

Meeting Minutes

REGULAR COUNCIL MEETING

July 16, 2001 7:00 P.M.

Council Chambers, County-City Building

Mayor Gary W. Wescott, presiding

Roll Call: Present: Ald. Walther, Filipiak, Seiser, Sowieja, Barr, Rackow, Molski, Nealis, Phillips, Moore

Excused: Ald. Sevenich

Also Present: Comptroller-Treasurer Schlice, City Attorney Molepske, City Clerk Zdroik, Directors Van Alstine, Gardner, Schrader, Disher, Police Captain Daubert, Fire Chief Barnes, Assessor Kuehn, Portage County Personnel Director Freiberg, Personnel Specialist Jakusz, Administrative Assistant Molepske, Kari Yenter, Paul Chronis (Journal), Gene Kemmeter (Portage County Gazette), Scott Krueger (WIZD)

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

Mayor Wescott led the salute to the flag.

3. Approval of minutes of the Regular Common Council meeting of June 18, 2001, and the Special Common Council meeting of June 25, 2001.

Ald. Rackow moved, Ald. Molski seconded, for approval of the regular Common Council minutes of June 18, 2001, and the Special Common Council minutes of June 25, 2001.

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.

None.

5. Plan Commission meeting of July 9, 2001.

Ald. Phillips moved, Ald. Walther seconded, for approval of the Plan Commission minutes of July 9, 2001.

Ald. Sowieja would like the following statement made by Director Gardner in the Plan Commission minutes clarified. The federal government has determined that the effect of the ordinance is not to prohibit telecommunication towers. We have to accommodate it in some fashion. We can regulate the method to mitigate the impact, but we cannot deny telecommunication towers everywhere in the city.

Mayor Wescott said as part of the Telecommunications Act of 1995, you cannot reject the placement of cellular towers or telecommunications towers within a community. The placement of the towers can be controlled by zoning.

City Attorney Molepske stated the City cannot uniformly deny the placement of towers within the community. Basically, the law provides for setting standards but cannot necessarily exclude the towers from an area in the City.

Ald. Sowieja asked if anything written in an ordinance pertaining to telecommunications does not really apply?

City Attorney Molepske said the City has the right under police power to set certain standards and criteria relating to where the location will be.

Roll Call: Ayes all.

Nays none. Motion carried.

6. Public hearing - ordinance amending Subsection 1.4 of Section 23.02(4)(d) Wireless Communication Section of the Revised Municipal Code, was declared open by the Mayor.

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

7. Ordinance on the above.

Ald. Rackow moved, Ald. Barr seconded, for adoption of the ordinance.

Ald. Rackow said the City must allow the towers to be located in the community but can control the conditions of the towers. This is a reasonable accommodation for the purposes of cellular phones.

Ald. Phillips showed examples of an average six inch flagpole and the size of the proposed flagpole. There is quite a difference in the size of the flagpoles. Once this ordinance is passed and the qualifications are met, then the request would not have to go to the Plan Commission for approval. Is that correct?

City Attorney Molepske replied, no. The ordinance still requires a conditional use permit. If all the criteria is met, the attorney cannot see why the request would be denied.

Ald. Phillips is concerned the towers will be popping up all over town. The alderman is also concerned with the lighting of the flag.

Mayor Wescott said the flag is only required to be lit if the flag is flown at night.

Roll Call: Ayes: Ald. Walther, Filipiak, Seiser, Sowieja, Barr, Rackow, Molski, Nealis, Moore.

Nays: Ald. Phillips.

Ayes - 9. Nays - 1. Motion carried.

8. Public hearing - ordinance amending Subsection 3.1 of Section 23.02(4)(d) Wireless Communication Section of the Revised Municipal Code,

was declared open by the Mayor.

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

9. Ordinance on the above.

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

Ald. Rackow said there are numerous requirements the requester must meet. Mainly, the pole must be camouflaged. Placement of this kind of tower is a conditional use permit which must come before the Plan Commission and the Council for each case.

Ald. Sowieja would like the statement, "Only in cases where the public interest is served by the modification" clarified.

What it means is the Council would approve modifications only if it is in the public s interest, explained Director Gardner.

Ald. Sowieja said basically this ordinance pertains to the setbacks.

Director Gardner stated that is correct.

