

MINUTES
CITY COUNCIL ADJOURNED MEETING
MONDAY, SEPTEMBER 18, 2006
5:30 P.M.
COUNCIL CHAMBERS

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

MEMBERS ABSENT: Council Member Hecimovich

OTHERS PRESENT: KAAL, Austin Post Bulletin, Austin Daily Herald. Kelly Rush. Bill Rollie, Val Maloney, Francis Skinness, Mike Pratt, Mark Reeve, Fred Paulson.

Added to the agenda: A motion to set a public hearing for October 2 to amend Municipal Development District No. 6 to accommodate the approval of JOBZ designation for a proposed development in the Cook Farm Industrial Park.

Amended on the agenda: Item No. 7: Approving *rezone*.

Moved by Council Member-at-Large Christopherson, seconded by Council Member Nordin, approving the agenda as amended. Carried.

Moved by Council Member Dick Pacholl, seconded by Council Member-at-Large Christopherson, approving the minutes of August 21, 2006 and September 5, 2006. Carried.

Kelly Rush from the Mower County Humane Society requested a fee waiver for a fence at the Humane Society. Ms. Rush also requested Council discuss funding for the organization. City Attorney David Hoversten advised not to give the fee waiver. Mayor Rietz said funding for the Humane Society could be discussed by Council.

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

Licenses:

Exempt Gambling (raffle): Austin Morning Lions Club at Elks Lodge, October 27
Concrete: Heimer Concrete, 2021 1st Avenue SE
Tattoo Artist: Danny Stepp, 707 2nd Street, Lyle, MN
Temporary On-Sale Liquor: Friends of JC Hormel Nature Center @ St. Edwards,
Oct. 26

Claims:

- a. Financial and Investment Reports.
- b. Pre-list of Bills.
- c. Marilyn House, 600F 25th Avenue NW. This claim has been referred to the city attorney to protect the city's interest.
- d. Isaiah Mims, 1915 E. Oakland Avenue. This claim has been referred to the city attorney to protect the city's interest.

Carried.

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

A public hearing was held 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.

No public comments were made.

Moved by Council Member-at-Large Christopherson, seconded by Council Member Nordin, approving the variance. Carried.

Moved by Council Member Nordin, seconded by Council Member-at-Large Christopherson, adjourning the Board of Adjustments and Appeals and resolving back into the Common Council.

A public hearing was held for a rezoning of property owned by Rachel Neiswanger, 1504 4th Street SE, from an I-1 Limited Industrial District to an R-1 Single Family Residence District.

The rezoning was requested by the property owner in order to have it to comply with the current usage. This property is directly west of Woodson School. The Planning Commission unanimously recommended approval at the September 12, 2006 meeting.

No public comments were made.

Council Member Nordin noted the house number is technically 1504½, not 1504. City Engineer Jon Erichson said the change would be documented by legal description.

Moved by Council Member-at-Large Christopherson, seconded by Council Member Dick Pacholl, for the city attorney to prepare the ordinance. Carried.

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

A public hearing was held for the preliminary plat review of property to be known as *Murphy Creek 2nd Addition*.

City Engineer Jon Erichson said this property is owned by the Austin HRA, who has agreed to the sale of property. The proposal is for the development of 11 single-family lots, plus the extension of 6th Street NW. There will be 3.67 units per acre. The Planning Commission recommended approval with the following conditions:

1. All easements are entered into the plat per the Austin Utilities and the City Engineer's request.
2. Developer must acquire all easements outside the plat which are necessary for the extension of utilities to the plat.
3. Provide street lighting to meet the approval of the City of Austin Engineer.
4. Obtain approval from City of Austin Engineering Department for storm water run off management.
5. Obtain sanitary sewer extension permit from the Minnesota Pollution Control Agency.
6. Park dedication requirements to be stipulated by the City Council and Director of Park and Recreation.
7. Enter into Developer's Agreement with the City of Austin addressing all aspects of this proposed development and the responsibilities thereof.
8. Design of all infrastructure within development shall meet the approval of the City of Austin Engineer and Austin Utilities.
9. Developer shall obtain petitions approved by the Austin Utilities relating to the placement of municipal water, gas, and electric utilities and the cost thereof.
10. Clarify minimum width of the proposed right-of-way for 6th Drive NW and lot frontages.
11. Developer shall provide Erosion Control Plan to meet the minimum design standards of the State of Minnesota and the City Engineer.

