

M I N U T E S  
CITY COUNCIL MEETING  
April 7, 2014  
5:30 PM  
Council Chambers

MEMBERS PRESENT: Mayor Stiehm. Council Members Steve King, Michael Jordal, Roger Boughton, Jeremy Carolan, Judy Enright, Jeff Austin and Council Member-at-Large Janet Anderson

MEMBERS ABSENT:

STAFF PRESENT: Director of Administrative Services Tom Dankert, Community Development Director Craig Hoium, Public Works Director Steven Lang, City Attorney David Hoversten, Police Chief Brian Krueger, Fire Chief Jim McCoy, Library Director Ann Hokanson, Park and Rec Director Kim Underwood and City Clerk Ann Kasel

OTHERS PRESENT: Matt Simonson, Dick Pacholl, Gene Novak, Rodney Frederick, Randy Kramer, James Hamburge, Father Jim Steffes, Gary Ellingson, Betty Ripley, Deb Embrickson, Rick Brown, Charles Mills, Thor Bergland, Bonnie Reitz, Deb Skare, Vicky Kiefer, Austin Daily Herald, KAAL, KIMT, Public

Mayor Stiehm called the meeting to order at 5:30 pm.

Added to the agenda:

(res) 33. Authorizing employees within the Law Enforcement Labor Services Local #73 to participate in the Minnesota State Retirement Healthcare Savings Plan.

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

Moved by Council Member Enright, seconded by Council Member Carolan, approving the minutes of March 17, 2014. Carried.

CITIZENS ADDRESSING THE COUNCIL

Matt Simonson expressed his concerns about illegal immigrants, debts to private banks and North Main street flood mitigation programs.

Dick Pacholl, 815 10<sup>th</sup> Avenue SW, questioned if the proposed logo was on the agenda. Mayor Stiehm stated the paper incorrectly reported that the logo discussion was at the Council meeting when it was actually on the work session following the Council meeting.

Gene Novak, 1611 4<sup>th</sup> Avenue SE, had concerns about the amount of dust the street sweeper produced when it went by his house. He was in support of purchasing new street sweepers or brushes.

Rodney Frederick, 1504 6<sup>th</sup> Street NW, agreed with Mr. Novak's concern about the street sweeper and thought the City put down too much sand on the roads this year.

## CONSENT AGENDA

Moved by Council Member King, seconded by Council Member Enright, approving the consent agenda as follows:

### Licenses:

Cab Driver: Leon Michael Underdahl, 1404 8<sup>th</sup> Street NE  
Excavating: Husemoller Excavating, LLC, 26375 555<sup>th</sup> Avenue  
Exempt Gambling (raffle): United Catholic Schools at St. Edwards Corcoran Center on June 20, 2014  
Food: Mower County Seniors, Inc. 400 3<sup>rd</sup> Avenue NE  
Master Plumber: Raimann Construction, LLC, 54524 175<sup>th</sup> Street  
Temporary Food: Regals Concessions, Bandshell Park, July 3-4, 2014

### Claims:

- a. Pre-list of Bills.
- b. Financial Report.
- c. Credit Card Report.
- d. Katie Crews, 19366 546<sup>th</sup> Avenue, Austin. This matter was forwarded to the City Attorney to protect the City's interest.

Carried.

## PUBLIC HEARINGS:

A public hearing was held to consider a request by Pacelli Catholic Schools for the vacation of property located on 3<sup>rd</sup> Avenue NW between 4<sup>th</sup> Street NW and 5<sup>th</sup> Street NW. Director of Public Works Steven Lang stated there are pros and cons for the City with this request. The pros are:

- Elimination of a roadway pavement, maintenance and repair. During the winter and spring with the shade from the building there is a great deal of ice buildup along the South half of the roadway.
- Elimination of the need to upgrade the four existing street lights.
- Opportunity to eliminate the signal light at 3<sup>rd</sup> Avenue and reconstruct a new signal at the 4<sup>th</sup> Avenue intersection.

The cons of this proposal are:

- The impact to traffic that utilizes this roadway for business and residential purposes.
- Creates a 3 block stretch without side street connections from 1<sup>st</sup> Avenue to 4<sup>th</sup> Avenue.

- Elimination of the signal light will impact traffic and require the construction of a new signal at the 4<sup>th</sup> Avenue and 4<sup>th</sup> Street intersection at a cost of approximately \$150,000 to \$200,000.

The matter was reviewed by the Council in April 2005 where the Council approved closing the street between the hours of 7:30 a.m. and 3:30 p.m. on school days with the costs being borne by the Tri-Parish Council.

