

**MINUTES**  
**CITY COUNCIL CHARTER MEETING**  
**October 2, 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. Brian Grogan, Craig Jones. Bruce Hovland. Mike Tischer. Dan Weness, Darrin Burch. Viril Layton, Tom Steihm.

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

Moved by Council Member-at-Large Christopherson, seconded by Council Member Scott Pacholl, approving the minutes of September 18, 2006. Carried.

Mike Tischer, a newly appointed police officer, was introduced to Council. An Austin native, Mr. Tischer has worked at Rydjour Bike and has served as a part-time firefighter and is on the police reserves.

Bruce Hovland was commended for his recent involvement in the apprehension of a criminal.

Craig Hoium was recognized for being the recipient of the 2006 International Code Council Merit Award. Mr. Hoium is president of the Association of Minnesota Building Officials.

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

**Licenses:**

Food (transfer): KFC, 1403 18<sup>th</sup> Avenue NW.

Massage Establishment: Naomi Thompson dba Healing Palms, 207 4<sup>th</sup> Avenue NE.

Exempt Gambling (raffle): Austin Youth Hockey, Riverside Arena, January 1, 2007

**Claims:**

a. Pre-list of bills.

b. Damian Schroeder, 1805 3<sup>rd</sup> Avenue NE. This claim has been referred to the city attorney to protect the city's interest.

- c. Sieg Linde Noske, 407 14th Street NW. This claim has been referred to the city attorney to protect the city's interest.

Carried.

A public hearing was held to amend TIF District No. 6 in the Cook Farm Industrial Park. Community Development Director Craig Hoium introduced Dan Weness, president of Weness/Boe Construction, Inc., and Darrin Burch, Weness/Boe employee, who are proposing an industrial development at the Cook Farm site. The development includes construction of a new facility on a 4.52-acre site. The company currently employs 15 full-time employees; the development agreement would provide for an additional 9 employees by January, 2009. The company fabricates, assembles, and erects telecommunication towers. They are currently negotiating to acquire two other companies which would relocate to Austin. The lot is currently in TIF District No. 6. The company has requested JOBZ benefits, and this has been reviewed by the Port Authority, and on October 11, the Port will review their request in greater detail. Community Development Director Craig Hoium said the company would like to put their foundation in before the frost. The JOBZ program prohibits a location in a TIF district. Mr. Hoium recommended approval on the condition of acquisition of the property. The amendment of the TIF district would not take place until the property is acquired.

Moved by Council Member Nordin, seconded by Council Member Hecimovich, adopting a resolution amending TIF District No. 6. 7-0. Carried.

Council Member Nordin noted if the company were to acquire property more to the south, they could expand north. Mr. Weness said they may build two facilities on the parcel. Another building may be built, but it would be a separate entity and not on this parcel.

A public hearing hearing was held for final plat approval of property to be known as *Bustad/Plehal Addition*. A cooperative housing project is planned for the plat. Community Development Director Craig Hoium requested the hearing be continued again to the October 16 council meeting as the City is waiting on specific design details for the stormwater management plan.

Moved by Council Member Nordin, seconded by Council Member-at-Large Christopherson, continuing the public hearing to October 16. Carried.

City Administrator Jim Hurm said the City Council met with the Cable TV Committee on September 20, and they have reviewed the details of the final draft agreement. Attorney Brian Grogan of Moss and Barnett summarized some of the main points of the draft agreement: 1) it imposes a franchise fee of five percent of gross proceeds, 2) requires Charter Communications to provide two channels available for local programming, 3) establishes an eight-year franchise term with the option for a two-year extension, 4) requires strong customer service obligations, and 5) requires Charter to provide a \$20,000 bond. He said there were some questions from the Committee and Council regarding support money for PEG (public/education/government) funding. Included in a draft agreement was a 25¢/month per subscriber mandatory fee for PEG

funding. Mr. Grogan said the Committee said they would like to see instead the ability to trigger that fee 90 days after notice. The new draft agreement also updates free drop locations.

