

**MINUTES**  
**CITY COUNCIL MEETING**  
**May 7, 2012**  
**5:30 PM**  
**Council Chambers**

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

MEMBERS ABSENT: None

STAFF PRESENT: Jim Hurm, Jeanne Howatt, Craig Hoium, Jon Erichson, David Hoversten, Mickey Healey, Kim Underwood, Brian Krueger.

OTHERS PRESENT: Post Bulletin, Austin Daily Herald. Matt Simonson. Boy Scouts from Troop 113. Bob Rosel. Tom Sherman, Bob Sherman, Kim Steene, Carter Wagner, Melanie Troster, Kathy Sforza and Bob Sherman. Mark Nibaur. Sandy Forstner. Public.

Added to the agenda: a motion to extend the May 6<sup>th</sup> deadline for G&R Truck Wash.

Removed from the agenda: junk removal at 600 1<sup>st</sup> Avenue SW. This matter has been resolved.

Moved by Council Member King, seconded by Council Member Austin, approving the agenda as amended. Carried.

Moved by Council Member Boughton, seconded by Council Member King, approving the minutes of April 16, 2012. Carried.

Matt Simonson spoke to Council. He stated he sent a letter to the attorney general regarding the practices of the City. He stated that the City is taking from the poor and giving to the rich.

Mayor Stiehm recognized two boy scouts from Troop 113 who were in attendance, Jacob Miller and Nathan Meyer.

Mayor Stiehm recognized the Park & Rec Department and its staff upon receiving the CVB Austin's Tourism Top List award. .

Bob Rosel, representing the postal workers, announced the 19<sup>th</sup> annual food drive which will take place on Saturday. Mayor Stiehm read a proclamation proclaiming the Letter Carrier Food Drive Day.

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

Licenses:

Concrete: Legends Concrete Inc., Rochester, MN  
Excavation: Fraser Construction Co., Rochester, MN  
Excavation: Jordan Drilling Solutions, Burnsville, MN  
Exempt Gambling (bingo): American Legion Auxiliary at Mower County  
Fairgrounds, August 7-12  
Exempt Gambling (raffle): Riverland Community College Foundation at Austin  
Country Club, June 4  
Exempt Gambling (raffle): Riverland Community College Foundation at  
Holiday Inn, July 28  
Food: CineMagic Theatre, 1301 18<sup>th</sup> Avenue NW, Austin  
Food: El Parral Ballroom, 210 4<sup>th</sup> Street NE, Austin  
Food: Marcusen Park Baseball Association, Austin  
Food-Mobile: Taqueria Guerrero #1, Austin  
Food-Mobile: Taqueria Guerrero #2, Austin  
Garbage Hauler: Y Waste Removal, Austin  
Massage Therapist: Jane Loecher, Adams, MN  
Massage Therapist: Kimberly Herfindahl, Glenville, MN  
Master Plumber: 1<sup>st</sup> Class Plumbing & Heating, Rochester, MN  
Master Plumber: Action Plumbing & Heating, Rochester, MN  
Master Plumber: Albert Lea Mechanical, Albert Lea, MN  
Master Plumber: Dimension Plumbing & Heating, Rochester, MN  
Master Plumber: DMC Plumbing & Heating, Pine Island, MN  
Master Plumber: Geno's Plumbing & Heating, Albert Lea, MN  
Master Plumber: Harty Mechanical, Austin  
Master Plumber: HiMec, Rochester, MN  
Master Plumber: Jensen Heating, Geneva, MN  
Master Plumber: Jim & Dudes Plumbing & Heating, Albert Lea, MN  
Master Plumber: K&S Heating & Plumbing, Rochester, MN  
Master Plumber: Master Plumbing, Albert Lea, MN  
Master Plumber: Schmitz Electric, Adams, MN  
Master Plumber: Schwickerts, Mankato, MN  
Master Plumber: TNG Plumbing, Dexter, MN  
Sign Installer: Bird Sign, Inc., Peosta, IA  
Sign Installer: Winkels Electric, Rochester, MN  
Temporary Food: TheFunCircus for Piccadilly Circus, Crane Pavilion, May 21  
Theatre: CineMagic Theatre, 1301 18<sup>th</sup> Avenue NW, Austin

Claims:

- a. Pre-list of bills.
- b. Credit card report.