Mr. Erichson said item no. 4 includes a storm water retention pond to the east. The Planning Commission unanimously recommended approval at their September 12 meeting.

No public comments were made.

Moved by Council Member-at-Large Christopherson, seconded by Council Member Nordin, approving the preliminary plat of Murphy's Creek 2nd Addition. Carried.

A public hearing was held for preliminary plat review of property to be known as *Nature's Ridge Addition*. City Engineer Jon Erichson gave a brief history of this property. This was recently annexed through orderly annexation. Six years ago there had been a recall of an orderly annexation through a referendum, and the property was not annexed at that time. Now the petitioners are proposed to replat the site for a single-family project which will occur in two phases. Phase I will include the following:

40 single-family lots

Outlot A – a park/buffer area and storm pond

Outlot B – storm pond

Public right-of-way extensions of 18th Street NE, 13th Avenue NE, 19th Street NE, and 20th Street NE

Phase II will include the following:

67 single family lots

Public right-of-way extensions of 18th Street NE, 19th Street NE, 20th Street NE, and 18th Drive NE

The following conditions are recommended for approval:

1. All easements are entered into the plat per the Austin Utilities and City Engineer's request. Austin Utilities comments are resolved.
2. Developer must acquire all easements outside the plat, which are necessary for the extension of utilities to the plat.
3. Provide street lighting to meet the approval of the City Engineer.
4. Obtain approval from City of Austin Engineering Department for stormwater run-off management plan. *Mr. Erichson said this will include two ponds.*
5. Obtain sanitary sewer extension permit from the Minnesota Pollution Control Agency.
6. Park dedication requirements to be stipulated by the City Council and Director of Park and Recreation
7. Enter into Developer's Agreement with the City of Austin addressing all aspects of this proposed development and the responsibilities thereof.
8. Design of all infrastructure within development shall meet the approval of the City of Austin Engineer and Austin Utilities
9. Developer shall obtain petitions approved by the Austin Utilities relating to the placement of municipal water, gas, and electric utilities and the cost thereof.
10. Wetland delineation shall be conducted to identify any wetlands within this proposed development in accordance to routine on-site determination method.
11. If any wetlands are determined, wetlands shall be mitigated in accordance to US Army Corps of Engineers, Section 404 of Clean Water Act Standards.
12. Conduct any mandated environmental assessments for proposed plat. *(Mr. Erichson said he is not aware of any.)*
13. Soil erosion control measures shall be provided in accordance to minimum design standards and shall meet the approval of the Austin City Engineer.
14. Proposed lots subdivisions shall meet the minimum lot frontage and areas in accordance to Chapter 13 of Austin City Code.
15. Clarification shall be made for westerly end of 13th Avenue NE which intersects with 12th Avenue NE as far as street name or number
16. Pedestrian trail along south edge of plat shall be legally described as an outlot. *(Mr. Erichson said the trail will extend from 17th Street to 21st Street following 12th Avenue.*
17. Platting of future development area shall be conducted prior to the actual development of this portion of Nature Ridge with approved conceptual layout complied with at the time of review
18. The developer shall wave their right to object to any assessments associated with the redesign of 12th Avenue NE.

Mr. Erichson then addressed some of the known concerns. Twelfth Avenue NE is located partly in the city and partly in Lansing Township. It is a narrow road with steep ditches. A few years ago, the City proposed to improve this road but because of the expense, it was not completed. This road would now be rebuilt, widened and curb and gutter put in. The City has applied for a federal grant and we have received a favorable review; however, there is a very limited amount of transportation funding available. At the earliest, this project would be done in 2010. This area has had storm sewer issues going north to south. Pipes have been "upsized" and additional storm sewer pipes have been put in. In addition, two storm water ponds are planned for this area. Mr. Erichson noted there are some changes from what the original proposal was. One change is that the pedestrian trail will cross fewer – now six – driveways. Mr. Erichson noted there have been some improvements made

to the lift stations, and his department continues to look for more solutions. On September 12, the Planning Commission recommended approval of the preliminary plat on a 6-2 vote.

Council Member Dick Pacholl noted that last spring he was the only council member who voted against the annexation. He said he could not understand why Lansing Township had a change of mind. He noted that the Nature Center is adjacent to this area and the animals go into this field. A development would disturb this. Council Member Dick Pacholl said he was not in favor of developing anything here. He said the two Planning Commission members who voted against this stated the same reasons. Council Member Dick Pacholl also noted the opposition to this request which is represented at this meeting. He believes it is not the best place to put a housing development. He said, "We should start looking at our citizens and their rights."

