



CITY OF BURLINGTON
Common Council Official Minutes
Robert Miller, Mayor
Diahnn Halbach, City Clerk
June 4, 2013

1. Call to Order - Roll Call

Mayor Bob Miller called the meeting to order at 6:59 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, Police Chief Peter Nimmer, Fire Chief Perry Howard, 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. Pledge of Allegiance

Mayor Miller led the Council, staff, and audience in the Pledge of Allegiance.

3. Citizen's Comments

None

4. Chamber of Commerce Representative

Representative from the Chamber of Commerce reminded all about the Sidewalk Days Sale at the end of July and the Chocolate City Golf Outing on September 17, 2013.

5. Approval of Common Council Minutes for March 5, 2013

A motion was made by Vos with a second by Johnson to approve the council minutes from May 21, 2013. With all in favor, the motion carried.

6. Letters and Communications

None

7. Reports by Aldermanic Representatives and Department Heads

Schultz attended his first Western Racine Health Department Meeting. Schultz reported that 330 lbs of drugs were collected during the Clean Sweep. Schultz also noted that the ticks were bad this year. Shultz also reported that on Friday, June 28 and Saturday June 29, the Wisconsin Dental Association is hosting free dental services at Badger High School starting at 5:30 a.m. and is open to anyone in southeast Wisconsin regardless of financial situation.

Vos questioned a letter received from the Cemetery Board that they were planning to disband and wanted to know more about that situation. Mayor Miller confirmed that the letter is correct, that the Board has voted towards dissolution but have not yet formerly filed. Mayor stated that according to State Statute, if the cemetery lies in the township, the township is obligated to take over operations. If it lies within a city, after one year of non-maintenance of the grounds, the city may go in and maintain the cemetery and after five years

the city has to go in and take over cemetery operations. Mayor Miller further stated that as of right now the Cemetery Board is still running the cemetery although funds are extremely tight and will dissolve, however, they are also looking at other options and have been approached by a couple of different companies with the thought of acquiring assets from the cemetery and taking over. Vos commented that he hopes the City would not wait an entire year before stepping in to take care of the cemetery. Attorney Bjelajac responded that there are three entities involved; the Cemetery Association, the Town of Burlington, and the City of Burlington and would like all three to be able to work something out and possibly become a Town/City operation. Bjelajac further stated that if the Board dissolves before a solution is formally obtained, the City and Town would need to work together and also depends on what steps the Town is willing to take. Mayor Miller questioned the State Statutes and inquired as to whether or not the City is prohibited from enacting prior to the one year time frame. Vos stated that whatever the law dictates, we should do, however, there is a moral obligation to work with the Town and be proactive in determining a solution to this situation. Bjelajac stated that the State Statute does prohibit the City from stepping in for the first year; however the Town is required to immediately step in and take responsibility of the operations for the portions of the cemetery located within the Township. Attorney further stated that he saw nothing that would prohibit the City from entering into an intergovernmental agreement with the Town of Burlington to take care of the entire cemetery. Mayor Miller stated that there are also a couple of other options and has been working with the association to find a solution that will be in the best interest of everyone.

Lahner welcomed Perry Howard as the new Fire Chief and introduced him to Council. Lahner stated there will be an official swearing in ceremony on Tuesday, June 18 at 6:00 p.m. at the Fire House.

8. Reports 1-4

A motion to approve Reports 1-4 was made Schultz with a second by Hintz. With all in favor the motion carried.

Schultz wanted to know more about the Burlington Housing Authority. Mayor Miller replied that Riverview Manor is owned by the City and run by the Burlington Housing Authority (BHA), which is a Board appointed by the Mayor and approved by the Council. The BHA is tasked with maintenance and operations of Riverview Manor on a daily basis. Schultz asked if this building is federally funded. Mayor Miller replied that there is federal money involved which requires a housing authority to run it. Lahner responded that this facility is subsidized rental apartments that are federally funded on extremely low-interest, long term loans and the Housing Authority is the responsible party for the apartments. Lahner further stated that the facility is very well run and there is a waiting list of at least 20 people.

9. Payment of Vouchers

A motion was made by Preusker with a second by Dawidziak to approve vouchers, pre-pays and reimbursements in the amount of \$621,263.02.

Vos inquired about the Veolia contract, which has changed ownership several times and is actually now Advanced Disposal. Lahner replied that there is at least two years left on the contract and that the language of successors and assigns is built in to the existing contract because of the continued name changes in businesses such as this.

Roll Call Aye: Prailes, Johnson, Hintz, Dawidziak, Vos, Schultz, Preusker, and Bauman. Nay: None. Motion carried 8-0.

10. Licenses and Permits

A motion was made by Bauman with a second by Dawidziak to approve the submitted requests for licenses and permits as presented.

Schultz inquired about the difference between an Operator's License and a Liquor License. Mayor Miller explained that the Operator's License allows an individual sell alcohol, such as a bartender or store clerk. A liquor license allows the owner to store and dispense the alcohol within the facility of which it is licensed, such as a bar or store.

With all in favor, the motion carried.

11. Appointments and Nominations

A motion was made by Prailes with a second by Hintz to approve the submitted nominations of Jeff Schopp and Jennifer Amborn to the Park Board as presented.

