

**MINUTES**  
**COMMITTEE-OF-THE-WHOLE WORK SESSION**  
**December 21, 2009**  
**City Hall Conference Room**  
**7:15 pm / Immediately following council meeting**

**PRESENT:** Mayor Stiehm, Council Member-at-Large Anderson, Council Members Austin, McAlister, Martin, King, Clennon, and Pacholl.

**ABSENT:** None.

**STAFF PRESENT:** Public Works Director Jon Erichson, City Attorney David Hoversten, Human Resource Director Trish Wiechmann, Administrative Services Director Tom Dankert and City Administrator Jim Hurm.

**ALSO PRESENT:** Firefighter Troy Tigner, Austin Post Bulletin, and Austin Daily Herald.

NOTE: Closed meeting for a personnel evaluation pursuant to M.S. 13D.05, Subd. 3 held from 6:30 to 7:15. Human Resource Director Wiechmann was given the DVD of the closed meeting for personnel file of City Administrator Hurm.

Mayor Stiehm opened the meeting at 7:15 pm.

**Item #1 – Engineering Updates:** Mr. Erichson updated council as to the status of the following projects:

- 1a – North Main flood project review – Mr. Erichson noted SHIPO (State Historical Preservation Office) is expected to formally put in writing that there are no historical buildings in the proposed north main flood mitigation area. However, since this may be partially funded via a federal grant, eminent domain may not be used. We are working with the apartments near APC and the owners have indicated that they will work with the city in either selling the property or giving the city an easement to build a flood wall. The soil borings indicate that it is okay to build upon the ground in this area. The acquisition versus the construction estimate is near a cost neutral proposition.

Questions arose regarding if we do not get the additional federal grant we are working on. Mr. Erichson stated the Local Option Sales Tax (L.O.S.T.) was passed based on this providing 50% of the necessary cost to fund the construction projects. If the federal funding is not received, or additional state grants are not received, then the city may need to use more local funds from the L.O.S.T. if they want the project completed. All indications are that we will receive this federal grant.

Council Member Martin questioned the support from Senator Sparks and Representative Poppe. Mr. Erichson stated both have been very supportive of the projects.

This is for informational purposes only.

- 1b - Highway 218 North sidewalk project – Mr. Erichson stated we had \$100,000 budgeted for this safety measure in 2009, but with the state project for the signal lights

the project did not get completed. The new trail down to Target is set to go, but on the other side into the mall area has not been approved by MnDOT as planned. MnDOT does not want the pedestrian traffic on a sidewalk alongside the highway, they would approve it if we got the pedestrians down into the mall area earlier. The estimated cost for this is \$84,110 and we would propose to carry the funding forward to 2010.

Council Member McAlister stated if we could get access into the mall property earlier then we could even reduce this cost further. Mr. Erichson stated he would discuss this option with the owners of the mall.

- 1c - Wastewater Treatment Plant flood pump update – Mr. Erichson noted we had \$100,000 budgeted for the flood pumps in 2009. The need for the pumps is that when the river is in a flood condition, the effluent from the WWTP will no longer flow by gravity to the river. When this condition occurs, the effluent has to be pumped to the river. During the 2008 flood event, both existing pumps had to be used simultaneously in order to keep up the flow. If the flow is not kept up, then the treatment plant is in danger of going down, causing all of the residents' sewers to backup. Mr. Erichson has evaluated some alternatives and believes that a portable pump capable of pumping 14,000 gpm should be bid. The estimated cost for this is \$150,000 and would be proposed to be funded from the original \$100,000 budgeted plus the \$50,000 that was budgeted in 2009 for the energy conservation. The amounts would have to be carried forward to 2010.

Motion by Council Member Pacholl, seconded by Council Member King to recommend to council the approval of budget carryovers for items 1b (\$100,000 for Highway 218 trail) and item 1c (\$150,000) for flood pumps. Carried 7-0. Item will be added to the next council agenda.

