

M I N U T E S
COMMITTEE-OF-THE-WHOLE WORK SESSION
July 18, 2006
City Hall Conference Room
5:30 p.m.

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

ABSENT: Mayor Rietz and Council Member Baker

STAFF PRESENT: Jon Erichson (7:15 p.m.), Craig Hoium (7:15 p.m.), Paul Philipp, Jon Erichson, Jim Hurm, and Tom Dankert

ALSO PRESENT: Public, Austin Post Bulletin and Austin Daily Herald

Council Member-at-Large Christopherson called the work session to order at 5:30 pm. Motion by Council Member Hecimovich, seconded by Council Member Nordin, adding a discussion on tax abatement to the work session agenda. Carried 6-0.

Item #1 – Proposed smoking ordinance – Kathy Stutzman presented material outlining the negative impact secondhand smoke has on society. Ms. Stutzman noted she would like the city to adopt an ordinance banning smoking in restaurants, bars, pool halls, bowling alleys, and private clubs when they are open to the public. Ms. Stutzman noted there are no noted negative impacts to revenues of businesses when cities have banned smoking. Many “quiet” bar owners want such an ordinance.

Several individuals also spoke on the issue, including Public Health Nurse Margene Gunderson who noted that secondhand smoke is known to cause cancer, bronchitis and other diseases. Council members asked questions regarding the statistics that were quoted.

Council Member Hecimovich noted he does not smoke, does not allow people to smoke in his home, and does not allow people to smoke in his cars. However, Mr. Hecimovich noted we are like a third world country when we tell businesses that they can't allow smoking in their establishments. Council Member Nordin disagreed, noting we, as Council, need to be responsible for the health and welfare of our citizens.

Craig Jones noted we should not mandate smoke detectors, fire alarms, maximum capacities should be ignored, and other regulations should not be put on by the government then. Council Member Hecimovich noted people have fought in wars for the rights we now enjoy. Mr. Jones responded that we have also fought for the right to not have to breathe in secondhand smoke.

Doctor David Strobel discussed the rights given to people in the constitution. Mr. Stroebel noted the hierarchy includes the life rights of its citizens. The smoking issue is a health right that affects all citizens. Life rights supersede the liberty rights.

Earling Opsahl also spoke, noting that he went to war also. Over 53,000 people are killed each year by smoking. Mr. Opsahl stated he has fought for the rights to not have smoking wherever

we go. Council Member Hecimovich agreed that people have rights, and he will not frequent establishments that allow smoking which he could breathe in.

Council Member Dick Pacholl stated we can't make a law that prohibits businesses from allowing smoking. It should be up to each individual business owner for themselves to decide.

Kermit Watts, owner of the Austin Auto Truck Plaza, stated this issue was reviewed four years ago by Council. It was then decided that the individual businesses had the right to decide what they wanted to do on the issue. He said if truckers cannot smoke in my restaurant, they will just drive elsewhere on the route to smoke. He said this would cause a loss of revenue for his business. Mr. Watts stated his employees have chosen to work for him in the environment for which smoking is allowed. Mr. Watts stated he does not get complaints from his employees on the subject. Mr. Watts noted his cook came from Rochester after they adopted a no-smoking ordinance. The restaurant that the cook worked in closed down after the smoking ordinance was passed, and the cook has stated this is the primary reason for the business closure.

Dick Lang, owner of Bobee Jo's, stated it is his freedom of choice to allow smoking or not. Mr. Lang noted he does not even sell cigarettes in his bar, as his patrons have to bring in their own smokes. That is the customer's choice. Mr. Lang noted his employees smoke, and that is their choice also. Mr. Lang stated he has invested 46 years into his bar, and he didn't think the Council had the right to tell any owner that they cannot allow smoking in their establishment.

Ms. Stutzman stated it is the government's role to just ask the smokers to step outside to have their cigarettes.

Council Member McAlister stated he would like Council to hold off on issuing an opinion on this topic until the next work session.

Council Member Hecimovich requested a survey of businesses in Austin as to their thoughts on the issue.

Council Member Nordin stated it is a public health issue, and council needs to act responsibly.

Shelly Thompson, an employee at Torge's Live, stated that Torgerson Properties opposes this proposed ordinance. Torge's has provided options for those customers that choose not to smoke. Ms. Thompson stated they will lose customers if they do not allow smoking.

Council Member Scott Pacholl stated he would take all of the testimony in and then decide later on the issue.

Council Member-at-Large Christopherson stated that he didn't smoke, but he still inhales two packs of secondhand smoke per day from his coworkers. But, Council Member-at-Large Christopherson stated this is his choice to work in this environment. Council Member-at-Large Christopherson stated that he believes that we are looking at imposing a regulation that does not need to be imposed. We have been afforded this freedom.

Malcolm McDonald questioned where this meeting will go from here. Council Member McAlister requested we re-visit the issue at the August 8 council work session. Surveys and other information should get out to the affected businesses to see what their desires are.

Council Member-at-Large Christopherson stated that Ms. Stutzman should receive notice of the upcoming meeting also.

Motion by Council Member McAlister, seconded by Council Member Nordin, to further discuss the issue at the August 8 council work session. Carried 6-0.

Item #2 – Report from Committee on Police Civil Service Commission – Mr. Hurm noted City Attorney David Hoversten would not be available due to a death in the family.

Police Chief Paul Philipp discussed how the newly proposed changes would affect the Police Department in their hiring and firing practices. Chief Philipp noted with the proposed elimination of the Police Civil Service Commission, all personal transactions would be handled the same way as other city employees. There is still the union grieving process and veterans' preferences that cover an employee in this situation.

