

Meeting Minutes
REGULAR COUNCIL MEETING
Council Chambers
County-City Building
August 21, 2000
7:00P.M.

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

Excused: Ald. Kedrowski

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, Intern Adm. Asst. Marciniak, Kari Yenter, Portage County Senior Planner Schuler, Mike Jacquart (Journal), Scott Krueger (WIZD), Gene Kemmeter (Portage County Gazette)

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

Mayor Wescott announced two candidates interested in serving as the eleventh ward alderperson will make a presentation later on this evening. **Also later this evening, former Ald. Niedbalski's retirement will be formalized.**

3. Approval of minutes of the Regular Common Council meeting of July 17, 2000 and the minutes of the Special Common Council meeting of August 14, 2000.

Ald. Rackow moved, Ald. Molski seconded, for approval of the regular Common Council minutes of July 17, 2000 and the special Common Council minutes of August 14, 2000.

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.

Dan Retzki Item #18 - Public Protection Committee Meeting

327 Sixth Avenue

Stevens Point, WI 54481

Gary Baier Item #6 - Long Range Room Tax Committee Meeting

336 Maple Bluff Road

Stevens Point, WI 54481

John Holdridge Item #7 - Plan Commission Meeting

710 Hofmeister Drive

Stevens Point, WI 54481

Scott Behn Item #5 - Resolution-Marcus Cable Partners

Wausau, WI 54401

Reid Rocheleau Item #31 - Persons who wish to address the Mayor & Village of Whiting Council

5. Resolution determining Marcus Cable Partners in violation of cable television franchise.

Attorney Grogan stated the issue is the franchise fee. The issue by Charter's own admission that Charter undercollected the franchise fee in 1999 from subscribers in the amount of \$28,000. The issue is has Charter attempted to recoup the franchise fee from the subscribers in the year 2000. This is a violation of the City's franchise agreement and the City is asking Charter to reimburse that amount to the subscribers. If Charter has done that, Charter has 30 days to show the City that did not occur. The question is whether they have attempted to collect the franchise fee from the subscribers and that has come to light within the last couple hours (5:30 P.M. on August 21, 2000). Attorney Grogan explained if Charter has attempted to collect the 1999 underpayment in the year 2000, the resolution states that is a violation of the franchise agreement. Charter can either cure it or explain why it is not a violation.

There is no reason not to move forward in adopting the resolution, Attorney Grogan said. If Charter has attempted to collect from the subscribers in the year 2000, Charter will be required to cure the violation or be subject to fine or penalties or other remedies from the City Council once the cure period has elapsed. If Charter can demonstrate that is not the case, then the resolution will become moot.

On June 29, 2000, Attorney Grogan directed a letter to Charter's legal counsel stating that the

City has copies of cable bills from subscribers showing a 7% franchise fee. Charter responded on July 13, 2000, informing the City that Charter was allowed to collect franchise fees in excess of 5%. The additional franchise fee being collected is to recoup franchise fees paid to the City but undercollected from the subscribers in 1999, which is a direct quote from Charter's July 13, 2000 letter.

Aldersperson Rackow, Chairman of the Telecommunications Commission, noted the City received several letters from Charter and sent some back. Charter has cited some court cases supporting their position. Attorney Grogan and City Attorney Molepske indicated that the court cases supported our position.

Scott Behn, District Manager for Charter Communications, stated a letter was sent to the City informing the City that Charter will start collecting the **5% franchise fee starting June 1, 2000. The same letter also stated that it will increase the percentage to Charter's customers to recoup the amount which was already paid to the City. If Charter continues to collect the 7% past the year 2000, that will be a disagreement, Mr. Behn said.**

Attorney Grogan said the point we are trying to make by this resolution is that Charter is trying to recoup in the year 2000, the monies that were undercollected in 1999. If that is not the case, Charter has to provide evidence or otherwise document this is not the case. If the issue can be cured by Charter with an explanation and with backup documents or can be remedied in some other way, the resolution will become moot.

Two letters from Charter Communications dated March 6, 2000, and July 13, 2000, indicated the amount is in excess of 5%.

Ald. Rackow moved, Ald. Barr seconded, to adopt the resolution as presented finding Marcus Cable Partners in violation of the cable TV franchise.

Mayor Wescott said the resolution is finding Charter charging a franchise fee in excess of 5%. The resolution also calls for Charter to refund to the subscribers the amount intended to allow Charter to recoup the additional \$28,000. Charter has 30 days from receipt of this resolution to cure the violation.

Roll Call: Ayes: Ald. Sevenich, Walter, Pazdernik, Seiser, Barr, Rackow, Molski, Nealis, Phillips.
Nays: None. Motion carried.

