

Meeting Minutes

Regular City Council Meeting

October 17, 2005, 7:00P.M.

City Council Chambers, County-City Building

Mayor Gary W. Wescott, presiding Roll Call: Present: Ald. Sevenich, Walther, Hanson, Wiza, Robinson, Barr, Trzebiatowski, Molski, Stroik, Barber, Moore

Also Present: City Clerk Moe, Comptroller/Treasurer Schlice, Directors Gardner, Schrader; Police Chief Morris, Fire Chief Barnes, Assessor Kuehn, Transit Manager Lemke, Kari Yenter, Gene Kemmeter (Portage County Gazette), Heather Clark (Journal)

Index to these minutes:

2. Salute to the flag
3. Approval of the minutes of the Regular Common Council meeting of September 19, 2005.
4. Persons who wish to address the Mayor and Council on specific agenda items other than a "Public Hearing" must register their request at this time. Those who wish to address the Common Council during a "Public Hearing" are not required to identify themselves until the "Public Hearing" is declared open by the Mayor.
5. Ordinance - Prohibition of smoking in public places.
6. Plan Commission meetings of August 22, 2005, September 26, 2005 and October 3, 2005.
7. Ordinance - Annexation - Misiewicz, 135 Green Avenue North.
8. Public Hearing - request of Cingular Wireless, 5110 Main Street, to erect a telecommunication tower as a conditional use.
9. Resolution on the above.
10. Public Hearing - request of Cingular Wireless, 5601 Hwy. 10 E, to erect a telecommunication tower as a conditional use.
11. Resolution on the above.
12. Public Hearing - creating section 23.02(1)(h) "R-TND" Traditional Neighborhood Development Overlay District.
13. Ordinance on the above.
14. Board of Public Works meeting of October 10, 2005.
15. Special Board of Public Works meeting of October 17, 2005.
16. Relocation Order adding Parcels 6 and 7 - Elizabeth Avenue.
17. Finance Committee meeting of October 10, 2005.
18. Ordinance - amending section 30.02(4)(a) General Construction and/or Building Alterations where building volume can be calculated.
19. Ordinance - amending section 21.03(4)(b)2. Responsibilities of Owners and Occupants - Non-recyclable refuse.
20. Public Protection Committee meeting of October 10, 2005.
21. Personnel Committee meeting of October 10, 2005.
22. Ordinance - establishing alderpersons salaries.
23. Board of Water and Sewage Commissioners meeting of October 10, 2005.
24. Reports: Police and Fire Commission meetings of September 26, 2005 and October 11, 2005. Statutory monthly financial report of the Comptroller-Treasurer. Transportation Commission meetings of September 21, 2005 and October 6, 2005. Deer Management Committee meeting of September 27, 2005.
25. Resolution - authorizing submission of state grant application and appropriation of funds for urban wildlife damage abatement and control.
26. Persons who wish to address the Mayor and Council for up to three (3) minutes on a non-agenda item.
27. Adjournment.

2. Salute to the flag and Mayor's opening remarks.

Mayor Wescott noted all of the alderpersons received the Annual Report from the Association of Downtown Businesses and encouraged the alderpersons to review it closely.

Mayor Wescott congratulated and commended the SPASH football team on behalf of the City of Stevens Point.

Mayor Wescott publicly expressed sympathy to the family of William Siebert. Mr. Siebert was the City's Comptroller/Treasurer from 1964 to 1985.

3. Approval of the minutes of the Regular Common Council meeting of September 19, 2005.

Ald. Barr moved, Ald. Stroik seconded, for approval of the Common Council minutes of September 19, 2005.

Roll Call: Ayes all.

Nays none. Motion carried.

4. Persons who wish to address the Mayor and Council on specific agenda items other than a "Public Hearing" must register their request at this time. Those who wish to address the Common Council during a "Public Hearing" are not required to identify themselves until the "Public Hearing" is declared open by the Mayor.

