

**MINUTES**  
**CITY COUNCIL MEETING**  
**March 7, 2011**  
**5:30 PM**  
**Council Chambers**

MEMBERS PRESENT: Mayor Stiehm. Council Members Jeff Austin, Brian McAlister, Steve King, Roger Boughton, Judy Enright and Marian Clennon. Council Member-at-Large Janet Anderson.

MEMBERS ABSENT: None

STAFF PRESENT: Jim Hurm, Tom Dankert, Jeanne Howatt, Craig Hoium, Steven Lang, David Hoversten, Mickey Healey, Kim Underwood, and Brian Krueger.

OTHERS PRESENT: Post Bulletin, Austin Daily Herald. Matt Simonson. Joe Kohaut, Torgerson Properties. Public.

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

Added to the agenda: A resolution granting Sunday wine on-sale license and a resolution authorizing the use of Contingency Funds for Google Austin promotional flyers.

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

Moved by Council Member Boughton, Council Member King, approving the minutes of February 22, 2011. Carried.

Matt Simonson asked if the City obtains federal funding for the street projects. Asst City Engineer Steven Lang replied that one project – 14<sup>th</sup> Avenue NE – will receive federal funding. The federally-funded projects go through a long application and cover only certain projects. We receive about \$1 million from the State each year from the gas tax. Those funds can be carried over, accrued or used up within the year, but the funds must be used only on state-aid road projects.

Mr. Simonson also referred to the country of Norway, which does not assess the public for their projects.

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

Licenses:

Concrete: H&L Brothers, Blooming Prairie, MN  
Concrete: Heimer Concrete: Austin  
Concrete: Roger Bastyr dba Roger & Sons LLC, Austin  
Excavation: H&L Brothers, Blooming Prairie, MN  
Excavation: Roger Bastyr dba Roger & Sons LLC, Austin  
Food (change of location): Johnny's Main Event, 107 11<sup>th</sup> Avenue NE, Austin  
Food: Ruby's Place, 1301 18<sup>th</sup> Avenue NW, Austin  
Master Plumber: David Heimer dba Lone Star Plumbing, Adams, MN  
Master Plumber: HiMec, Rochester, MN  
Master Plumber: Jim & Dudes Plumbing & Heating, Albert Lea, MN  
Sign Installer: Winkels Electric, Inc., Rochester, MN  
Tattoo Artist: Chad Iverson dba Ivy's Ink & Apparel, 111 11<sup>th</sup> Ave NE, Austin  
Tattoo Establishment: Chad Iverson dba Ivy's Ink & Apparel, 111 11<sup>th</sup> Ave NE, Austin  
Water Softener: Driessen Water, Inc. dba Culligan Water, Austin

Claims:

- a. Pre-list of bills.
- b. Credit card report.
- c. Lois Ruyks, 904 10<sup>th</sup> Avenue SW. This claim was forwarded to the city attorney to protect the city's interest.
- d. Ed Seys, 1806 5<sup>th</sup> Avenue NE. This claim was forwarded to the city attorney to protect the city's interest.

Carried.

A public hearing was held for TPI Inc. (Torge's) regarding violation of the liquor code by selling liquor to a minor pursuant to Austin City Code §5.12, Subd. 2.

City Attorney David Hoversten said the violation occurred as a result of regular compliance checks. This violation occurred February 4, and it is the second violation within two years. The presumptive penalty for this violation is \$750 fine and three business days suspension.

Joe Kohaut, Vice President of Food & Beverage Operations for Torgerson Properties. Said he appreciates the Police Department's efforts to prevent these violations. It is also our (Torge's) intention to prevent these violations. Torge's gives workshops on serving alcohol and they also hold their own compliance checks. The bar has 12 certified servers and four who will be certified. Since Torge's last violation, every server must sign a form which states that if they serve to people who look to be under 40 years of age they will be terminated. Mr. Kohaut also noted that other cities give a citation to the server. He said Torge's is okay with the \$750 fine but feels the three days suspension is unfair. Their sales numbers are pretty substantial – a lot more than, say, a pizza restaurant. It will also hurt single moms and dads who will not take in as much revenue. Mr. Kohaut said Torge's would not object to a heavier fine.

Mr. Hoversten stated that the schedule of penalties is similar to other cities; Austin's penalty schedule was contrived from Rochester's. While our city ordinance and state

statutes provide for this violation to be a misdemeanor, the point of the penalties is to avoid criminal proceedings. It is the feeling of city council that this should be handled administratively; therefore the licensee is held responsible. The days suspending liquor sales must be consecutive and shall be agreed upon by the police chief and licensee. Mr. Hoversten clarified that Torge's would not be prohibited from serving food, just liquor.

