



CITY COUNCIL MINUTES

Regular Meeting
Monday – November 16, 2009
7:00 p.m.

CALL TO ORDER

Mayor Pro Tem Heddlesten called the regularly-scheduled meeting to order at 7:00 p.m. and led the Pledge of Allegiance.

ROLL CALL

Council Members present were Beaudry, Borek, Drotz, Heddlesten, Neal, Sanderson, and Whalen.

STAFF PRESENT

Interim City Administrator Fessler, City Attorney Olbrechts, Police Lieutenant Hamry, Public Works Director Neal, Finance Director Pierce, Senior Financial Analyst Tylor, and Deputy City Clerk Stevenson-Ness were present.

Hearing – Bud’s Saloon and Steakhouse: Appeal of 30-day suspension of Class 2 Cabaret License.

City Attorney Olbrechts described the procedure to be utilized for the hearing and the ethical wall that was applied internally at Ogden Murphy Wallace between Mr. Olbrechts and attorney Bio Park.

Mr. Olbrechts introduced Exhibit 1, an email from Connie Fessler to Phil Olbrechts, dated November 16, 2009, and Exhibit 2, an email from Phil Olbrechts to Bio Park, dated November 16, 2009.

Deputy City Clerk Stevenson-Ness swore in the witnesses: Lieutenant Eric Hamry, Milton Police Department; Young Jin Choi, and Patricia Anderson, Bud’s Saloon and Steakhouse.

Mayor Pro Tem Heddlesten opened the hearing at 7:10 p.m. and called on Lt. Hamry.

Lt. Hamry presented the police department's case in support of the license suspension. He stated that in September 2009, the police department began having issues with the activity at the establishment on Friday nights. The issues resulted in arrests for fighting, disorderly conduct, assault with a weapon, possession of a weapon, and deposit of an unwholesome substance. As of October 30, 2009, 13 arrests occurred, violating Milton Municipal Code Chapter 5.12.050. He then reviewed the list of incidents that occurred between September 26, 2009, and October 30, 2009.

Mr. Olbrechts entered the list of incidents as Exhibit 3, Chief's review of cases.

Lt. Hamry explained the steps and actions the department took to remedy the situation prior to recommending suspension. He stated additional officers were added to the patrol, surrounding parking lots were blocked off; and numerous meetings were held between Chief Rhoads and Mr. Choi regarding the situation.

Upon questioning by the Council and attorney, Lt. Hamry stated that ongoing warnings about the violations were given to Mr. Choi and that the problems occurred on only Friday nights when this type of live music was involved.

Questioning of Lt. Hamry concluded.

Mr. Choi requested five minutes to review the exhibits.

Mayor Pro Tem Heddlesten recessed the hearing at 7:22 p.m. and reconvened the hearing at 7:27 p.m.

Mr. Olbrechts asked Mr. Choi if he objected to the admission of the items into the record. Mr. Choi did not object.

Young Jin Choi and Patricia Anderson, representatives of Bud's Saloon and Steakhouse, presented their case. Ms. Anderson stated she is an employee and manager at Bud's. She stated the promotion company had been terminated and that Bud's was no longer playing the type of music that was drawing the problematic clientele. She stated the suspension of the cabaret license has greatly affected the business at Bud's. They have laid off three employees, the karaoke has been cancelled, and the band has been laid off.

Mr. Choi stated when he hired the promotion company he did not know what kind of crowd the music was going to draw and he hired two police officers and eight security people for crowd control. He said he had a meeting with Chief Rhoads every Monday.

Mr Choi stated that at the meeting with Chief Rhoads on October 27, the Chief told him there would be an increase in the fees and he would be required to hire more officers

and security personnel. Because of problems that occurred on October 30, Mr. Choi said the promotion company was fired and there would be no more promotion on Friday nights.

Mr. Olbrechts stated the Council needed to disclose any prior knowledge of the case that they may have had. Mayor Pro Tem Heddlesten stated he had discussed some issues with Chief Rhoads prior to the time the issue of suspension was raised.

Mr. Choi was cross-examined by the city attorney, city administrator and members of the council. He stated that he was told that he could not play music when the suspension was stayed. He also stated that on Tuesday, November 3, prior to receiving his notice of suspension, he told Chief Rhoads that he was going to discontinue playing hip hop music and using the promoter.

After questioning by the council, Mr. Choi assured the council that he will not play hard core hip-hop music or have a hip-hop DJ again and that he would only use his own DJ and music.

Mr. Olbrechts asked if there were any other disclosures such as being a friend of the property owner, a neighbor of the establishment. There were no further disclosures.

Mr. Olbrechts entered as Exhibit 4 the Agenda Bill from November 2, 2009, and as Exhibit 5, the letter from the Deputy City Clerk from November 10, 2009.