Elbert Rackow Item #24 - Deer Management Committee

1824 Gilkay Street Item #25 - Resolution

Stevens Point, WI 54481

Bill Moore Item #5 - Ordinance - Prohibition of smoking in public

1965 Strongs Avenue places

Stevens Point, WI 54481

Bob Larson Item #5 - Ordinance - Prohibition of smoking in public

3283 Lindbergh Avenue places

Stevens Point, WI 54481

Kim Krayecki Item #5 - Ordinance - Prohibition of smoking in public

1381 Sandhill Lane places

Stevens Point, WI 54481

Randy Bradley Item #5 - Ordinance - Prohibition of smoking in public

2133 Wyatt Avenue places
Stevens Point, WI 54481

Doug Henderson Item #5 - Ordinance - Prohibition of smoking in public
4308 Heffron Street places
Stevens Point, WI 54481

Tom Barrett Item #5 - Ordinance - Prohibition of smoking in public
Convention and Visitors Bureau places

Bobbi Bradley Item #5 - Ordinance - Prohibition of smoking in public
3908 Lorraine Street places
Stevens Point, WI 54481

Nancy Schultz Item #5 - Ordinance - Prohibition of smoking in public
925 Smith Street places
Stevens Point, WI 54481

Deb Knippel Item #5 - Ordinance - Prohibition of smoking in public
611 Soo Marie Avenue places
Stevens Point, WI 54481

Kent Hall Item #5 - Ordinance - Prohibition of smoking in public
200 Pine Bluff Road places
Stevens Point, WI 54481

Jack Porter Item #5 - Ordinance - Prohibition of smoking in public
625 Janick Circle W. places
Stevens Point, WI 54481

Mike Phillips Item #24 - Deer Management Committee
3225 Mary Street Item #25 - Resolution
Stevens Point, WI 54481

Dennis Nash Item #5 - Ordinance - Prohibition of smoking in public
3241 Yvonne Drive places
Stevens Point, WI 54481

Irene Kurzawa Item #5 - Ordinance - Prohibition of smoking in public
3624 Prais Street places
Stevens Point, WI 54481

5. Ordinance - Prohibition of smoking in public places.

City Attorney Molepske was available by speaker phone.

Bill Moore, 1965 Strongs Avenue, resided in the City of Stevens Point for 30 years. Mr. Moore is a self-employed taxpayer. Any law when enacted will infringe on our freedom. All laws end up costing the taxpayers money in one form or another.

Bob Larson, 3283 Lindbergh Avenue, complimented the Mayor and Council for allowing the city voters to decide on the referendum to ban smoking. There was a record turn out for that election with almost 60 % of the people voting they did not want a smoking ordinance. Let the business owners decide if they want to be smoke-free. The City of Stevens Point is receiving pressure from a special interest group but the City needs to listen to the majority.

Kim Krayecki, President of Portage County Tavern League, will support this ordinance.

Randy Bradley, 2133 Wyatt Avenue, reviewed the criteria used to determine which establishments would be smoking and nonsmoking. For the first time, there was representation from all the interested parties who came together and agreed.

Doug Henderson, 4308 Heffron Street, reviewed the ways the process leading to this ordinance had been publicized. This ordinance is adopted balance of competing interest. It is the result of numerous meetings and much compromise.

Irene Kurzawa, co-owner of Bernard's Restaurant, said her husband does not want to be told what he can and cannot do with his business that he owned for 32 years. Mrs. Kurzawa would like clarification on separate dining areas and barrooms at the same location if smoking would be allowed. She does not want another law imposed on her business.

Dennis Nash, 3241 Yvonne Drive, congratulated the Mayor on demonstrating leadership. The committee came together and formed an approach that meets the needs to a certain extent. Mr. Nash encouraged the Council to adopt this ordinance.

Jack Porter, 625 Janick Circle W., is aware of the efforts expended by various parties in bringing the ordinance to this point. Mr. Porter recommended passage of the ordinance without further delay.

Kent Hall, 200 Pine Bluff Road, reviewed the history of Breathe Free. Mr. Hall said the Mayor suggested starting small with a ban on smoking. Stevens Point is a place to start. Mr. Hall said this ordinance is about as good as it gets.

Deb Knippel, 611 Soo Marie Avenue, stressed this is a very important issue for our community. Ms. Knippel encouraged the Council to support this ordinance.

Bobbi Bradley, 3908 Lorraine Street, listed the eight members consisting the smoking working group. Ms. Bradley believes delaying progress made on this ordinance would endanger the compromises made by representation of all sides of this issue. Ms. Bradley said this is a health issue.

Nancy Schultz, 925 Smith Street, commented on the separate rooms. Having a wall separating the dining room from the bar without separate ventilation is meaningless. Everyone will never be happy with this ordinance. Significant compromises were made to move this forward.

Tom Barrett, Convention and Visitors Bureau, believes this ordinance will not jeopardize meetings and conventions coming to Stevens Point.

Mayor Wescott pointed out to the alderpersons, the letter received from Health Officer Faye Tetzloff. The letter was placed on record.

Ald. Robinson asked for more clarification of a situation in which a bar and restaurant were in the same facility.