There would be costs to the City to vacate the property including pavement removal at approximately \$6,000 to \$8,000, removal of traffic light, curb radius and to construct new sidewalk across 3<sup>rd</sup> Avenue at approximately \$10,000, and a new traffic signal light constructed at a cost of \$150,000 to \$200,000. In addition, the existing utilities gas, water and sanitary sewer lines would remain in place and an easement would need to be drafted for maintenance of these items. The Fire Department would also need access to all sides of the building for safety.

Randy Kramer, 204 24<sup>th</sup> Street NW, presented on behalf of the Pacelli Foundation stating the intention is to take the east half of the block and turn it into green space which would eliminate traffic, increase safety and create a more pleasing visual of the campus. There may be a cost savings to the City as it would no longer be responsible for the maintenance, repair and replacement of the pavement and traffic lights.

James Hamburge, president of Pacelli Catholic Schools, stated Pacelli and St. Augustine's has 330 students and the campus is laid out with the gym, auditorium and music rooms on one side of the street and the cafeteria, Jennings Hall and church on the other side. Students cross that street multiple times during the day. He also stated the intersection of 3<sup>rd</sup> Avenue and 4<sup>th</sup> Street is poorly designed and has had many close calls. A T-intersection would be a better option for that area. In addition, the national trend for educational institutions is to create a campus environment to increase safety and security and Pacelli would like to do that.

Father Jim Steffes, Pastor of St. Augustine's and St. Edward's Church spoke in support of the vacation stating it would create a more welcoming layout, have a safe and secure area for young children to play, have a meditative area for the community, and increase safety for the children.

Gary Ellingson, 1700 2<sup>nd</sup> Street SW, had multiple questions about the project including what utilities are underground the road, if Pacelli has trouble with those utilities is the City going to be responsible for maintaining the utilities and replacing the pavement, wouldn't this create more of a traffic problem by putting more traffic on 4<sup>th</sup> street and would this decrease ambulance access to the church. He requested the Council consider all of the aspects in their decision making.

Dick Pacholl, 815 10<sup>th</sup> Avenue SW, stated if the street is vacated it would be cutting off two entrances into the church. He spoke in favor of Pacelli being able to barricade off the road during school hours.

Mr. Lang added that with most of the recent vacations the City is not responsible for the costs of the vacation, the party requesting the vacation is. If the matter was approved then the Council would appoint vacation commissioners to determine what value the property has to the City. After the value is determined then it would go back to the Council for a final decision.

Betty Ripley, 306 6<sup>th</sup> Street NW, was concerned about who is going to pay for the costs and doesn't agree with the expense being placed on the taxpayers. She worked in the Catholic School system for 40 years does not feel this is a problem with the children crossing the street.

Deb Embrickson, 502 4<sup>th</sup> Street NW, would like the City to complete a more in-depth traffic study. The proposed stoplight on 4<sup>th</sup> Street NW would likely be placed in her front yard.

Rick Brown, 407 5<sup>th</sup> Street NW, uses 3<sup>rd</sup> Avenue all the time to access 4<sup>th</sup> Street NW and is not in favor of the vacation. He stated parking is terrible in his neighborhood on Sundays and this would make the problem worse.

Charles Mills, 2003 9<sup>th</sup> Street SW, felt the enhancement of the appearance of the school seems to be the prime concern above the safety issue for Pacelli.

Council Member Enright had received many calls from citizens against the vacation due to increased traffic and parking issues.

Council Member Boughton questioned if the vacation is approved can the motion include the stipulation that no City funds are spent.

City Attorney David Hoversten stated there is no way to determine if the City will have additional expense into the future. The primary focus is for the Council to determine if this street is necessary to the City.

Council Member Jordal asked when the traffic study was completed. Mr. Lang stated it was completed in 2012.

Council Member-at-Large Anderson lives in the area and turns left at the 3<sup>rd</sup> Avenue and 4<sup>th</sup> Street stoplight all the time. She believed Pacelli did address the parking issues and personally would like to see another stoplight at the intersection of 4<sup>th</sup> Street and 4<sup>th</sup> Avenue.

Council Member King spoke in support of the project stating the school and church would fully fund the project through donations and have no cost to the City. That intersection is hazardous and the vacation would increase safety and enhance the architecture of the buildings.

Moved by Council Member Enright, seconded by Council Member Jordal, to not proceed with the vacation as requested by Pacelli. Carried 4-3 with Council Members King, Boughton and Council Member-at-Large Anderson voting nay.

City Attorney David Hoversten added that Pacelli could bring this forward in the future again, if desired.