Ald. Sowieja said then what you are saying is allowing certain types of setbacks only in cases where the public s interest is served by the modification. If a hundred foot tower is constructed 50 feet from a property line and it collapsed, is that serving the interest of the public?

Director Gardner said if the criteria is met for the tower, the city staff would ask an engineering analysis which would show that in the event of failure, it would not extend onto the neighboring property. The tower could be hinged in the middle and fall down that way. Another way is to apply guide wires through the tower.

Ald. Rackow noted at the Plan Commission, it was voted to allow a tower to be 12 feet higher so a third antenna could be placed on the same tower which may be an alternative to erecting another tower.

Roll Call: Ayes: Ald. Moore, Nealis, Molski, Rackow, Barr, Sowieja, Seiser, Filipiak, Walther.

Nays: Ald. Phillips.

Ayes - 9. Nays - 1. Motion carried.

10. Public hearing - request of G. M. Selby & Associates, 5601 Highway 10 East, to construct a flagpole-monopole for a wireless communication service 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. Rackow moved, Ald. Walther seconded, for adoption of the resolution with the modification to item #9 of the resolution that the flag must be taken down at night.

Ald. Sowieja asked what the distance is from the flagpole to the closest neighboring property?

Director Gardner said it is 86.5 feet.

Ald. Sowieja asked if G.M. Selby & Associates have submitted a design as to whether or not this structure will collapse at a certain point?

Director Gardner said the design of the structure will be submitted before being constructed.

What is the purpose of this tower and who will be using the tower, asked Ald. Sowieja?

Brian Cooke, representing G.M. Selby & Associates, said Cellulink is the entity requesting the construction of the structure.

Ald. Barr trusts the media will be so kind to not imply the City is trying to impede wireless communication.

Ald. Phillips said the City does allow telecommunications towers in the City.

Ald. Filipiak is concerned with the lighting of the flag.

Mayor Wescott said at the Plan Commission meeting it was expressed to the applicant at that time the flag must come down at night or lit by a light that does not shoot from the base toward the night sky.

Should the lighted at night be deleted from the resolution, asked Ald. Seiser?

Mayor Wescott said if the flag is flown at night, the law still requires the flag be lit.

Ald. Seiser said by keeping this as part of the resolution, it means the Council and Plan Commission still have the option of putting conditions on any future flagpoles.

Ald. Sowieja asked what size a flag will be allowed? Should the Council be making the determination as to the size of the flag?

Director Gardner said he does not determine the size of the flag.

Ald. Filipiak asked if Wal-Mart will place their corporate flag in addition to the American flag?

Mayor Wescott replied it will only be an American flag.

Roll Call: Ayes: Ald. Moore, Nealis, Molski, Rackow, Barr, Sowieja, Seiser, Filipiak, Walther.
Nays: Ald. Phillips.
Ayes - 9. Nays - 1. Motion carried.

12. Public hearing - ordinance amending Subsection 3 of Section 23.02(2)(a) Neighborhood Business Zoning District of the Revised Municipal Code, was declared open by the Mayor.

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

13. Ordinance on the above.

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

Roll Call: Ayes: Ald. Walther, Filipiak, Seiser, Sowieja, Barr, Rackow, Molski, Nealis, Phillips, Moore.
Nays: None. Motion carried.

14. Public hearing - request of Gary Wachowiak, 4912 County Trunk HH, to construct a mini-warehousing as a conditional use, was declared open by the Mayor.

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

15. Resolution on the above.

Ald. Molski moved, Ald. Phillips seconded, for adoption of the resolution.

Roll Call: Ayes: Ald. Moore, Phillips, Nealis, Molski, Rackow, Barr, Sowieja, Seiser, Filipiak, Walther.
Nays: None. Motion carried.

16. Ordinance - Annexation - Jehovah s Witness Kingdom Hall - 3600 North Point Drive.

Ald. Nealis moved, Ald. Seiser seconded, for adoption of the ordinance.

Roll Call: Ayes: Ald. Walther, Filipiak, Seiser, Sowieja, Barr, Rackow, Molski, Nealis, Phillips, Moore.
Nays: None. Motion carried.

17. Public hearing - amending the zoning ordinance which would classify the above territory as "R-2" Single Family Zoning, was declared open by the Mayor.

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

18. Ordinance - on the above.

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

Ald. Seiser would like to know what this property was zoned before annexation.

