

MINUTES
CITY COUNCIL CHARTER MEETING
September 17, 2007
5:30 P.M.
Council Chambers

MEMBERS PRESENT: Mayor Stiehm. Council Members McAlister, Austin, Dick Pacholl, Scott Pacholl, Hecimovich, and Martin. Council Member-at-Large Christopherson.

MEMBERS ABSENT: None.

STAFF PRESENT: Jon Erichson, Tom Dankert, David Hoversten, Ann Hokanson, Curt Rude, Travis Heickley, Denny Maschka, Jeanne Howatt, Lucy Johnson and Jim Hurm.

OTHERS PRESENT: Post Bulletin, Austin Daily Herald. George Brophy. Marv Repinski. Public. Kim Smith (The Ville), Francisca Alvarez (El Palacio de la Cumbia), Dean Harkins and Randy Kroneman, MWH.

Moved by Council Member Hecimovich, seconded by Council Member-at-Large Christopherson, approving the agenda. Carried.

Moved by Council Member Hecimovich, seconded by Council Member-at-Large Christopherson, approving the council minutes of September 4, 2007. Carried.

Marv Repinski, 105 14th Street SE, spoke to Council on three items. He asked that the City plant natural grasses in non-resident/park areas. He requested that the City establish more park benches which would increase the use of the trails and walkways. He also said questions should be raised on the legality of land which is now agricultural being recommended to be bought at the industrial district rate per-acre cost. He said that would be a \$10,000 difference. And, finally, he asked that the City take a position that within one year troops be withdrawn from Iraq and Afghanistan until a residual force remains.

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

Licenses:

- Tree Removal: Twin Oaks, Lime Springs, IA
- Cigarette: Apollo Groceries, 3011 W. Oakland Ave
- Gas Station: Apollo Groceries, 3011 W. Oakland Ave
- Food: Apollo Groceries, 3011 W. Oakland Ave

Claims:

- a. Financial and Investment Reports.
- b. Pre-list of Bills.
- c. Ingrid Johnson, 504 13th Avenue SE. This claim has been referred to the city attorney to protect the city's interest.

Carried.

The City of Austin received bids for a storm pond outlet construction at the Wastewater Treatment Plant. This outlet is located on the corner of 16th Avenue and Main – commonly known as ‘the pit’. At one time this was mined for aggregates. Since the biosolids project was constructed, the Engineering Department has consistently seen increase of water there. The project has been budgeted for 2007. Bids are as follows:

Ellingson Companies	\$34,868.00
Hodgman Drainage Company	\$38,875.00
Sorenson Bros., Inc.	\$37,000.00

Council Member-at-Large Christopherson asked if this was on the west side. City Engineer Jon Erichson said it was – at the northwest portion of the ‘T’ intersection.

Moved by Council Member Hecimovich, seconded by Council Member-at-Large Christopherson, adopting a resolution awarding the bid to Ellingson Companies. 7-0.
Carried.

From time to time, the Police Department checks on and off-sale liquor establishments. City Attorney David Hoversten said the most recent compliance checks were in June of 2007 and were carried out under the supervision of Police Officer Travis Heickley. The City Code states that it is illegal to sell alcohol to minors. The Code also includes presumptive penalties. The hearings tonight are required upon second violations occurring within 24 months, and the presumptive penalties may be approved if Council finds they have violated the ordinances.

The first public hearing was for The Ville of Austin, Inc. dba The Ville (Kim Smith). City Attorney David Hoversten questioned Officer Heickley, and Heickley responded regarding the facts of the incident. Heickley was asked if the minor was asked for identification, if they received liquor, and the date, time this occurred.

The licensee was asked to make any comments; they did not wish to respond.

The City Council was asked to make any comments; no comments were made.

Chief Paul Philipp has recommended \$750 fee be paid plus three days’ suspension of their liquor license.

City Attorney read the Findings of Fact and Order.

Moved by Council Member Hecimovich, seconded by Council Member-at-Large Christopherson, adopting the Findings of Fact for the Ville of Austin. Carried.

Moved by Council Member Hecimovich, seconded by Council Member-at-Large Christopherson, approving the recommended fee and suspension. Carried.

