

**City of Burlington  
Official Minutes  
Common Council  
Robert Miller, Mayor  
Beverly R. Gill, City Clerk  
February 3, 2011**

**1. CALL TO ORDER - ROLL CALL**

Mayor Bob Miller called the meeting to order at 6:48 p.m. starting with roll call. Aldermen present: Bob Prailes, Ed Johnson, Peter Hintz, Tom Vos, Jeff Fischer, Katie Simenson Excused: Jim Prailes, Steve Rauch

High school students Excused: Lauren Nadolski Absent: David Martin

Also present: City Administrator Kevin Lahner, City Attorney John Bjelajac, Police Chief Peter Nimmer, Treasurer Steve DeQuaker, Public Works Director Connie Wilson, Fire Chief Dick Lodle, Assistant to the Administrator Megan Johnson

**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 REPORT**

None

**5. JANUARY 18, 2011 COMMON COUNCIL MINUTES**

A motion was made by Vos with a second by Johnson to approve the Common Council Minutes of January 18, 2011. With all in favor, the motion carried.

**6. LETTERS AND COMMUNICATIONS**

None

**7. REPORTS BY ALDERMANIC REPRESENTATIVES AND DEPARTMENT HEADS**

Simenson commented on the following issues:

- Murphy Farm residents reported they had not been plowed out until 1:30 in the afternoon while snowplows were seen many times on Highway W.
- Residents of Fox Street reported that when plowing Bridge Street the plowed snow created a very high bank on Fox Street.
- Residents of Fox Street reported the parking lot at the Veteran's Terrace was plowed first before the streets were finished. Lahner replied that the parking lot may have been plowed by someone other than the DPW due to a scheduled event. Simenson asked that the administrator look into this and report back to her.
- A citizen reported a fire call and her husband who is a volunteer was unable to make the call due to the streets and also commented that priority should be given to plowing out the fire department lot. Lahner replied that during the storm, the plow trucks were clearing the way for the emergency vehicles.
- Several citizens who live on the Buteo Court cul-de-sac had complained the first snowfall had not been removed and now with this snow it was piled very high and pushed over so far that the fire hydrant was buried and also pushed into their yards. Vos commented that he also lives on a cul-de-sac and was not able to get out for two days. He said he had lived around here all of his life and had never seen such a snowstorm. He said the public has to have patience as the city was doing the best they could. Simenson said that she felt it was her responsibility to report the complaints that she had received. Vos thought the complaints should have been directed at

the street department. Simenson said that she was not allowed to directly call departments as she has to report to Lahner.

- Council was given an update on the activity of the Health Department. The Health Department had suggested the city look into creating a bed bug ordinance to protect landlords from being charged for something that is out of their control.
- Countryside Humane Society will no longer be involved with animal control issues.
- The Health Department could not find the Lead Grant; Lahner had recently contacted Cheryl Mazmanian.

Lodle commended both the Police Department and DPW for their excellent job during the blizzard and their cooperation with the fire department. The DPW was at their site by 3:00 a.m. and had them cleared out in anticipation of any calls. The DPW also provided assistance to them during calls by opening the roads so there was no delay. Lodle also reported that some of the first responders walked through the snow to get to the station.

Nimmer echoed Lodle's comments on the DPW and commended his department's officers and dispatchers. Everyone who was supposed to be on duty came in even though it took them hours to reach the station.

Wilson reported that after sixteen straight hours of plowing the ten drivers had been sent home for much needed rest. They were scheduled to be back at midnight to clean out the downtown area.

The mayor commended the DPW on the fine job they did considering the amount of snow there was to remove.

#### **8. REPORTS 1-3**

A motion was made by Hintz with a second by Bob Prailes to approve Reports 1-3. With all in favor, the motion carried.

#### **9. PAYMENT OF VOUCHERS**

A motion was made by Vos with a second by Hintz to approve pre-pays, vouchers and reimbursements in the amount of \$339,492.69 Roll Call Ayes: Bob Prailes, Johnson, Hintz, Vos, Fischer, Simenson Nays: None Motion carried 6-0.

#### **10. LICENSES AND PERMITS**

A motion was made by Vos with a second by Fischer to approve the licenses as presented. With all in favor, the motion carried.

#### **11. APPOINTMENTS AND NOMINATIONS**

None

#### **12. PUBLIC HEARING**

**A. "A PUBLIC HEARING TO HEAR PUBLIC COMMENT REGARDING AN AMENDMENT TO THE MUNICIPAL CODE TO CREATE SECTION 315-111E, "EXCEPTIONS TO HISTORIC PRESERVATION COMMISSION MEMBERSHIP REQUIREMENTS"**

The public hearing was opened by the Mayor at 7:05 p.m. There were no comments. A motion was made by Simenson with a second by Hintz to close the public hearing. With all in favor, the public hearing closed at 7:06 p.m.

#### **13. RESOLUTIONS**

**A. RESOLUTION 4447(31) "A RESOLUTION TO APPROVE A SALE AND REDEVELOPMENT AGREEMENT WITH CRAIG FAUST FOR 824 MILWAUKEE AVENUE"**

A request for a second reading and a motion to approve was made by Fischer. Due to the fact the offer to purchase had been withdrawn, he then requested a motion to receive and file. Vos then seconded the motion and with all in favor, the motion carried.