Council Member-at-Large Christopherson stated (to Mr. Erichson) that he doesn't know if he agrees with assessing residents on the south side of the road. He requested staff go back and refigure this. The property owners on the south side should not be assessed. The developer should be the one who pays for this.

Council Member-at-Large Christopherson also stated his concern for the lift station. He believes this development plan is better than the plan of 5-6 years ago but would like these two concerns addressed.

Mr. Erichson said these concerns will be addressed as part of the platting by the developer. He added that 12th Avenue NE has been identified in the Capital Improvement Program for several years; it is very apparent now that it needs to be done. All this would be addressed through the normal public hearing procedure. Mr. Erichson said he *speculates* that the properties to the south would be assessed due to benefit to the property owners by way of improved drainage and road. The assessing would pay for 20-25% of the road; the remaining portion would be paid by the city or through a federal grant. He will not have a definite answer on funding for this road anytime soon.

Council Member-at-Large Christopherson noted the Walmart development. They have approved lights which do not even abut their property. He said we should be somewhat consistent with this (developer's provisions).

Mr. Erichson clarified for Council Member Nordin what would be done with 12th Avenue NE – widening, curb and gutter, no sidewalk and a pedestrian trail – paid for by the developer – which would connect to the existing trail. Council Member Nordin asked what percentage would be paid by the grant. Mr. Erichson said it would be 80% *if* we receive it. Public improvements would be done as a normal CIP project, and the developer would waive rights to object to assessment.

Council Member Baker questioned if this development would increase speed of water entering Dobbins Creek. Mr. Erichson said the pipes are proposed to be the same size so there wouldn't be any greater volume going in so the speed of water entering Dobbins would not be increased..

Council Member Scott Pacholl asked if 12th Avenue NE would be a normal maintenance program. Mr. Erichson said we would have public hearings and would assess both sides. The City has adopted a fixed fee of \$33.50 per linear foot. Under the first proposal, the citizens would have been assessed a percentage of the cost. Since then, the city council has adopted the fixed fee cost. Council

Member Scott Pacholl asked if the citizens (on the south side of 12th Avenue NE) would be assessed the same amount either way (with a development or without a development). Mr. Erichson said 'yes'.

Council Member Baker questioned if the developer would waive the right to object to assessments or would this be passed to the future land owners. Mr. Erichson said this waiver would carry over to the future land owners.

Council Member Dick Pacholl noted 107 proposed homes and "nothing to help the water draw." Mr. Erichson said two ponds have actually been designed for the ultimate development. This must be done first due to the topography.

Bill Rollie, 1209 19th Street NE, said the development along 17th Street NE seems to be on hold and looks terrible. He hopes the same thing does not happen with this proposed development. He said the field currently looks like a lake. He said the culverts and the drainage pipes which the city put in at times works well. Also the rows in the fields used to be planted north and south and the road was a mess; now the rows are planted east and west. He said Dobbins Creek is "a mess" with all the sediment. It needs to be corrected. He questioned if the developer would be responsible for aeration and maintenance of the pond – i.e., fencing, mosquitoes, odor. Mr. Rollie questioned the safety of the pond with the bicycle trail nearby. He also noted the sewer situation in this area. Mr. Rollie said the bike trail should not cross any driveways; it is too dangerous. He said 12th Avenue NE needs to be widened more.

Mr. Erichson said the proposal for 12th Avenue NE is to have catch basin storm sewers which will drain into the ponds and then drain out from there.

Mr. Rollie said there will be 140 to 160 more people, which will mean increased traffic, plus traffic from the nursing home. He noted the number of lots planned and said that these aren't needed because there are many available now.

Mr. Erichson said there have been water issues in this area, but some improvements have been made. The City has gained easements for discharge. The ponds are proposed for this development where water will be held and then metered out. Mr. Erichson said there is no provision for the city to aerate the ponds. He said some developers and some neighbors have done their own aerating projects. He added that the ponds are sometimes seen as an amenity rather than a negative. He also said the builders and staff have worked hard to minimize the number of crossings over driveways; this was very difficult. Mr. Erichson said the street would be lowered to allow drainage from private property to the street. He noted that traffic would be increased. The question is, would it be burdensome to the area. The road is proposed to be widened to 36 feet – two driving lanes and two parking lanes.