A public hearing was held on a liquor ordinance for JTS, Inc., dba Hovland Sportts (Bruce Hovland). City Attorney David Hoversten questioned Officer Heickley, and Heickley responded regarding the facts of the incident. Heickley was asked if the minor was asked for identification; if they received liquor; and the date, time and place this occurred.

The licensee was not in attendance.

The City Council was asked to make any comments; no comments were made.

Chief Paul Philipp has recommended \$750 fee be paid plus three days' suspension of their liquor license.

City Attorney read the Findings of Fact and Order.

Moved by Council Member Austin, seconded by Council Member Dick Pacholl to adopt the Findings of Fact for Hovland Sportts. Carried.

Council Member-at-Large Christopherson questioned if the restaurant would need to be shut down also. Mr. Hoversten said it would not.

Moved by Council Member Hecimovich, seconded by Council Member-at-Large Christopherson, approving the recommended fee and suspension.

A public hearing was held for Francisca Alvarez dba El Palacio de la Cumbia. City Attorney David Hoversten questioned Officer Heickley, and Heickley responded regarding the facts of the incident. Heickley was asked if the minor was asked for identification; if they received liquor; and the date, time and place this occurred.

The licensee was asked to make any comments. The licensee stated the bar is open all week and questioned suspension for Saturdays. Mr. Hoversten said the suspension must be over three business days. The licensee does not have a Sunday liquor license so it could not be over a Sunday.

The City Council was asked to make any comments; no comments were made.

Chief Paul Philipp has recommended \$750 fee be paid plus three days' suspension of their liquor license.

City Attorney read the Findings of Fact and Order.

Council Member Scott Pacholl questioned if the presumptive penalties are *suggested* penalties. Mr. Hoversten said they are; the purpose is to create consistency from violation to violation. This is so that everyone is treated fairly and would not be biased with regard to any friendship, etc. Those involved will be assured due process. Council Member Scott Pacholl asked if Council could impose stiffer penalties. City Attorney gave what he said was an extreme example of when the presumptive penalties may be considered too light and stiffer penalties might apply – e.g. if the licensee was found to be selling alcohol to minors while at the same time drugs were found and prostitution was going on.

Council Member Hecimovich questioned whether the licensee had another violation beyond this second violation. Mr. Hoversten said he believed there was, but the ordinance only takes into consideration violations within the two-year timeframe.

Council Member Dick Pacholl added that this ordinance when it was drafted (regarding penalties of liquor violations) was recommended by the City Council as well as the bar and club owners.

Moved by Council Member Hecimovich, seconded by Council Member-at-Large Christopherson, adopting the Findings of Fact for El Palacio de la Cumbia. Carried.

Moved by Council Member Hecimovich, seconded by Council Member-at-Large Christopherson, approving the fee and suspension. Carried

A public hearing was held on the Floodplain Management Plan. The city participates in a program of FEMA on a Community Rating System. The better the job the city does in flood management, the lower the points the city scores. If the city receives below 10 points, we receive a 5% decrease. The lower rating reflects on flood insurance rates. Council is requested to approve the Plan.

Moved by Council Member-at-Large Christopherson, seconded by Council Member Dick Pacholl, approving the Floodplain Management Plan. 7-0. Carried.

Council is requested to approve a property tax abatement for DCA and Smyth Companies for property in the Cook Farm Industrial Park. This has previously been discussed at two work sessions, and the Mower County Board approved the tax abatement last week. The abatement is for a period of five years. The property owners pays the tax and it is literally rebated back to pay for the project. Terms of the abatement are as follows:

- The Abatement shall be for a maximum of 5 years and shall apply to the taxes payable commencing in the year 2009, if construction of the Project is 50% completed by January 1, 2008, as determined by the City, otherwise it will commence in the year 2010.
- The Abatement shall be for 100% of the City's share of the increased ad valorem property taxes generated by the Property as a result of the proposed redevelopment of the Property by the Developer. 100% of the Abatement will be paid to the Tenant.
- The Abatement will be for the full tax market valuation of the property, including the land and land improvements.
- The amount of Abatement will be determined based on the prior year tax rate for ease in budget and administrative purposes. (i.e., current tax capacity times prior year tax rate = abatement)
- The abatement may not be modified or changed during the term set forth above, except with the prior written consent of the Developer and City.
- The Abatement shall be subject to all the terms and limitations of the Abatement Law.
- The Abatement is conditioned upon the maintenance of the twelve (12) full-time jobs that currently exist for the subject operation, known as a Fulfillment Operation, plus the addition of two (2) full-time positions to be added over the next twelve (12) months at wages and benefit that equals or exceeds the minimum requirements per the City of Austin Business Subsidy Criteria.

