

**MINUTES**  
**CITY COUNCIL CHARTER MEETING**  
**August 3, 2009**  
**5:30 P.M.**  
**Council Chambers**

**MEMBERS PRESENT:** Mayor Stiehm. Council Members Brian McAlister, Jeff Austin, Dick Pacholl, Steve King, and Marian Clennon. Council Member-at-Large Janet Anderson.

**MEMBERS ABSENT:** John Martin.

**STAFF PRESENT:** Jon Erichson, Craig Hoium, Tom Dankert, Jeanne Howatt, David Hoversten, Dan Wilson, Ann Hokanson and Paul Philipp.

**OTHERS PRESENT:** Lisa Gable. Samuel Johnson. Post Bulletin, Austin Daily Herald. Public.

Added to the Consent Agenda - Licenses: Tattoo Establishment – Gerald Ress, Jr. dba Customs, 1011 East Oakland Avenue; Tattoo Artist: Chad Iverson, Austin

Added to Petitions and Requests: A motion authorizing the purchase of a pool vacuum unit from the 2009 budget; and a resolution approving a revised Individual Control Agreement with G&R Truck Wash LTD.

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

Lisa Gable spoke to Council. Ms. Gable described an incident in which she was walking her dog, and two pit bulls charged at her. She ended up in the hospital. She said these types of dogs should be labeled dangerous or potentially dangerous. She has done research on similar programs across the country. An 81-year-old was just bit while riding her bicycle, although this was a pug. She said if dogs are labeled potentially dangerous, there are several things the owners must do.

Mayor Stiehm recalled a past incident in which an officer shot a pit bull, and our ordinance was reviewed at that time. We were told at that time that we can't have breed-specific rules.

Chief Philipp said he can't speak specifically to Ms. Gable's injury as he does not know the details, but he said the city attorney can determine if it is applicable to the case and whether the dogs are considered dangerous. In general, the Police Department handles a number of complaints. The Police Department responds in a timely fashion, and owners

of dogs do receive citations if pets are running at large. He acknowledged that her concerns are a frustration for citizens. The Department received several complaints over the weekend on a home in the northwest that has pit bulls. He said Council has actually had a dog destroyed a few years ago so her concerns are taken seriously.

Ms. Gable said the officer said this was a civil matter and couldn't do anything. Chief Philipp said officers are supposed to be following state statute on this.

Ms. Gable said three children were with her at the time and are having nightmares. She said many states, like Minnesota do not have breed-specific laws, but some communities have specific laws in those states.

Mayor Stiehm noted that in general, most problems are not with pit bulls.

City Attorney David Hoversten said the problem is with state law, which is very specific. The effort should be directed to our state legislators.

Council Member-at-Large Anderson asked if we could strengthen the language of our ordinance. Mr. Hoversten said he did review the City of Minnetonka's ordinance which has a few other features. Ms. Gable said specific ordinances have a list of things the owner needs to do.

Mayor Stiehm said he would like to put this issue in Matters In Hand.

Moved by Council Member Pacholl, seconded by Council Member-at-Large Anderson, placing the matter in Matters In Hand. Carried. Lisa Gable will be contacted when the matter is discussed.

Samuel Johnson, PO 395 Austin, asked Council to sign a petition asking Sheriff Terese Amazi and Mower County to enter into an agreement with federal authorities to enforce immigration laws. Mr. Johnson said after he visited Council the last time (07-06-09), someone sprayed gang signs in Todd Park. Mayor Stiehm said he did not wish to sign, and said Council was not going to have a forum on the subject.

Moved by Council Member McAlister, seconded by Council Member King, approving the Consent Agenda as follows:

#### Consent Agenda

##### Licenses:

Food/mobile: Sara Kriehn, Mankato, MN

Temporary Food: Austin Rotary @ St. Edward's Corcoran Center, August 4

Tattoo Establishment – Gerald Ress, Jr. dba Customs, 1011 E. Oakland Avenue;

Tattoo Artist: Chad Iverson, Austin

##### Claims:

- a. Pre-list of bills.

Carried.

City Engineer Jon Erichson presented bids for abatement and demolition of the fire-damaged buildings downtown at 400 North Main Street. The buildings must be demolished, debris taken to the landfill, basements will be filled with granular material, the footings removed, the granular material must be compacted, and then the sidewalks will need to be repaired and replaced. Utilities will be disconnected. Costs will be assessed back to the property owner.

