

MINUTES

EAU CLAIRE CITY COUNCIL LEGISLATIVE SESSION

Tuesday, June 27, 2006

City Council Chamber

4:00 p.m.

PLEDGE OF ALLEGIANCE AND ROLL CALL

Council President Adler called the meeting to order. The following members were present: Council Members David Adler, Toby Biegel, Brandon Buchanan, Hal Davis, David Duax, Raymond Hughes, Kerry Kincaid, Terry Sheridan, Bob Von Haden and Thomas Vue. Absent: Council Member Berlye Middleton.

CONSENT AGENDA

The Council considered a resolution adopting the Consent Agenda for selected items of routine business on Tuesday, June 27, 2006. Council Members requested that Item No. 6 on the Consent Agenda regarding the sale of food items and concessions by vendors and the sale of merchandise by musical groups in conjunction with Volume One magazine's summer concert series in Phoenix Park be removed from the Consent Agenda and voted upon separately. Thereupon a motion was offered by Council Member Davis and seconded by Council Member Buchanan "to adopt the remainder of the consent resolution". Said motion passed by unanimous vote.

USE OF CITY FACILITIES

The City Council considered a resolution approving the sale of food items and concessions by vendors and the sale of merchandise by musical groups in conjunction with Volume One magazine's summer concert series in Phoenix Park. Thereupon a motion was offered by Council Member Biegel and seconded by Council Member Vue "to adopt said resolution". Said motion passed by unanimous vote.

APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

The Council considered a resolution approving the following appointments to various Boards, Commissions, and Committees.

Affirmative Action Committee
(three-year term to expire June 30, 2009)
Susan Pitts – reappointment

Board of Heating Examiners
(three-year term to June 30, 2009)
Fred Gardner, Jr. – reappointment
Daniel Larson, Sr. – reappointment

Building Code Committee
(three-year term to expire June 30, 2009)
Michael Berg – reappointment
Michael Fern – reappointment
Neil Haselwander – reappointment

Library Board
(three-year term to expire June 30, 2009)
Jean Radke - reappointment

Special Assessment Deferment Committee
(three-year term to expire June 30, 2009)
Merrill Lovvik - moved from alternate member to regular member

North Barstow/Medical BID Board
(three-year term to expire June 30, 2009)
Bill Benedict – reappointment
John Kohlhepp – reappointment
Jason Manz – reappointment

Transit Commission
(three-year term to expire June 30, 2009)
John Stupak – reappointment
Catrina Hulbert – new appointment

Thereupon a motion was offered by Council Member Kincaid and seconded by Council Member Duax “to adopt said resolution”. Said motion passed by unanimous vote.

LIQUOR LICENSE - NASTY HABIT

City Attorney Stephen Nick stepped down as legal counsel to the City Council and Attorney Julie Anderl temporarily assumed that role. Anderl had acted as legal counsel to the Administrative Review Board during the hearing process on the complaint filed by the Chief of Police and the City Attorney to revoke the Combination Class B Intoxicating Liquor & Fermented Malt Beverage license granted to the Nasty Habit, Inc., 341 Water Street, Scott L. Hegwood, agent. The City Council considered a resolution accepting the Findings of Fact, Conclusions of Law, and Recommendation of the Administrative Review Board regarding the revocation of said license. Attorney J. Drew Ryberg, attorney for the licensee, had filed a letter dated June 21, 2006, outlining three objections to the Committee’s report. A motion was offered by Council Member Duax and seconded by Council Member Kincaid “that the Council hear oral arguments from both parties (Licensee and the City) on Objections One and Two in Ryberg’s letter. Each party shall be limited to a ten minute presentation and a five minute rebuttal.” Said motion passed by unanimous vote. Attorneys Ryberg and Nick addressed the Council.

Council Member Buchanan left the Council Chamber.

Thereupon a motion was offered by Council Member Biegel and seconded by Council Member Duax “that the Council over-rule Objection Two in Attorney Ryberg’s June 21, 2006 letter relating to Council Members Buchanan and Davis participating in the Council’s decision because they are members of the Administrative Review Board”.

Council Member Buchanan returned to the Council Chamber.

Said motion regarding Objection Two passed by the following vote: Aye: Council Members Adler, Biegel, Davis, Duax, Hughes, Kincaid, Sheridan, Von Haden, and Vue. Nay: None. Abstain: Council Member Buchanan. Thereupon a motion was offered by Council Member Duax and seconded by Council Member Von Haden “that the Council over-rule Objection One in Attorney Ryberg’s June 21, 2006 letter objecting to the procedure followed by the City in the proposed revocation of said license. The Administrative Review Board is properly established under Section 1.06 of the City Code of Ordinances and is in compliance with Wisconsin Statute 125.12.”. Thereupon a motion was offered by Council Member Hughes

and seconded by Council Member Sheridan “to take Council Member Duax’s motion under advisement”. Said motion failed by the following vote: Aye: Council Members Hughes and Sheridan. Nay: Council Members Adler, Biegel, Buchanan, Davis, Duax, Kincaid, Von Haden, and Vue. The Council then voted on the original motion over-ruling Objection One. Said motion passed by the following vote: Aye: Council Members Adler, Biegel, Buchanan, Davis, Duax, Kincaid, Sheridan, Von Haden, and Vue. Nay: Council Member Hughes.

