

**CITY OF BURLINGTON**  
**Committee of the Whole Minutes**  
**Robert Miller, Mayor**  
**Beverly R. Gill, City Clerk**  
**July 5, 2011**

**1. CALL TO ORDER/ROLL CALL**

Mayor Bob Miller called the meeting to order at 6:30 p.m. starting with roll call. Aldermen present: Bob Prailes, Ed Johnson, Peter Hintz, Jim Prailes, Tom Vos, Steve Rauch, Jeff Fischer Excused: Katie Simenson

Also present: City Administrator Kevin Lahner, Police Chief Peter Nimmer, Library Director Gayle Falk, Treasurer Steve DeQuaker, Police Department Administrative Service Manager Kim Hardesty, Utility Director Connie Wilson, Fire Chief Dick Lodle

**2. CITIZENS COMMENTS AND QUESTIONS**

Mr. Paul Mueller, of REMAX, 800 Milwaukee Avenue addressed the council regarding the issue of the ChocolateFest Lease. He said he was not against ChocolateFest and commended them in trying to see this lease agreement through. He further stated that he did have issues with the agreement and thought there were circumstances that the council and public may not be aware of and respectfully requested the council delay a decision on this lease.

Mr. Mueller stated that back in May of 2011 he submitted an offer on a portion of land directly behind his REMAX office which is part of the property ChocolateFest would like to include in the lease agreement. He also submitted an offer on behalf of his client Mr. Ken Neu, owner of Chris' USA, 724 Milwaukee Avenue who was also interested in the land directly behind his business.

Mr. Mueller stated that the purpose of the acquisition would be additional parking for both businesses. Mueller and Neu would also put in a private road which would provide ingress and egress to the public right-of-way by Walgreens which would allow a safer way to enter and leave their properties.

Mr. Mueller further stated that the parcel he was interested in had the old garage/pole building on it and it was his intention to tear it down as he did not feel it had much value. The offer he submitted to the city was subject to the approval by council in closed session. Mueller was later told that his offer was rejected because ChocolateFest had a desire to use that particular building for storage. Mueller was then told, if he could work out an agreement with ChocolateFest, the city would revisit his offer.

Mueller stated that as of this morning there was no agreement with ChocolateFest. He wanted it made clear that the offer to ChocolateFest included the use of five bays of the building at no cost for ten years with exclusive use of the property in general during ChocolateFest. He further stated that the offer from himself and Neu would provide a \$45,000 payment for the property which the two owners would then maintain. They also would pay taxes and felt this would enhance the whole commercial corridor into the future.

Mueller closed by stating that he and Neu were willing to purchase the property "as is" and were aware of its status as an old landfill but felt it could be used for parking. They also knew that future development of the property would be restricted.

Mueller respectfully requested that no decision be made this evening, but allow time for everyone to work things out.

Mr. Ken Neu then addressed the council relating to the purchase of the property adjacent to his business. He stated that he would be maintaining and improving the parcel and that it already is in

need of improvement. He referenced the public right-of-way outside of the existing fence and said he would have no problem with that area being used by ChocolateFest. He said that as of now, there are large concrete containers on the property but he plans on rectifying that and creating more parking. He was concerned with the left turn issue out of his business and the need for more parking. He further stated that the offer to purchase that was made, accepts the liability for the land but the offer from ChocolateFest would continue to hold the city liable. Neu was willing to negotiate with ChocolateFest, but as it stands now, ChocolateFest was not willing.

**3. APPROVAL OF MINUTES FOR JULY 5, 2011**

A motion was made by Jim Prailes with a second by Bob Prailes to approve the minutes from July 5, 2011. With all in favor, the motion carried.

**4. RESOLUTION 4485(10) "A RESOLUTION TO CONSIDER APPROVING A LEASE BETWEEN THE CITY OF BURLINGTON AND CHOCOLATEFEST"**

Mayor Miller introduced Resolution 4485(10) to the council for discussion. Bob Prailes questioned if the city would sell the parcel to Mr. Neu, would he be required to asphalt, stripe and conform to the lighting code. Lahner thought that he would have to conform to the current codes regarding the parking lot.

Vos thought that one of the objections that had been brought up was the city did not want to deny ChocolateFest the use of the storage building but now there seemed to be an indication that they would be allowed half of the building for ten years for one dollar according to the offer to purchase from Mueller. Vos did not know where the negotiations were at this time but the offer appeared to answer some of the questions by ChocolateFest.

The mayor explained that three weeks ago when the offer to purchase was discussed in closed session the council's objection was the carving out of the building and denying its use to ChocolateFest. The administration was instructed to relay to the potential buyers that it would behoove them to try and work things out. This agreement was then going to be brought back to council for a decision.

Former Mayor Claude Lois, representing ChocolateFest stated that he and Mr. Bil Scherrer did meet on July 6<sup>th</sup> with Paul Mueller. Lois felt that they were going down parallel paths but each had their own needs to consider. He reiterated that ChocolateFest was only leasing the land and the ownership would be retained by the city. Lois did not disagree that there were pros and cons to each offer.

Rauch questioned if they were still in negotiations. Lois replied they are not negotiating at this time as the goal of Mueller and Neu is to own the land and in Lois' opinion, that would jeopardize ChocolateFest.

Mueller then addressed the issue of carving out the building from the property. Because this building is directly behind Mueller's property, his interest was in the land. If the building was to be carved out for ChocolateFest then the agreement was to offer the access road to his property.