The city's estimated portion will be \$8000 per year. George Brophy said the Austin School Board will take the matter up and discuss it in a week. They are expected to set a hearing for the tax abatement at that time. The abatement will be recommended by the Superintendent and the Board Chair.

Council Member Dick Pacholl questioned what would happen if the School Board does not approve the tax abatement. Mr. Brophy said the tax abatement could be voided or a simpler building planned. City Administrator Jim Hurm said the School's portion is a small portion estimated at \$5000 per year. If the School Board does not approve this, it would not affect the city or county tax abatement. It would just not be a full tax abatement.

Council Member Martin questioned the Business Subsidy Criteria of \$8 per hour, which would not qualify. The full-time employees will earn in excess of \$12 per hour, which would qualify them.

Moved by Council Member Hecimovich, seconded by Council Member McAlister, adopting a resolution approving the tax abatement. 6-1 Council Member-at-Large Christopherson voted nay.

Council is also asked to amend the TIF District No 6 now that the tax abatement is approved. The action is required as the property cannot have both a tax abatement and be in a TIF district.

Moved by Council Member Dick Pacholl, seconded by Council Member Hecimovich, adopting a resolution amending TIF District No 6 and approving amended TIF District No 6 Financing Plan. 7-0. Carried.

Council Member Dick Pacholl questioned if the TIF District could be given back if the abatement does not go through. Mr. Hurm said 'no', a consultant has told us that by law that cannot be done.

The City Council approved assessments this year for street work in the Wildwood Park area. We were informed by a citizen, and it has been confirmed, that certain property owners did not receive the corner lot credit from 1961. The property owner is obligated to pay for the average length of the two sides. We are now providing this credit, but the original assessment must be amended.

Council Member Martin questioned if there would be a statute of limitations on this.

Moved by Council Member Hecimovich, seconded by Council Member Dick Pacholl, adopting a resolution approving the amended final assessment. 7-0. Carried.

With the previous revised assessment, there also needs to be approval for a deferred assessment with the corrected amount.

Moved by Council Member-at-Large Christopherson, seconded by Council Member Hecimovich, adopting a resolution approving the amended deferred assessment. 7-0. Carried.

Baudler Baudler Maus & Blahnik has offered a three-year extension contract for prosecutorial services. The Police Department is pleased with their work and recommends the three-year extension. The agreement includes 0% increase for 2008, 1% increase for 2009, and 1% increase for 2010.

Moved by Council Member Hecimovich, seconded by Council Member-at-Large Christopherson, adopting a resolution approving the agreement with Baudler Baudler Maus & Blahnik. 7-0. Carried.

Council is requested to approve a videotaping agreement with John Register. Pay rate is \$11 per meeting with guaranteed pay for 2½ hours.

Moved by Council Member Hecimovich, seconded by Council Member-at-Large Christopherson, adopting a resolution approving the agreement with John Register. 7-0. Carried.

In connection with the environmental clean-up of the former Holiday Dodge site, Alliant Energy has requested the use of city property (the former Eagles property) for interim use. This area was formerly a coal gasification site in the early 1900s. The project itself was approved by the Austin Planning Commission with 22 conditions. The proposed interim mitigation plan will involve the following steps:

1. Excavate the impacted soil
2. Excavated material will be separated with large debris, rubble and pipe segregated from the soil
3. Remaining soils will be reduced in size before using the thermal process
4. Treat the excavated soil using a mobile thermal desorption unit. This unit heats the soil to high temperatures which volatilizes the organic compounds
5. Air monitoring will occur throughout the process. The air quality standards are established by the MPCA
6. Dust and odor control
 - a. Soils will be blended to provide minimum dust impacts
 - b. Odor suppressant foam will be used on open areas if needed
 - c. All stockpiled material will be covered to minimize odors
7. Site will be fenced with 6-foot fence