With no further questions for Mr. Choi or Lt. Hamry, Mayor Pro Tem Heddlesten closed the hearing at 8:30 p.m.

Council Member Whalen stated he felt there were issues with the Municipal Code. He stated that in Chapter 5.12.035, Licensing Restriction, stating that 10 or more arrests forbids the owner of the establishment from re-issuance of license and asked for Mr. Olbrechts opinion.

Mr. Olbrechts stated he would need to review the code further before issuing an opinion on the question.

COUNCIL MEMBER NEAL MOVED to reinstate the suspension of the cabaret license for the remainder of the 30-day period that was originally set. Seconded by Council Member Drotz.

After further discussion regarding the Milton Municipal Code and regulations for re-issuance of a business license, **COUNCIL MEMBER BEAUDRY MOVED** to postpone any further discussion of the motion until the December 7th regular meeting. Seconded by Council Member Drotz.

The motion was voted on and passed 5-2.

Mr. Olbrechts clarified that the stay of suspension is in place and the business can operate normally.

There being no further discussion, Mayor Pro Tem Heddlesten recessed the meeting at 8:58 p.m. and reconvened the meeting at 9:06 p.m.

Mr. Olbrechts stated the meeting on December 7th is a continuation of the discussion of the hearing and advised the Council to avoid talking to people about the case. Council was also advised that clarifying questions should be directed to Ms. Fessler.

ADDITIONS / DELETIONS

Council Member Sanderson requested the addition of discussion regarding a request to write a letter of support for the Pierce County Health Department who is applying for stimulus grants for the support of smoking cessation and obesity, physical activity and nutrition education.

Mayor Pro Tem Heddlesten added the discussion as item 8D.

CITIZEN PARTICIPATION

None

CONSENT AGENDA

Approval of:

- Minutes from October 19, 2009, regular meeting;
- November 5, 2009, payroll direct deposits, checks, and benefits in the amount of \$223,933.77;
- Checks/Vouchers, numbers 18643-18637, in the amount of \$75,860.51;
- Resolution 09-1774 declaring certain property as surplus; and
- Authorizing the Mayor to sign an agreement with Sandra Allen for Municipal Court Judge services.

Council Member Sanderson requested that the resolution declaring certain items as surplus and the agreement with Sandra Allen be removed from the consent agenda.

COUNCIL MEMBER BEAUDRY MOVED to approve the Consent Agenda as amended. Seconded by Council Member Whalen.

The motion was voted on and carried 7-0.

Regarding the surplus items, Council Member Sanderson requested information on how the surplus hard drives been cleaned prior to disposal.

Finance Director Pierce stated she is unsure if they've been scrubbed but guaranteed the drives will be scrubbed before disposal.

Mayor Pro Tem Heddlesten requested an itemized listing of exactly what is done to clean the drives.

COUNCIL MEMBER SANDERSON MOVED to approve Resolution 09-1773 declaring certain property as surplus. Seconded by Council Member Neal.

The motion was voted on and carried 7-0.

Regarding the approval of the agreement for Sandra Allen, Council Member Sanderson questioned the percentage of raise in fees for services of Ms. Allen as Municipal Court Judge.

Ms. Fessler stated the current fee for Ms. Allen is substantially below what should be paid for these services. She stated the judge spends considerable time outside the courtroom reviewing paperwork and orders as well as an increased caseload in the courtroom.

COUNCIL MEMBER SANDERSON MOVED to authorize the Mayor to sign an agreement with Sandra Allen for Municipal Court Judge services. Seconded by Council Member Whalen.

The motion was voted on and carried 7-0.

PUBLIC HEARINGS

A. AB09-064: Final 2010 Budget Hearing

Mayor Pro Tem Heddlesten opened the public hearing at 9:23 p.m.

Finance Director Pierce stated the 2010 budget estimates the beginning fund balances, revenues and expenditures and the ending fund balances for the fiscal year ending December 31, 2010. She stated the revenues for 2010 are projected to be less than the expenditures and will be covered by the cumulative reserve fund. Ms. Pierce stated the budget reflects the recent rate increases and also reflects structural changes to budget.

She said the estimated expenditures in each fund reflect a status quo budget and will maintain the current level of services being provided through 2010. The City of Milton Proposed 2010 Annual Budget is comprised of eleven funds totaling \$24,152,244. She stated changes to the budget were the addition of a code enforcement/property officer program; 50% reduction to unemployment fees paid out and the ADA contract.