6. Long Range Room Tax Committee meeting of July 26, 2000 - Youth Sports Complex.

Ald. Barr moved, Ald. Pazdernik seconded, for approval of the Long Range Room Tax Committee meeting of July 26, 2000 - Youth Sports Complex.

Gary Baier publicly acknowledged and thanked the Room Tax Committee.

Ald. Nealis asked the Youth Sports Complex Committee to also consider a Teen Center.

Ald. Rackow expressed his disappointment in one or more complex supporters for insulting the people whose approval they sought.

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

7. Plan Commission meeting of August 7, 2000.

Ald. Rackow moved, Ald. Seiser seconded, for approval of the Plan Commission minutes of August 7, 2000.

John Holdridge, Town of Hull Chairman, voiced his concerns regarding the development of the hotel in terms of the impact on the Town of Hull and the residents. Mr. Holdridge named the three major concerns with this development; access problems, the size of the hotel compared to the lot size, and the commercial zoning for the hotel among the single family homes. With the construction of the hotel, there would be no buffer between the commercial and residential properties.

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

8. Public Hearing - rezoning 3024 Church Street from "R-2" Single Family and "R-5" Multiple Family II Zonings to "B-4" Commercial Zoning, was declared open by the Mayor.

Reid Rocheleau voiced his concerns regarding the rezoning of the property at 3024 Church Street and the adjacent vacant lot from "R-2" Single Family and "R-5" Multiple Family II Zonings to "B-4" Commercial Zoning.

Attorney Jim Voss, representing the owner of the property at 3024 Church Street and the adjacent vacant lot, is requesting rezoning of said property from "R-5" Multiple Family II and "R-2" Single Family Zonings to "B-4" Commercial Zoning. The rezoning request was originally made before the Plan Commission in June 1994, and was denied. The property owner was told to reapply when a buyer was found so the Commission could consider the intended use. Since 1994, the building was removed. Mautz Paint wants to move the paint and decorating center to 3024 Church Street due to non-renewal of their lease.

The approval of the request is subject to the requirements of the Church Street Urban corridor overlay district.

Attorney Voss stated there are only three lots zoned "R-2" Residential Single Family. One is used by the railroad steam locomotive display, another is being used by the Veterans Memorial Park and the third one is the property owned by Charles Uthagrove immediately north of 3024 Church Street. Several lots along Church Street are zoned "R-5" Multiple Family used by office-type businesses. The remainder of Business 51/Church Street is zoned "B-4" Commercial except for the "M-2" Heavy Industrial zoning around the railroad station and County Concrete.

Bill Hans, representing Mautz Paint Company, stated they are a low traffic business with limited hours from 7:30 A.M. to 5:00 P.M. Monday through Friday and from 8:00 A.M. to 1:00 P.M. on Saturday. Mautz Paint is closed on Sundays. The majority of Mautz Paint's business is conducted during the morning hours.
Mayor Wescott declared the public hearing closed.

9. Ordinance on the above.

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

Alderman Rackow said he voted in favor of the rezoning at the Plan Commission meeting and now has made the motion to approve the rezoning. Church Street is almost all commercial now which has been confirmed a couple of times. The amount of traffic is so great that it makes the location along Church Street unsuitable to residential use.

Ald. Nealis stated he did not indicate or advocate to any member of the council in any way the issue to rezone 3024 Church Street. Ald. Nealis is well aware of the conflict of interest.

Roll Call: Ayes: Ald. Phillis, Molski, Rackow, Barr, Seiser, Pazdernik, Walther, Sevenich.
Nays: None.
Ald. Nealis abstained. Motion carried.

10. Public Hearing - Conditional Use to construct a communication tower - Rice Clinic - 2501 Main Street, 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. Pazdernik moved, Ald. Walther seconded, for adoption of the resolution.

Ald. Seiser received calls from citizens concerned about how the antennas will look in the city of Stevens Point.

Roll Call: Ayes: Ald. Sevenich, Walther, Pazdernik, Barr, Rackow, Molski, Nealis, Phillips.

Nays: Ald. Seiser. Motion carried.

12. Public Hearing - Conditional Use to construct a garage less than ten feet from the property line - 1708 Plover Street, was declared open by the Mayor.

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

13. Resolution on the above.

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

Roll Call: Ayes: Ald. Phillips, Nealis, Molski, Rackow, Barr, Seiser, Pazdernik, Walther, Sevenich.

Nays: None. Motion carried.

14. Public Hearing - amending Wireless Communication Towers ordinance 23.02(4)(d) - location of antennas - requiring conditional use approval of all towers, was declared open by the Mayor.

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

15. Ordinance on the above.

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

Ald. Rackow said the proposed amendment would require all new antennas be conditional uses in industrial, university and commercial districts and continue to be prohibited in residential districts, and would allow Council review of new antenna requests.

