

**M I N U T E S**  
**COMMITTEE-OF-THE-WHOLE WORK SESSION**  
**March 6, 2006**  
**City Hall Conference Room**  
**6:50 p.m.**

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

**ABSENT:** None

**STAFF PRESENT:** Jim Hurm, Craig Hoium, David Hoversten, and Tom Dankert

**ALSO PRESENT:** Viril Layton, Bob Dahlback, Qwest, Austin Utilities staff, Craig Jones (SMIG), KAAL TV-6, KAUS Radio, Austin Post Bulletin, and Austin Daily Herald

The Mayor called the work session to order at 6:50 pm. Mayor Rietz removed agenda item number 5, comparable worth explanation from the agenda and noted this would be discussed at a future work session.

**Item #1 – Charter change for Austin Utilities**– City Attorney David Hoversten discussed the request from the Austin Utilities Board to allow a charter change for them to allow for the expansion of services to the public. The process entailed using attorneys from Dorsey and Whitney to review our charter, and compare it to many other cities for which they do business. The result of those efforts is the attached appendix to the resolution which states:

“Where used in this Charter, the term “water, electric, gas, and power” shall have the same meaning as the term “municipal utility” which means any publicly-owned utility system, including, but not by way of limitation, water, electric, gas power, steam heat, telephone, cable television and data transmission”.

Mr. Hoversten noted there are several ways to change the charter, and this process is the most common. The City Council would propose to the Charter Commission to amend the charter. The Charter Commission would hold a meeting and review the charter change. They could then recommend to the City Council the change in the charter. The City Council would then have to pass an ordinance to approve the charter change. The ordinance would have to pass seven to zero, a unanimous vote.

Council Member Dick Pacholl questioned if the council does approve of the resolution, how long would it take for The Charter Commission to meet to review the proposed changes. Mr. Hoversten stated the Charter Commission is not required to approve of the charter change. Any problems they have of getting a meeting time they can attend should be overcome. The first step, however, is for the council to approve of the proposed resolution.

Council Member Nordin questioned if any additional language is needed to allow for further services that the Austin Utilities may want to provide. Mr. Hoversten stated the generic language as written would allow for additional services. Austin Utilities General Manager Jerry McCarthy stated that the current charter has not been changed in over 100 years.

Council Member Baker stated it is a good idea to add definition enhancements to the charter, but does this grant only the Austin Utilities the ability to offer these services? Mr. Hoversten stated no, this is available for any company to offer any of these services.

A representative from Qwest Communications, Karen Jothen, advised council they should not allow for the Austin Utilities the ability to offer WiFi service. Ms. Jothen stated that their own board had stated that two members were reluctant to move forward with WiFi. Mayor Rietz stated that was on the WiFi issue alone, not on an overall charter change. Mr. McCarthy stated that the Utilities Board unanimously approved the request for the charter change.

Ms. Jothen stated that Qwest is also looking at WiFi and WiMax in the area. Ms. Jothen stated it was hard for Qwest to compete with the government, as we regulate them. Additionally, Qwest is low cost as it is, and the internet business is a risky venture.

Mayor Rietz reiterated that the actual request tonight is for the change in the charter provision to allow the Austin Utilities to provide more services for their customers.

Motion by Council Member Hecimovich, seconded by Council Member Nordin, to recommend to Council an approval of a resolution requesting the Charter Commission approve of a charter change.

Before the vote was taken, Council Member Dick Pacholl stated that the actual resolution that council will have to approve at the next council meeting only needs a simple majority, while if the ordinance comes to fruition; a unanimous vote would be needed. Mayor Rietz requested that if there is no way a council member could support this venture, then please vote no now to save staff time.

Council Member-at-Large Christopherson stated he has some concerns about this, as we are going to be competing with a private business for this service. Mr. McCarthy requested that council separate the two issues. The issue tonight is whether the charter should be changed to allow for the Austin Utilities to provide additional services.

Mr. Hoversten stated we want certainty in what we do, and the Austin Utilities has been responsive to the needs of the citizens, including the citizens' right to elect board members.

Council Member-at-Large Christopherson stated he can live with moving this forward, but it is a philosophical issue right now for him.

Craig Jones, Executive Director at SMIG, stated once a discussion does begin regarding WiFi, he would refute some of the claims in the letter Qwest sent out.

Council Member Baker stated he philosophically agrees with allowing for the charter change, but will additional language be needed in the future to allow for additional services you may want to

provide? Mr. McCarthy stated he was confident with the new language the Austin Utilities would be covered.

The vote was taken on the original motion, carried 7-0. Item will be added to the next council meeting agenda.

