approval and if he passes the psychological and physical testing, he would be hired.

Council Member-at-Large Christopherson asked if the candidate knew of the situation (that Rene Phan would be returning but that there would be other officers retiring in the meantime). Chief Philipp said, yes, there would also be a resignation in July.

Moved by Council Member Hecimovich, seconded by Council Member Nordin, approving the extension of the job offer. Carried.

Moved by Council Member Hecimovich, seconded by Council Member Dick Pacholl, approving the transfer of On-Sale Hard Liquor and 3.2 Beer Off-Sale Licenses from Trader Exchange Inc. dba Trader Exchange to CPJ Lutz dba Bekannten's Pub & Grill. 7-0. Carried.

There are several requests for some 2005 budgeted items to be expended in 2006. This requires Council approval.

Moved by Council Member Hecimovich, seconded by Council Member Nordin, adopting a resolution approving 2005 budget carryovers. 7-0. Carried.

Community Development Director Craig Hoium requested approval for subdivision of property. The property is owned by the HRA and is located in the Milwaukee Railroad Addition. The subdivision is requested to accommodate a proposed commercial development for the following five tracts:

- Tract A: 1.31 acres for a future development site
- Tract B: 4.94 acres for Jim's Super Valu
- Tract C: 1.72 acres for the Eagles
- Tract D: 1.96 acres for a storm retention pond, and
- The remaining tract would be .32 acres of HRA property.

Moved by Council Member-at-Large Christopherson, seconded by Council Member Dick Pacholl, approving the subdivision of property including all necessary easements. 7-0. Carried.

The City has received bids for biosolid removal. This bid is for 2 million gallons. An additional bid will take place in the fall. City Engineer Jon Erichson said \$200,000 is budgeted for residential and \$100,000 is budgeted for industrial. Bids are as follows:

DRT Biosolids	\$67,000
Fergus Power Pump Inc.	\$84,000

Moved by Council Member Dick Pacholl, seconded by Council Member-at-Large Christopherson, adopting a resolution awarding the bid. 7-0. Carried.

#### REPORTS:

Chief Paul Philipp has completed and handed out the Police Dept Annual Report.

The Chamber of Commerce is sponsoring a Legislative Luncheon Day on Friday, March 31 at Lansing Corners. Discussion will include flood mitigation.

Council Member-at-Large Christopherson and Council Members Hecimovich and McAlister visited with legislators at the Capitol regarding our flood mitigation plan and ½-cent sales tax proposal. They spoke with Sen. Pogemiller, chair of the Senate Taxes Committee. And they are receiving assistance from Senators Dan Sparks and Jeanne Poppe.

The Volunteer Banquet will be Thursday, March 30. RSVPs should be received by March 24.

An April 4<sup>th</sup> meeting is planned at 3:00 pm with Bev Nordby on the options for the regional watershed effort.

Moved by Council Member Nordin, seconded by Council Member Hecimovich, adjourning the meeting to April 3, 2006.

Adjourned: 6:53 pm

Approved: April 3, 2006

Mayor: \_\_\_\_\_

City Recorder: \_\_\_\_\_