



CITY OF BURLINGTON
Committee of the Whole Minutes
Robert Miller, Mayor
Diahnn Halbach, City Clerk
Tuesday, May 21, 2013

1. Call to Order/Roll Call

Mayor Bob Miller called the meeting to order at 6:33 p.m. starting with roll call. Aldermen present: Bob Prailes, Ed Johnson, Peter Hintz, Ruth Dawidziak, Tom Vos, Jon Schultz, Tom Preusker, and Todd Bauman.

Also present: City Administrator Kevin Lahner, City Attorney John Bjelajac, Fire Chief Richard Lodle, Public Works Director Craig Workman, Public Works Supervisor Dan Jensen, Treasurer Steve DeQuaker, Director of Administrative Services Megan Watkins, Library Director Gayle Falk, and Tom Foht of Kapur Engineering.

2. Citizens Comments and Questions

None

3. Approval of Minutes from May 7, 2013

A motion was made by Vos with a second by Johnson to approve the minutes from May 7, 2013. With all in favor, the motion carried to approve the minutes.

4. Topic: Discussion with Dave Wagner of Ehlers, Inc. regarding a reduction in the 2010 Taxable G.O. Build America Bonds (BAB) rebates and possible options with the BAB.

Mr. Dave Wagner, Financial Advisor with Ehlers, Inc., discussed the possible refinancing of the 2010 Taxable General Obligation Build America Bonds (“2010 BABs”). Wagner stated that the last time the City refinanced debt was two years ago in which the City agreed to sell non tax-exempt bonds to investors which carried a higher interest rate. In return of the City’s foregoing use of tax-exempt bonds, the U.S. government committed to rebate the City an amount equal to 35% of the interest that the City pays on those 2010 BABs. Because of the 20 year commitment involved in this agreement, a provision in the City’s bond offering documents was made informing investors that the City reserved the right to prepay the BABs without penalty at any time if the BAB rebate was eliminated or reduced. As of April 1, 2013, the City was being shorted by 8.7% and now has the option to invoke this provision. Wagner further stated that if the City takes advantage of this opportunity, with a conservative estimate, the City would lower its annual debt payments a total of about \$383,000 over the next 17 years or just under 5% lower payments. The City could also take this opportunity to readjust its debt schedule to meet its budgetary needs.

Preusker asked about all the different interest rates that extended out to 2030. Wagner explained that those amounts are the estimated interest rates for the new debt collected over the next 17 years. Vos asked if the bonds were specific to the Waste Water Treatment Plant. Wagner

responded that this particular bond was a multi-purpose bond that included the Public Works/multi-purpose building, which included a waste-water component and water utility component, but that most of the bond was for the Public Works building as well as a small amount for TIF District No. 3, but primarily for water, sewer and public works. Vos further asked if the portion of the payment was made by the two enterprise funds and then the balance comes out of the General Fund. Kevin Lahner explained the water and waste-water utility pay their portion of the debt service back to the general fund when the City makes its payment. Wagner further clarified that approximately half of the savings would accrue to the General Fund and the other half would accrue to a combination of the Utilities and TIF District No. 3. Vos stated that based on past practices, the City has been very successful in refinancing and have saved our taxpayers a substantial amount of money and questioned if the Government couldn't live up to their end of the deal, then perhaps we should look at a private investor. Lahner pointed out that the provisions being discussed were specifically put in the agreement because of the possibility of the elimination or reduction of payments by the federal government. Lahner further stated that without this language in the provision, we would not be able to take advantage of this opportunity and that because of the current situation, the City is actually fortunate to have had the foresight to include the language in the bond document. Vos added that another reason the City should go ahead with this option is because even if the Government were to start paying back the full amount, it's possible that in six months the amounts could be reduced again. Vos said we have no guarantee of payment which is another reason the City should go to the private sector, get a locked-in rate and we will know where we're at. Schultz asked if there was any kind of down-side to this option and wanted to know if there was a catch to the City's savings of nearly \$400,000. Wagner responded that some of the investors feel that the City should just keep paying at the old rate, which might be good for the investors, however the firm represents the City and believes there is no down-side to the City at all. Hintz felt this was a good option and that the City should move forward with this. Mayor asked if this was a consensus. All agreed. Wagner said he would back at our next meeting with more formal documents for further decisions.

There were no further comments.

5. Topic: Ordinance 1967 (1) to consider amending Chapter 274-11D of the Municipal Code to allow alcohol consumption in the downtown outdoor seating areas for restaurants.