#### PETITIONS AND REQUESTS:

The second reading of the e-cigarette and hookah moratoriums were presented.

Thor Bergland, counselor at Austin High School, spoke in support of the moratorium stating allowing e-cigarette use creates a social norm for children therefore making this behavior

increase in kids. The school system has had multiple incidents with the products because students are unaware they are in violation of the rules.

Bonnie Reitz, 701 22<sup>nd</sup> Street NW, stressed that it is important to make the decision locally as shown in 2004 when the Drug Task Force brought a pseudoephedrine ordinance before the City Council that passed 7-0 and virtually eliminated the manufacturing of meth in the City. Then the ordinance spread to other cities and to the State level. It is much more difficult to pass legislation on the State level.

Deb Skare, an Austin Medical Center tobacco treatment specialist, spoke in favor of the ordinance stating patients are surprised when told the potential side effects because advertising promotes that it is a safe product. There have been numerous examples of the products exploding while charging and poisonings.

Vicky Kiefer stated that her husband quit smoking with e-cigarettes. She suffers from asthma and has had significant asthma attacks from the vapor even when she enters a room after he has been done using it.

Council Member Enright is against the ordinance stating that there is no conclusive evidence for harmful effects and that it is the responsibility of parents to regulate their children's behaviors.

Council Member Austin stated the testimony doesn't speak to the regulation proposed in the ordinance. This ordinance would only affect where the product can be used, not the sale or regulation of it.

Council Member-at-Large Anderson felt there is compelling evidence that shows e-cigarettes pose a health risk. The point of moratorium is to give the Council additional time to study the issue. It also gives the FDA time for regulation of the sale and marketing of product.

Council Member Jordal doesn't believe that the government should regulate the use in a private business.

After additional discussion, moved by Council Member Boughton, seconded by Council Member King, for preparation of the ordinance for a one year moratorium on the use of e-cigarettes in public places. Carried 4-3 with Council Members Enright, Austin and Jordal voting nay.

Moved by Council Member King, seconded by Council Member-at-Large Anderson, for adoption and publication of the ordinance for a one year moratorium on the use of e-cigarettes in public places. Carried 4-3 with Council Members Enright, Austin and Jordal voting nay.

Moved by Council Member-at-Large Anderson, seconded by Council Member King, for preparation of the ordinance for a one year moratorium on the use of hookahs in public places. Carried 6-1 with Council Member Jordal voting nay.

Moved by Council Member Austin, seconded by Council Member Jordal, for adoption and publication of the ordinance for a one year moratorium on the use of hookahs in public places. Carried 6-1 with Council Member Jordal voting nay.

City Attorney David Hoversten presented the proposed ordinance for the definition of a service animal. It was brought to the City's attention that the current ordinance did not clearly define what a service animal was so the ordinance was presented to clarify the issue.

Moved by Council Member Enright, seconded by Council Member Jordal, for preparation of the ordinance to provide for the definition of a service animal. Carried.

Moved by Council Member Austin, seconded by Council Member King, for adoption and publication of the ordinance to provide for the definition of a service animal. Carried 7-0.

Director Public Works Steven Lang stated the bids from contractors for the construction of the animal control shelter are resulting in the project about \$10,000 over the budgeted amount for the project. Mr. Lang requested an additional \$10,000 for the project.

Moved by Council Member Boughton, seconded by Council Member Enright, authorizing an increase the budget for the Animal Control facility by \$10,000. Carried.

Moved by Council Member-at-Large Anderson, seconded by Council Member Enright, authorizing the police department to purchase three additional in-squad cameras with funding coming from the Police Forfeiture Fund. Carried.

Director of Administrative Services Tom Dankert presented the 2014 Council goals. There were 22 goals originally proposed by Council and the top 11 were presented for approval.

Council Member Austin noted he would have liked more group discussion on the goals.

Moved by Council Member Austin, seconded by Council Member Enright, adopting 2014 Council goals. Carried.

Moved by Council Member Austin, seconded by Council Member Enright, adopting a resolution approving organizational values, vision statement and code of conduct documents. Carried 7-0.

Moved by Council Member Austin, seconded by Council Member Carolan, adopting a resolution accepting February donations for the Austin Public Library. Carried 7-0.

Moved by Council Member Austin, seconded by Council Member Carolan, adopting a resolution accepting donations to the Fire Department. Carried 7-0.

Director of Public Works Steven Lang presented the feasibility report for the sanitary sewer construction to Turtle Creek 1. The project would extend service to the recently annexed area by going under I-90. The lines would be constructed using mainly gravity sewer lines and low pressure grinders. The project is estimated to cost approximately \$700,000 paid through assessment bonds and waste water treatment plant funds.

