

**MINUTES
CITY COUNCIL MEETING
MONDAY, NOVEMBER 15, 2010
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, Mickey Healey, Brian Krueger, and Kim Underwood.

OTHERS PRESENT: Austin Post Bulletin, Austin Daily Herald.

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

Moved by Council Member Austin, seconded by Council Member McAlister, approving the agenda. Carried.

Moved by Council Member Austin, Council Member Pacholl, approving the minutes of November 1, 2010. Carried.

Matt Simonson spoke against fluoridation in the municipal water system.

Chief Krueger pinned Captain David McKichan. McKichan is a 13-year member of the department. He was a patrol officer for eight years, an investigator for five years. The last four years he served on the SE Minnesota Narcotics/Gang Taskforce and is also a member of the Austin Area Taskforce. He received the Outstanding Achievement Award from the Minnesota Narcotics Association last year. He has also served as the department's negotiator and successfully negotiated the 10-hour shift.

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

Licenses:

Exempt Gambling (raffle & paddlewheels): Austin Morning Lions at Austin Elks Lodge for January 28, 2011

Temporary Food: Austin Jaycees, Nov. 26 Chili Fest

Claims:

- a. Financial and investment reports
- b. Pre-list of bills

Carried.

The City received bids for the Main Street/Oakland Avenue intersection on November 4. The Engineering Department recommends awarding the bid to Nietz Electric. The project will be paid out of the state aid gas tax funds. Bids were as follows:

<u>Contractor</u>	<u>Amount</u>
Nietz Electric	\$ 187,476.25
Mankato Electric	\$ 201,589.25
Schammel Electric	\$ 207,434.75
Winkels Electric	\$ 254,585.45
Engineer's Estimate	\$ 255,941.25

Moved by Council Member Austin, seconded by Council Member McAlister, adopting a resolution awarding the bid to Nietz Electric. 7-0. Carried.

A public hearing was held for the assessments for sidewalk construction on 9th Avenue (4th Street to 12th Street), Project 2-A-10. City Engineer Jon Erichson said property owners for three parcels had requested additional work on this project.

No other comments were made.

Moved by Council Member Austin, seconded by Council Member King, adopting a resolution declaring the cost of sidewalk construction on 9th Avenue (4th Street to 12th Street), Project 2-A-10. 7-0. Carried.

Moved by Council Member Austin, seconded by Council Member Pacholl, adopting a resolution approving the assessment for sidewalk construction on 9th Avenue (4th Street to 12th Street), Project 2-A-10. 7-0. Carried.

A public hearing was held to adopt assessments for 2009-2010 snow removal. Property owners are charged 50¢ per linear foot if sidewalks abutting their property are not shoveled during the requested time. The assessment roll are for those bills which have not been paid.

Dan Carolan, residency at 301 14th Place NW, spoke regarding the property he owns at 105 6th Street NW. He said his concern is that he did not own the property at the time. It was sold on contract for deed. He has now acquired the property back. He noted that this was not a simple quit claim; it has been recorded. City Attorney Dave Hoversten said there is another similar situation and the timing should be reviewed on these individual assessments. His recommendation is that this one parcel be removed from the roll and if it is determined that it should remain assessed to Mr. Carolan, then we could approve that one assessment at a different meeting.

No other comments were made.

Moved by Council Member-at-Large Anderson, seconded by Council Member Pacholl, removing one parcel (Danny & Carol Carolan, Lot 3, 11, Yates & Lewis, \$22.49) from the 2009-2010 snow removal assessment roll. Carried.

Moved by Council Member Austin, seconded by Council Member King, approving the assessments for 2009-2010 snow removal. 7-0. Carried.

A public hearing was held for 2010 junk removal assessments. Property owners are billed for junk removal in accordance with city ordinances. The assessment roll is for those property owners who have not paid their bill.

Jim Crews, resident of Lyle, spoke to Council regarding their property at 1005 5th Avenue NE. Mr. Crews said he did receive a letter from the City and then removed what was supposed to be cleaned up. Approximately one month later, the City came out and removed building materials, tools, bicycles and toys, and he was charged \$300. Mayor Stiehm said he should meet with Community Development Director Craig Hoium. Mr. Crews said he tried to talk with him the day it was happening and noted that all he got back was one tire. Mr. Hoium said city crews did remove junk and noted he did talk with Mr. Crews and another person at the residence. Mr. Hoium noted there was a question on what was considered junk. Mr. Hoium stated that the city crews did knock on the home but no one answered until the work was completed. Mr. Crews stated that the city worker, Doug Mauer, harassed his daughter and spit chew, but he apologized afterward. Mr. Hoium stated that the cars removed from the property were not operable. Mayor Stiehm again suggested that Mr. Crews speak to Mr. Hoium and Mr. Mauer. It was agreed that Mr. Crews would come in to meet with them on Wednesday morning (November 17). City Attorney David Hoversten said Council could remove this one parcel from the assessment roll for further consideration.

