

Meeting Minutes

REGULAR COUNCIL MEETING

Council Chambers

June 19, 2000

County-City Building

7:00P.M.

Mayor Gary W. Wescott, presiding Roll Call: Ald. Sevenich, Walther, Pazdernik, Seiser, Kedrowski, Barr, Molski, Nealis, Phillips, Niedbalski

Excused: Ald. Rackow

Also Present: Comptroller-Treasurer Schlice, City Attorney Molepske, City Clerk Zdroik, Directors Gardner, Van Alstine, Schrader; Police Chief Carpenter, Interim Fire Chief Koback, Water/Sewage Adm. Disher, Assessor Kuehn, Personnel Specialist Jakusz, Design Engineer Yauch, Intern Adm. Asst. Marciniak, Kari Yenter, Susan Kampmeier (Journal), Scott Krueger (WIZD), Gene Kemmeter (Portage County Gazette)

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

Mayor Wescott announced Ald. Rackow is hospitalized at Saint Michael s Hospital with chest pains. Ald. Rackow is resting comfortably. Mayo Wescott asked to please keep Ald. Rackow in our thoughts.

3. Approval of minutes of the Regular Common Council meeting of May 15, 2000.

Ald. Barr moved, Ald. Molski seconded, for approval of the regular Common Council minutes of May 15, 2000.

Roll Call: Ayes all.

Nays none. Motion carried.

4. Update on cable TV negotiations with legal counsel for the City Brian Grogan with possible action.

Attorney Brian Grogan reported that the City and Charter Communications are at an impasse over the Institutional Network services to be provided by Charter Communications. The City requested further precise numbers and the City and Charter have worked on this for a number of months now. The City does not have the ability to dictate when the process will move forward to conclusion. Attorney Grogan reviewed with Mayor Wescott, Chairman Rackow, and other members of the Telecommunications Commission, the options that are available at this time, the implementation of which is somewhat complicated. The first option is the City will continue to pursue the informal process with Charter in an attempt to resolve the Institutional Network issues within a matter of time. Attorney Grogan feels the other issues will be resolved like the PEG channels issue, the local programming support, channel capacities, and other issues. Until the Institutional Network issue is resolved, we will be at a stand still on other matters. We have to continue the informal negotiation, a process that has been used for a number of months. Attorney Grogan said the City is no further than where we started. The second option is the City will move into a more formal process under federal law, which would require the City to fine tune its Needs Assessment that we did some time ago. The City will fine tune the Needs Assessment to the point at which the City will feel comfortable submitting it to Charter requesting a formal proposal. Once the Needs Assessment is finalized, it cannot be revised and once the company submits its proposal to the City, it cannot be revised. Once these two steps are accomplished, the City will vote up or down on Charter s proposal and this will move the process forward. Attorney Grogan said there are no guarantees whether the informal process will see a resolution by fall of this year. Questions were also asked of the guarantee of following a time line if we go into the formal process. Attorney Grogan said there is a guarantee because the statute dictates the parties act within a certain period of time. The pros of the formal process are the effect of moving the process to a point of conclusion, with the City either voting Charter s proposal up or down. The cons to the formal process the costs that will be incurred to fine tune the City s Needs Assessment report. If the City formally rejects Charter s proposal, Charter will chalk the City s position in court of law which could incur a significant expense on the part of the City. It raises the stakes for both parties but it also the effect of getting an agreement the City can accept. There can also be a variation in the informal process, where we can set an artificial deadline where both parties can mutually agree to. We have attempted to do this but the deadlines have come and gone.

Mayor Wescott asked that you keep in mind the informal negotiations between Charter Communications and the City of Stevens Point commenced last October. The Mayor stated the City cannot tolerate time lines not being honored. We cannot tolerate information and data that have been repeatedly promised to our technological committees by Charter Communication representatives but never delivered. Mayor Wescott stated we are now approaching the month of July and we are no further down the road than we were late last year.

Ald. Pazdernik asked what type of time frame are we looking at for the formal process?

Attorney Grogan stated under the federal statutes, once the City has prepared its Needs Assessments, it is then submitted to Charter Communications. When we submit the Needs Assessment we are allowed to specify a date on which Charter has to present their proposal. Failure to present a proposal is a breach of the statute and affects Charter s rights under the formal process. The City has approximately four weeks from the date they provide the formal Needs Assessment for a formal proposal from Charter. From the date the City receives the formal proposal from Charter, the City then has four months to accept or reject their proposal.