Questioned by Council Member Enright on the option of raising the fine and foregoing the suspension of sales, Mr. Hoversten reminded Council that it is possible but that "presumptive penalties" were put in place for consistency. Previous to this ordinance, violations were treated inconsistently. The purpose is so that everyone is treated the same.

Council Member King noted Council did discuss this at length ten months ago and tends to agree with the city attorney. The penalty schedule (adopted in 2003) seems to be working, and he noted the last "sting" which, aside from Torge's, was positive.

Council Member Clennon asked if servers are licensed in other cities. Mr. Hoversten said they were not so the licensee is criminally liable; however, you could theoretically charge both (licensee and server) criminally, and this is what we're trying to avoid.

Council Member Austin noted that when the ordinance was created, it was first discussed with the licensees.

Council Member Enright commended Torge's on their training. Mr. Kohaut replied that the server made a mistake and lost their job. He added that the Police Department did a great job. And he said that Council *could* be consistent by increasing the fine.

Mr. Hoversten reminded Council that the three business days suspension is proportional: It would have the same effect on a large corporation as it would on a sole proprietor.

No other comments were made.

Moved by Council Member Austin, seconded by Council Member Boughton, finding TPI Inc. guilty of the second violation of selling liquor to a minor within a 24-month period, with a fine of \$750 and three business days suspension, and ordering the city attorney to prepare the Findings and Order. 7-0. Carried.

A public hearing was held on sanitary sewer project for the northeast annexation, Project 1-B-07, on one parcel. One property owner has rescinded their earlier objection to the assessment. The total assessment for this property is \$15,590.17.

No other comments were made.

Moved by Council Member McAlister, seconded by Council Member King, adopting a resolution declaring the cost of the assessment. 7-0. Carried.

Moved by Council Member Austin, seconded by Council Member King, adopting a resolution adopting the assessment for Project 1-B-07, one parcel. 7-0. Carried.

Moved by Council Member Austin, seconded by Council Member King, approving the reappointment of Ruth Neil to the Board of Appeals and Equalization for at-large representation. Carried.

Moved by Council Member Austin, seconded by Council Member King, approving the reappointment of Shirley Blake to the Board of Appeals and Equalization to represent the 1<sup>st</sup> Ward. Carried.

Moved by Council Member Austin, seconded by Council Member King, approving the reappointment of Peggy Young to the Board of Appeals and Equalization to represent the 2<sup>nd</sup> Ward. Carried.

Moved by Council Member Austin, seconded by Council Member King, approving the reappointment of Lysie Moritz to the Board of Appeals and Equalization to represent the 3<sup>rd</sup> Ward. Carried.

Moved by Council Member King, seconded by Council Member-at-Large Anderson, adopting a resolution accepting donations to the Austin Public Library. 7-0. Carried.

The proposed 2011 Council Priorities are as follows:

2011 Council Priorities

- Emphasize flood mitigation efforts
- Support Vision 2020
- Adopt and implement a rental housing code
- Work with other governmental units to determine possible opportunities to collaborate
- Implement a citizen education program (citizen academy) on city departments and programs
- Develop a housing improvement program focusing on specific areas of need
- Support a citizen action committee to move toward Austin becoming a sustainable “green” community

Moved by Council Member Austin, seconded by Council Member Enright, adopting the 2011 Council Priorities. Carried.

Moved by Council Member Austin, seconded by Council Member Boughton, adopting a resolution granting wine on-sale and strong beer on-sale licenses to Kehret Foods LLC dba Ruby’s Place. 7-0. Carried.

The following street closing requests were presented to Council:

- a) Bobee Jo's on May 28-29; June 25-26, and September 3-4
- b) VFW on May 21

Council noted they do not need to approve so no action was taken. No objections were raised.

At the previous work session Council reviewed a request to renew the airport land rental lease with John Scott. Mr. Scott farms inside and outside of the airport fence. The lease arrangement was worked well. The rental rate would increase from \$150 per acre to \$175 per acre, which is the going rate for adjacent farm rental property. (The lease is for 2011-2012.)

Moved by Council Member Enright, seconded by Council Member-at-Large Anderson, adopting a resolution approving a land lease with John Scott. 7-0. Carried.

Moved by Council Member Austin, seconded by Council Member McAlister, adopting a resolution to acquire a temporary easement from B&D Stundahl LLC. 7-0. Carried.