Council Member-at-Large Christopherson asked who would be responsible for maintaining the development. Mr. Erichson said some ponds are maintained by private ownership; the street would be the city's responsibility.

Val Maloney asked Council if we "really need another subdivision". She said the Multiple Listing Service already has 278 homes listed for sale, with 7% under \$50,000 and the average for-sale home price at \$126,000. She said there are 16 active housing subdivisions, 11 are within the city. She

asked Council to consider *how* we would do this and noted the number of people which would generate increased traffic. She said this is a residential area that is too close to the nature center. It will deteriorate the nature center, she said.

Francis Skiness, 2001 11th Avenue NE, said he led the opposition to the previous proposed development. He noted the number of turkeys and other animals increasing at the nature center so something is currently being done right. Mr. Skiness noted the sewage issues. He is the only property owner (in that area) who experienced sewer back-up. He said some property owners have built their own berms. Mr. Skiness said there are sink holes in the area, and the land where the development is planned is like quick sand. He said the holding ponds will hold back some water, but not all. Mr. Skiness said the proposal to have the pedestrian trail cross driveways is dangerous. He said the last time a development was proposed, the people decided to protect the nature center. The nature center should be thought of as an asset, no as an after thought.

Mike Pratt, 1211 18th Street NE, said 12th Avenue NE is a very narrow road. Mr. Pratt said there was hesitation made at the Planning Commission meeting when this recommendation was made. Mr. Hoium requested a motion be made four times before one was made. Mr. Pratt feels the Planning Commission was pushed due to the time limit to finish by 6:00 for the primary elections. He told Council that Austin put them there to represent them and he said he hoped Council Member Nordin would represent him now.

Mark Reeve, 1204 21st Street NE, spoke to Council and gave a brief history. In 2000, an ordinance was passed to annex the property, and he (Reeve) organized a group of citizens to repeal this. They had enough certified signatures for the question to be placed on the ballot that year. He said 6,914 people voted no to Ordinance No. 450. He said they listened before; and maybe they'll listen again. Mr. Reeve said there are 200 passes for drainage on I-90. He said holding ponds and drainage improvements make up for roofs and streets, but what happens when it rains one inch over. He said where the land is being developed for the nursing home is currently bare, but it will soon be developed, causing more drainage. Mr. Reeve said the traffic is unbelievable already, especially with the closure of Highway 56.

Fred Paulson, 1208 17th Street NE, referred to the plat which has a curved street; he said this could be reconfigured and have traffic come in from 21st Street. He noted the traffic which would come from the nursing home development, plus the truck stop and now 107 homes.

Paul Sween, developer, said he doesn't think people realize the impact which the Hormel Institute will be bringing to the community. He hopes the new employees would prefer the east side of Austin instead of commuting from Rochester. He said there will be an association to take care of the lawn. He referred to Orchard Properties, one of his developments, which is aerated. Mr. Sween said he does not intend for it to be an eyesore. He said he lives here and cares about the community. He believes the residents will look at the nature center as an asset to the subdivision. Mr. Sween said there is a need for new housing in Austin; Orchard Properties has only two units left to be sold. He said the pond will be 2-3 feet and have room for more. It will be aerated, and it will be taken care of and that is important to him. He said if there are mosquitoes, it would be his problem. He said he is very proud of the projects in the southwest, and he intends to have a project which he would be proud of here.

Moved by Council Member McAlister, seconded by Council Member-at-Large Christopherson, approving the preliminary plat review of property to be known as *Nature's Ridge Addition*.

Council Member-at-Large Christopherson said this is just the preliminary plat review, and there have been good points brought out. He asked Mr. Erichson to provide good, concrete answers to the questions which have been brought up tonight. Council Member-at-Large Christopherson said we need to do this in a very thoughtful manner.

Roll call taken. 5-1. Council Member Dick Pacholl voted nay.

Moved by Council Member-at-Large Christopherson, seconded by Council Member Scott Pacholl, continuing to October 2nd the public hearing for final plat approval of property to be known *Bustad/Plehal Addition*. Carried.

City Engineer Jon Erichson said if the city meets the minimum standards, we are allowed to participate in the Floodplain Community Rating System. The city is given credit for certain activities, and then residents are given a reduction for costs to their flood insurance. Mr. Erichson said the city currently has a rating of 5, and we are one of 12 communities with a rating of 5 or less. For each point below 10, residents can obtain 5% decrease in flood insurance. Currently residents can get 25% reduction in their insurance rates.

