MINUTES
CITY COUNCIL ADJOURNED MEETING
MONDAY, NOVEMBER 16, 2009
5:30 P.M.
COUNCIL CHAMBERS

MEMBERS PRESENT:	Mayor Stiehm. Council Members McAlister, Austin, Pacholl, King, Clennon and Martin. Council Member-at-Large Anderson.
MEMBERS ABSENT:	None.
STAFF PRESENT:	Jon Erichson, Craig Hoium, Tom Dankert, Jeanne Howatt, David Hoversten, Ann Hokanson, Kim Underwood, and Paul Philipp.
OTHERS PRESENT:	Austin Post Bulletin, Austin Daily Herald. Chris Grev. Troy Nelson. Michael Hartman. Thor Bergland et al.

The meeting was called to order at 5:30 pm.

The following item was added to the agenda: a resolution exempting subdivider from subdivision regulations, petitioned by Patti Blazer.

The following items were removed from the agenda: Appointing Troy Nelson to the Fire Civil Service, replacing Steve Booher, term expiring 12/31/10; and appointing Lynsie Moritz to the Human Rights Commission, replacing Troy Nelson, term expiring 12/31/09.

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

Moved by Council Member Austin, seconded by Council Member-at-Large Anderson, approving the minutes of November 3, 2009. Carried.

A correction to an address on the city council minutes of November 3, 2009 was made by Council Member Pacholl. Correction was noted.

Moved by Council Member Austin, seconded by Council Member King, approving the minutes of November 3, 2009 as amended. Carried.

Chris Grev of the United Way thanked Council for participation in the workplace campaign and gave a campaign report.

Troy Nelson spoke on behalf of the local letter carriers, NHS and Austin Jaycees to promote a local food drive. The food drive will take place on Saturday, November 21.

Chief Paul Philipp introduced the new officer, Michael Hartman.

Moved by Council Member Austin, seconded by Council Member Pacholl, approving the consent agenda as follows:

Licenses:

Exempt Gambling (raffle): Austin Morning Lions @ Austin Elks Club Lodge, 102 1st Avenue NE, February 5, 2010

Temporary Liquor: Austin Area Commission for the Arts @ Hormel Historic Home, 208th Avenue NW, December 11

Claims:

a. Financial and investment reports
b. Pre-list of bills
c. Sharon Wagner, 2006B Oak Tree Lane, Austin. This claim has been referred to the city attorney to protect the city's interest.
d. William Ryther, Austin. This claim has been referred to the city attorney to protect the city's interest.
e. Matt Simonson. This claim has been referred to the city attorney to protect the city's interest.

Carried.

The City has received bids for a flood home demolition as part of a flood mitigation project provided by a DEED grant. The home is located at 504 10th Drive SE. The bids are as follows:

Wallace Bustad Excavating	$ 5,950.00
Dulas Excavating	$ 8,500.00

Moved by Council Member Austin, seconded by Council Member-at-Large Anderson, awarding the bid to Wallace Bustad Excavating. 7-0. Carried.

Thor Bergland from Austin High School spoke on behalf of the Austin Area Drug Taskforce in favor of a proposed social hosting ordinance. The draft ordinance would prohibit anyone from hosting an event on private or public property where minors are in possession of and consuming alcohol. Several members in the audience, including students from Ellis Middle School's WORD program, were in attendance in support of the ordinance. Mr. Bergland said alcohol is the biggest concern at the high school and is a major concern in the community. The draft ordinance also addresses 21 to 25-year-olds who may not understand what they're contributing to and could be held responsible. Mr. Bergland noted that Albert Lea passed a similar ordinance a year ago. In all, 29 communities and two counties have passed similar ordinances, and more are researching it.

Chief Paul Philipp, also a member of the Taskforce, supports the ordinance. From the Police Department perspective, this is a significant tool to use and it also sends a message to the public as a whole, he said.

City Attorney David Hoversten said a violation would be a misdemeanor so the fine would be set by a judge.

Mr. Bergland said this would also be a tool for parents for saying 'no' to their children.

Mr. Hoversten clarified for Council Member McAlister that a violation would require alcohol being present as well as consumption. He also noted that Subd. 5(c) of the ordinance is an exception because it is regulated by state statute.

Moved by Council Member Pacholl, seconded by Council Member Austin, for preparation of the ordinance. Carried.