**Item #2 – Mobile home park ordinance** – Mr. Hoversten noted that former City Council Member Bob Dahlback had requested of council to provide an ordinance to cover the residents of the mobile home park in the event that the owner decides he wants to sell. Under current law, the mobile home owners would be responsible for moving their homes, not the park owner. The state law allows the city to be involved here, and several cities, including Albert Lea, have passed ordinances putting the burden of the expense to move the mobile home onto the park owner.

Mr. Dahlback stated he has spoken with the mobile home park manager, who in turn contacted the owner regarding the proposed ordinance. Mr. Dahlback stated the owner does not plan on selling the facility anytime soon, but you never know. We are requesting some protection for all of the mobile home owners.

Council Member Dick Pacholl stated he has been out there many times and understands the issue. Additionally, Council Member Hecimovich stated that he has spoken with many people and noted these are not so “mobile” homes. These are the houses for people, and there are probably between 400 and 500 residents in this facility.

Council Member Baker stated he really struggles with this one as it is a valid request. On the other hand are we devaluing the owner’s property? Mr. Hoversten stated that to some extent you may be. The owner may need a financial reserve to cover himself if this ever happens, which may include charging higher rates. Mr. Dahlback stated by law the owner can raise the rates twice per year, within reason. Five years ago the rent was increased from \$190 per lot per month to \$225. But with this we no longer had to pay for water or garbage. The owner currently has no plans to sell, or has any disagreements with this proposed ordinance.

Council Member McAlister stated that he has some mixed emotions about this, but it seems reasonable.

Motion by Council Member Hecimovich, seconded by Council Member Nordin, to have the City Attorney draft an appropriate ordinance and bring it back to a council work session for further review. Carried 7-0.

**Item #3 - Mower County Senior Center energy audit** – Mr. Dankert discussed a proposal to perform some capital upgrades to the Mower County Senior Citizens Center (Center) in order to potentially save some operational funds. Mr. Dankert noted the Austin Utilities paid for the energy audit, and we are only proposing to perform some of the upgrades at this point. Viril Layton, chairperson of the Facilities Committee at the Center, stated his board would contribute \$1,000 to the endeavor. The total cost is estimated to not exceed \$5,215, with the estimated annual savings of \$4,790. Additionally, Mr. Layton stated that Harty Mechanical will train his custodian on how to do some minor cleaning on the system on a timely basis.

Council Member-at-Large Christopherson questioned where the \$1,000 contribution would come from. Mr. Layton stated the remaining funds at the Center that are under the control of the board are proposed to be used. Mr. Layton noted this is a partnership and we wanted to step forward.

Council Member Baker stated this is a great project and should be done. Both Council Member Baker and Council Member-at-Large Christopherson stated that they believe the city should pay for the whole thing. Council Member McAlister stated he disagreed, and that the Center should invest something into this facility.

After further discussion, motion by Council Member-at-Large Christopherson, seconded by Council Member Baker to recommend Council pay for the entire \$5,215 of energy conservation improvements, funding to come from their regular operating budget. If the energy savings are not realized, an adjustment in the 5-Year Capital Improvement Plan will be made to the Center capital projects. Carried 6-0. (Council Member McAlister abstained). Item will not move forward to a council meeting, it will just be completed under the normal operating budgets.

**Item #4 – 2006 Budget carryovers** – Mr. Dankert noted that annually he comes back to council for them to review the items (primarily capital) that were budgeted for in the prior year but were never done. Due to many issues, including a lack of time, a state contract expiring, or timing between the order and actual payment caused some funds not to be spent in 2005. Council needs to re-appropriate these funds in 2006 in order to give the staff the official approval to purchase the items. Mr. Dankert did note on page three of his memo that he had made an error; the trail project is \$75,000 (not \$125,000).

Council Member Baker stated his concern is that we will have items arise in 2006 that are not budgeted for, so could some of these unspent dollars cover those unexpected costs. Mr. Dankert noted they certainly could, however we also have the Contingency line item with approximately \$150,000 at the City Council discretion to use. Additionally, our healthy fund balances provide us with a buffer in the event minor projects come up that need funding.

Motion by Council Member Nordin, seconded by Council Member McAlister to recommend to council the approval of the budget carryovers as presented. Carried 7-0. Item will be added to the next council agenda.

There being no further business, Council Member Nordin moved to adjourn the work session, seconded by Council Member-at-Large Christopherson. Motion passed and the meeting was adjourned at 8:13 p.m.

Respectfully submitted,

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Tom Dankert  
Director of Administrative Services