Moved by Council Member Austin, seconded by Council Member Boughton, adopting a resolution granting a permanent easement to B&D Stundahl LLC. 7-0. Carried.

Moved by Council Member Austin, seconded by Council Member McAlister, adopting a resolution granting a permanent easement to Qwest for property east of the airport. 7-0. Carried.

Moved by Council Member King, seconded by Council Member Boughton, adopting a resolution granting a Sunday wine on-sale license to Kehret Foods LLC dba Ruby's Place. 7-0. Carried.

Community Development Director Craig Hoium reported that a committee of city representatives and local companies has worked together since a year ago when an application was submitted to Google for its high-speed internet test community. Out of 1,077 communities, Austin has reached #5 in community participation. The committee recently met to greater improve our effort. A number of activities are planned. Mr. Hoium stated the 12 major employers in the community are being contacted and asked to include a promotional brochure in their paychecks. The brochure will include instructions on how to log into the Google Austin website to express support. He noted that this is one of the most important projects the City and other organizations are involved in collaboratively for economic development. Other activities include a big rally for the Austin School District and notices on electronic message signs. Council is requested to approve up to \$6000 for the printing of the brochures.

Council Member Clennon noted that our participation jumped 5% just in the last week. Mr. Hoium noted that on February 17, we ranked #5; last week we were at #6. But the

biggest increases were just last week. Council Member Clennon said she would like to see the push on the internet. Mr. Hoium said they are trying to promote through the internet. Hormel will be designing the brochure. Also, a major retailer will include brochures in their bags.

| Moved by Council Member Enright, seconded by Council Member-at-Large Anderson, adopting a resolution authorizing the use of Contingency Funds for Google Austin promotional brochures. 7-0. Carried.

## REPORTS:

Council Member McAlister attended the Main Street Project meeting last week. The board discussed what has been done and some visioning for the future. The focus has been on Main Street itself and its storefronts. The board will need to decide if they should branch out now or work on some infrastructure projects. A representative from the State Main Street Project facilitated the meeting.

Council Member Clennon attended a meeting in Rochester with a House committee on redistricting. She said the meeting was geared to Rochester as they are in two districts. There is a deadline of May 3 to re-establish the ward boundaries, but she will verify this information. An interesting point that came out of the meeting was that Mower County is not one of the top percent in minorities. Council Member Clennon also attended a roundtable discussion on February 24 with Rep. Tim Walz on the subject of veterans.

Council Member McAlister noted that the school board elections are at-large so it shouldn't make a difference for wards. He added that their elections should be aligned with the regular elections beginning in 2012.

Council Member Boughton attended an HRA meeting on February 23 at which John Garry gave an update on the DCA. They reviewed the Dubuque presentation, and Sara Douty from the Main Street Project gave an update.

| Council Member-at-Large Anderson also attended the Main Street Project meeting. Committees are currently being formed and they are open to more people participating. She reported that the application for the Community Conversations project has been sent to the League. The date to hear the results has been moved back to March 18.

Park & Rec Director Kim Underwood announced that there will be a volleyball tournament this weekend. A figure skating show is at Riverside on Saturday at 7:00 and on Sunday at 2:00. The Bruins will be giving a youth hockey camp now that their season is over.

Fire Chief Healey said an explosion occurred at the co-op in Lansing. They worked well with the Brownsdale firefighters.

The Planning Commission meeting will be moved back to March 29 this month.

Finance Director Tom Dankert and the IT manager, Don Tomlinson, have met twice with a representative of the company that has the state contract for audiovisual. Our system has a seven-year life, and it has been double that since it was installed. The entire media system will be replaced. (The cameras currently used are actually security cameras, and those will be replaced.) We will be able to continue running live meetings, plus have video streaming on the internet. The two large TVs in Council Chambers would be replaced with flat screens, and another, larger screen would be hung in place of the Austin logo wall hanging. The individual TVs on the dais would show documents or Powerpoints on the screens. Along with this project, Council will have wireless internet for paperless agendas. This will all be paid by the PEG (public, educational and governmental) access fees received through our cable TV franchise agreement.

Mayor Stiehm attended the Chamber of Commerce's Annual Banquet last week. He also noted the passing of Dean White who was very active in the Police Reserve. Mr. White was 2002 Volunteer of the Year.

Moved by Council Member Austin, seconded by Council Member King, adjourning the meeting to March 21, 2011.

Adjourned: 6:28 pm

Approved: March 21, 2011

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

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