Dean Harkins, project engineer for the project, and Randy Kroneman of MWH, consultant engineer gave a presentation on the project. This is part of an MPCA clean-up program. These former gas plants often have leaks and occasionally spills, and products are sometimes left behind. It is a fairly structured procedure where byproducts will be identified, as will impacts to potential health and environmental problems. The overall goal is to remove heavily impacted material. The project will run continuously, like a rolling excavation. Basically, there will be a huge pit and they will be treating the soils onsite. They will sample the soil and analyses will be taken. Sidewall sampling will also be done. The soils will be heated, which destroys the contaminants. The process reduces volume by about 15%. When the project is finished, they will seed to grass and assume no development will be placed on the land. Finally, they will work closely with the city on landscaping.

Council Member Hecimovich asked how far down they dig. Mr. Kroneman said it would be between eight and 14 feet. They try to do the work in the winter as it helps to mitigate odor, and also potential flood issues would not be a problem. The top soil mitigation would wait until the spring.

Council Member Hecimovich asked if they core drill. Mr. Kroneman said they only do that for soil borings.

Council Member-at-Large Christopherson questioned if this would be a 24/7 project. City Engineer Jon Erichson said yes, this is being proposed. The reason being is that this is a very expensive endeavor, and they will be a large energy consumer. Shortening the hours of operation would double the length of time, pushing the project into the spring. This will be a 24/7 project, a very intense project. The first correspondence on this issue

dates back to 1995. A lot of preliminary work has been done to go forward with the correct action.

Council Member Hecimovich questioned if the testing would be all onsite. Mr. Kroneman said most would be, some would be offsite.

Council Member Martin asked if samples would be taken from under the streets. Mr. Kroneman said no, but there would be some taken from either side. Council Member Martin asked about contamination in the Cedar River. Mr. Kroneman said they would treat the source area first, and then move out to see if there is contamination the surrounding areas.

Moved by Council Member Hecimovich, seconded by Council Member-at-Large Christopherson, approving the use of city property. Carried.

Council is requested to formalize the action on the Cook Farm Industrial Park sanitary sewer project as discussed at the last work session. Council should first approve a petition. A petition can be made by the property owner and no assessment hearings need take place. Since the city is the owner of the property, Council should authorize the petition. Council should then formally request the feasibility for the project and then formally accept the feasibility report. The bids will be taken after this and the project is expected to begin this fall.

Moved by Council Member-at-Large Christopherson, seconded by Council Member Austin, adopting a resolution authorizing the petition for the infrastructure. 7-0. Carried.

Moved by Council Member Hecimovich, seconded by Council Member-at-Large Christopherson, adopting a resolution ordering the feasibility report. 7-0. Carried.

Moved by Council Member Hecimovich, seconded by Council Member Dick Pacholl, adopting a resolution receiving and accepting the feasibility report. 7-0. Carried.

Tienda y Taqueria Guerrero has applied for a 3.2 Beer Off-Sale License.

Council Member Dick Pacholl said he visited this place and it looks like a grocery store. City Clerk Lucy Johnson said this establishment has a 3.2 On-Sale License, plus a Sunday Wine On-Sale License which were approved by the State of Minnesota in 2007. The establishment does have a restaurant which meets the minimum state guidelines for seating of 40.

Council Member Scott Pacholl questioned if our ordinance prohibits grocery stores from selling liquor. Mr. Hoversten said he didn't believe so. Ms. Johnson said off-sale liquor stores are prohibited from selling food, and that is a restriction in the City of Austin.

Moved by Council Member-at-Large Christopherson, seconded by Council Member Dick Pacholl, adopting a resolution approving the liquor license. 5-2. Carried. Council Member Martin and Hecimovich voted nay.

REPORTS:

Council Member McAlister thanked Mr. Erichson and staff for all the work connected with the Wildwood Park area project.

Library Director Ann Hokanson announced the grand opening for 'Key Ingredients', a Smithsonian exhibit. This will take place on September 20 at 5:30 to 7:30. Ellis Middle School will have an art show and provide music.

Moved by Council Member-at-Large Christopherson, seconded by Council Member Austin, adjourning the meeting to September 17, 2007.

Adjourned: 6:47 pm

Approved: September 17, 2007

Mayor: _____

City Recorder: _____