Ald. Seiser agrees with Ald. Rackow. The alderperson likes the idea to be informed on the antennas and towers located in the City of Stevens Point.

Roll Call: Ayes: Ald. Sevenich, Walther, Pazdernik, Seiser, Barr, Rackow, Molski, Nealis, Phillips.

Nays: None. Motion carried.

16. Accept Street Right-of-Way - Copsps Drive and Lands End Way at Brilowski Road.

Ald. Pazdernik moved, Ald. Molski seconded, to accept the Street Right-of-Way - Copsps Drive and Lands End Way at Brilowski Road.

Ald. Seiser asked if Lands End Way is redundant?

Mayor Wescott replied no, it is not redundant.

Roll Call: Ayes: Ald. Sevenich, Walther, Pazdernik, Seiser, Barr, Rackow, Molski, Nealis, Phillips.

Nays: None. Motion carried.

17. Update - Smart Growth Plan - City Planner John Gardner.

Director Gardner presented an update on the Smart Growth Plan, copy attached.

Ald. Rackow supports the city of Stevens Point s participation in the Smart Growth Plan.

Mayor Wescott thanked Portage County Senior Planner Jeff Schuler for his support in the Smart Growth Plan.

18. Public Protection Committee meeting of August 14, 2000.

Dan Retzki, owner of Graffiti s Bar and Grille, is asking the council to reconsider licensing for Heather Johnson. Mr. Retzki does not feel one C conviction should jeopardize Ms. Johnson s job. Mr. Retzki said the tavern industry is having a tough time finding help and he feels that rejecti an applicant due to an OWI conviction is punishing the business through the licensing process. Mr. Retzki does not feel the error Heather Johnson made two months ago has anything to do with her ability and job performance.

Ald. Pazdernik moved, Ald. Seiser seconded, for approval of the Public Protection Committee minutes of August 14, 2000, with item #1 - rejection of operator s (bartender s) license for Heather L. Johnson pulled for further discussion.

Roll Call: Ayes all.

Nays none. Motion carried.

Ald. Pazdernik said this is a difficult decision to make. The alderman stated Ms. Johnson has already been punished by the law for her OWI conviction.

Ald. Pazdernik moved, Ald. Seiser seconded, to approve the operator s (bartender s) license application for Heather L. Johnson.

Ald. Seiser expressed appreciation to Mr. Retzki and Ms. Johnson for appearing in person at both the Public Protection Committee and the Common Council meetings.

Ald. Sevenich said we need to follow the rules and regulations for denying operator s licenses. Ms. Johnson s OWI conviction is too recent to approve her operator s license.

Ald. Phillips stated we are not taking away Ms. Johnson s job. Ms. Johnson can still tend bar with a licensed bartender.

Former Ald. Niedbalski said we are not in the business of taking away jobs as Mr. Retzki suggested. Ms. Johnson can still work with a licensed bartender.

Roll Call: Ayes: Ald. Pazdernik, Seiser, Barr, Molski.
Nays: Ald. Sevenich, Walther, Rackow, Nealis, Phillips.
Ayes - 4. Nays - 5. Motion defeated.

Ald. Sevenich moved, Ald. Walther seconded, to deny the operator s (bartender s) license application for Heather L. Johnson.

Ald. Pazdernik asked if it would be acceptable to amend the motion to a waiting period of two months for Ms. Johnson to reapply for an operator license?

Clerk Zdroik explained the policy is to wait at least six months before an applicant can reapply for an operator s license.

Mayor Wescott confirmed an applicant must wait six months before reapplying for an operator s license.

Roll Call: Ayes: Ald. Sevenich, Walther, Rackow, Nealis, Phillips.
Nays: Ald. Pazdernik, Seiser, Barr, Molski.
Ayes - 5. Nays - 4. Motion carried.

19. Personnel Committee meeting of August 14, 2000.

Ald. Rackow moved, Ald. Phillips seconded, for approval of the Personnel Committee minutes of August 14, 2000.

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

20. Board of Public Works meeting of August 14, 2000.

Ald. Pazdernik moved, Ald. Nealis seconded, for approval of the Board of Public Works minutes of August 14, 2000.

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

21. Finance Committee meeting of August 14, 2000.

Ald. Barr moved, Ald. Molski seconded, for approval of the Finance Committee minutes of August 14, 2000.

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

22. Resolution - designating authorized depositories and authorizing withdrawal of city monies.

Ald. Rackow moved, Ald. Walther seconded, for adoption of the resolution - designating authorized depositories and authorizing withdrawal of city monies.

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

23. Special Finance Committee meeting of August 21, 2000.

Ald. Barr moved, Ald. Rackow seconded, for approval of the Special Finance Committee minutes of August 21, 2000.