Speaking before the Council:

Speaker	Address	Topic
Debra Perry	1205 Hemlock	Should not use cumulative reserve fund
Jacquelyn Whalen	1605 13 th Avenue	Changes helpful; not wise money management to dip into cumulative reserve fund;
Bryan Ott	102 17 th Avenue Court	Had questions regarding the monthly wage scale;
Milton Loflin	1810 11 th Avenue	Administrative cost to complete budget; hard to justify expense

Mayor Pro Tem Heddlesten closed the public hearing at 9:39 p.m.

AB09-065: Budget Amendment Hearing

Mayor Pro Tem Heddlesten opened the public hearing at 9:41 p.m.

Finance Director Pierce stated the budget amendment ordinance is a housekeeping item. She said the amendment reflects changes in the beginning fund balances for 2009 and the closing of seven funds. She also stated the Council has approved various budget decisions through 2009, requiring final housekeeping for the year.

Mayor Pro Tem Heddlesten closed the public hearing at 9:47 p.m.

REGULAR AGENDA

A. AB 09-061: Adoption of Ordinance 1747-09 Appendix 1 of the National Pollution Discharge Elimination System (NPDES) Phase II General Permit

Public Works Director Neal stated the City is required to comply with the provisions of the NPDES Permit for controlling runoff from new development, redevelopment, and construction sites.. The NPDES Permit requires that the City adopt the thresholds, definitions, minimum requirements and exception, adjustment and variance criteria in Appendi9x 1 of the City's NPDES Permit.

COUNCIL MEMBER WHALEN MOVED to adopt Ordinance 1747-09, adopting Appendix 1 of the National Pollution Discharge Elimination System (NPDES) Phase II General Permit as part of the City's municipal stormwater code. Seconded by Council Member Beaudry.

The motion was voted on and carried 7-0.

B. AB 09-065: Ordinance for year-end budget amendment

COUNCIL MEMBER SANDERSON MOVED to adopt Ordinance 1748-09, amending the 2009 Budget. Seconded by Council Member Whalen.

The motion was voted on and carried 7-0.

C. AB 09-066: Approval of Revised Cell Phone Policy

Interim City Administrator Fessler stated the current policy is not workable and needs to be changed. The revised policy allows an employee to choose to use the City cell phone for personal use by sharing in the cost of the phone with the City. One amount will be charged per month for the use and individual calls no longer need to be identified and calculated. The cost will be commensurate with the average personal use of cell phones by employees. The policy will ensure employees are paying for their personal use in an efficient manner while ensuring that cell phones are being used properly for city business.

COUNCIL MEMBER NEAL MOVED to approve the revised cell phone policy, dated November 16, 2009. Seconded by Council Member Beaudry.

Speaking before the Council:

Speaker	Address	Topic
Debra Perry	1205 Hemlock	Feels employees should use personal phone and not City phones.

The motion was voted on and carried 7-0.

D. Letters of support for Tacoma-Pierce County Health Department (TPCHD) Grant Application

Council Member Sanderson stated through the grant submittal process, there are stimulus funds available for certain organizations to address obesity, physical activity, nutrition and tobacco cessation and control of tobacco products. He said TPCHD is applying for grant monies and is seeking letters of support to submit with their grant applications.

COUNCIL MEMBER WHALEN moved to write letters of support for the Tacoma-Pierce County Health Department grant applications to address obesity, physical activity, and nutrition and tobacco cessation and control of tobacco products. Seconded by Council Member Sanderson.

The motion was voted on and passed 6-1.

CITY ADMINISTRATOR REPORT

Interim City Administrator Fessler stated she had no report.

COUNCIL REPORTS

Council Member Whalen reported on:

- Work on Porter Way looks really good; would like to see it continue onto Taylor Street;
- Noted that the electric lines were restrung on 23rd Avenue between Milton Way and Taylor Street;
- Requested Council's opinion regarding how the Council would like him to vote on the Pierce County Regional Council Chair position that is up for election.

Council Member Borek reported on:

- Request for Study Session – look into getting more lights for the skateboard park;

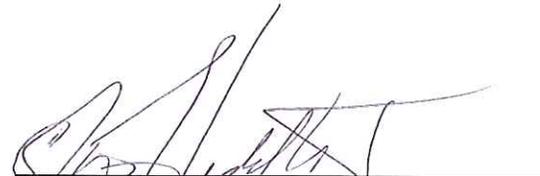
Council Member Sanderson reported on:

- Finance committee meeting – letter for health department;
- sources of summer help funded by stimulus money for temp jobs;
- Teamwork Economic Development Board of Pierce County; Tacoma property values expected to gain 20% next year.

ADJOURNMENT

COUNCIL MEMBER BOREK MOVED to adjourn the meeting at 10:26 p.m.
Seconded by Council Member Beaudry.

The motion was voted on and carried 7-0.


C. Jim Heddlesten, Mayor Pro Tem

ATTEST:


Amy Stevenson-Ness, Deputy City Clerk