Bids for asbestos abatement, Project 8-C-09, are as follows:

Asbestrol, Inc.	\$ 9,999.00
Mavo Systems	16,840.00
Red Pine Industries, Inc.	21,891.00

Moved by Council Member Austin, seconded by Council Member Pacholl, adopting a resolution awarding the bid to Asbestrol, Inc. 5-0. Carried. Council Member Clennon abstained.

Mr. Erichson anticipates the abatement will start in two weeks and demolition to start the first week in September. The MPCA has been notified. The scheduled completion date for both projects is October 2. Council Member Pacholl questioned why this is taking so long. Mr. Erichson replied that the adjacent property owner (the Top Ten Nails building) took care of the property themselves with an insurance settlement. There is no insurance settlement with these buildings, and the property owner does not have funds. The City went to court on this matter June 23, and we are now able to assess costs of the asbestos removal and demolition back to the property owner but in doing so, we have had to advertise for bids longer (21 days). Mr. Erichson added that the project will probably go faster than the planned schedule.

Council Member McAlister questioned the response of the property owner. Erichson responded that as part of the court settlement, we have addressed our concerns and provided information to them. They have not given us approval. The city's attorneys have said the owners' lack of approval signifies approval.

Council Member McAlister questioned what the future is for the hobby shop (Marty's). Mr. Erichson said they are evaluating their options, one of which is reconstruction.

Bids for demolition are as follows:

BCM Construction	\$ 107,600.00
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Kirschman Exc.	129,302.00
Neisen Paving & Exc.	139,750.00
Fitzgerald Exc. & Trucking	144,000.00
Wallace Bustad Exc.	149,000.00
Dulas Exc.	201,300.00
Winona Mechanical	212,291.00

Moved by Council Member-at-Large Anderson, seconded by Council Member Austin, awarding the bid to BCM Construction. 5-0. Carried. Council Member Clennon abstained.

Bids were taken for the construction of a pedestrian bridge over Cedar River. This project was identified in 2004, and the federal grant was submitted at that time. We have received the grant and it was brought back in January of 2009 and reviewed with the budget at that time. The estimated cost of the project is \$375,890, \$13,000 less than what was presented to Council last January. Mr. Erichson added that if the \$20,000 of contingency is not spent, it is savings for the City. We have already spent \$30,000 for design engineering out of the \$90,178 which is the City's cost of the project. The project bid costs will be derived from:

Federal grant	\$236,312
Hormel Foundation	\$ 49,400
City of Austin	\$ 90,178

Bids were as follows:

Landwehr Construction, Inc.	\$295,390.00
Minnowa Construction, Inc.	299,367.45
Veit	377,937.00
A.J. Lysne	Bid incomplete
Healy Construction	Bid incomplete

Moved by Council Member Austin, seconded by Council Member Pacholl, adopting a resolution awarding the bid to Landwehr Construction. 5-0. Carried. Council Member Clennon abstained.

Mayor Stiehm is appointing the following to the Board of Appeals and Equalization.

First Ward – Shirley Blake  
Second Ward – Peggy Young

Third Ward – Lysie Moritz  
At-Large – Ruth Neil

Moved by Council Member Austin, seconded by Council Member Pacholl, approving the appointments. Carried.

Finance Director Tom Dankert requested Council to call \$400,000 of a bond issue for the Wastewater Treatment Plant. There exists \$400,000 in a construction escrow account to prepay a portion of the outstanding \$4.2 million bond issue. This is required as the original proceeds of the bond issue were not applied to the projects as the project scope was awarded.

Moved by Council Member Austin, seconded by Council Member McAlister, adopting a resolution authorizing the call of the G.O. utility revenue bonds. 6-0. Carried.

Council received the Report of Commissioners regarding the vacation of an alley needed for the justice center development. No action was required. Action will be taken at the August 17<sup>th</sup> council meeting.

Community Development Director Craig Hoium requested that the next item for annexation be tabled to the next meeting.

Moved by Council Member Pacholl, seconded by Council Member Austin, tabling the joint resolution with the Township of Lansing for orderly annexation. Carried.

Jim and Karen Benson have petitioned for subdivision of property at 209 4<sup>th</sup> Avenue NE, adjacent to the new government center. The petitioners would like to remodel and construct a new storefront. The neighbor to the east encroaches by four feet. That neighbor has agreed to sell the property to the petitioners.