Council Member Baker questioned if the franchise fee is earmarked for anything. Finance Director Tom Dankert said this goes right into the General Fund as revenue; it is not earmarked.

Craig Jones spoke to Council as a representative of the technical committee for the franchise agreement. Their job, he said, was how best to use the community access channels and to consider the locations for the free drops. Mr. Jones said they are requesting the 25¢ PEG fee begin immediately as the fund is an accumulated amount which must be built up.

Council Member Baker said he is struggling with the \$150,000 for hardware for local programming when KSMQ is available and the School District has argued against participation. He said “this looks like a tax looking for a place to spend money on.”

Mr. Jones said the hardware fees are currently being taken out of other funds now. He said the City still needs to support what we have here.

Mr. Dankert said the present video system dates back to '96 when City Hall was remodeled. The General Fund currently supports the system now, such as a new \$7000 mixer board which has been installed. Fiber optics which cost \$9000 were installed to help Charter Communications out with some scheduling issues. The PEG fee – as opposed to the General Fund – would specifically be established to pay for items such as these, plus it would pay for hooking up the schools, etc. He said another alternative is to ask for 3% rather than the 5% franchise fee, but this would mean less revenue for the City for other projects. He indicated a possibility of the School District paying their costs upfront, and then being paid back with the 25¢ fee.

Mr. Hurm suggested Council vote yes or no to the cable franchise agreement and then decide about the PEG fee.

Mr. Grogan said he can modify the agreement regarding the 25¢ PEG fee so that it would begin upon 90 days advance written notice. He said this is up to Council's discretion.

Moved by Council Member Dick Pacholl, seconded by Council Member Nordin, to prepare the ordinance. Carried.

Council Member McAlister questioned what PEG is for. Craig Jones said this is for community service, whether it's church services or anything on tapes. Also, there is a scroll of community event activities. Tapes are dropped off at Charter's Austin office and then delivered to their towers. Tom Dankert clarified that there are actually two channels for public access: Channel 16 is currently used by the School District for their meetings, the Planning Commission meetings, and the City Council meetings. Channel 6 is used for the churches, etc.

Council Member Dick Pacholl stated he wished to withdraw his motion and make a motion for the ordinance “as is”. He would like to have the PEG fee collected upfront.

Moved by Council Member Dick Pacholl, seconded by Council Member Nordin, to prepare the ordinance granting a cable system franchise to Charter Communications. Carried.

Moved by Council Member Dick Pacholl, seconded by Council Member Nordin, for adoption and publication of the ordinance. 7-0. Carried.

Dan Weness of Weness/Boe Construction has petitioned for a subdivision of property. The property is 4.52 acres and is legally described as Lot 1, Block 1 in Austin Business Park. Community Development Director Craig Hoium said notification has been sent regarding all utilities. He has received one call from MnDOT. They are asking for site access of 250 feet from the right-of-way of Highway 218. With approval, Mr. Hoium asked that all easement allowances be incorporated into approval.

Moved by Council Member Dick Pacholl, seconded by Council Member Nordin, adopting a resolution approving subdivision of property for Weness/Boe Construction. 7-0. Carried.

City Engineer Jon Erichson said Council has previously accepted a final assessment, but it was certified incorrectly. The assessment included correct amounts, but the legal description must be corrected.

Moved by Council Member Nordin, seconded by Council Member-at-Large Christopherson, adopting a resolution amending Resolution No. 12930, Final Assessment. 7-0. Carried.

The City of Austin is paying the Port Authority to issue bonds for the expansion of the Hormel Institute. City Finance Director Tom Dankert said this issuance pledges the City's full faith and credit in the event that the Port Authority does not pay, whether through the Building Fund, tax or by any other means. The bonds in the amount of \$10M are scheduled to be approved by the Port Authority at their October 4 meeting, and then will be issued on November 13. The bonds are not subject to prepayment.

Council Member-at-Large Christopherson questioned what Mr. Dankert's best estimate is regarding risk. Mr. Dankert said "slim to none and slim is halfway out the door", and explained that these are dollars from the Hormel Foundation, which is largely invested through Hormel Foods.

