

**MINUTES**  
**CITY COUNCIL CHARTER MEETING**  
**September 5, 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: Post Bulletin, Austin Daily Herald. KAAL. Captain Curt Rude.

Added to the agenda: A public hearing for final plat approval of *Bustad/Plehal Addition*; A resolution setting a public hearing for September 18 for the Repetitive Loss Plan.

Moved by Council Member Nordin, seconded by Council Member Hecimovich, approving the agenda as amended. Carried.

Moved by Council Member-at-Large Christopherson, seconded by Council Member Hecimovich, approving the consent agenda as follows:

Licenses:

Exempt Gambling (raffle): United Catholic Schools Foundation at Pacelli High School, November 8

Claims:

- a. Pre-list of bills.
- b. Diane Amacher. This claim has been referred to the city attorney to protect the city's interest.
- c. Rhea S. Sampson, 1207 8th Street NW. This claim has been referred to the city attorney to protect the city's interest.
- d. Taylor Evans, 608 4th Street NW. This claim has been referred to the city attorney to protect the city's interest.
- e. Richard Bassett, 408-1 27th Street SW. This claim has been referred to the city attorney to protect the city's interest.
- f. Heimer Concrete, 2021 1<sup>st</sup> Avenue SE. This claim has been referred to the city attorney to protect the city's interest.
- g. Jarrod Forslund, 503 15<sup>th</sup> Avenue SW. This claim has been referred to the city attorney to protect the city's interest.

Carried.

As required by State law, a resolution must be passed by September 15 approving the proposed budget and tax levy. The tax levy may be adjusted after this date, but it may not be greater than the amount set by resolution. The Council has two options for the budget and tax levy as presented in Schedules A and B, which were reviewed at the last work session, or they may pick any other option of their choosing. Schedule A tax levy (\$3,532,500) includes a contingency amount of approximately 10% to be used in the event the referendum for the local sales tax option is not passed at the General Election. Schedule B tax levy (\$3,232,500) does not include that amount. The Truth In Taxation hearing must also be set, and that is scheduled for December. The tax levy includes a 2.66% growth, plus a 5.09% general levy increase.

Moved by Council Member McAlister, seconded by Council Member Hecimovich, adopting the Schedule B resolution for proposed tax levy and budget.

Council Member Nordin questioned what the “limited exceptions” are for which the tax levy may be increased after September 15. Finance Director Tom Dankert said there are about a half-dozen exceptions including debt service issued after September 15 and costs relating to the clean-up of a natural disaster.

Council Member Baker said he has been swayed into the thinking that the 10% increase is “not smart.” He said the best thing to do to guarantee passage of the sales tax is to make this tax levy increase 0%. He said B is the best option.

Council Member Hecimovich said he feels strongly that the 10% increase is an insurance policy, and we must have more faith in the referendum passing and feel comfortable that it will go well.

Council Member Nordin questioned if the 2.66% growth was included in Schedule B. Mayor Rietz said it is included in both proposed schedules, as is the 5.09%. She said she has had people talk to her about the property tax surcharge and perhaps that could be removed.

Vote taken. 5-2. Carried. Voting nay: Council Member Baker and Dick Pacholl.

Tom Dankert said the cooling tower in City Hall is in “serious disrepair”. He has received two quotes for this, and the funding would come from the Contingency Line. This item was discussed at the last work session.

Moved by Council Member Hecimovich, seconded by Council Member Nordin, approving repair of the cooling tower for City Hall. Carried.

The City has received a federal grant which covers 95% of the airport apron reconstruction. The grant is for \$1,351,660 of the estimated total project cost of \$1,422,970. The City would be billed in 2007. The following is a breakdown of the project costs.

1. Ulland Bros. Inc.	\$1,190,990
2. Design engineering (SER)	84,000

3. Construction engineering (SER and sub consultants)	82,800
4. Site survey	5,000
5. Construction observation	55,000
6. Administration (audit, legal, administration)	5,000
Total	1,422,790

Moved by Council Member Nordin, seconded by Council Member-at-Large Christopherson, adopting a resolution approving the FAA grant for apron reconstruction. 7-0. Carried.

The City has received a proposal for construction and management services for the apron reconstruction, of which 95% of the funds will be reimbursed.

Moved by Council Member Dick Pacholl, seconded by Council Member Nordin, adopting a resolution accepting the proposal from SEH for construction and management services for apron reconstruction. 7-0. Carried.

Moved by Council Member Dick Pacholl, seconded by Council Member-at-Large Christopherson, setting a public hearing for September 18 for a variance to the maximum number of accessory structures of two and also for a 172-square-foot variance limiting the aggregate area of accessory structures to no more than 1000 square feet, requested by Rick Dollar. Carried.

Moved by Council Member-at-Large Christopherson, seconded by Council Member Nordin, adopting a resolution setting a public hearing for September 18 for a rezoning of property owned by Rachel Neiswanger, 1504 4<sup>th</sup> Street SE from an I-1 Limited Industrial District to an R-1 Single Family Residence District. 7-0. Carried.