Vos said that he had read quite a significant article in the Standard Press regarding the sale of the DPW Building. He had served on council for thirty plus years and he had always felt that it was the responsibility of the council to act in a responsible manner and make the best decisions that could possibly be made based on the best information available at the time. He didn't think anyone was surprised when the decision was made to build a new DPW Building and that the old building would be marketed even though some people disagreed with that fact. The council had held discussions over the last six months regarding the new building and he didn't think that anyone was surprised regarding the sale of the old building. He thought the mayor and administrator had acted in a responsible manner.

Vos was elated when he heard that someone was going to take this property off the city's hands. He had been part of the council that had been approached twice regarding the same property and when they found out what it was, what it was like and where it was, they had declined.

When Vos had read the paper and there were inferences made and he agreed with comments from Atty. Hotvedt, who had earlier this evening referenced statements that were made in the newspaper that were untrue, it ticked him off. He thought the council had acted in good faith whether you agreed or disagreed and he certainly thought the city attorney, mayor and administrator acted above board. Vos believed that the proposal submitted at the time council was asked to make a decision was the only proposal that was submitted. It was later he thought, that all of a sudden in came another proposal and to this day someone has to prove to him that it was a more credible proposal because he felt it was not. Vos stated that it had been determined by a 6-2 vote that it was not in the best interest of the City of Burlington.

Vos said that he hears that there are people, realtors and developers out there who are interested in this property and he wanted to know where they were. He publicly charged Mr. Jack Baker and two of his counterparts who were part of the article and anyone else who criticized council, mayor and city administrator to bring back the same people they say are out there. He said that the city now has three issues in front of them: loss of development, maintenance of both the old building and new building and the loss of tax base. Vos did not look at this as a win, win situation.

Vos stated that most of what was said was based on hearsay, innuendo and false accusations with no substantiation whatsoever. Nobody gave the council a credible offer to purchase that the city could live with because the one that was received simply said that they would take the \$24,000 a year from the cell tower in perpetuity. The offer also stated that the city would have to tear down the building when the city already had an offer for someone else to tear it down. In his opinion, ChocolateFest was going to come out on the bottom end as they are back to paying \$12,000 a year.

Vos wanted to say publicly that he thought what happened "stunk" and he wanted the people to step up and for someone to come to council in the next six months or less with a credible proposal that takes this property off the city's hands.

Johnson agreed whole-heartily with Vos and thought the city had lost a golden opportunity to do something good for the city. Johnson further stated that people knew it was for sale because it was in the paper and why didn't they flock in to buy it or perhaps because they knew it wasn't saleable. Johnson said that he thought the city had lost a great opportunity.

Bob Prailes said there were mistakes made and one of them was the fact there was no "for sale" sign on the property. He disagreed with Simenson and brought up a discussion that was held at the CATHE Center when they were both initially running for alderman. Bob Prailes talked about his family and what he thought of the City of Burlington. He said the first words out of Simenson were: "she wasn't a boy, she wasn't a good old boy and she was going to destroy the Good Old Boy's Club". Bob Prailes thought she had done a pretty good job of doing that here tonight by making something fail that she thought was part of the "Good Old Boys".

Simenson denied the comment at the CATHE Center and what she thought she had said that day was that she didn't know there was ever a "Good Old Boy's Club" but people talked about it- but she never thought it existed.

Simenson's only problem with the sale of the property was never about the offer or even about the person who was going to get the money for selling the property, but her concern was to make sure there was transparency and that everyone was aware. She said that council knew of the sale but she thought there were a lot of people in the city that did not. She stated that she hardly knows Mr. Jack Baker, but as a realtor he said that he did not even know for sure the property was going to be sold and Simenson said that we can only take it on that word.

Simenson questioned if the city was losing a good deal? She felt sad about that and that it was too bad it couldn't have been put up for sale and then Claude could have brought it up as a legitimate sale. She said a lot of people questioned how this was done and all it points to is do it the right way-that's all the people are asking for.

The mayor replied that he took great exception to some of the comments and quotes that were printed in the newspaper that attacked himself, attacked the city administrator and made reference to under the table deals, back door deals and not being honest and above board. He said back in July when we talked about this new building there was a newspaper article on it and that article stated in so many words the city will be selling the building. Ald. Vos was correct, we have had people approach the city and say "I'm interested" and we say ok, you understand this is a landfill and your options are restricted or limited as to what you can do with this piece of property. Once they heard that, they said thanks but, no thanks, I don't need to jump into that mess. We had an offer come forward and it was alluded to in the paper, that our city administrator wrote the "offer to purchase" and that is not true in any way shape or form. What he did do, which he has always done and what he is charged with doing, is to write a developer's agreement to protect the interest of the city.

The mayor further stated that every development the city has ever had has a developers agreement that's been authored by the city staff, given to the proposed developer who then decides whether they want to proceed or not. To say otherwise is to impugn that process. He further stated that he thought it was irresponsible and uncalled for.