City Attorney Molepske stated when section (4)(i) was drafted as it relates to taverns, Mr. Barrett had an issue come up as to whether or not a large convention center which has a bar that goes into the restaurant area and sales of liquor are less than 50 %, then both would be smoke-free. At the Public Protection Committee meeting, the Attorney indicated this issue would be addressed. The Attorney tried to address this as a separate enclosed area by including the additional wording to section (4)(i) "Taverns". If an establishment does not have 50% sales of alcohol and still want to allow smoking in the bar, they would have to erect a separating wall. In the case of a completely separate walled area which serves alcohol, you could have a restaurant that is smoke-free and the barroom is not smoke-free even though it does not have 50% of the sales. In the case of one door leading into the restaurant and the bar is self contained and no food is served in the bar, the bar would be smoking and the restaurant than is smoke-free.

Ald. Robinson asked if there would be a requirement for separate ventilation systems and if the bar is the first area to pass through to get to the restaurant, would this be counterproductive. Would both areas need to be smoke-free?

City Attorney Molepske said that is a political decision. The City Attorney was asked to draft an ordinance that provided for large convention centers. A smaller bar would have a problem with not being able to allow smoking because the liquor sales are not 50%.

Tom Barrett said the intent was to ensure that at the end of the day, a conference attendee could go into the bar for a drink and smoke. Mr. Barrett was satisfied with the language.

Ald. Barber questioned if an existing ordinance can be amended which is what is being done this evening. Whether or not the ordinance passes, this is an attempt to amend an ordinance so he would assume there would not be a referendum on this issue.

City Attorney Molepske replied if the ordinance is approved this evening, there would be no referendum to change or alter it. An initial referendum cannot amend an existing ordinance. However, if the ordinance does not pass, anyone who wanted this ordinance could get the required signatures and initiate direct legislation.

Ald. Barber asked how big can the door be on the solid wall separating a restaurant and bar.

City Attorney Molepske said the width of the door is not included in the ordinance. A door is a door.

Ald. Trzebiatowski asked if a restaurant has multiple rooms, can they use some of the rooms as nonsmoking and some as smoking.

City Attorney Molepske replied sure you could if the rooms are completely separate enclosed rooms. The restaurant area would be nonsmoking and the bar would be smoking. If the liquor sales are 50% or more, they would be exempt.

Ald. Wiza stated as he understands it, when two completely separate businesses are in one location, the restaurant would be smoke-free and the tavern would be able to allow smoking even though they share the same air. Is this true?

City Attorney Molepske replied, no it is not. You can smoke in the combined establishment if the alcohol sales are 50% or more. If the alcohol sales are not 50%, a wall can be erected.

Ald. Sevenich asked if the smoking committee knew about the changes to (4)(i) of the smoking ordinance before it came to the Council.

Mayor Wescott replied no.

City Attorney Molepske reviewed the reason why the language was added to the smoking ordinance. The Attorney noted the language could be eliminated and leave only the word "Taverns" in section (4)(i).

Ald. Wiza acknowledged all the hard work that everyone had put forward into this draft. The alderman does feel it is a fair compromise for all people that were represented. The Public Protection Committee voted to refer to Council without regard to input from the people of Stevens Point. Most people say they do not like the smoking ordinance but could live with it. There are people who are not in favor of this or any other smoking ordinance but they are willing to compromise because they are tired of dealing with this. Only a minority of people want the smoking ordinance passed. In April, it was made clear that the smoking ordinance was not wanted.

Ald. Walther said if you voted against the smoking ordinance because of hardship to the tavern owners, this ordinance seems like a good compromise. If you voted against the ban on smoking because you believed government was overstepping its bounds, than the Alderman encouraged voting against this ordinance. Businesses do not need a local ordinance to tell them the right thing to do. Government is best which governs least.

Ald. Stroik read section 1 of ordinance 7.07.

Ald. Stroik moved, Ald. Molski seconded, recommended approval of the ordinance prohibiting smoking in public places with the amendment that the text be stricken from (4)(i) and leaving only the word "Taverns" in section (4)(i).

Ald. Barber pointed out some of the wording that he does not like in the ordinance. The alderman also voiced his concern on the definition of restaurant and tavern in the proposed ordinance. If you want a restaurant in your tavern, you must have a wall separating the restaurant and tavern with separate air purifying systems. He also does not like the fact of having to post signs. He concluded the Council members and

restaurant owners should have been included in the working group, and action on the proposed ordinance should be delayed to allow time to iron out some issues.