Moved by Council Member-at-Large Christopherson, seconded by Council Member Nordin, setting a public hearing for September 18 for the preliminary plat review of property to be known as ***Murphy Creek 2nd Addition***. Carried.

Moved by Council Member-at-Large Christopherson, seconded by Council Member Hecimovich, setting a public hearing for September 18 for the preliminary plat review of property to be known as ***Nature's Ridge Addition***. Carried.

The 10-year lease agreement with the Izaak Walton League for the Izaak Walton cabin is expiring, and they would like to renew the lease. There is no exchange of money involved with this agreement, which is similar to the previous 10-year agreement. The one difference is that the equipment has been turned over to the City.

Council Member Hecimovich questioned if the Izaak Walton League would be replacing the equipment if need be. Park & Rec Director Denny Maschka said yes, they are the only ones who are allowed to use it.

Council Member Baker questioned the liability insurance required. City Attorney David Hoversten said it is state law that the tort level be \$300,000.

Moved by Council Member Hecimovich, seconded by Council Member Nordin, adopting a resolution approving the agreement for the Izaak Walton Cabin with the Izaak Walton League. 7-0. Carried.

The Austin Police Department is requesting Council pass a resolution authorizing the execution of an agreement with the Minnesota Department of Public Safety accepting a \$25,000 Enforcement Grant. Captain Curt Rude said this is a routine grant request which we have requested for a number of years. The grant has been used for preliminary testers in the past, and we are planning to partner with the County for this grant. The grant must be appropriated by the city council.

Council Member Hecimovich questioned if the City would be receiving half of the funding. Capt. Rude said this would be need based, however the City does more and therefore would probably receive an increased amount.

Moved by Council Member Hecimovich, seconded by Council Member Nordin, adopting a resolution authorizing the execution of the grant. 7-0. Carried.

City Engineer Jon Erichson presented an Individual Control Mechanism Agreement for Weyerhaeuser. The intent of these agreements, he said, is to control the volume and strength of the discharge. This agreement replaces an expired agreement.

Council Member Baker questioned if there are any changes. Mr. Erichson said the volume and strength remain the same; only the dates have been changed.

Moved by Council Member Dick Pacholl, seconded by Council Member-at-Large Christopherson, adopting a resolution approving the Individual Control Mechanism Agreement with Weyerhaeuser. 7-0. Carried.

Mayor Rietz questioned how many of these agreements we have. Mr. Erichson said we have less than six, and this is according to MPA regulations which requires an industry with over 25,000 gallons per day or more than 200 ppm to have an agreement. This protects the city from having businesses violate discharge limits.

Another agreement must be signed for Parks Family Leasing. Mr. Erichson said the reason this agreement is required is due to the business being sold, and the agreement must be transferred over. The limits will stay the same. The effective date is September 29, which is the date of the property closing.

Council Member Dick Pacholl asked who Parks Family Leasing is. Mr. Erichson said they are the proposed buyer of the truck washing facility, currently owned by Hormel, in the Northeast Industrial Park. They are located west of McFarland Trucking.

Council Member Hecimovich asked if they operate 12 months per year. Mr. Erichson said they do.

Moved by Council Member Nordin, seconded by Council Member-at-Large Christopherson, adopting a resolution approving the Individual Control Mechanism for Parks Family Leasing. 7-0. Carried.

Council Member Dick Pacholl requested the Weber property be removed from the list of junk properties as it appears that this property has been cleaned up. Community Development Director Craig Hoium requested this be removed contingent on the Zoning Department's approval.

Moved by Council Member Dick Pacholl, seconded by Council Member Hecimovich, removing the Weber property, 506 11<sup>th</sup> Avenue SW, from requests to remove junk, contingent on the Zoning Department's approval. Carried.

Moved by Council Member-at-Large Christopherson, seconded by Council Member Nordin, granting the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at 806 9<sup>th</sup> Street SE, Raimann property. Carried.

Moved by Council Member-at-Large Christopherson, seconded by Council Member Hecimovich, granting the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at 2014 3<sup>rd</sup> Avenue NE, Ruiz property. Carried.

City Engineer Jon Erichson presented a proposal from Kaeding and Associates for design of a stand-by generator for the Hope Street Lift Station. This lift station provides for the Hormel Plant. The projected cost for engineering construction services is \$6550.

Moved by Council Member Nordin, seconded by Council Member Hecimovich, accepting a proposal from Kaeding and Associates for design of a stand-by generator for the Hope Street Lift Station. Carried.

The city council must pass a resolution and relay to the County Auditor the exact wording for a referendum question. City Attorney David Hoversten has drafted a question which, he said, parallels the legislation passed allowing the City to place the question on the ballot in the General Election. The question incorporates the essential terms and sets forth limitations.