Carried.

The City received bids for asphalt mill & overlay for 16<sup>th</sup> Street SE and 10<sup>th</sup> Place NE. Bids were as follows:

Ulland Bros., Inc.	\$ 139,160.00
Rochester Sand & Gravel	\$ 160,772.75

Moved by Council Member Boughton, seconded by Council Member Austin, awarding the bid to Ulland Bros., Inc. 7-0. Carried.

The City received bids for concrete pavement rehab on 4<sup>th</sup> Street NW. Bids were as follows:

Doyle Conner Co.	\$ 186,634.09
Pember Companies	\$ 190,843.95
PCI Roads	\$ 223,887.50

Moved by Council Member Austin, seconded by Council Member Boughton, awarding the bid to Doyle Conner Co. 7-0. Carried.

The City received bids for concrete street reconstruction for 19<sup>th</sup> Street SE. Bids were as follows:

Doyle Conner Co.	\$ 623,208.16
Pember Companies	\$ 652,034.50
Innovative Contractors	\$ 681,945.25

Moved by Council Member King, seconded by Council Member Austin, awarding the bid to Doyle Conner Co. 7-0. Carried.

Bids were received for State Aid asphalt street reconditioning on 14<sup>th</sup> Street NW. The City has obtained a federal grant for this project, which is contingent upon approving the bid. Bids were as follows:

Ulland Bros.	\$ 652,680.05
Rochester Sand & Gravel	\$ 797,283.95

Moved by Council Member Boughton, seconded by Council Member King, awarding the bid to Ulland Bros. 7-0. Carried.

Bids were received for asphalt street reconstruction for Projects 3-A-11 and 5-A-12. Bids were as follows:

Hansen Hauling & Excavating, Inc.	\$ 1,053,502.20
Ulland Bros., Inc.	\$ 1,068,349.95
Heselton Construction, LLC	\$ 1,184,739.59

Moved by Council Member-at-Large Anderson, seconded by Council Member King, awarding the bid to Hansen Hauling & Excavating, Inc. 7-0. Carried.

Bids were received for asphalt street reconstruction for Projects 1-A-12 and 6-A-12. Bids were as follows:

Ulland Bros., Inc.	\$ 960,112.00
Heselton Construction, LLC	\$ 1,074,437.23

Moved by Council Member King, seconded by Council Member Austin, awarding the bid to Ulland Bros., Inc. 7-0. Carried.

Bids were received for residential building demolition. Bids were as follows:

Hansen Hauling & Excavating, Inc.	\$ 3,650.00
H&L Bros.	\$ 4,898.00
Dulas Excavating	\$ 6,500.00

Timm's Trucking	\$10,800.00
Jensen Excavating	\$13,950.00

Moved by Council Member Austin, seconded by Council Member King, awarding the bid to Hansen Hauling & Excavating, Inc. 7-0. Carried.

A public hearing was held on assessments for sanitary sewer from the Lansing Township annexation area from Project 1-B-07. These two properties had originally signed objections and have now removed their objections.

Council Member Clennon asked if the owners were selling their properties. City Engineer Jon Erichson replied that he believed at least one was selling their property.

No other comments were made.

Moved by Council Member Austin, seconded by Council Member-at-Large Anderson, adopting a resolution declaring the cost of the assessment, Project 1-B-07/two properties. 6-1. Carried. Council Member Clennon voted nay.

Moved by Council Member Boughton, seconded by Council Member Austin, adopting a resolution adopting the assessment roll. 6-1. Carried. Council Member Clennon voted nay.

Moved by Council Member Austin, seconded by Council Member King, resolving the City Council into the Board of Adjustments and Appeals. Carried.