Mayor Wescott said if we do proceed, there will be a lot of hard work but it will move the process forward and create significant penalties if the deadlines are not met.

Ald. Walther, a member of the Telecommunications commission, stated he is fairly patient with the informal process but Charter has not met the deadlines. The alderperson said he receives calls from his constituents asking him when the agreement will be resolved.

Ald. Kedrowski asked if the action taken by the Council will have to go to the Telecommunications Commission?

Mayor Wescott said yes, it has to. The Commission needs authorization from the City Council to move into the formal negotiation under the law.

Ald. Kedrowski asked what is the cost involved to proceed to the formal process?

Attorney Grogan said to get through Needs Assessment phase, it will probably cost between \$5,000 to \$10,000. Steps beyond administrative hearing will go before the City Council or federal court with the local counsel to handle representation. The attorney said it is premature to give an estimate at this time.

Ald. Phillips moved, Ald. Walther seconded, concerning the renewal of the franchise agreement with Charter Communications to provide cable

television services in the City, that the City immediately take the steps necessary to invoke the formal process of cable television franchise renewal, as defined by federal law, to reach an agreement on a new cable communications franchise agreement.

Roll Call: Ayes: Ald. Sevenich, Walther, Pazdernik, Seiser, Kedrowski, Barr, Molski, Nealis, Phillips, Niedbalski.
Nays: None. Motion carried.

Attorney Grogan explained it is prudent now for us to create a paper trail of offering an extension to Charter Communications.

Mayor Wescott asked the members of the council to keep in mind the City extended the franchise agreement with Charter until May 30, 2000. Right now, technically, Charter does not have a franchise to do business in the City of Stevens Point.

Attorney Grogan said legally Charter Communications have the right to operate in the City of Stevens Point until the City takes the step to reject the franchise with Charter Communications.

5. *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.

Chuck Kell Item #6 - Plan Commission Meeting
Portage County Planning and Zoning

Jessica Herman Item #11 - Public Protection Committee Meeting
Hilltop Pub & Grill Restaurant

Ted Hakala Item #7 - Resolution-Lutheran Social Services
Lutheran Social Services

Ray Schmidt Item #6 - Plan Commission Meeting
Portage County Planning and Zoning

Debbie Worner Item #11 - Public Protection Committee Meeting
Promotion Chair
Association of Downtown Businesses

6. Plan Commission meeting of June 5, 2000.

Ald. Kedrowski moved, Ald. Niedbalski seconded, for approval of the Plan Commission minutes of June 5, 2000, with item #6 pulled for further discussion.

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

Ald. Kedrowski stated he is strictly against amending the allowed uses - Portage County Business Park - Groundwater overlay District Zone B, 5-year time of travel. We need laws to strengthen the groundwater protection for this area.

Chuck Kell, Portage County Planning and Zoning, said the basic issue is the county owns 80 acres of property that is currently not under any regulations. This land can be used by any business for any use because it is not regulated. All the additional land located east of the Business Park that is not currently under the county ownership is regulated by the Portage County. We routinely deal with businesses that want to come into the community that have and use various types of materials in their operations that are hazardous by EPA standards. Not all of these materials are of a hazardous nature, some are oils, etc. We have researched around the country and the proposal before you today is the approach that was developed to address these issues. We want to protect the wells no matter what.

Mayor Wescott reminded the members of the council there is no ordinance presented before them this evening.

Ray Schmidt, Portage County Planning and Zoning, stated the groundwater proposal will enhance consistency, in fact, this proposal would increase groundwater protection within the area east of I-39. Mr. Schmidt stated there is a section on changes in operation which was designed specifically to pull people back into the planning process before a building changes hands. What we are proposing is opening up a limited area where we have the City in control of that area with an ordinance for this type of regulation.

Ald. Nealis said at times we can over restrict which only hurt ourselves. Why are we even discussing this issue when an ordinance is not even being presented?

Mayor Wescott explained any member of the council is entitled to pull an item for discussion.

Ald. Nealis moved, Ald. Pazdernik seconded, to affirm the action taken at the Plan Commission meeting of June 5, 2000, which is to continue the research and to bring scientists and other research specialists formally to the table.

Ald. Niedbalski asked how long will it be before we take action? We should approve it now.