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

Mr. Hoium presented a draft ordinance providing regulations for wind turbines. The draft ordinance was reviewed by the Planning Commission on November 10. Small wind turbines would be allowable in A-1, B-2, Limited Industrial, I-2, I-3 Districts and PUDs. Larger wind turbines would be allowable only in agricultural, I-2 and I-3 districts. The Committee-of-the-Whole made recommendations to staff to try and incorporate regulations that would involve residential districts. Mr. Hoium said the permitting is very specific, including a requirement for a site plan and limitations for radius and diameter of blades. Rotors would be limited to 35 feet in diameter for small wind turbines and 50 feet in diameter for large. Small wind turbines would be limited to 150 feet in height, and large would be limited to 250 feet in height. Tower structures would need to be designed by a Minnesota professional engineer and would need to be in compliance with the Minnesota State Building Code System. As for citing location, the base of the towers would need to be set back from the property line 1.1 times the height of the structure for small turbines, and for large turbines, the setback would need to be 1000 feet from a property line. The Planning Commission recommended approval (6-3 vote) of the ordinance as written, with the additional requirement of a minimum 350 feet setback in residential districts. Mr. Hoium noted that a local building official would have to inspect these annually. He reported that many people spoke at the Planning Commission on this issue, including one gentleman who is thinking of erecting one. Representatives from Cottage Homesteads spoke with concerns.

Council Member-at-Large Anderson questioned Mr. Hoium on the noise concerns. He said the small wind turbines are around 50 to 70 decibels, which is comparative to a kitchen's noise level of 60 decibels and a bedroom's noise level of 40 decibels. A distance of 50 feet will reduce the decibel level by four. A distance of 1000 feet will reduce the decibel level by 16.

Council Member Martin questioned Mr. Hoium on other similar types of systems that could achieve the same goal. Mr. Hoium said there is a plethora of designs. He noted there was some discussion at the Planning Commission meeting of a rooftop model, but this type would probably be subject to higher decibel levels. He said the only standard is that the structure has to be able to withstand 90 mph winds.

Council Member McAlister questioned the use of guide wires. Mr. Hoium said he did discuss this at the Planning Commission meeting; personally, he suggests not allowing them. Mr. Hoium also clarified that ornamental structures were exempted, which would be those that are decorative.

Mr. Hoium clarified that an annual inspection fee could be added at the time the City adopts the building fees.

Council Member Austin thought the schools may want to pursue construction of a wind energy system and asked what types of districts Ellis Middle School and Austin High School are in. Mr. Hoium said the middle school is in a residential district with a conditional land use, and the high school is in an R-0 district. Most of the public schools are in residential districts, he said.

Council Member King questioned the health concerns. Mr. Hoium said both he and Craig Byram, attorney for the Planning Commission, have done research and found that cases can made for and against.

Kathy Stutzman, Planning Commissioner and resident at 301 12th Place NW, spoke to Council. She was one of the three who voted against the ordinance. She said she has heard the windmill at Wally Bustad's and the sound is similar to the noise from the Hormel flag. She believes the draft ordinance is "far too restrictive". She encouraged Council to look forward to the future, stating that we have developed an ordinance that makes it available for very few. The 350-feet setback from residential districts has no research behind it. In addition, she questioned the validity of the motion in which this was recommended. A couple of motions were made at the Planning Commission, but no action was made on them. The third motion was put on the table and action was taken on it.

Steve Vietor, an electrical instructor at Riverland, spoke in support of the wind energy systems. The college has a 2-year technical program for this. One of the biggest growth opportunities – economically and as for job availability - is with small wind turbines. He supports Jim Stiles and the future of wind turbines and urged Council to look towards the future. "If we limit (this ordinance), we may find ourselves limited," he said.

Lynn Spainhower, 1808 2nd Avenue SE, and a Planning Commissioner, spoke to Council. She spoke in support of less regulation for the areas where the schools are as they may want to erect the wind turbines in the future. Ms. Spainhower also noted that the 350-foot setback requirement was arbitrary, and she concurred with Commissioner Stutzman that that recommendation passed under a "messy motion". However, she said, she is very

sensitive to others' desires and thought it might be appropriate to get together and take a field trip to Bustad's to check out the noise level.

Jim Stiles, 2101 4th St NW Austin and owner of Super Fresh, spoke to Council. Wind energy, he told Council, is a safe, clean energy alternative. He agrees that the 350-foot setback requirement is "way out of line". He is looking to put a monopole system at Super Fresh. He is in agreement that there should be an ordinance that works.

Council Member Austin noted that last weekend he was at the Cook Farm leaf site and didn't hear the turbine. He recalled that Council wanted the ordinance to be as inclusive as it could be, and he thinks it needs some tweaking now.

Council Member-at-Large Anderson agreed with Council Member Austin, saying this issue is very important. There is tremendous potential in this and other renewable energy sources. She said Council should take some time and do it right. She called for a joint meeting of the Planning Commission and City Council to visit Bustad's.

Moved by Council Member-at-Large Anderson, seconded by Council Member Pacholl, tabling the ordinance.

Council Member McAlister questioned the length of the current moratorium. Mr. Hoium thought the moratorium was approved in July and is effective for 180 days. Council Member McAlister also noted that we can't forget a part of the argument, which is the irritation of surrounding neighbors, adding that this ordinance is not going to make everyone happy. The Council is charged with being the buffer and having to make some logical conclusions, he said.