The mayor stated that we have lost here tonight an opportunity to take a piece of property that the city owns that is blighted property, is on a landfill, because the purchaser did not wish to be drugged through the mud any more than they already have been. He has withdrawn his offer and walked away. The city will now have to maintain ownership of that building and the mayor seriously doubted that anyone else will come forward with the same level of offer that was there. He sincerely hoped and prayed that someone does, but he had his doubts. In the meantime, the city will be required to maintain that property, keep the gas on, keep pipes from freezing, and maintain the property as far as keeping it clean, cutting the grass and everything out front. As Alderman Vos alluded to, this property once the sale closed would have gone on the tax roll and started returning tax revenue back to the city.

Redevelopment when it happened would have increased the value of the property and at that point in time, again would have returned money back to the taxpayer. As it stands now, the building will cost the taxpayers money because of some irresponsible comments that were made in the paper that shouldn't have been.

Where ChocolateFest is sitting is not a valuable piece of property-it's a dump, it's a landfill and they cannot put in footings for a building, can't dig down and make it a big commercial development simply because it is a landfill. Doing so would be prohibited or cost prohibitive per rules of the DNR because of what it is, it is a landfill.

This is a sad day for the city and that losing this offer over some things that were said is a mistake, it's a black eye for the city and we are going to be hard pressed to overcome it now without costing the taxpayers some significant dollars possibly in the future.

Vos than commented that it upset him that sometimes people are so short-sighted that they can't see down the road. He had sat on this council as did the mayor and Ald. Peter Hintz when the city started the whole Riverfront Development and Vos had friends that were mad at him. He then mentioned Mr. Mark Caliva in particular as being very mad at hearing that the city was going to take down his building. The council had a lot of tough decisions to make and this was just another one of the tough decisions that the council had to make in this city to make sure that it progressed and went forward.

What upset Vos again and he has said it before, is that you can be very short-sighted; you can be very self-centered and very self-serving. He took exception to Ald. Simenson regarding the people who any one of them could have called him and he would have had the same conversation with them that he would have had with Ald. Simenson about what the vision should have been. He would have discussed the pros and cons of that development and the plus and minus'. He said there was an old saying that a bird in the hand is worth more than two in the bush. Vos felt that we had a bird in the hand. Vos then asked everybody that was against it to show him the two birds in the bush, because he didn't see it and if it comes out to play, he would be the first to say that he was wrong.

Johns Brosel, 353 Pickett Court said that he did not understand what they were talking about and thought the city was paying for the clean-up, up to the price of the building, so he wondered where was the gain or was that not true?

Mayor Miller stated that part of the deal was to pay for the clean-up of the foot print of the building up to the purchase price of the building and no more. The buildings that were there, the developer would be taking down on his own, at his own expense. The developer would then have to come back in front of the Plan Commission with a developer's agreement and a foot print of the building that he wanted to put up based off of that footprint. The city would clean the site for the footprint only. If that went up to the purchase price-that was all the city was going to pay. The developer would cover anything over and above and if it was less than that which based off where he was talking about putting his development that would have been in our opinion. We were looking somewhere in the area of 2.25 to 2.50 of the purchase price to be spent in cleaning up the site.

Once the developer had made the purchase of that property, its' assessed value would have gone on the tax roll and he would have been paying property taxes on it. Once he put his new building up that would have improved or increased the value of the property and his property taxes would have gone up accordingly. So he would be paying that much more in property taxes.

Brosel said in the newspaper article that had all the quotes, Faust was going to pay for all the remediation. The mayor replied that was not part of the deal.

Vos said that if the newspaper stated that-the paper was wrong because that was never part of the deal.

Brosel asked if the offer to purchase had been printed or was it available to the public. Atty. Bjelajac said that it was publicly before the council and he offered to meet with him after the meeting and answer any questions.

#### **14. ORDINANCES**

##### **A. ORDINANCE 1919(22) "AN ORDINANCE TO REZONE PROPERTY AT 681 MARYLAND AVENUE FROM I-1, INSTITUTIONAL DISTRICT AND M-1, LIGHT MANUFACTURING DISTRICT TO M-1 DISTRICT IN ITS ENTIRETY"**

A request for a second reading and motion to approve was made by Bob Prailes with a second by Johnson. With all in favor, the motion carried.

##### **B. ORDINANCE 1920(23) "AN ORDINANCE TO CONSIDER AMENDING THE MULTI-JURISDICTIONAL COMPREHENSIVE PLAN FOR 717 WEST CHESTNUT STREET"**

A request for a second reading and motion to approve was made by Johnson with a second by Hintz. Roll Call Ayes: Bob Prailes, Johnson, Hintz, Vos, Fischer, Simenson Nays: None Motion carried 6-0

**15. MOTIONS**

None

**16. ADJOURNMENT**

A motion was made by Vos with a second by Hintz to adjourn the meeting. With all in favor, the motion carried and the meeting adjourned at 7:25 p.m.

Beverly R. Gill  
City Clerk  
City of Burlington  
Racine and Walworth Counties