Schultz highly recommended Jeff Schopp to the Park Board and that he would make an excellent addition to the Park Board.

There was no further discussion. With all in favor, the motion carried.

12. Public Hearings

A Public Hearing was called to order at 7:15 p.m. by Mayor Miller to hear comments and concerns regarding creating Section 274-11.1 to allow for restaurants serving food to serve alcohol in the outside eating areas within the B-2 and B-2A Zoning Districts until 10:00 p.m. from March 1 through October 31.

Attorney Bjelajac gave an overview of what was discussed at the last Committee of the Whole meeting. Bjelajac stated that due to the discussions, it was determined to leave the existing Ordinance as is, however created a new section (274-11.1) that gives the option to include alcohol in a restaurant's outside seating area, which would require an additional permit. Bjelajac further reviewed the proposed Ordinance and then opened it up to for discussion to address any concerns or make additional modifications.

Judith Schulz, 533 Milwaukee Avenue (located near the Top Museum), stated her concern regarding the time, noise, and smoking. Schulz felt 10:00 p.m. was too late for patrons to be outside on the sidewalks drinking because it would disrupt the residents who reside in the downtown area. Schulz also felt the public smoking would create a polluted environment and wanted to know if that was going to be allowed as well. Bjelajac responded that smoking would be allowed since it is outside. Bjelajac further stated that the 10:00 p.m. time was suggested by Council and will ultimately be up to them to decide if this is an appropriate time to use or not. Schulz then asked if there was a beginning time for when alcohol could be served outdoors. Bjelajac responded that alcohol could be served at any time in the morning. Schulz further requested for there to be some discussion regarding a starting time for alcohol to be served.

Vos stated that as far as he was aware, if alcohol is permitted to be sold then alcohol is allowed to be served when a bar or restaurant opens for business. Bjelajac further stated that according to the Ordinance, alcohol may only be served while there is also food service; if there is no food service, then alcohol may not be served. Vos also stated that the current demerits and point system would still apply and any restaurant with this kind of permit would be held to the same standards as other drinking establishments.

Alderman Schultz inquired about the times of the current general noise Ordinance. Chief Nimmer responded that quiet time in the City of Burlington is between the hours of 10:00 p.m. and 6:00 a.m. Schultz further questioned if there was a start time for the outdoor dining. Lahner responded that there is not a start time; that a restaurant with an outdoor seating permit is allowed to serve outdoors upon opening time of their business. Schultz further questioned the 9:00 p.m. shut down time for restaurants that don't serve alcohol versus the 10:00 p.m. shut down time for restaurants that do serve alcohol. Bjelajac stated that the original sidewalk ordinance could be modified, but the ordinance currently being proposed is a separate issue.

Preusker referred back to the original Outdoor Seating Ordinance and clarified that the outdoor serving time stated in the Ordinance was to be between the hours of 6:00 a.m. and 9:00 p.m. Preusker further stated that if the noise ordinance is between the hours of 6:00 a.m. and 10:00 p.m., then both ordinances should coincide with that time frame.

Vos suggested having this monitored for one year and continuing to enforce the noise ordinance and issue demerits when and if necessary.

Paul Sullivan, owner of The Coffee House, stated that although this permit was not created just for his business, he understands the responsibility he faces as one of the first businesses to obtain this particular

permit. Sullivan stated the business hours of his restaurant and didn't feel there would be a problem violating any noise ordinances or being a disruption to the public.

No further comments were made. A motion to close the public hearing was made by Johnson and a second by Vos. With all in favor, the motion carried. Mayor Miller declared the closing of the Public Hearing at 7:40 p.m.

13. RESOLUTIONS

None

14. ORDINANCES

Ordinance 1967(1) to create Chapter 274-11.1 of the Municipal Code to allow alcohol consumption in the downtown outdoor seating areas for restaurants.

A request for a second reading and a motion to approve was made by Hintz with a second by Vos.

Roll Call - Aye: Prailes, Hintz, Dawidziak, Simenson and Preusker. Nay: None. Motion carried 5-0

15. MOTIONS

Motion 11-759 to consider approving a Special Event Permit to allow the closure of East Chestnut Street from Pine Street to Dodge Street on July 20, 2013 for the Coffee House Rock music festival.

Contingent upon the applicant notifying the surrounding businesses and with the understanding that if there are any objections from the surrounding businesses that this motion will need to come back to Council for further consideration, Johnson motioned to approve Motion 11-759, with a second by Hintz.

Schultz asked to have a time frame established as to when these businesses would be notified. Mayor Miller asked Rubach when she intended to notify the businesses. Rubach replied she intended to have that done this same week. Lahner asked Rubach to have the responses to City Hall by Friday, June 7, 2013.

Roll Call: Aye – Johnson, Hintz, Dawidziak, Vos, Schultz, Preusker, Bauman, Prailes. Motion carried 8-0

16. ADJOURN

A motion was made by Dawidziak with a second by Hintz to adjourn the meeting. With all in favor, the meeting adjourned at 7:453 p.m.

Minutes respectfully submitted by:

Diahnn Halbach
Burlington City Clerk
Racine & Walworth Counties