Council members asked several questions regarding eligibility lists, etc. Council Member McAlister specifically clarified that under the old rules, the top three candidates for a job were the city's' only options in hiring. Under the newly proposed changes, the city could hire anybody from a list of 20 (more or less) people for a vacancy. This would be based on the needs of the department. Chief Philipp agreed. Mr. Hurm noted this gives the Police Department more flexibility in who they hire. Veteran's preferences still would exist in the newly proposed policy. Chief Philipp also stated that it is expensive and time consuming to create a list for a new police officer every few years. Chief Philipp stated that all potential candidates still need the credentials and certifications in order to get in the running for a position in the Police Department.

Council Member-at-Large Christopherson questioned what would happen with the current list. Chief Philipp stated the current list is almost expired now. We may use it to fill an impending retirement, but it will all depend on the timing of that retirement.

Chief Philipp clarified under the newly proposed procedure, if Council wanted a bilingual-speaking officer, we could go lower on the list to get this employee. Under the current rules, we would only be able to pick a candidate out of the top three candidates.

Council Member Scott Pacholl questioned how complaints in our hiring practices would be handled. Chief Philipp stated we would have to be able to justify each choice. Mr. Hurm noted the city administrator would handle all complaints.

Motion by Council Member McAlister, seconded by Council Member Hecimovich, to forward to Council the proposed changes with a positive recommendation. The recommendation is for Council to forward onto the Charter Commission a request for the proposed changes to the city charter. Carried 6-0. Item will be added to a future council meeting.

Item #4 – Lansing Township potential annexation – Mr. Erichson stated he has been approached by citizens in Lansing Township about annexation. The Village of Lansing is in the midst of looking at a \$3.5 million expansion of their sewer system. In the past, Mr. Erichson stated Council has not considered sanitary sewer service unless the land is also annexed into the city for other municipal services. Mapleville is allowed an exception, as is Belleman's Addition. Mr. Erichson stated Belleman's Addition has been a huge problem from many angles. Sanitary sewer service has been the carrot to entice people to annex their property into our tax base.

During the last twelve months Lansing has been looking at how to handle these issues. This is not the same problem as the Nicolville situation, as only some have failing systems. The bids at \$3.5 million recently came in for the entire system, and this is a large project. Mr. Erichson stated that it does not make sense for both parties to do the sanitary sewer system, but we may be able to do it cheaper. Austin would then get more potential growth options in this area, whereas if the Village of Lansing puts the system in we would almost never be able to annex this property into the City of Austin.

Mr. Erichson requested a feasibility study, in the range of \$15,000 for phase one to be authorized. Mr. Erichson outlined both positives and negatives to the situation, including a good chance for positive tax base growth, but a negative of more service that would need to be provided to the citizens.

Council Member-at-Large Christopherson questioned the capacity of the wastewater treatment plant if these parcels would hook up to our system. Mr. Erichson noted we could handle their flow right now, but we are still going to need upgrades to the system regardless if this annexation happens or not.

After further discussion, motion by Council Member Nordin, seconded by Council Member Dick Pacholl, to recommend to Council a feasibility study. Carried 6-0. Mr. Erichson stated he would get the proposals from the different consultants and then forward them on to a future council meeting for approval.

Item #3 – Review of Developer’s Agreement for Wal-Mart development – Mr. Hoium outlined the history of the Wal-Mart development, including draft discussions of previous developer’s agreements. Mr. Hoium stated he just received the revised copy of the developer’s agreement and has met twice with Mr. Hoversten to review the changes. Mr. Hoium noted if Council agrees to have the council meeting on July 24 to approve or deny this agreement, then there may be some further details that will be worked out before the July 24 meeting. Mr. Hoium went through the minor text changes. Mr. Hoium stated the projected start date of construction is this fall, with a grand opening scheduled for the summer of 2007. Mr. Hoium also noted the need for a line of credit to ensure all of the items in the developer’s agreement are completed to the satisfaction of the Building Department. Mr. Hoium noted Wal-Mart does not want to start the project until everything, including the permit is issued.

Motion by Council Member Hecimovich, seconded by Council Member McAlister, to recommend to council the approval of the Developers Agreement with Wal-Mart. Carried 6-0. Item will be added to the special meeting scheduled for July 24, 2006.

Item #5 – Tax Abatement – Mr. Hurm handed out a schedule outlining the potential cost of approving tax abatement deals for downtown business owners. Mr. Hurm noted our estimates on increased values do not really amount to a lot of money on an annual basis. Mr. Hurm said he has talked internally to both the school and the county. In the very near future, we will have significant movement on several projects in downtown Austin.

Mr. Hurm noted we are not asking for a specific approval for a project, but wanted to see if Council would allow such an economic development tool to potentially be used for our downtown revitalization program. Mr. Hurm reiterated to Council, that if the business owner did nothing to his business, then we would not receive taxes anyway.

Council Member Scott Pacholl questioned if we would only abate the city share of the increased taxes. Mr. Hurm noted that was correct, but that we would ask the County and School District to abate their shares also. Mr. Hurm noted the abatement could last anywhere from seven to ten years.

Council Member-at-Large Christopherson stated that he did not want grantees to be allowed to “double dip” into the different economic redevelopment programs. For example, a business owner should not get a grant from Main Street Inc. and then come to us for a further grant of tax abatement. Mr. Hurm stated it may take several tools in order make the redevelopment work.

After further discussion, motion by Council Member Hecimovich, seconded by Council Member Nordin, to authorize staff to use tax abatement as a potential economic development tool. Carried 6-0. No further action needed at this point.

With no other items, motion by Council Member Nordin, seconded by Council Member Hecimovich to adjourn the meeting at 8:38 p.m. Carried 6-0.

Respectfully submitted,

Tom Dankert
Director of Administrative Services