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

24. Board of Park Commissioners meeting of August 14, 2000.

Ald. Seiser moved, Ald. Molski seconded, for approval of the Board of Park Commissioners minutes of August 14, 2000.

Roll Call: Ayes all.
Nays none.
Ald. Nealis abstained. Motion carried.

25. Telecommunications Commission meeting of August 8, 2000.

Ald. Rackow moved, Ald. Seiser seconded, for approval of the Telecommunications Commission minutes of August 8, 2000.

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

26. Board of Water and Sewage Commissioners meeting of August 14, 2000.

Ald. Seiser moved, Ald. Sevenich seconded, for approval of the Board of Water and Sewage Commissioners minutes of August 14, 2000.

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

27. Various Reports

Comptroller-Treasurer s report - June 2000.

Police and Fire Commission meetings of July 20, July 21 and August 15, 2000.

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

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

28. Mayoral presentation to former Alderperson Joe Niedbalski.

Mayor Wescott postponed agenda item #28 - Mayoral presentation to former Ald. Joe Niedbalski and moved it to just before agenda item #32 - Adjournment.

29. Election of Eleventh Ward Alderperson.

Jerry Moore, Eleventh Ward candidate, has lived in the community for the past 18 years and plans to make this his permanent residence. Mr. Moore is married and has one daughter. Mr. Moore would like to take an active part in this community. He is employed at Worzalla Publishing as an Electronic Technician.

Ald. Seiser asked Mr. Moore how he planned to communicate with the university students since a large portion of the eleventh ward consists of students?

Jerry Moore replied he would like to see the city and the university work hand in hand. It is not coordinated very well now. Mr. Moore said the lack of communication needs to be bridged.

Andrew Bushard, Eleventh Ward candidate, ran for the Eleventh District County Board Supervisor. Mr. Bushard is a resourceful person involved in a wide variety of different organizations. When there is something wrong, Mr. Bushard likes to take action on it. Mr. Bushard feels he is a very suitable candidate for the position of alderperson as he has the ability to manage multiple tasks.

Ald. Seiser asked Mr. Bushard how he had planned on communicating with the university students since a large portion of the eleventh ward is consisted of students?

Andrew Bushard replied he is a university student active in a lot of organizations and activities so he could very effectively represent the students.

Ald. Nealis asked Mr. Bushard how long he has resided in the City of Stevens Point and how long he plans to stay in the community?

Mr. Bushard responded he has resided in Stevens Point for the past three years and plans to stay in the community for approximately two years.

Voting ballots for the election of the Eleventh Ward alderperson were distributed by Comptroller/Treasurer Schlice.

Mayor Wescott announced the Eleventh Ward alderperson candidate receiving five or more votes will be elected the Eleventh Ward alderperson. The Mayor noted the election ballots are public record.

Jerry Moore received eight votes.

Andrew Bushard received one vote.

Mr. Moore was elected Eleventh Ward alderperson.

Clerk Zdroik administered the oath of office to Ald. Moore.

30. Mayor s appointments.

STEVENS POINT ARTS COUNCIL

Appoint Alderperson Jo Seiser 616 Fourth Avenue
(expires 12-31-2000)

COMMON COUNCIL COMMITTEES

PUBLIC PROTECTION COMMITTEE

Appoint Alderperson Mike Phillips, Chairperson 2302 Water Street
(replace Chairperson Niedbalski)

Appoint Alderperson Marge Molski 800 St. Paul Street
(replace Alderperson Nealis)

FINANCE COMMITTEE

Appoint Alderperson Neal Nealis 1734 Pine Street
(replace Alderperson Niedbalski)

Ald. Rackow moved, Ald. Pazdernik seconded, for confirmation of the Mayor s appointments.

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.

Reid Rocheleau is not surprised on the vote to rezone 3024 Church Street. Mr. Rocheleau suggested the Rice Street/Whiting Avenue intersection for possible study.

Mayor Wescott wished Clerk Zdroik a Happy Birthday.

28. Mayoral presentation to former Alderperson Joe Niedbalski.

Mayor Wescott thanked former Ald. Niedbalski for his 19 years of public service. Former Ald. Niedbalski has made a tremendous personal commitment to the people of this community. The Mayor stated only three people had served longer as alderperson than former Ald. Niedbalski. Thank you, Joe Niedbalski!

Mayor Wescott presented former Ald. Niedbalski with a plaque.

Former Ald. Niedbalski congratulated newly elect Eleventh Ward Ald. Moore. Former Ald. Niedbalski publicly thanked his wife and all the people of the Eleventh Ward. The 19 years of serving the people of the eleventh ward as an alderperson have come and gone quickly with many positive changes to the community.

32. Adjournment - 8:30 P.M.

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