Bob Prailes said that the building has value but Mueller only wants to pay for the land. Mueller replied that in his estimation, the raw value of the land is less what it costs to remove the building. Bob Prailes questioned further if Mueller intended to fix up the building. Mueller said that all along the idea was to take all of the buildings down, but then it changed to ChocolateFest needing five bays. He thought that with five bays for ChocolateFest and one each for Lions Club and Jaycees that would leave three bays that could be rented with the rental money used for maintenance.

Mueller then stated that he had been awaiting word of the July 6<sup>th</sup> meeting with the ChocolateFest representatives but had not heard anything back until today. Mueller said that this morning he was contacted by a representative from ChocolateFest and told they weren't going to let him have the

property. Mueller said it was upsetting that it wasn't the City of Burlington announcing this but rather ChocolateFest. Mueller said he spoke to council this evening because he did not feel it was a fair opportunity for some unbiased people to sit in on a meeting with ChocolateFest. He stated again that this issue should be addressed later at a fair open meeting and this was not the time to address this issue.

Jim Wanasek, 949 Joseph Court said that ChocolateFest would be willing to let the road go in behind Mueller/Neu properties and also give them parking through the year but emphasized that ChocolateFest wanted control of the site.

Lois then spoke about how Mueller/Neu want to own the land as well as does ChocolateFest. Lois felt that what was in front of council this evening was in the best interest of ChocolateFest.

Vos said that both sides have reasonable arguments and it was going to be difficult to vote either way.

Neu questioned council members what they have seen of a thirty year plan for ChocolateFest. He said they talk about demolishing buildings, building new buildings, putting in water/sewer with all of this requiring year round maintenance. In his opinion, he has seen nothing done on that property. He was concerned that there was no bonding or escrow set up and in his opinion it was very dangerous not to require assurance that all terms of the lease will be fulfilled.

Johnson said that an agreement should be reached by the parties at this time, or it should be put off to another meeting.

Wanasek stated that the ChocolateFest group is doing this as a civic project and not for personal gain and they would be willing to work with Mueller/Neu.

Fisher reminded council members how the thirty-year lease came about because the city wanted to maintain some sort of control over the property but the sale of the property is going in a different direction.

Lahner then discussed that when the Offer to Purchase was discussed, council was not comfortable with carving out the building and giving control of it to Mr. Mueller. Lahner felt that they have worked in good faith with ChocolateFest and have reached the goals that council members requested.

Vos said that neither party wants to put off the vote, but there seemed like a lot of unresolved issues.

Rauch questioned if ChocolateFest is going to tear down the old DPW building, the vacant land could then be offered to Mueller to provide him access off of Maryland Avenue. Lahner thought that idea could be possible. Vos then asked if there was an assessed value on that parcel. The mayor said the 1.5 acres was already being represented by a realtor. The mayor added that it would help Mueller but wouldn't help Neu. Mueller said the land that he was interested in was included on both Lot 1 and Lot 3.

The mayor stated that this resolution moves forward to this evening's council meeting and council can either reject, approve or table.

5. **RESOLUTION 4489(14)** "A RESOLUTION TO CONSIDER APPROVING THE PURCHASE OF DIGITAL BASE RADIOS AND A CONSOLE SYSTEM FOR THE POLICE DEPARTMENT"

The mayor introduced Resolution 4489(14) to the council for discussion. The mayor said that agenda items listed as 5, 6 and 7 are part of the complete package. He further explained this proposed expenditure was part of the capital expenditures and was part of this year's budget.

Johnson said in his estimation the total was about \$23,000 short of budget. Nimmer replied that was correct.

Nimmer replied that the 911 system was approximately \$23,000 over budget due to changes in technology. The new enhanced 911 system will be digital, compatible with the new Racine County system and will be able to receive text message 911 calls that the current system is unable to do. He further stated that the hardware is no longer made for this system and parts are very hard to find.

Fischer questioned when the Racine County Sheriff's Department will be switching over to the new system. Nimmer replied that they are in the process at this time.

Rauch questioned if the officers were still using cell phones. Nimmer replied that they have them, but it is only one-way communication and conversations are not recorded.

This resolution moves forward to this August 2, 2011 council meeting.

6. **RESOLUTION 4490(15) "A RESOLUTION TO CONSIDER APPROVING THE PURCHASE OF A DIGITAL 9-1-1 SYSTEM FOR THE POLICE DEPARTMENT"**

The mayor introduced Resolution 4490(15) to the council.

This resolution moves forward to the August 2, 2011 Common Council meeting.

7. **RESOLUTION 4491(16) "A RESOLUTION TO CONSIDER APPROVING THE PURCHASE OF DIGITAL SQUAD MOBILE RADIOS FOR THE POLICE DEPARTMENT"**

The mayor introduced Resolution 4491(16) to the council for discussion.

This resolution moves forward to the August 2, 2011 Common Council meeting.

8. **RESOLUTION 4492(17) "A RESOLUTION TO CONSIDER APPROVING A CHOCOLATE CITY LOGO AGREEMENT WITH CHOCOLATE EXPRESSIONS"**

Mayor Miller introduced Resolution 4492(17) to the council for discussion.

This motion moves forward to this evening's Common Council meeting.

9. **MOTION 11-720 "A MOTION TO CONSIDER RESCHEDULING THE AUGUST 16, 2011 COMMITTEE OF THE WHOLE AND COMMON COUNCIL MEETINGS TO AUGUST 17, 2011 DUE TO THE RECALL ELECTION"**

Mayor Miller introduced Motion 11-716 to the council for discussion.

This motion moves forward to the August 2, 2011 Common Council meeting.

10. **ADJOURNMENT**

A motion was made by Hintz to adjourn the meeting. Jim Prailes seconded the motion and with all in favor, the meeting adjourned at 7:26 p.m.

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