Moved by Council Member Enright, seconded by Council Member Austin, adopting a resolution receiving feasibility report and calling for a public hearing on April 21, 2014 for Project 1-B-13, Turtle Creek 1 Sanitary Sewer Project, (31<sup>st</sup> Street NW, Oakland Avenue to Cedar Avenue). Carried 7-0.

Director of Public Works Steven Lang requested the Council adopt an assessment policy for the proposed Turtle Creek 1 sanitary sewer project. The main points of the policy are: the entire project cost would be assessed to the benefitted property owners; all property would be assigned residential equivalency values; parcels identified as imminent threat to public health would have up to 30 days upon project completion to hook up to the system; parcels with non-compliant systems would have until July 1, 2015 to connect to the system; owners with compliant systems would have up to five years from the completion of the project to connect to the system with an optional three year extension if able to provide a certificate of compliance for the current septic system; and compliance of existing private septic systems shall be administered by Mower County Environmental Services in accordance with MPCA and Mower County standards.

Council Member Enright questioned if compliant systems don't have to hook up right away then does their payment of the assessment get deferred also. Mr. Lang stated the property owner pays the cost of the assessment yearly regardless of if they choose to hook up to the system. The cost to extend the service to the house is deferred however.

Moved by Council Member King, seconded by Council Member Enright, adopting a resolution for an assessment policy for Turtle Creek 1. Carried 7-0.

Moved by Council Member Austin, seconded by Council Member Carolan, approving a revised event application from the March of Dimes SE Minnesota Chapter for the annual March of Dimes walk on April 12, 2014. Carried.

Director of Public Works Steven Lang presented the proposed purchase agreement for the land where the animal control facility is to be built. The land is currently owned by the Mower County Humane Society and is being sold to the City for \$20,000.

Moved by Council Member Boughton, seconded by Council Member Austin, adopting a resolution approving the Animal Control facility purchase agreement. Carried 7-0.

Moved by Council Member Austin, seconded by Council Member-at-Large Anderson, adopting a resolution accepting donations to the Parks and Recreation Department. Carried 7-0.

Moved by Council Member Austin, seconded by Council Member-at-Large Anderson, setting a public hearing for April 21, 2014 for a variance request from Rottinghaus Real Estate, LLC in regard to property located at 910 West Oakland Avenue. Carried.

Community Development Director Craig Hoium, explained the off-street parking appeal and the tree mitigation plan request by the Hormel Foundation, Leaning Tree, LLC and the Austin Port Authority together. Both are related to the expansion of the Hormel Institute. The parking appeal is being requested for the facility because it has been determined that 263 stalls would be needed to comply with the Austin City Code but all of those stalls are not needed due to carpooling and some researchers riding bikes/walking to work at the Institute. The parking stall request would be reduced to 204 parking stalls with the new addition.

The tree mitigation request is for permission to remove more trees than the 47.5 percent allowed in the City Code. The proposed plan has 38 trees being removed which is 71.6 percent of the trees on the site. The plan also calls for an addition 55 trees, 25 shrubs and 750 flowers to be planted once the improvements are completed.

The Planning Commission recommended approval of both requests.

Moved by Council Member Enright, seconded by Council Member King, approving an off-street parking appeal submitted by the Hormel Foundation, Leaning Tree, LLC and the Austin Port Authority for the Hormel Institute expansion project located at 16<sup>th</sup> Avenue NE and 8<sup>th</sup> Street NE. Carried.

Moved by Council Member Enright, seconded by Council Member-at-Large Anderson, approving a tree mitigation plan submitted by the Hormel Foundation, Leaning Tree, LLC and the Austin Port Authority for the Hormel Institute expansion project located at 16<sup>th</sup> Avenue NE and 8<sup>th</sup> Street NE. Carried.

Director of Public Works Steven Lang presented the request for engineering services for the rehabilitation project on the domestic digesters at the Waste Water Treatment Plant. The project was recently awarded to Wapasha Construction and will include the rehabilitation of 3 domestic digesters, boiler upgrades and construction of a new electrical/mechanical building to meet current codes. The project will require construction administration and inspection services including the following: reviewing samples, schedules, shop drawings, test results, pay applications and other Contractor submittals; special inspection visits including: coatings, structural, architectural, mechanical, electrical and environmental; on-site inspection, averaging approximately 2 days per week throughout the project including fielding contractor questions, maintaining on-site records of as-builts and construction schedules; and completion of final walk through and project closeout procedures. The City has received a proposal from SEH for the services at a cost not to exceed \$331,000 these engineering costs will be funded using WWTP fund 61 and all of the costs will be related to the domestic plant.