Ald. Robinson thanked everyone for their hard work on drafting the progressive ordinance. The alderman believes there is a need for a smoke-free ordinance, however, this ordinance needs a lot more work and input.

Mayor Wescott said it is imperative that the Council recognize and respect the tremendous work done by the citizens group. This was a private citizens group. The Mayor sent a memo to the alderpersons on September 14, 2005, and in that memo, the Mayor asked the alderpersons to review the draft ordinance. This allowed over one month for comments. The Mayor is disappointed that some seem to want to say this is something the government came up with. This is something that fellow citizens came up with. Mayor Wescott cannot think of anything more important in a democracy than citizens' participation in government. The City of Stevens Point was the only city able to bring all the stakeholders together in this debate. We need to honor the work done by the private citizens.

Roll Call: Ayes: Ald. Stroik, Molski, Trzebiatowski, Barr, Hanson, Sevenich.
Nays: Ald. Moore, Barber, Robinson, Wiza, Walther.
Ayes - 6. Nays - 5. Motion carried.

6. Plan Commission meetings of August 22, 2005, September 26, 2005 and October 3, 2005.

Ald. Stroik moved, Ald. Molski seconded, for approval of the Plan Commission minutes of August 22, 2005, September 26, 2005 and October 3, 2005.

Roll Call: Ayes all.
Nays none. Motion carried.

7. Ordinance - Annexation - Misiewicz, 135 Green Avenue North.

Ald. Molski moved, Ald. Hanson seconded, for adoption of the ordinance.

Roll Call: Ayes: Ald. Sevenich, Walther, Hanson, Wiza, Robinson, Barr, Trzebiatowski, Molski, Stroik, Barber, Moore.
Nays: None. Motion carried.

8. Public Hearing - request of Cingular Wireless, 5110 Main Street, to erect a telecommunication tower as a conditional use, was declared open by the Mayor.

Robert Gust was available for any questions.

As no one further wished to speak, the Mayor declared the public hearing closed.

9. Resolution on the above.

Ald. Trzebiatowski moved, Ald. Moore seconded, for adoption of the resolution.

Roll Call: Ayes: Ald. Moore, Barber, Stroik, Molski, Trzebiatowski, Barr, Robinson, Wiza, Hanson, Walther, Sevenich.
Nays: None. Motion carried.

10. Public Hearing - request of Cingular Wireless, 5601 Hwy. 10 E, to erect a telecommunication tower as a conditional use, was declared open by the Mayor.

As no one wished to speak, the Mayor declared the public hearing closed.

11. Resolution on the above.

Ald. Trzebiatowski moved, Ald. Moore seconded, for adoption of the resolution.

Roll Call: Ayes: Ald. Sevenich, Walther, Hanson, Wiza, Robinson, Barr, Trzebiatowski, Molski, Stroik, Barber, Moore.
Nays: None. Motion carried.

12. Public Hearing - creating section 23.02(1)(h) "R-TND" Traditional Neighborhood Development Overlay District, was declared open by the Mayor.

Cathy Dugan, 615 Sommers Street, is pleased with the details of the proposed ordinance. Ms. Dugan would hope to establish early intervention to prevent blight of older homes and commercial buildings. She suggested requiring a permit to demolish older buildings.

As no one further wished to speak, the Mayor declared the public hearing closed.

13. Ordinance on the above.

Ald. Molski moved, Ald. Sevenich seconded, for adoption of the ordinance.

Ald. Stroik asked if it would be a good idea to include wording for the demolition of buildings.

Director Gardner believes that is an entirely separate topic.

Ald. Sevenich feels this ordinance is a great idea to help the older neighborhoods.

Roll Call: Ayes: Ald. Moore, Barber, Stroik, Molski, Trzebiatowski, Barr, Robinson, Wiza, Hanson, Walther, Sevenich.
Nays: None. Motion carried.

14. Board of Public Works meeting of October 10, 2005.

Ald. Walther moved, Ald. Wiza seconded, for approval of the Board of Public Works minutes of October 10, 2005.

Roll Call: Ayes all.
Nays none. Motion carried.

15. Special Board of Public Works meeting of October 17, 2005.

Ald. Moore moved, Ald. Sevenich seconded, for approval of the Special Board of Public Works minutes of October 17, 2005.

Roll Call: Ayes all.
Nays none. Motion carried.

16. Relocation Order adding Parcels 6 and 7 - Elizabeth Avenue.

Ald. Trzebiatowski moved, Ald. Molski seconded, to accept the Relocation Order adding parcels 6 and 7 - Elizabeth Avenue.