Director Gardner said the property was in the Town of Hull. The Director thought in was zoned residential but cannot confirm that.

What is the reason for the "R-2" Single Family Zoning, asked Ald. Sowieja?

Director Gardner noted the properties around this area are zoned similar.

Ald. Sowieja asked if churches are generally zoned this way?

Director Gardner said, yes.

Roll Call: Ayes: Ald. Walther, Filipiak, Seiser, Sowieja, Barr, Rackow, Molski, Nealis, Phillips, Moore.
Nays: None. Motion carried.

19. Public Protection Committee meeting of July 9, 2001.

Ald. Phillips moved, Ald. Seiser seconded, for approval of the Public Protection Committee minutes of July 9, 2001, with item #5A-Hilltop Pub & Grill Restaurant Anniversary Celebration pulled for further discussion.

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

Ald. Phillips moved, Ald. Rackow seconded, to approve the Anniversary Celebration at the Hilltop Pub & Grill Restaurant on Monday, August 6, 2001, with the condition Mr. Mitchell provide the City Clerk s Office with a signed letter from the motel operators indicating their approval of this celebration within one week from tonight.

Ald. Seiser recalled at the Public Protection meeting, it was agreed not to require a letter from the motel operators.

Ald. Phillips, who is the Chairman of the Public Protection Committee, said it is stated in the Public Protection minutes he would like to hear from the Mitchells before the Common Council meeting.

Ald. Rackow agreed the Chairman of the Public Protection Committee would like to see a letter from the motel operators.

Roll Call: Ayes: Ald. Walther, Filipiak, Sowieja, Barr, Rackow, Molski, Nealis, Phillips, Moore.
Nays: Ald. Seiser.
Ayes - 9. Nays - 1. Motion carried.

20. Ordinance - Bond Schedule - Prohibited Use of Compression Brakes.

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

Mayor Wescott would like to know with a fine of \$40.00, how much are the court costs?

City Attorney Molepske replied about \$80.00 or \$90.00.

Captain Daubert said the total fine is \$138.20.

Roll Call: Ayes: Ald. Moore, Phillips, Nealis, Molski, Rackow, Barr, Sowieja, Seiser, Filipiak, Walther.
Nays: None. Motion carried.

21. Board of Public Works meeting of July 9, 2001.

Ald. Walther moved, Ald. Phillips seconded, for approval of the Board of Public Works minutes of July 9, 2001.

Roll Call: Ayes: Ald. Walther, Filipiak, Seiser, Sowieja, Barr, Rackow, Molski, Nealis, Phillips, Moore.
Nays: None. Motion carried.

22. Joint Board of Public Works, Board of Park Commissioners and Plan Commission meeting of July 11, 2001.

Ald. Phillips moved, Ald. Rackow seconded, for approval of the Joint Board of Public Works, Board of Park Commissioners and Plan Commission minutes of July 11, 2001.

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

23. Finance Committee meeting of July 9, 2001.

Ald. Barr moved, Ald. Sowieja seconded, for approval of the Finance Committee minutes of July 9, 2001.

Roll Call: Ayes: Ald. Moore, Phillips, Nealis, Molski, Rackow, Barr, Sowieja, Seiser, Filipiak, Walther.
Nays: None. Motion carried.

24. Resolution - Transfer of Funds.

Ald. Molski moved, Ald. Barr seconded, for adoption of the resolution.

Roll Call: Ayes: Ald. Moore, Phillips, Nealis, Molski, Rackow, Barr, Sowieja, Seiser, Filipiak, Walther.
Nays: None. Motion carried.

25. Ordinance - amending Section 4.14 - License Transfers.

Ald. Rackow moved, Ald. Seiser seconded, for adoption of the ordinance.

Roll Call: Ayes: Ald. Walther, Filipiak, Seiser, Sowieja, Barr, Rackow, Molski, Nealis, Phillips, Moore.
Nays: None. Motion carried.

26. Personnel Committee meeting of July 9, 2001.

Ald. Rackow moved, Ald. Filipiak seconded, for approval of the Personnel Committee minutes of July 9, 2001.

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

27. Board of Water and Sewage Commissioners meeting of July 9, 2001.

Ald. Phillips moved, Ald. Moore seconded, for approval of the Board of Water and Sewage Commissioners minutes of July 9, 2001.