Moved by Council Member Austin, seconded by Council Member Pacholl, removing one parcel (Jim & racy Crews, Lot 10, Block 14, Railroad Addn, \$295.63) from the 2010 junk removal assessments. Carried.

There were no other comments.

Moved by Council Member Austin, seconded by Council Member McAlister, adopting a resolution approving the 2010 junk removal assessments. 7-0.

A public hearing was held on the 2010 weed removal assessments.

Barb Scheid, 710 8th Street NE, received a \$132.56 assessment for weed removal. She said the only notice she received was just before the lot was sprayed with weed killer. She noted that some of the weeds were also ripped out. Ms. Scheid said that from what she saw, the City had done no work. Park & Rec Director Kim Underwood stated that the weed inspections are hired out. Another party mows the property, and then another check is done. Mayor Stiehm suggested Ms. Scheid meet with the Ms. Underwood to come to a consensus. Ms. Underwood said she would have to check records to verify that

the work had been done. Administrative Services Director Tom Dankert noted that another property owner has also contested his assessment because the owner said he doesn't own the property now.

No other comments were made.

Moved by Council Member Austin, seconded by Council Member Pacholl, removing two parcels (Barbara Scheid, S½N½ Lot 1 S½N½W½ Lot 2, Block 8, Railroad Addn, \$132.56, and Darla & Todd Hammel, N½ Lot 5, Block 15, Railroad Addn, \$132.56) from the 2010 grass & weed removal assessment roll. Carried.

Moved by Council Member Austin, seconded by Council Member King, adopting a resolution approving the 2010 grass & weed removal assessments. 7-0. Carried.

A public hearing was held for 2010 miscellaneous sidewalk & indrive projects.

No comments were made.

Moved by Council Member Austin, seconded by Council Member McAlister, adopting a resolution declaring the cost to be assessed for 2010 miscellaneous sidewalk & indrive projects. 7-0. Carried.

Moved by Council Member Austin, seconded by Council Member McAlister, adopting a resolution approving the 2010 miscellaneous sidewalk & indrive projects. 7-0. Carried.

A public hearing was held on the sanitary sewer project assessments for the northeast annexation (three parcels), Project 1-B-07.

Owners of the three parcels had signed written objections, but they have since withdrawn their objections.

No comments were made.

Moved by Council Member Austin, seconded by Council Member McAlister, adopting a resolution declaring the cost of the assessments on the sanitary sewer project assessments for the northeast annexation (three parcels), Project 1-B-07. 7-0. Carried.

Moved by Council Member Austin, seconded by Council Member King, adopting a resolution approving the assessments on the sanitary sewer project assessments for the northeast annexation (three parcels), Project 1-B-07. 7-0. Carried.

A public hearing was held for the rezoning of property from an R-1 Single Family Residential District to a Planned Development Residential District, petitioned by Jim and Jayna Heimark. The rezoning process for a Planned Development, stated Community Development Director Craig Hoium, includes a concept review, which was approved in August 2010. This public hearing is for the preliminary plan review of the rezoning. The development includes four new parcels which vary from .8 acres to 1.8 acres. The development includes 24 conditions. The road construction for the project may need to be accomplished in 2011 due to the timeframe. Development standards for this development will be the same as for an R-1 Single Family Residential District. The agreement includes covenants written by the petitioner; it will not be the responsibility of the City to enforce these covenants. An easement agreement is included for maintenance and use of the private road. Mr. Hoium reported that the Planning Commission recommended approval by a 9-0 vote. Another hearing for the final rezoning will need to be held before final approval.

No other comments were made.

Moved by Council Member Austin, seconded by Council Member Pacholl, adopting a resolution approving the preliminary rezoning review. 7-0. Carried.

Moved by Council Member Austin, seconded by Council Member King, adopting a resolution setting a public hearing for December 20, 2010 regarding the adoption of the 5-year Capital Improvement Plan. 7-0. Carried.