City Administrator Jim Hurm read the ballot question:

*May the City of Austin, Minnesota impose by ordinance a sales and use tax of one-half of one percent for the exclusive purpose of paying all or part of the capital or administrative costs of flood mitigation projects in the City of Austin, Minnesota, which tax shall terminate at the earlier of:*

- 1) 20 years after the date of initial imposition of the tax; or*

*2) When the Austin City Council determines that the costs of such flood mitigation projects and any financing of such costs have been paid in full.*

Mayor Rietz pointed out that the words “shall terminate at the earlier of” are important to have in the question.

Council Member Dick Pacholl asked if this meant the tax could not be extended after the twenty years. City Attorney David Hoversten said the wording follows the statute in that the Council can eliminate the tax at any time, but they cannot extend it.

Council Member Baker questioned if the wording could be made less burdensome. Mr. Hoversten said the wording is necessary due to statutory laws which must be followed. He said the City would not want to take the chance of being challenged on the question.

Council Member Baker said he had an issue with the wording. Mayor Rietz suggested the possibility of moving some phrases.

Mr. Hoversten said that would not be appropriate here during this meeting. Any change of terminology could perhaps affect the meaning. The revised version may or may not be saying what you want.

Mayor Rietz questioned if bolding or capital letters could be used for the phrase “at the earlier of.”

Mr. Hoversten said changes in that manner could be made, but the question cannot be a recitation of facts; it must be a question.

Council Member Nordin said she would like emphasis on the fact that the sales tax can only be used for flood mitigation. Mayor Rietz said the words “exclusive purpose” provides for that.

Council Member Nordin said she would like capitalization beginning with the word “terminate.”

Moved by Council Member Hecimovich, seconded by Council Member Dick Pacholl, adopting a resolution approving the wording of the sales tax referendum question with the suggested change of emphasis on “terminate at the earlier of.”

Council Member-at-Large Christopherson like the wording, saying it was clear and concise.

Council Member Nordin asked why this wasn’t discussed at a work session. Mayor Rietz said that timewise, it needed to be done now.

The City Recorder asked what Council’s preference was for emphasis on the termination phrase. City Administrator Jim Hurm said he was not sure what is acceptable by the County Auditor, and suggested we should ask to have it done if possible.

Roll call taken. 7-0. Carried.

The police supervisors have requested an addendum to the Retirement Healthcare Savings Plan. City Administrator Jim Hurm said this is similar to other addendums, and is a revised addendum for the plan.

Moved by Council Member Nordin, seconded by Council Member Dick Pacholl, adopting a resolution approving an addendum to the Austin Police Department Supervisory Unit for participation in the Healthcare Savings Plan and authorizing the Mayor to sign the contract addendum. 7-0. Carried.

Tienda Y Taqueria Guerrero, a restaurant located west of the public library, has applied for wine/strong beer, Sunday wine and 3.2 on-sale licenses. The license is recommended for approval by the City Clerk and Police Chief.

Moved by Council Member-at-Large Christopherson, seconded by Council Member Dick Pacholl, adopting a resolution granting wine/strong beer, Sunday wine and 3.2 beer on-sale licenses to Custodio Serrano & Jeorgina Maldonado de Serrano dba Tienda y Taqueria Guerrero, 301D 4<sup>th</sup> Avenue NE. 7-0. Carried.

Moved by Council Member-at-Large Christopherson, seconded by Council Member Nordin, setting a public hearing for final plat approval of property to be known as *Bustad/Plehal Addition*.

Moved by Council Member-at-Large Christopherson, seconded by Council Member Dick Pacholl, adopting a resolution setting a public hearing on the Repetitive Loss Plan for September 18. 7-0. Carried.

#### REPORTS:

On August 25, City Administrator Jim Hurm and Council Member McAlister went to a conference on the DM&E in Rochester. Various supporters and opponents spoke. Mr. Hurm said the city manager of Mankato is in support of the railroad corridor through Mankato. The general consensus (not including Rochester, who voiced their concerns) is that the railroad will be good for communities.

The League of Minnesota Cities will be holding their regional meetings on October 26 in St. Charles and on October 25 in St. Peter.

Public Works Director Jon Erichson said mosquito spraying was not needed this year, saving the City \$25,000. The City is able to return the chemicals to the company.

Mr. Erichson also noted that weekly testing is done on the individual control mechanisms to determine what amount should be billed.

Mayor Rietz read a letter from someone in Des Moines, Iowa who remarked on the city's flowers.

September 11 will be commemorated in a short ceremony at 11:00 am at the Austin High School. This will be the 5<sup>th</sup> anniversary of the attack. The Mayor asked that all flags be flown at half mast.

Sunday is the date for the annual Walk for the Animals, a fundraiser for the Humane Society.

The Mayor reminded everyone that the Barrow Show is coming up.

The Harlem Globetrotters Ambassadors will be coming to Austin on September 19 at 7:00 pm.

Moved by Council Member Hecimovich, seconded by Council Member-at-Large Christopherson, adjourning the meeting to September 18, 2006.

Adjourned: 6:30 p.m.

Approved: September 18, 2006

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

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