Roll Call: Ayes: Ald. Moore, Phillips, Nealis, Molski, Rackow, Barr, Sowieja, Seiser, Filipiak, Walther.
Nays: None. Motion carried.

28. Ratification of Local 180 Union Contract - Bakery, Confectionery, Tobacco Workers and Grain Millers International Union (Water Department).

Ald. Barr moved, Ald. Molski seconded, to ratify the Local 180 Union Contract - Bakery, Confectionery, Tobacco Workers and Grain Millers International Union (Water Department).

In reference to Article 14 - Sick Leave, is there any length of service an employee is required to work before they qualify for this benefit, asked Ald. Sowieja?

County Personnel Director Freiberg said currently the city's practice is that as long as you meet the definition of retirement, you would qualify for this benefit.

Ald. Sowieja would like to know if there is a certain number of years of service required.

County Personnel Director Freiberg understands the practice of the city has not been the 20 years of service that is why it is being taken out of the article.

Ald. Sowieja asked what is the length of service before an employee would qualify for this benefit?

Mayor Wescott said it would be one year.

Personnel Specialist Jakusz said this is the last city contract to have the number of years of service stated in the contract to qualify for the sick leave benefit.

Roll Call: Ayes: Ald. Walther, Filipiak, Seiser, Sowieja, Barr, Rackow, Molski, Nealis, Phillips, Moore.

Nays: None. Motion carried.

29. Stevens Point Redistricting Committee meeting of June 27, 2001.

Clerk Zdroik gave a brief presentation on redistricting in the City of Stevens Point. A copy is attached. If the district boundaries are approved **tonight, maps will be available to view at the City Clerk s Office.**

Ald. Molski stated the Redistricting Committee spent a lot of hard hours working on redistricting the City of Stevens Point. The alderperson noted that most of the changes were made to make it easier for the people to define the various districts and find out who is their alderperson.

Ald. Molski moved, Ald. Phillips seconded, for approval of the Stevens Point Redistricting Committee minutes of June 27, 2001.

Ald. Nealis has concerns with the proposed redistricting plan. The alderman would like to see the proposal returned to the Redistricting Committee for further review. Ald. Nealis is uncomfortable with the boundary lines for the Ninth Ward.

Ald. Seiser asked if the Redistricting plan is approved tonight, do the citizens of Stevens Point have the opportunity to respond?

Clerk Zdroik explained with growth in the size of the community, there will be expansion. Wards 6, 7 and 8 are expected to see the most growth in the next ten years. The clerk noted there is no way we can do redistricting without a change.

Ald. Molski said there were three meetings of the Redistricting Committee, however, many hours were spent outside the meetings working on the plans.

Ald. Nealis did not like the fact that the Redistricting Committee meetings were set during working hours.

Ald. Phillips agreed a lot of hours were spent working on the redistricting plans. The alderman feels the committee did a wonderful job trying to streamline the district boundaries as best as possible.

Clerk Zdroik reminded all the alderpersons were sent a memo that they could come to the City Clerk s Office to review the redistricting plans. Clerk did not receive a single call.

Ald. Rackow is certain the voters will be informed of the changes in the districts. The changes in the districts will not take effect until 2002.

Ald. Barr wishes for an unanimous vote for this very important decision. It is unfortunate one alderperson feels his ward will be adversely affected with the proposed plan.

Ald. Walther is comfortable the citizens will be well informed about the changes to the districts.

Clerk Zdroik reminded the Council that on May 21, 2001, a letter was received from the County Clerk stating the creation of the districts must be accomplished within 60 days from the date of the letter.

Roll Call: Ayes: Ald. Walther, Seiser, Sowieja, Rackow, Molski, Phillips.

Nays: Ald. Filipiak, Barr, Nealis, Moore.

Ayes - 6. Nays - 4. Motion carried.

30. Reports -

Comptroller-Treasurer s report - May 2001.

Police and Fire Commission meeting of July 10, 2001.

Report of Smongeski Health Fund.

Ald. Seiser moved, Ald. Filipiak seconded, to accept the reports and place them on file.

Roll Call: Ayes all.

Nays none. Motion carried.

31. Persons who wish to address the mayor and council for up to three (3) minutes on non-agenda item, and time strictly enforced.

Mike Nigbor calls out to look at the evidence and change the official policy on marijuana. Mr. Nigbor would like to see marijuana legalized for medical reasons.

32. Adjournment - 8:10 P.M.

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