- 1d – Dobbins Creek tree removal – Mr. Erichson noted the tornado of 2009 downed many trees in the riverbanks. The Hormel Foundation has contributed \$12,500 towards the estimated tree removals, but the only bid we received came in at \$17,180. We have asked the Cedar River Watershed to fund this project, but they have no such policies on this yet so they have declined for now. Mr. Erichson noted he would recommend that we reject the only bid and continue the funding request to 2010 and re-bid the project.

Council Member Martin questioned if all of the trees had to be removed. Mr. Erichson noted there were 44 locations identified, but four or five of these locations were actually on private property. We could eliminate these sites or reduce the scope of work to reduce the costs.

Mr. Erichson stated we informed the residents that we were going to do this, but now since the bids came in high, and if we reject the bids, you as council may be hearing from the residents about this. We want the trees removed as they may block the culverts and create water backup problems in future flood events. Council Member King noted that maybe the Sentence to Serve people could help out here.

Moved by Council Member King, seconded by Council Member-at-Large Anderson to address the bid for Dobbins Creek tree removal at the next council meeting. Carried 7-0. Item will be added to the next council agenda.

- Other Item – Mr. Erichson noted that council may be getting calls regarding the electrical at the Oakland Avenue underpass project. Mr. Erichson referred council to a memo he created regarding the subject.

**Item #2. – Fire Chief replacement procedure:** Mr. Hurm discussed an outline for the proposed process to hire the next fire chief. Mr. Hurm noted effective January 1, 2010 the current commander would be in charge much as he is when the current fire chief is on vacation, as this is part of his job description. His hours would be Monday through Friday and he would serve for a 30-day period. Mr. Hurm also clarified that council took action tonight at the council meeting authorizing the replacement of the fire chief position.

Mr. Hurm noted the city would then hire an interim chief to come from outside the Fire Department sometime in late January. The Fire Civil Service Commission will conduct the interviews and make a recommendation to the Fire Committee. The City will need to approve the interim chief's contract with the City. Per state statute, this may only be done for a period of no longer than 30 days. At the end of the 30 days, the City will ask for input from the interim chief for suggestions and recommendations on improvements, direction, etc. of the Fire Department. Depending on the selected candidate and when the new chief will be able to start, the commander may need to fill in again as necessary. This process was developed largely because a literal interpretation of state statute would prohibit an interim appointment for more than 30 days.

Mr. Hurm's memo further discussed the chief selection process in that the City will be conducting the chief application process. This process will include developing a position profile, advertising and soliciting applications (open to both internal and external candidates; no additional preference given for internal candidates).

Council Member Clennon questioned if any testing is needed for the internal chief's position. Mr. Hurm noted it was not needed. Mr. Hurm stated he has checked with consultants and the Chief's Association and discovered that there are no testing requirements, but there will be interviews from the Fire Civil Service Commission. Council Member Clennon stated that if they go through the examination, then the 30 day rule does not apply according to her research. Mr. Hoversten stated as the City Attorney he has stated his opinion as part of Mr. Hurm's memo. Mr. Hoversten also read the applicable statute. Council Member Clennon stated that other cities have had an interim chief for more than the 30 days. Mr. Hoversten stated we have contacted some of these cities and they have stated that they chose to ignore the statutes on this issue. Mr. Hoversten stated he has followed the letter of the law in Mr. Hurm's memo.

Council Member King stated he has no problem with the way the memo lays out the process and likes the way it is written. Council Member King clarified that Commander Lovik will be in charge for the next 30 days (from January 1, 2010) and then the interim chief will be next.

Mr. Hurm stated the Fire Civil Service Commission is meeting on December 22, 2009 at 1:15 to start the process as we do not keep an active list for Fire Chief's since this does not happen very often.

Council Member Martin questioned how long Jim Cavanaugh has been chair of the Fire Civil Service Commission. Mayor Stiehm stated Mr. Cavanaugh started in 1996, but he was not sure how long he has been the head of the Commission. Mayor Stiehm clarified that Mr. Cavanaugh

plans on retiring later this year but has agreed to stay on the Commission to hire the next chief, and then he would likely step down. Mayor Stiehm stated Mr. Cavanaugh's experience here is definitely a plus. However, whoever chairs this Commission is actually up to the Commission themselves.