Attorneys Ryberg and Nick addressed the Council regarding Objection Three in Ryberg’s June 21, 2006 letter objecting to the Findings of Fact, Conclusions of Law, and Recommendation of the Administrative Review Board dated June 19, 2006. Following the oral presentations, a motion was offered by Council Member Biegel and seconded by Council Member Kincaid “to accept written arguments from both parties. Council shall take a five minute recess to review said written arguments”. Said motion passed by the following vote: Aye: Council Members Biegel, Buchanan, Davis, Duax, Kincaid, Sheridan, Von Haden, and Vue. Nay: Council Members Adler and Hughes.

The Council took a five minute recess.

Upon completion of the recess, a motion was offered by Council Member Hughes and seconded by Council Member Duax “to adopt the resolution accepting the Findings of Fact, Conclusions of Law, and Recommendation of the Administrative Review Board regarding the 2005 - 2006 Combination Class B Intoxicating Liquor & Fermented Malt Beverage license granted to the Nasty Habit, Inc., 341 Water Street, Scott L. Hegwood, agent, and immediately revoke said license”. Said motion passed by unanimous vote.

The Council considered a resolution regarding the issuance of a Combination Class B Intoxicating Liquor & Fermented Malt Beverage license and Class A Cabaret license to the Nasty Habit, Inc., 341 Water Street, Scott L. Hegwood, agent, for the 2006 - 2007 licensing period. Thereupon a motion was offered by Council Member Buchanan and seconded by Council Member Von Haden “to not renew said license as such renewal was not possible under Wisconsin Statute 125.12 (2)(c)”. Said motion passed by unanimous vote.

Attorney Julie Anderl stepped down as legal counsel to the City Council and City Attorney Nick returned to the seat.

LIQUOR LICENSE - DOOLEY’S PUB

The Council considered a resolution amending the Combination Class B Intoxicating Liquor & Fermented Malt Beverage licensed premise of Dooley’s Pub, Inc., d/b/a Dooley’s Pub, 442 Water Street, to include a sidewalk café abutting the parcel along Fifth Avenue. Thereupon a motion was offered by Council Member Vue and seconded by Council Member Kincaid “to adopt said resolution”. Said motion passed by unanimous vote.

EASEMENT

The Council considered a resolution accepting a permanent easement from Princeton Crossing LLC for construction of a sanitary sewer lift station to serve the northeast side of the City. Thereupon a motion was offered by Council Member Duax and seconded by Council Member Hughes “to adopt said resolution”. Said motion passed by unanimous vote.

SHERMAN ESTATES III

The City Council considered a resolution approving the final plat for Sherman Estates III located north of Cameron Street and west of W. Vine Street as shown on Planning File P-6-06. Thereupon a motion was offered by Council Member Sheridan and seconded by Council Member Von Haden “to adopt said resolution”. Said motion passed by unanimous vote.

Council Member Sheridan left the Council Chamber.

The Council considered a resolution authorizing the City Manager to enter into a development agreement with Ryan Development, Inc. for street and utility improvements to Sherman Estates III. Thereupon a motion was offered by Council Member Davis and seconded by Council Member Buchanan “to adopt said resolution”. Said motion passed by unanimous vote.

The Council considered a resolution indicating the location of required sidewalk construction within Sherman Estates III. Thereupon a motion was offered by Council Member Biegel and seconded by Council Member Vue “to adopt said resolution”. Said motion passed by unanimous vote.

Council Member Sheridan returned to the Council Chamber.

TREE REMOVAL

The City Council considered a final resolution levying special assessments for tree removal at 617 Fountain Street, Parcel No. 09-0552 and UPRR property on Seventh Street, Parcel No. 14-0424-A. Thereupon a motion was offered by Council Member Kincaid and seconded by Council Member Davis “to adopt said resolution”. Said motion passed by unanimous vote.

RECONSIDERATION - ARBUTUS DRIVE

A motion was offered by Council Member Duax and seconded by Council Member Biegel “to reconsider the resolution adopted June 13, 2006 closing to vehicular traffic a portion of Arbutus Drive, from Red Maple Ridge to 135 feet west.” Said motion to reconsider failed on the following vote: Aye: Council Members Adler, Biegel, Duax and Hughes. Nay: Council Members Buchanan, Davis, Kincaid, Sheridan, Von Haden, and Vue.

ZONING

The City Council considered an ordinance rezoning property located at 306 Garden Street from R-1 and R-1A to R-2, as shown on Planning File #Z-1357-06. Thereupon a motion was offered by Council Member Hughes and seconded by Council Member Sheridan “to adopt said ordinance”. Said motion passed by unanimous vote.

ZONING BOARD OF APPEALS

The Council considered an ordinance amending the Zoning Code, Chapter 18.55 (Zoning Board of Appeals), changing the voting requirements for the board. Thereupon a motion was offered by Council Member Von Haden and seconded by Council Member Davis “to adopt said ordinance”. Said motion passed by unanimous vote.

PARKING

The City Council had first reading on the following ordinances regarding parking;

- amend Table VIII, entitled "Parking Prohibited," by adding Dewey Street, west side, from Galloway Street to a point 235 feet south of Galloway Street, and Dewey Street, east side, from Galloway Street to a point 105 feet south of Galloway Street.
- amend Table VIII, entitled "Parking Prohibited," by adding Craig Road, both sides, from a point 300 feet south of Hamilton Avenue to International Drive, and International Drive, both sides, from Craig Road to Continental Drive.
- amend Table III, entitled “Stop Intersections”, by adding Hastings Place and Galloway Street, when entering from the north on Hastings Place.

ADJOURNMENT

A motion was offered by Council Member Kincaid and seconded by Council Member Vue “that this meeting does now adjourn.” Said motion passed by unanimous vote.

Adjournment: June 27, 2006

Time: 7:05 p.m.

David J. Adler, President

ATTEST:

Donna A. Austad, City Clerk