Ald. Kedrowski is disappointed the ordinance would not handle any existing businesses.

Ald. Seiser said she would choose not to affirm the process to continue as proposed by the county. The alderperson supports the Groundwater Overlay District as it exists.

Ald. Niedbalski commented the materials that may be used are not hazardous waste.

Roll Call: Ayes: Ald. Niedbalski, Phillips, Nealis, Molski, Barr, Pazdernik, Walther, Sevenich.
Nays: Ald. Kedrowski, Seiser.

Ayes - 8. Nays - 2. Motion carried.

7. Resolution on granting conditional use - Multiple Family - Lutheran Social Services - Amber Avenue and Sandpiper Drive and amend conditional use - Multiple Family - Sandpiper Drive and Brilowski Road.

Ald. Niedbalski moved, Ald. Seiser seconded, for adoption of the resolution granting conditional use - Multiple Family - Lutheran Social Services - Amber Avenue and Sandpiper Drive and amend conditional use - Multiple Family - Sandpiper Drive and Brilowski Road.

Roll Call: Ayes: Ald. Sevenich, Walther, Pazdernik, Seiser, Kedrowski, Barr, Molski, Nealis, Phillips, Niedbalski.
Nays: None. Motion carried.

8. Public hearing - to amend Conditional Use - setback for St. Paul Lutheran Church expansion plan - 1919 Wyatt Avenue, was declared open by the Mayor.

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

9. Resolution on the above.

Ald. Niedbalski moved, Ald. Nealis seconded, for adoption of the resolution.

Roll Call: Ayes: Ald. Niedbalski, Phillips, Nealis, Molski, Barr, Kedrowski, Seiser, Pazdernik, Walther, Sevenich.
Nays: None. Motion carried.

10. Resolution - approving the Final Plat of Heffron Woods First Addition.

Ald. Barr moved, Ald. Molski seconded, for adoption of the resolution approving the Final Plat of Heffron Woods First Addition.

Roll Call: Ayes: Ald. Niedbalski, Phillips, Nealis, Molski, Barr, Kedrowski, Seiser, Pazdernik, Walther, Sevenich.
Nays: None. Motion carried.

11. Public Protection Committee meeting of June 12, 2000.

Ald. Sevenich moved, Ald. Niedbalski seconded, for approval of the Public Protection Committee minutes of June 12, 2000, with item #3B pulled for further discussion.

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

Jessica Herman, representing Hilltop Pub and Grill Restaurant, asked to have live music on Monday, August 7, 2000, during the Anniversary Celebration until 11:00 P.M.

Ald. Niedbalski stated the Public Protection Committee approved live music only until 10:00 P.M. unless the representatives of Hilltop could provide a letter from the owners of the Baymont Inn stating they do not have a problem with live music until 11:00 P.M. The original request from Hilltop Pub and Grill requested live music until 11:00 P.M. Since the Public Protection Committee meeting, the representatives of Hilltop Pub and Grill have supplied a letter from Baymont Inn stating they do not have a problem with live music until 11:00 P.M.

Ald. Niedbalski moved, Ald. Barr seconded, for approval of the request to extend the licensed premises for the Hilltop Pub and Grill Restaurant on Monday, August 7, 2000, and the event ending promptly at 11:00 P.M.

Roll Call: Ayes: Ald. Sevenich, Walther, Pazdernik, Seiser, Kedrowski, Barr, Molski, Nealis, Niedbalski.
Nays: Ald. Phillips.
Ayes - 9. Nays - 1. Motion carried.

12. Ordinance amending the Truancy Ordinance.

Ald. Walther moved, Ald. Pazdernik seconded, for adoption of the ordinance amending the Truancy Ordinance.

Roll Call: Ayes: Ald. Sevenich, Walther, Pazdernik, Seiser, Kedrowski, Barr, Molski, Nealis, Phillips, Niedbalski
Nays: None. Motion carried.

13. Ordinance setting a bond forfeiture for Truancy Ordinance and Drug Paraphernalia Ordinance.

Ald. Pazdernik moved, Ald. Sevenich seconded, for adoption of the ordinance setting a bond forfeiture for Truancy Ordinance and Drug Paraphernalia Ordinance.

Roll Call: Ayes: Ald. Niedbalski, Phillips, Nealis, Molski, Barr, Kedrowski, Seiser, Pazdernik, Walther, Sevenich.
Nays: None. Motion carried.