A public hearing was held for an amendment to an existing conditional use permit, petitioned by Austin Public Schools. Community Development Director Craig Hoium stated that the City had received a petition from the School District for an amendment to a conditional use permit. This issue was before the Planning Commission on April 12, 2012. The proposal is for six new tennis courts at Neveln Elementary School. The Planning Commission approved the petition on a 6-1 vote but the City has since received an appeal, allowable under City Code Section 11.56. The objection is from Kim & Marc Steene, 1811 Oakland Avenue East. Mr. Hoium referred to the footprint of the tennis court plan which will have 40 off-street parking stalls; 27 are required. Mr. Hoium noted that there is a hard surface playground with a playground set on the west end of the green space. The tennis courts are planned for the east side of the green space near 18<sup>th</sup> Drive SE. The courts would be surrounded by a 12-foot-high fence. A wind screen and drainage plan are incorporated in with the plan. At the Planning Commission public hearing, three neighbors spoke; two expressed concern. The one runs a daycare on Oakland Avenue. The two neighbors with concerns spoke about additional traffic and on- and off-street parking, the monitoring of the courts, balls bouncing off cars and the reduction of green space. The third person who spoke at the Planning Commission only had some questions and asked for clarifications. Mr. Hoium noted that the Planning Commission did consider effects of the proposed use upon the health, safety and general welfare on the occupants of surrounding land, including land values as well as the preservation of natural features. The Planning Commission stated that it would not create an excessive burden on the streets. The proposed green space would be 68.9%; the minimum required in this land use (R-1) is 60%.

Council Member Enright questioned the setback for the tennis courts. Mr. Hoium said the setback starts at the property line, not the road. Ms. Enright stated that people are going to be parking in

front of residents' homes as there is no parking all around Neveln. She stated she believes Neveln is a good place for the tennis courts, but she is concerned about the parking. She asked if the no-parking restriction on the school side could be changed. Mr. Hoium said that could be reviewed by the Engineering Department and brought back to Council for action. A paved path will be created for access to the courts on the east side. Mr. Hoium spoke to the parking issue, noting that this would be similar to the tennis courts on West Oakland. Council Member Enright noted that this area is all residential, however. City Engineer Jon Erichson stated that the no-parking signs are for visibility, to keep children from running out from between parked cars.

Council Member Clennon stated that this is not a spring-only occurrence as girls play tennis in the fall. She is concerned about the traffic. Mr. Hoium said that the removal of the tennis courts at Ellis is requiring this change.

Council Member Austin noted that Park & Rec uses the tennis courts in the summer also. He stated the Park & Rec Board voted unanimously on this issue to show support.

Council Member King said this is a good use of space. He suggested slant-style parking on 18<sup>th</sup> Drive SE. Mr. Erichson replied that there is curb & gutter there now so that would be an expensive addition to the project.

Council Member-at-Large Anderson said we can encourage the teams to park by the tennis courts. Maybe it will be a problem, she stated, but it is the best choice.

Council Member Clennon said Walgreens has put signs up by the tennis courts on West Oakland and they still need to chase people away.

Council Member McAlister said this plan might not be perfect but did note there is a baseball diamond there and that this is a school ground where you would typically find recreational activities. This will also be handy for the public.

Council Member Boughton stated his support. Twelve years ago the RCC courts were demolished, and there is a tremendous need in the city for courts.

Tom Sherman, 1402 19<sup>th</sup> Street SW, stated there is a lack of courts in the city. Varsity and JV can't all play at the same time. If you compare us to other Big 9 communities, we are short. He strongly supports this.

Kim Steene, 1811 Oakland Avenue East, stated the tennis matches will start before 6:00 and people will park around all the area. Most spaces in the lot are taken up by teachers. She questioned where the school buses will be parking. She has always looked at a green space. Now she will see a 12' chain link fence. She noted there was the possibility of trees for landscaping and wondered if additional landscaping could be an option. She is not 100% opposed. She questions the result on her property value and can't believe it wouldn't affect it. Ms. Steene said she is a daycare provider and has some big concerns. There may need to be five families from her daycare that have to park on the street. She noted the no-parking restriction ends just before her house. She asked if the no-parking restriction could be extended from 6:00 am to 6:00 pm on that side. Mayor Stiehm said we could look at trees for landscaping and we could tweak the parking signs eventually.