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

Moved by Council Member Austin, seconded by Council Member McAlister, adopting a resolution approving deferrals on special assessments for Donald & Margaret Hodge, Maxine Jacobson, Nylva Pirmantgen, Carole E. Bakken, Richard W. & Janice Christensen, and Bernadette Stephens. 7-0. Carried.

The IAFF Local 598 has agreed to a contract for 2011, 2012 and 2013. It includes no pay increase for 2011 and 2012, and 1.5% increase for 2013. It also includes other minor changes which are cost-neutral to the City.

Moved by Council Member Austin, seconded by Council Member-at-Large Anderson, adopting a resolution approving the 2011-2013 labor agreement with IAFF Local 598. 7-0. Carried.

Kaye Gerber has requested a subdivision of her property located northwest of 21st Street and 16th Avenue SW. The subdivision will include two tracts to be .55 acres and 1.6 acres. The Utilities and Engineering Departments approve of the subdivision. There are two outstanding assessments. Council Member Martin questioned the outstanding balance. City Engineer Jon Erichson said this was within a large annexation area. Several vacant properties had deferred assessments for 30 years or until the property was developed. These outstanding balances will be paid.

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

Moved by Council Member Austin, seconded by Council Member Pacholl, adopting a resolution accepting the results of the November 2, 2010 general and referendum election.

The next item on the agenda was to authorize the removal of junk at 1906 8th Street NW, Timber Development Corp. property (This is the strip mall across from WalMart.) Mr. Hoium stated he has received numerous complaints on this property, and the owner has received a letter addressing the violations. He stated that the owner said the violation would be resolved today; however, the Zoning Department has not had a chance to review the property. If the property owner has failed to comply, the City will remove the junk next week.

Bob Clark, Oak Park Village, addressed Council regarding the junk at the property. Mr. Clark stated the matter is getting worse, noting that there are plastic bags blowing into the trees now. Mr. Clark re-stated his position that the owner should use an enclosed container.

Mr. Hoium said he has given the owner two options: to provide a container with a locking lid to prevent the lid from blowing open, or to put up a screen fence to protect the junk from blowing in the wind.

Council Member-at-Large Anderson also questioned the timeframe, and what steps the City could take.

Mr. Hoium said the ordinances do not require the property owner to have the area fenced in. Since this is subject to a misdemeanor and could be taken to court, he is giving the property owner options.

Council Member-at-Large Anderson asked if the ordinance could be reviewed. Mr. Hoium noted the matter could be placed in Matters In Hand.

Moved by Council Member Pacholl, seconded by Council Member-at-Large Anderson, placing this issue in Matters In Hand: Review of City Code Section 10.14, junk ordinance. Carried.

Council Member McAlister questioned if Council could approve of an ordinance to be made retroactive. Mr. Hoversten said the ordinance could not be made retroactive. In addition, if Council considers amending this ordinance with, for example, the

requirement of a fence, then *all* such containers would be required to be fenced in even if there were no issues with those properties.

Moved by Council Member Austin, seconded by Council Member-at-Large Anderson, granting the Planning and Zoning Department the power to contract for the removal of junk at 1906 8th Street NW, Timber Development Corp. property. Carried.

Moved by Council Member Austin, seconded by Council Member Pacholl, adopting a resolution accepting results of the November 11th recount of the city election for the office of the mayor. 7-0. Carried.

REPORTS

Council Member McAlister requested that the letters from Dave Simonson be distributed to Council. Council Member McAlister also requested that the process for weed removal, junk removal and snow shoveling be reviewed. Council Member Austin said we do have a process; people have ample opportunity to respond to these things. Council Member-at-Large Anderson also expressed concerns and suggested that Council look at the relevant ordinances.

Kim Underwood reported that the Bruins will be playing two games this weekend. November 26th is the date for this year's Christmas in the City event. Another event – A Tuba Christmas – will take place at the Oak Park Mall.

Tom Dankert reported that the Truth In Taxation hearing will be held December 7.

Jim Hurm reported on a request to close a public right-of-way at Sterling Bank during the Christmas in the City event.

Moved by Council Member Austin, seconded by Council Member-at-Large Anderson, adjourning the meeting to December 6, 2010. Carried.

Adjourned: 6:31 pm

Approved: December 6, 2010

Mayor: _____

City Recorder: _____