Moved by Council Member Pacholl, seconded by Council Member King, adopting a resolution approving the subdivision of property. 6-0. Carried.

Kermit Watts has petitioned to subdivide his property which is located north of the Watts Truck Plaza and KAAL TV. The request relates to a potential development on the property, and a requirement to have lot frontage of 60 feet. Mr. Hoium said there may be possible actions for platting requested of Council later. The subdivision will allow the petitioner to proceed with a proposed transaction.

Moved by Council Member Austin, seconded by Council Member King, adopting a resolution approving the property subdivision. 6-0. Carried.

Moved by Council Member Austin, seconded by Council Member Clennon, granting the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at 910 11<sup>th</sup> Street NW, Garcia property. Carried.

Moved by Council Member Pacholl, seconded by Council Member King, granting the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at 612 9<sup>th</sup> Avenue SW, Christians property. Carried.

Moved by Council Member Pacholl, seconded by Council Member McAlister, granting the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at 802 10<sup>th</sup> Avenue SW, Hall property. Carried.

Moved by Council Member King, seconded by Council Member Clennon, granting the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at 807 4<sup>th</sup> Avenue SW, Lambertson property. Carried.

Moved by Council Member Pacholl, seconded by Council Member McAlister, granting the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at 2004 3<sup>rd</sup> Avenue NE, Majerus property. Carried.

Moved by Council Member Austin, seconded by Council Member McAlister, granting the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at 308 10<sup>th</sup> Street SW, Whitcomb property. Carried.

Moved by Council Member Austin, seconded by Council Member McAlister, granting the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at 1810 2<sup>nd</sup> Avenue SW, Esse property. Carried.

Budgeted and included in the 2009 CIP was the purchase of a pool vacuum. That capital expenditure was cut during the 2009 spring budget cuts due to the reduction of our LGA. The Park & Rec Board is asking the Council to put it in the budget again because the pump has just recently broken. The cost is \$1000 to repair it. Once repaired, a scuba diver and someone to watch the diver is needed to clean the pool. For \$4000, the City could purchase a robot-type vacuum, and that could be working while the pool is prepped in other ways. Council Member Austin said this would pay for itself plus eliminate the need for staff.

Moved by Council Member Austin, seconded by Council Member-at-Large Anderson, to purchase the pool vacuum.

Council Member McAlister disagreed, saying the pool will be open only for a few more weeks in 2009.

Council Member Clennon said she was under the understanding that this was not urgent. She, like Council Member McAlister, would just as soon wait.

Vote taken. 4-2. Council Members Clennon and McAlister voted nay.

The City of Austin has an Individual Control Agreement with G&R Truck Wash LTD. The agreement sets forth limitations for what may be discharged to city's sanitary sewer system. City Engineer Jon Erichson said Council has granted an extension for sewer user charges payments due to the company having operational problems with their new system. The truck wash is now proposing to discontinue their system, which has also been a large source of odors. The new agreement increases the amount they may discharge, and the system does have the capacity to handle volume. The new system is basically the same process they have been doing over the last 120 months anyway. The company has spent \$100,000 for this new system.

Moved by Council Member King, seconded by Council Member Austin, adopting a resolution approving the Individual Control Agreement with G&R. 6-0. Carried.

#### REPORTS:

Council Member Austin reported that the Sunday Star Tribune featured Austin as a weekend get-away. The article mentions the nature center, the Paramount Theatre, as well as the Spam Museum.

Council Member Clennon attended the Relay for Life. She acknowledged the police officers and reserves who served at the event.

Council Member-at-Large Anderson, who serves on the CVB Board, said the CVB has already received calls from people due to the Star Tribune article. Also mentioned in the article is our downtown revitalization. She noted that the CVB actually worked with the reporter.

Mayor Stiehm reported that he attended the annual Coalition for Greater Minnesota Cities conference, and he will provide a report. He also toured Wadena with the Rochester mayor. Wadena has a mural project depicting historical sites of the state and city.

City Administrator Jim Hurm said there is a potential meeting scheduled for August 31 in Spring Grove for the Southeastern League of Municipalities. He noted this may be a good meeting to attend as one of the Council's goals is promoting a regional government.

Mayor Stiehm said the Farmer's Market will open tomorrow at several different locations.

Moved by Council Member King, seconded by Council Member Pacholl, adjourning the meeting to August 17, 2009.

Adjourned: 6:18pm

Approved: August 17, 2009

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

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