Carter Wagner, 909 36<sup>th</sup> Street NW voiced his support. He had children who played varsity tennis and realizes the need for extra courts. This is a \$250,000 project for the city, and a high percentage of it would be built by local contractors. The site is excellent. He is in strong support.

Melanie Troster, 1900 1<sup>st</sup> Avenue SE, lives directly across from Neveln. She is very concerned about the traffic. The area is surrounded with vehicles when there are activities. She thinks there would be a better place for them, and she feels it would de-value her property. She noted that the people who are for this do not live there. She does not want to lose the green area.

Kathy Sforza, 1607 E. Oakland Avenue, voiced her support saying we have to provide something for the kids to do in this town. She said the tennis courts aren't going to harm them (the neighbors).

Bob Sherman, 1402 19<sup>th</sup> Street SW and one of the captains of the Austin varsity tennis team, stated there is a need for courts. The issues of parking and greenspace and trees can be determined at a later date.

Mayor Stiehm noted that this should make the people on the east side happy; they often think we ignore the east side. He stated that this was almost a unanimous vote by the Planning Commission.

No other comments were made.

Moved by Boughton, seconded by Council Member King, approving the amendment to the conditional use permit.

Council Member McAlister confirmed with the School District representatives that there would be no lights. He questioned the number of tournaments per year, to which the School District representatives replied there would be approximately twelve in spring and twelve in fall.

6-1. Carried. Council Member Clennon voted nay.

Moved by Council Member Austin, seconded by Council Member King, adjourning the Board of Adjustments and Appeals and resolving back into the City Council. Carried.

The City Council received the Report of Commissioners relating to the vacation of a public right-of-way in connection with the new 5<sup>th</sup> and 6<sup>th</sup> grade school. The report is for information and will be approved at the May 21<sup>st</sup> council meeting. The commissioners have reported an assessment benefit of \$650 to the petitioner, Austin Public Schools.

Moved by Council Member Austin, seconded by Council Member-at-Large Anderson, appointing Glenn Baker to the Fire Civil Service Commission. Carried.

Council is requested to approve a budget carryover of 2011 funds from Park& Rec, Engineering, and the Wastewater Treatment Plant and reimbursing ourselves for a methane study grant.

Moved by Council Member Austin, seconded by Council Member McAlister, adopting a resolution approving Budget Adjustment #1. 7-0. Carried.

Finance Director Tom Dankert has requested an early payoff of the Central Garage bonds to save interest payments. Council will then need to amend the budget for a carryover.

Moved by Council Member Austin, seconded by Council Member King, adopting a resolution calling the 2004A Central Garage bonds. 7-0. Carried.

Moved by Council Member Austin, seconded by Council Member King, adopting a resolution approving Budget Adjustment No. 2. 7-0. Carried.

Moved by Council Member Austin, seconded by Council Member Boughton, adopting a resolution amending Resolution No. 14109 to defer a special assessment. 7-0. Carried.

Austin Utilities Manager Mark Nibaur stated the Utilities has an easement from Northern Natural Gas Company. The agreement in front of Council re-authorizes that easement. The Austin Utilities Board has approved this.

Moved by Council Member Austin, seconded by Council Member Boughton, adopting a resolution approving a lease agreement between Austin Utilities and Northern Natural Gas Company. 7-0. Carried.

Moved by Council Member-at-Large Anderson, seconded by Council Member King, adopting a resolution approving Sunday Hard Liquor On-Sale License for El Parral Inc., 210 4<sup>th</sup> Street NE. 7-0. Carried.

Moved by Council Member Austin, seconded by Council Member King, adopting a resolution accepting the March 2012 gifts to the library. 7-0. Carried.

Moved by Council Member King, seconded by Council Member Austin, granting the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at 904 4<sup>th</sup> Avenue SW, Kenneth Stoltz Jr. property. Carried.

Moved by Council Member King, seconded by Council Member Austin, granting the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at 708 11<sup>th</sup> Avenue SW, HPMN4 LLC property. Carried.