Moved by Council Member Nordin, seconded by Council Member Hecimovich, to prepare the ordinance. Carried.

Moved by Council Member Nordin, seconded by Council Member-at-Large Christopherson, for adoption and publication of the ordinance. 7-0. Carried.

Moved by Council Member Hecimovich, seconded by Council Member-at-Large Christopherson, granting the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at 1209 15<sup>th</sup> Avenue SW, Pierskalla property. Carried.

Moved by Council Member Hecimovich, seconded by Council Member-at-Large Christopherson, granting the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at 2004 5<sup>th</sup> Avenue NE, Barth property. Carried.

James Fisher has requested a transfer back of a liquor license from CPJ Lutz. The new license holder has defaulted on a loan, and Fisher would like the liquor license back.

Moved by Council Member-at-Large Christopherson, seconded by Council Member Hecimovich, adopting a resolution transferring On-Sale Hard Liquor License from CPJ Lutz, Inc. dba Bekannten's to James L. Fisher dba Leisure Sports Bar at 119 3<sup>rd</sup> Avenue NE. 7-0. Carried.

Fire Chief Dan Wilson is requesting authorization to offer conditional job offers to three eligible firefighter candidates. The Fire Civil Service has finished their interviews, and Chief Wilson is recommending three people from their list.

Council Member Dick Pacholl questioned the letter from a firefighter who has objected to the proposed schedule for the candidates. City Attorney David Hoversten said the parameters on the shift schedules are set forth in the union's contract, and he feels the concerns are not in agreement with the contract.

Moved by Council Member Dick Pacholl, seconded by Council Member Hecimovich, authorizing the Chief to offer conditional job offers to three eligible firefighter candidates. Carried.

Moved by Council Member Nordin, seconded by Council Member-at-Large Christopherson, setting a public hearing for October 16 for a 5.5% variance from the minimum 20% greenspace for properties located within a B-2 Community Business District, petitioned by Taco John's Restaurant. Carried.

City Attorney David Hoversten said Minnesota statutory requirements require the City to approve by resolution the State's law authorizing the imposition of a sales tax, and this must be certified by the Secretary of State.

Moved by Council Member Nordin, seconded by Council Member-at-Large Christopherson, adopting a resolution approving Minnesota law authorizing the City of Austin to impose a sales tax. 7-0. Carried.

#### REPORTS:

City Administrator Jim Hurm reported the City has received \$3000 from the Hormel Foundation for smoke alarms.

Fire Chief Dan Wilson announced that the annual open house at the Fire Station will be Wednesday, October 11 from 3:00 to 8:00 pm. This is in conjunction with Fire Prevention Week.

Public Works Director Jon Erichson reminded everyone that the leaf site is open through November 12, dawn to dusk. He said this is for grass and leaves but not for tree branches and limbs. Also, the repair at the Wastewater Treatment Plant is now complete and is operating at 100%.

Council Member Nordin noted she was at the Homecoming Parade and said there should have been more police patrolling the corners.

Moved by Council Member Baker, seconded by Council Member Dick Pacholl, to add the following to Matters In Hand: Development of a process for releasing PEG funds – what they should be used for and what they should not to be used for. Carried.

Council Member Baker noted disagreement between council members on staffing levels for the Fire Department, noting “there isn’t going to be a good time” to discuss this. He said he would like to see the item remain on Matters In Hand and discussed.

Mayor Rietz thanked council members for the tree that was planted in her honor which they contributed toward.

Mayor Rietz noted Larry Engelmann, the author which Austin Page Turners has brought to town, will be speaking at the Austin Public Library on Thursday, October 5 at 7:00 pm.

Mayor Rietz reminded everyone to remember our soldiers on October 11.

White Cane Day, sponsored by the Lion’s Club, will be October 13.

Moved by Council Member-at-Large Christopherson, seconded by Council Member Nordin, adjourning the meeting to October 16, 2006.

Adjourned: 6:37 p.m.

Approved: October 16, 2006

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

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