Moved by Council Member Nordin, seconded by Council Member-at-Large Christopherson, adopting a resolution approving the Repetitive Loss Plan. 6-0. Carried.

Moved by Council Member-at-Large Christopherson, seconded by Council Member Dick Pacholl, resolving into the Sign Board of Appeals. Carried.

This sign appeal is petitioned by Useum's for an additional sign to be placed at their business off 17th Avenue. The proposed sign would be a directional sign for their body shop.

Council Member Baker questioned what the appeal is for. Mr. Erichson said it is because the sign cannot exceed the allowable square footage.

Council Member-at-Large Christopherson asked if this is for exceeding the aggregate square footage. Mr. Erichson said it is just for this sign; all other signs are in compliance.

Council Member Nordin questioned if anyone has objected to this request. Mr. Erichson said this was not heard at the Planning Commission, and he is not aware of any objections.

Council Member Dick Pacholl asked how far back from the road would the sign be. Mr. Erichson said the sign is not in the right-of-way, and is probably 12-15' back. It shouldn't be in the sight lines of traffic.

Moved by Council Member-at-Large Christopherson, seconded by Council Member McAlister, approving the sign appeal. Carried.

Moved by Council Member Nordin, seconded by Council Member-at-Large Christopherson, adjourning the Sign Board of appeals and resolving back into the Common Council. Carried

Mr. Erichson said the fall leaf program is being scheduled for September 30 through November 12 this year, and will be at the Cook Farm site again. The site will be open 7 days a week.

Moved by Council Member Nordin, seconded by Council Member-at-Large Christopherson, approving the fall yard waste program. Carried.

At the last meeting, the City Council approved a resolution on the proposed budget and tax levy, and it also included setting the date for the Truth In Taxation hearing. It was later discovered that the School District had set the same date for their Truth In Taxation hearing. The Council is asked to amend the resolution to reset the dates for the hearing to December 5 and December 18.

Moved by Council Member Nordin, seconded by Council Member Council Member-at-Large Christopherson, adopting a resolution amending Resolution No. 13030, resetting the dates for the public hearing to December 5, 2006, and, if continued, to December 18, 2006. 6-0. Carried.

Moved by Council Member-at-Large Christopherson, seconded by Council Member Scott Pacholl, adopting a resolution accepting the Primary Election results of September 12, 2006. 6-0. Carried.

Moved by Council Member Dick Pacholl, seconded by Council Member-at-Large Christopherson, setting a public hearing for October 2 to amend Municipal Development District No. 6 to accommodate the approval of JOBZ designation for a proposed development in the Cook Farm Industrial Park. Carried.

REPORTS

A joint meeting of the City Council and Cable TV Committee has been set for Wednesday, September 20 to review the draft franchise agreement. On October 2 Council will take action on the same. City Administrator Jim Hurm thanked Council Member Dick Pacholl and Brian Grogan for their work.

Finance Director Tom Dankert said the Hormel Institute bonds will be on the agenda at the October 2 meeting, which needs full council approval. All council members present indicated they would be in attendance.

Council Member Baker asked how many public access channels we would end up with. Mr. Hurm said there would be two, potentially three public access channels with the new franchise agreement.

Council Member Baker also asked when the justice center report would be ready. City Administrator Jim Hurm said he is waiting and hopes to have a report by the end of the week, with a joint Council/Commissioners meeting next week.

Council Member Baker requested the MWest amendment be placed on an upcoming work session.

Council Member Baker said six months ago he asked for a fuel savings plan for the city and requested a progress report.

Council Member Nordin has received requests to remove one of the basketball courts at South Grove Park and replace it with a tennis court. Mayor Rietz requested this be placed on the Park & Rec Board's agenda.

Mayor Rietz wished Council Member Hecimovich well. He is recuperating from knee surgery.

Mayor Rietz also noted that the author for this year's Austin Page Turners is from Austin – Larry Engelmann, and he will be coming to Austin for Page Turner events on October 5.

Mayor Rietz asked the council members to plan meetings in their respective wards for the Vote Yes Austin campaign.

Library Director Ann Hokanson announced that the Harlem Global Ambassadors will be performing tomorrow night at the high school.

Moved by Council Member Nordin, seconded by Council Member Hecimovich, adjourning the meeting to August 7, 2006. Carried.

Adjourned: 7:21 pm

Approved: August 7, 2006

Mayor: _____

City Recorder: _____