Moved by Council Member Austin, 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 607 10<sup>th</sup> Street SW, Juan & Naomi Hernandez property. Carried.

Moved by Council Member King, seconded by Council Member Austin, granting the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at 107 2<sup>nd</sup> Street SE, NC Real Estate LLC property. Carried.

Moved by Council Member Austin, 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 1300 1<sup>st</sup> Place SE, Robert & Brenda Leverington property.

Moved by Council Member Austin, 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 1409 11<sup>th</sup> Avenue NW, Mary Grover property. Carried.

Moved by Council Member Austin, 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 1915 2<sup>nd</sup> Avenue NW, Wells Fargo Bank property. Carried.

Moved by Council Member Austin, 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 611 1<sup>st</sup> Avenue NW, John & Doreen Ernst property. Carried.

The first phase of environmental testing at the former Budget Oil property at 501 Oakland Avenue East is complete, and the MPCA has requested additional testing. The consultant for the project is West Central Environmental who has submitted a change order. The funding will be reimbursed 90% from the Petroleum Tank Release Compensation Fund and 10% from the escrow account set up at the time of the property purchase. Mr. Erichson further explained that West Central will be monitoring the wells and looking downstream. The escrow account will remain until the property clean-up is complete. \$21,500 will be left after this approval.

Moved by Council Member Austin, seconded by Council Member King, adopting a resolution approving the environmental testing services for Budget Oil. 7-0. Carried.

Moved by Council Member Boughton, seconded by Council Member-at-Large Anderson, adopting a resolution defining the precinct lines within the ward boundaries. 7-0. Carried.

Chamber of Commerce Director Sandy Forstner requested Council authorize the closing of North Main Street during Farmers Market on Thursdays. Representatives from the downtown retail committee and Farmers Market want to bring the market back to Main Street and call it "Thursdays on Main". The original proposal was to block off Main between 2<sup>nd</sup> and 4<sup>th</sup> Avenues. The Police and Fire departments have some concerns with that proposal so a compromise has been made. Chief Krueger has suggested closing Main between 3<sup>rd</sup> and 4<sup>th</sup> Avenues and as events grow, they could extend to 2<sup>nd</sup> Avenue pending approval by the two chiefs.

Council Member McAlister asked if merchants on both sides are aware, to which Mr. Forstner replied they did. The shop owners are very supportive.

Council Member Clennon stated a concern with blocking off Main Street. Mr. Forstner said the move was made after some congestion and other various complaints. The Farmers Market people said there was not enough room to be all together because they had been along 3<sup>rd</sup> Avenue and also along Main Street. He stated this idea would be safe and visible. It would provide a nice area for people to come and hang out. And when they have more activities, they can spill out to the plaza and green site.

Mr. Erichson noted that in the past the Street Department has placed about 50 orange cones but will not offer that assistance. Mr. Forstner said the Farmers Market has furnished their own cones and various volunteers have offered to place them. Mr. Erichson noted that the plaza toilets are scheduled for demolition this fall but the cones could be placed in them temporarily.



Mr. Erichson also stated that the no-parking signs could be placed.

Moved by Council Member Austin, seconded by Council Member-at-Large Anderson, authorizing the closing of North Main Street from 4<sup>th</sup> Avenue to 3<sup>rd</sup> Avenue for Farmers Market on Thursdays for the 2012 season beginning May 17, and extending to 2<sup>nd</sup> Avenue during large events with permission from chiefs.

Moved by Council Member Austin, seconded by Council Member Enright, authorizing the sale of surplus city property (traffic signal heads). Council Member Clennon abstained. Carried.

The City received a request last Friday from Garth Carlson, owner of G&R Truck Wash to not terminate his agreement with the City. He has proposed to voluntarily shut down the truck wash as of May 4. The proposal would allow him time to look for financing and it would also prevent him from going further in debt to the City. Mr. Erichson recommends the closing of the truck wash. The following points would be required:

1. The business would stay closed until new equipment is installed.
2. Strong waste billings would be paid in full before the business is allowed to open.
3. The existing monthly note payment would continue to be paid on a timely basis, and
4. There would be an execution of a new Individual Control Mechanism.