Roll Call: Ayes: Ald. Sevenich, Walther, Hanson, Wiza, Robinson, Barr, Trzebiatowski, Molski, Stroik, Barber, Moore.
Nays: None. Motion carried.

17. Finance Committee meeting of October 10, 2005.

Ald. Barr moved, Ald. Stroik seconded, for approval of the Finance Committee minutes of October 10, 2005.

Roll Call: Ayes: Ald. Moore, Barber, Stroik, Molski, Trzebiatowski, Barr, Robinson, Wiza, Hanson, Walther, Sevenich.
Nays: None. Motion carried.

18. Ordinance - amending section 30.02(4)(a) General Construction and/or Building Alterations where building volume can be calculated.

Ald. Molski moved, Ald. Trzebiatowski seconded, for adoption of the ordinance.

Roll Call: Ayes: Ald. Sevenich, Walther, Hanson, Wiza, Robinson, Barr, Trzebiatowski, Molski, Stroik, Barber, Moore.
Nays: None. Motion carried.

19. Ordinance - amending section 21.03(4)(b)2. Responsibilities of Owners and Occupants - Non-recyclable refuse.

Ald. Molski moved, Ald. Wiza seconded, for adoption of the ordinance.

Ald. Trzebiatowski stated that it was his understanding the amendment to the ordinance would add a surcharge when garbage is placed out too early.

Mayor Wescott said that was a fair summary.

Ald. Trzebiatowski asked if there are any exemptions for residents leaving on vacation and need to place their garbage out early.

Mayor Wescott replied the surcharge applies to the first offense.

Roll Call: Ayes: Ald. Stroik, Molski, Barr, Hanson, Walther, Sevenich.
Nays: Ald. Moore, Barber, Trzebiatowski, Robinson, Wiza.
Ayes - 6. Nays - 5. Motion carried.

20. Public Protection Committee meeting of October 10, 2005.

Ald. Sevenich moved, Ald. Trzebiatowski seconded, for approval of the Public Protection Committee minutes of October 10, 2005.

Roll Call: Ayes all.
Nays none. Motion carried.

21. Personnel Committee meeting of October 10, 2005.

Ald. Molski moved, Ald. Hanson seconded, for approval of the Personnel Committee minutes of October 10, 2005.

Roll Call: Ayes: Ald. Sevenich, Walther, Hanson, Wiza, Robinson, Barr, Trzebiatowski, Molski, Stroik, Barber, Moore.
Nays: None. Motion carried.

22. Ordinance - establishing alderpersons salaries.

Ald. Molski moved, Ald. Walther seconded, for adoption of the ordinance establishing alderpersons salaries.

Ald. Sevenich noted the salaries for the alderpersons are being frozen.

Roll Call: Ayes: Ald. Moore, Barber, Stroik, Molski, Trzebiatowski, Barr, Robinson, Wiza, Hanson, Walther, Sevenich.
Nays: None. Motion carried.

23. Board of Water and Sewage Commissioners meeting of October 10, 2005.

Ald. Wiza moved, Ald. Moore seconded, for approval of the Board of Water and Sewage Commissioners minutes of October 10, 2005.

Ald. Moore asked what is cathodic protection to be fixed to the Water Street tower?

Director Gardner said cathodic protection is attached to the metal to prevent electric charge so it does not create corrosion.

Roll Call: Ayes all.

Nays none. Motion carried.

24. Reports:

Police and Fire Commission meetings of September 26, 2005 and October 11, 2005.

Statutory monthly financial report of the Comptroller-Treasurer.

Transportation Commission meetings of September 21, 2005 and October 6, 2005.

Deer Management Committee meeting of September 27, 2005.

Ald. Walther moved, Ald. Robinson seconded, to accept the reports and place them on file.

Ald. Walther pointed out on the August Ridership Report that the total is up 16.54%.

Roll Call: Ayes all.

Nays none. Motion carried.

25. Resolution - authorizing submission of state grant application and appropriation of funds for urban wildlife damage abatement and control.

Ald. Trzebiatowski moved, Ald. Moore seconded, for adoption of the resolution.

Roll Call: Ayes: Ald. Sevenich, Walther, Hanson, Wiza, Robinson, Barr, Trzebiatowski, Molski, Stroik, Barber, Moore.

Nays: None. Motion carried.

26. Persons who wish to address the Mayor and Council for up to three (3) minutes on a non-agenda item.

None.

27. Adjournment - 8:35 P.M.

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