Moved by Council Member Enright, seconded by Council Member King, adopting a resolution approving engineering construction administration and inspection services for the domestic digester rehabilitation at the Waste Water Treatment Plant. Carried 7-0.

Moved by Council Member Austin, seconded by Council Member King, granting the Planning and Zoning Department the power to contract for the removal of refuse and junk and/or illegally stored vehicles at 1212 5<sup>th</sup> Avenue NW, Nolta 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 refuse and junk and/or illegally stored vehicles at 1312 10<sup>th</sup> Avenue NW, 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 refuse and junk and/or illegally stored vehicles at 1203 11<sup>th</sup> Avenue NW, Dennison Property. Carried.

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 refuse and junk and/or illegally stored vehicles at 400 6<sup>th</sup> Place NW, Shards of Glass 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 refuse and junk and/or illegally stored vehicles at 1011 7<sup>th</sup> Street NW, Martinez Property. Carried.

Moved by Council Member Austin, seconded by Council Member Enright, granting the Planning and Zoning Department the power to contract for the removal of refuse and junk and/or illegally stored vehicles at 1008 12<sup>th</sup> Street NW, White Property. Carried.

Moved by Council Member King, seconded by Council Member-at-Large Anderson, granting the Planning and Zoning Department the power to contract for the removal of refuse and junk and/or illegally stored vehicles at 614-616 10<sup>th</sup> Drive SE, Glassick Property. Carried.

Moved by Council Member Enright, seconded by Council Member King, granting the Planning and Zoning Department the power to contract for the removal of refuse and junk and/or illegally stored vehicles at 404 16<sup>th</sup> Street SE, Bergland 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 refuse and junk and/or illegally stored vehicles at 907 9<sup>th</sup> Avenue SW, Winkels Property. Carried.

Community Development Director Craig Hoium presented six proposed hazardous structure resolutions for properties located in the City. Once the Council approves the resolution, the property owner will have 30-60 days to remedy the problem before the City takes action.

Moved by Council Member Enright, seconded by Council Member Carolan, adopting a resolution declaring the property located at 1012 2<sup>nd</sup> Avenue NE a hazardous structure. (Breeze property). Carried 7-0.

Moved by Council Member Enright, seconded by Council Member Austin, adopting a resolution declaring the property located at 801 38<sup>th</sup> Avenue NE a hazardous structure. (Rosecke property). Carried 7-0.

Moved by Council Member Austin, seconded by Council Member Enright, adopting a resolution declaring the property located at 1310 8<sup>th</sup> Street NE a hazardous structure. (RPD Properties, LLC property). Carried 7-0.

Moved by Council Member Enright, seconded by Council Member Jordal, adopting a resolution declaring the property located at 801 15<sup>th</sup> Street NE a hazardous structure. (Leuning property). Carried 7-0.

Moved by Council Member Enright, seconded by Council Member Austin, adopting a resolution declaring the property located at 701 9<sup>th</sup> Street SE a hazardous structure. (Wells Federal Bank property). Carried 7-0.

Moved by Council Member Boughton, seconded by Council Member Carolan, adopting a resolution declaring the property located at 304 2<sup>nd</sup> Avenue SW a hazardous structure. (Hoy property). Carried 7-0.

Director of Administrative Services Tom Dankert requested the Council approve a resolution allowing employees within Law Enforcement Labor Services participate in the Minnesota State Retirement System Healthcare Savings Plan. This would allow the employee to deposit a portion of the unused sick leave into a healthcare savings account.

Moved by Council Member Boughton, seconded by Council Member King, adopting a resolution allowing employees within Law Enforcement Labor Services participate in the Minnesota State Retirement System Healthcare Savings Plan. Carried 7-0.

## REPORTS

Council Member Austin recently attended a Park and Rec board meeting where a graffiti task force was established to cover bad graffiti with good graffiti. Also the Minnesota Roller Derby League is using Packer Arena for practice, the weed ordinance was approved and sent to Council, All-Seasons was approved as the private mowing service and the climbing wall for the swimming pool was approved.

Council Member-at-Large Anderson attended volunteer appreciation night at the Nature Center where Larry Dolphin spoke of the plans for the new building.

Director of Parks and Recreation Kim Underwood reported the summer recreation brochure is out and registration is open for those activities. In addition, since the Bruins are in the playoffs there is still open skating at Riverside Arena.

Moved by Council Member Austin, seconded by Council Member Carolan, adjourning the meeting to April 21, 2014. Carried.

Adjourned: 7:11 pm

Approved: April 21, 2014

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

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