Council Member Clennon objected to the recommendation, saying Council has given him one chance too many. He has promised new equipment, and he doesn't have it.

Council Member Austin said he somewhat agrees with Council Member Clennon, but he has come up with a solution which is voluntarily shutting off his business. It looks like new equipment will work, and if not he (Carlson) won't be allowed to work again. This is a chance to collect on some of the money owed.

Mr. Erichson said Carlson has put up a sign that states the business is closed for equipment upgrades.

Council Member McAlister said if we shut him down, he could possibly go into bankruptcy and the City would take a hit. This way, we are not incurring more liability and it may provide a solution.

Moved by Council Member Austin, seconded by Council Member King, extending the May 6<sup>th</sup> deadline for G&R Truck Wash for completion of certain actions as set forth by Council on February 6, 2012, pending further evaluation. 6-1. Carried. Council Member Clennon voted nay.

## REPORTS

Council Member Clennon volunteered for the Desperate Tears Concert. It was a good event and attended by many young people. She also attended an April 19<sup>th</sup> board meeting for SMIF at the Institute. She attended the April 23<sup>rd</sup> Board of Appeals and Equalization. On April 25, she attended the recap of Community Conversations. One of the points brought up was that people never felt welcome. On April 30, she attended the SEMLM meeting in Caledonia. There were eight speakers who spoke on what cities can do to bring economic development to their communities. On May 1<sup>st</sup>, the troops are coming home and a welcoming will be held at the Armory. The communitywide committee for technology for Vision 2020 will be meeting on May

30. The committee has six members. Council Member Clennon reminded everyone of the Walk for Rachel scheduled for May 19 at 3:00 at the Mill Pond. Council Member Clennon also stated that she has been contacted by a woman who withdrew the objection to her assessment (for sanitary sewer in the large NE annexation area), and now has no financial help. She cannot sell the property now.

Council Member Enright attended the community clean-up day. She thanked people for participating. A lot of trash was picked up. She also attended the Mower County League of Municipalities at which the new child abuse law was discussed. At the meeting, Sheriff Amazi and County Attorney Kristen Nelson said crime isn't up but the type of crime is getting much more violent. The crimes against children are extremely violent. Council Member Enright said the Vision 2020 committees still need people. She is on the waterways committee.

Council Member Boughton congratulated Kim Underwood and the Park & Rec staff for achieving the CVB award. He said last Sunday an open house was held for the HRA rehab home.

Council Member-at-Large Anderson attended the SEMLC meeting in Caledonia. There was some good information on economic development which may be brought to a work session. She said there is potential for more economic development for Austin. She is involved with the downtown utility power plant re-use committee. Council Member-at-Large Anderson thanked the troops who are returning for their service. She stated that the next Coffee with the Council will be at the senior center May 12 from 9:00 -10:00 am. The Human Rights Commission is sponsoring a free film festival at the Paramount.

Council Member Austin, representing the Park & Rec Board, noted that Park & Rec helped with the MS Tram and other events last year. The Board will provide in-kind help for the arts festival by providing the portable stage. The dog park group has worked on its preliminary rules. The group is coordinating volunteers to put up the fence this weekend. Park & Rec will be replacing the pool roof this season.

Council Member McAlister expressed concern that not more people are involved with Vision 2020 at this point. Groups are still being formed. He is involved with the education committee who will be meeting at the Town Center next Wednesday.

Mayor Stiehm reminded everyone of the food drive on Saturday. He invited people to go see the Jackie Graves gravestone. He toured the HUD rehab house and was very impressed. Mayor Stiehm thanked the Park & Rec for putting the flags up in honor of the troops. Mayor Stiehm said he is on the Vision 2020 waterways committee.

Moved by Council Member Austin, seconded by Council Member-at-Large Anderson, adjourning the meeting to May 21, 2012.

Adjourned: 7:13 pm

Approved: June 4, 2012

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

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