14. Special Public Protection Committee meeting of June 19, 2000.

Ald. Niedbalski moved, Ald. Phillips seconded, for approval of the Special Public Protection Committee minutes of June 19, 2000.

Roll Call: Ayes: Ald. Sevenich, Walther, Pazdernik, Seiser, Kedrowski, Barr, Molski, Nealis, Phillips, Niedbalski.
Nays: None. Motion carried.

15. Ordinance amending the Direct Sellers/Transient Merchant Ordinance (increasing the registration fee and fee for police background check).

Ald. Niedbalski moved, Ald. Phillips seconded, for adoption of the ordinance amending the Direct Sellers/Transient Merchant Ordinance increasing the registration fee to \$50.00, \$10.00 fee for police background check for each applicant, and \$1.00 fee for the badge for each applicant.

Roll Call: Ayes: Ald. Niedbalski, Phillips, Nealis, Molski, Barr, Kedrowski, Seiser, Pazdernik, Walther, Sevenich.
Nays: None. Motion carried.

16. Personnel Committee meeting of June 12, 2000.

Ald. Molski moved, Ald. Seiser seconded, for approval of the Personnel Committee minutes of June 12, 2000.

Roll Call: Ayes: Ald. Sevenich, Walther, Pazdernik, Seiser, Kedrowski, Barr, Molski, Nealis, Phillips, Niedbalski.
Nays: None. Motion carried.

17. Board of Public Works meeting of June 12, 2000.

Ald. Nealis moved, Ald. Walther seconded, for approval of the Board of Public Works minutes of June 12, 2000.

Roll Call: Ayes: Ald. Niedbalski, Phillips, Nealis, Molski, Barr, Kedrowski, Seiser, Pazdernik, Walther, Sevenich.
Nays: None. Motion carried.

18. Finance Committee meeting of June 12, 2000.

Ald. Barr moved, Ald. Pazdernik seconded, for approval of the Finance Committee minutes of June 12, 2000.

Roll Call: Ayes: Ald. Sevenich, Walther, Pazdernik, Seiser, Kedrowski, Barr, Molski, Nealis, Phillips, Niedbalski.
Nays: None. Motion carried.

19. Public hearing - to amend or cancel all or part of a special assessment for sidewalk levied July 19, 1999, against certain properties located on Wilshire Boulevard, was declared open by the Mayor.

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

20. Resolution on the above.

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

Roll Call: Ayes: Ald. Niedbalski, Phillips, Nealis, Molski, Barr, Kedrowski, Seiser, Pazdernik, Walther, Sevenich.
Nays: None. Motion carried.

21. Resolution - Transfer of funds.

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

Roll Call: Ayes: Ald. Sevenich, Walther, Pazdernik, Seiser, Kedrowski, Barr, Molski, Nealis, Phillips, Niedbalski.
Nays: None. Motion carried.

22. Telecommunications Commission meeting of June 5, 2000.

Ald. Niedbalski moved, Ald. Sevenich seconded, for approval of the Telecommunications Commission minutes of June 5, 2000.

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

23. Board of Water and Sewage Commissioners meeting of June 5, 2000.

Ald. Niedbalski moved, Ald. Phillips seconded, for approval of the Board of Water and Sewage Commissioners minutes of June 5, 2000.

Roll Call: Ayes: Ald. Niedbalski, Phillips, Nealis, Molski, Barr, Kedrowski, Seiser, Pazdernik, Walther, Sevenich.
Nays: None. Motion carried.

24. Reports

Comptroller-Treasurer s report - April 2000.

Police and Fire Commission Special Meeting of June 1, 2000.

Police and Fire Commission Special Meeting of June 7, 2000.

Police and Fire Commission minutes of June 13, 2000.

Transportation Commission minutes of May 31, 2000.

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

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

25. Mayor s Appointments.

COMMUNITY DEVELOPMENT AUTHORITY
Reappoint Larry Sipiorski 1217 Ridge Road

(4-year term expires 06-20-04)

HOUSING ADVISORY COMMITTEE
Reappoint Sue Sippel 1901 Church Street
(5-year term expires 07-17-05)

Ald. Barr moved, Ald. Molski seconded, for confirmation of the Mayor s appointments.

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

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

None.

27. Adjournment - 8:15 P.M.

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