Council Member Martin stated the city did not pass an ordinance to establish the Fire Civil Service Commission. Mr. Hoversten read the statute and noted a 1959 statute amendment rewrote this statute. Mr. Hoversten stated he presumes that the city established the Fire Civil Service Commission via resolution which would be legal.

Council Member McAlister stated it would be good to have the interim chief be part of the interview and hiring process.

Firefighter Troy Tigner questioned the timeline for this hiring. Mr. Hurm stated the goal is as soon as possible, but hopefully by the end of February or early March. Mr. Hoversten clarified that the city needs to follow the law in order to prevent a lawsuit over the hiring process. Mr. Tigner noted the lack of leadership the Fire Department will have through this process.

After further discussion, motion by Council Member McAlister, seconded by Council Member King to approve the process per Mr. Hurm's letter dated December 14, 2009. Carried 7-0. Item will be added to the next council agenda.

Council Member Clennon questioned the timeline for this hiring of the interim chief. Council Member Austin stated it was as soon as the Fire Civil Service Commission makes their recommendation. Mr. Hoversten stated the Fire Civil Service Commission appoints the position, but the City Council must approve the contract for payment with the interim chief.

**Item #3. – 2009 audit quote from LAWCO:** Mr. Dankert noted we have received the audit quote from our auditor's LarsonAllen LLP for the December 31, 2009 audit. Mr. Dankert noted the quote of \$40,930 represents a 1% increase over the audit quote for 2008. Additionally, Mr. Dankert stated if council desires to change auditors, then this decision really needs to be made early in 2010 to start the RFP bid process. No comments were noted regarding changing auditors for the next year.

Motion by Council Member Austin, seconded by Council Member King to recommend to council the approval of the audit engagement letter from LarsonAllen LLP for the 12/31/09 audit. Carried 7-0. Item will be added to the next council agenda.

**Item #4. – Charge off delinquent accounts receivable:** Mr. Dankert noted we have the following three accounts receivables that we are not collecting upon:

- Adam Estrada for \$2,662.67 plus current finance charges of \$213.04
- Gerardo Sanchez/Lori Beth Perdomo for \$893.39 plus current finance charges of \$44.65
- Dennis Magnuson for \$1,375 (he has filed bankruptcy)

Mr. Dankert requested the above three accounts be charged off, with the Estrada and Sanchez/Perdomo account be turned over to the collection agency for an attempt at collections.

After further discussion, motion by Council Member Austin, seconded by Council Member Pacholl, recommending to Council the approval of the charge off of the above delinquent accounts. Carried 7-0. Item will be added to the next council agenda.

**Item #5a. Administrative Report – Agenda for council retreat:** Mr. Hurm noted a proposed outline for discussion at the January 6 and January 7 council retreat. The outline includes the following:

January 6

- 5:30 Dinner and informal discussion
- 6:00 Mayor Ardele Brede, mayor of Rochester, 2009 LMC president, chair of LMC Ethics Advisory Panel – Code of Conduct/Ethics
- 7:00 Discussion on an appropriate code for Austin
- 7:30 Discussion with department heads on 2009-2010 activities
- 8:30 Adjourn

January 7

- 5:30 Dinner and informal discussion
- 6:00 Discussion with remaining department heads on 2009-2010 activities
- 7:15 Review Organizational Values & Vision; Establish Council Goals for 2010
- 8:30 Adjourn

Some discussion ensued from council regarding having department heads present at the retreat.

Council Member-at-Large Anderson stated she would also like to hear from the head of Main Street Inc. as part of the department head discussion. Mr. Hurm stated she would be included in this discussion.

Mayor Stiehm questioned if there were any changes. Mr. Hurm stated the department head reports will be 10-15 minutes maximum for each department head and should be informal or one page of handouts only. Council Member-at-Large Anderson stated annual reports or other reports should be allowed to be handed out.

**Adjournment:** Motion by Council Member Austin, seconded by Council Member Pacholl, to adjourn the meeting. Motion passed unanimously. Meeting was adjourned at 8:23 pm.

Respectfully submitted,

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Tom Dankert