Vote taken 7-0. Ordinance was tabled.

Mayor Stiehm said we would contact everyone for the upcoming joint meeting.

Moved by Council Member Austin, seconded by Council Member Pacholl, adopting a resolution setting a public hearing for December 21, 2009 regarding the adoption of the 5-Year Capital Improvement Plant. 7-0. Carried.

Moved by Council Member Austin, seconded by Council Member Pacholl, adopting a resolution granting the annual renewal of the off-sale liquor licenses, club on-sale licenses and wine on-sale licenses. 7-0. Carried.

Moved by Council Member Pacholl, seconded by Council Member Austin, adopting a resolution adopting the 2009 assessment for weed and grass cutting. 7-0. Carried.

Moved by Council Member Austin, seconded by Council Member Pacholl, adopting a resolution adopting 2009 assessments for garbage and junk removal. 7-0. Carried.

Parks and Rec Director Kim Underwood is requesting approval for a grant submission for emerald ash borer preparedness. The grant is appropriated through the Minnesota Department of Agriculture's Outdoor Heritage Fund. The funding will help us be proactive, and it will help in funding the removal and inspection of trees. This project will take several years. The amount requested is $33,440. Ms. Underwood said ash trees represent 16% of what has been planted on public property since 1979.

Moved by Council Member Austin, seconded by Council Member King, adopting a resolution approving submission of the emerald ash borer preparedness grant. 7-0. Carried.

Cooperative Response Center has future plans for expansion. The first phase of the development includes a 5000-square-foot expansion to their existing facility. The second phase includes construction of a new facility on a 7-acre site in the southeast corner Cook Farm Industrial Park. Community Development Director Craig Hoium said the company's expansion plans have changed, and they are now requesting a first right of refusal agreement for the industrial park site. The agreement is for seven years. The agreement includes a 300-day allowance period for installation of municipal infrastructure.

Moved by Council Member Austin, seconded by Council Member-at-Large Anderson, adopting a resolution approving the first right of refusal agreement with CRC. 7-0. Carried.

Community Development Director Craig Hoium presented a draft ordinance regulating outdoor solid fuel burning appliances. The ordinance prohibits future installation while grandfathering in current appliances that have been issued a permit. However, those current appliances would be subject to city code enforcement regarding public nuisances. Mr. Hoium noted that the draft ordinance stems from numerous complaints on a couple of current appliances being a health hazard and contributing to undesirable living conditions in their areas.

Council Member Clennon said her concern is for people who are looking for alternative ways to heat. This is regulating these appliances for safety yet they are allowed to be put in houses. She is not totally for banning them if they have a tall enough stack.

Council Member-at-Large Anderson questioned the difference between the outside and inside stoves. Mr. Hoium said this ordinance addresses only outside appliances. He has never received a complaint on a fireplace. Mr. Hoium also noted that the outdoor appliances are often put closer to a property line, causing complaints from neighbors. In addition, the fumes can enter homes via the new clean air furnaces.

Council Member Pacholl said he had a complaint from someone who lived next to one in the County, and it was very disturbing to the adjoining neighbor. Mr. Hoium said he has forwarded that complaint to the County Planning office.

Moved by Council Member Pacholl, seconded by Council Member McAlister, for preparation of the ordinance. 4-3. Council Members Clennon, Martin and Austin voted nay.

Moved by Council Member Pacholl, seconded by Council Member McAlister, for adoption and publication of the ordinance. 4-3. Council Members Clennon, Martin and Austin voted nay.

It being the first reading, the ordinance did not pass for lack of a unanimous vote. The ordinance may be added to a subsequent council meeting in which a simple majority vote is required for approval.

The City of Austin has a development agreement for Murphy Creek Meadows Addition located on 24th Avenue NW directly west of Murphy Creek. The original agreement ended on July 1, 2008 but has already been extended to July 1, 2009. Because of the economic conditions, the developer has requested another extension to August 31, 2010 to complete the road surface and a trail.

Moved by Council Member Austin, seconded by Council Member McAlister, adopting a resolution approving the extension. 7-0. Carried.

A request has been received for a subdivision of property. The property is on the southeast corner of 4th Avenue and 12th Street NW. The property has been under one single owner but due to a recent foreclosure, there is need to separate the parcels. One property would have access to 12th Street NW and the other to 4th Avenue NW.

Moved by Council Member Austin, seconded by Council Member King, adopting a resolution approving the subdivision, including utility easements. 7-0. Carried.

REPORTS

City Administrator Jim Hurm reminded everyone of the Coalition of Greater Minnesota Cities Fall Conference on November 18, 19 and 20.

Moved by Council Member Austin, seconded by Council Member King, adjourning the meeting to December 7, 2009. Carried.

Adjourned: 6:54 pm

Approved: December 7, 2009

Mayor: _____

City Recorder: _____