Mayor explained the proposed draft of Ordinance Subsection 3 and asked if there were any other suggested changes. Attorney Bjelajac suggested keeping the section regarding general prohibition in order to avoid illegal drinking on sidewalks and other locations giving leeway for the police department to issue citations if need be. Preusker would have like to hear Chief Nimmer's thoughts about the proposed Ordinance change, however Chief Nimmer was unable to attend tonight's meeting. Preusker inquired about the 9:00 p.m. cut-off time and where that came from and if that would cause confusion from the other area businesses that have different establishment hours. Lahner responded that the 9:00 p.m. cut-off time comes from the current code before the sidewalk dining was established and was written to coincide with the proposed ordinance change. Vos asked if this amendment would also allow other bar establishments who served food to place tables out front on sidewalks and they would also have to be done by 9:00 p.m. Lahner responded that bar establishments would not be eligible for the sidewalk dining permit because it is defined to restaurants, which is determined under the laws of the City's Code. Hintz asked how many establishments currently qualify for the sidewalk permit. Mayor Miller responded that if it can be determined that 50% of the revenue is generated by food sales then it would be classified as a restaurant and would qualify for the sidewalk dining permit. Vos

inquired about the language pertaining to no illegal open intoxicants on public sidewalks and asked if any alcohol served by an establishment with a sidewalk permit would be confined to that premise only, therefore if someone were to leave the premise with an open intoxicant, would that person be eligible for a citation. Mayor Miller responded that the person would be eligible for a citation. Vos also inquired that because the City holds the owner of the establishment responsible for when citations are issued, would the restaurants be held to the same demerit system as the bars. Lahner responded that the restaurant owners would be covered under the current liquor license law which allows the City the ability to invoke the same kind of penalty system for anyone holding a liquor license. Attorney Bjelajac reiterated that the City would still have control over issuing penalties to the restaurants as well as the bars. Schultz spoke in favor of permitting restaurants to include being able to serve alcohol within the outdoor dining permit and said that doing so would increase the vitality of the downtown area and anything the City can do to make the downtown area more attractive to people as well as new businesses, should be considered. Johnson also supported the amendment so as long as the parameters on the sidewalk wouldn't interfere with pedestrians trying to walk past. Prailes inquired whether the owners of The Coffeehouse were okay with the 9:00 p.m. curfew. Rhonda Sullivan, owner of The Coffeehouse, responded that they would prefer a 10:00 p.m. curfew, but would be okay with the 9:00 p.m. as well. Vos thought the permit was a great idea and added to the downtown atmosphere. Attorney Bjelajac asked what the consensus was about a 10:00 p.m. curfew. Lahner responded that the code could be changed. Dawidziak also thought amending the ordinance was a great idea and felt that it's a direction a lot of communities are going in and being able to drive through the downtown area and seeing people out and about enjoying themselves, gives the impression to others to want to be out and about too. Preusker asked if the business hours of operation could coincide with the serving of alcohol. Attorney Bjelajac expressed concern about zoning issues and the noise ordinance. Lahner said the area is zoned as B-2 Business District and that most restaurants close at 10:00 p.m., so there shouldn't be a worry about noise issues. Preusker replied that bars are open until 2:00 a.m. and that if there was a noise issue, neighbors would have complained already. Vos wanted to know if there was a curfew for the beer gardens. Prailes responded that as far as he knew, the beer gardens carried the same curfew as the bar. Mayor Miller asked Sullivan what time they serve food until at The Coffeehouse. Sullivan responded up until close, which is 10:00 p.m. Mayor Miller further stated stricter parameters would need to be put into place as to qualify a restaurant vs. a bar that serves food in order to qualify for the permit. Hintz asked if there were any container restrictions such as no glass allowed and what the Coffeehouse was currently serving their drinks in. Sullivan replied that they are currently serving their wine in wine glasses and beer in bottles. Attorney Bjelajac suggested the policy be left as is and address it if it becomes an issue. Vos asked if the City would need to carry additional insurance for possible lawsuits could arise if someone were to get injured on the sidewalks. Both Bjelajac and Lahner replied that the City is covered and isn't a problem and is already covered in the permit. Mayor Miller suggested reviewing this again on June 4, 2013 with changes discussed here tonight. Dawidziak asked Lahner if he intended to consult with Chief Nimmer. Lahner replied that he already has and Chief Nimmer is in support of it and feels with the proper type of seating parameters, his staff would be able to enforce this and also is of the same opinion that the City should monitor this for one year and if there is an issue, the City will address any changes needed.

There was no further discussion. This item is scheduled for the June 4, 2013 Common Council meeting for consideration.

6. Topic: Motion 13-758 to consider the annual insurance renewal with Zarek Insurance.

There was no discussion. Due to the timeliness of this item, it is scheduled for the same night Common Council meeting for consideration.

7. **Adjournment**

A motion was made by Preusker with a second by Bauman to adjourn the meeting. With all in favor, the meeting adjourned at 7:05 p.m.

Diahnn Halbach
Burlington City Clerk
Racine & Walworth Counties