

COMMON COUNCIL
OFFICIAL JOURNAL

Justin M. Nickels, Mayor

Jennifer Hudon, City Clerk

Thursday, July 28, 2011

The Common Council of the City of Manitowoc, Wisconsin, met in special session at the Council Chambers in City Hall, on Thursday, July 28, 2011. Said meeting was duly called, noticed, held and conducted in the manner required by the Common Council and the pertinent Wisconsin Statutes.

The meeting was called to order at 5:00 P.M. by Mayor Justin M. Nickels. On roll call the following members were present: Alderpersons Jason Sladky, Allan Schema, Lee Thennes, James N. Brey, Scott McMeans and Christopher Able. Alderperson Olson arrived at 5:05 p.m.

Absent: Alderpersons Dave Soeldner, Jill Hennessey and Matt Kadow.

Also present: City Attorney Juliana Ruenzel, City Planner David Less, Deputy Police Chief Bridget Brennan, Deputy City Clerk Deborah Neuser and Dave Luckow of Anheuser Busch/RiverlandAg.

Mayor Nickels announced that notice is hereby given that the Common Council Committee of the Whole will adjourn to a closed session during this meeting for the purpose of: (1) Discussion and possible action regarding the License Agreement entered into between the City and Busch Agricultural Resources, and discussion, possible action and modification regarding easements, related documents and agreements with Busch Agricultural Resources. The above subject matter falls within Section 19.85(1)(e) of the Wisconsin Statutes, which authorizes the governmental body to convene in closed session for the purposes of deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified business, whenever competitive or bargaining reasons require a closed session.

It was moved by Able, second by Brey and carried upon roll call to convene in closed session.

Ayes, 8. Nays, 0.

Committee of the Whole deliberated in closed session.

It was moved by Sladky, second by Olson and unanimously carried upon roll call to reconvene in open session. Ayes, 8. Nays, 0.

Moved by McMeans, second by Brey, as follows:

1. Right of First Refusal. Effective tonight, City agrees to release its rights to a right of first refusal included in the 1982 "License Agreement". City to retain a right of first refusal on same parcels as part of a ground lease under 2. below.

2. Ground Lease. Effective tonight, City agrees to enter into negotiations with the purchaser regarding entering into a ground lease for the part of Blocks 219 and 220 that were covered under the "License Agreement". Ground lease will be for a minimum of 50 years, and will be negotiated by and between the parties in good faith, upon terms and conditions acceptable to both parties, and shall be fully executed within 90 consecutive calendar days (October 26th), unless an extension of this date is agreed upon by and between the parties. City Attorney and City Planner are herein authorized to act as the City's agent to negotiate, draft and finalize the terms and conditions of the ground lease. The ground lease will contain at minimum, a right of first refusal to acquire the parcels covered under the "License Agreement", as well as a claw back provision related to the 2007 tunnel "Easement", which in effect, will state that in the event the parties fail to enter into a ground lease, the City retains the express and absolute right to terminate the assignment of the "Easement" authorized by 3. below, thereby extinguishing the rights of the buyer to use the tunnel in So. 6th Street right-of-way.
3. Easement Assignment. Effective tonight, City agrees to assign the rights of Busch Agricultural Resources, Inc. c/o Anheuser-Busch Companies, Inc. to the buyer acquiring BAR properties in Manitowoc pursuant to Section 13. of the "Easement", with all other aspects of the Easement remaining in full force and effect. City Attorney and City Planner are herein authorized to act as the City's agent to negotiate, draft and finalize the terms and conditions of the assignment, with Mayor and Clerk authorized to sign the assignment.
4. Conditional Use Permit for Beer Bottle Signs. Effective tonight, City and purchaser agree that the existing vinyl beer signs that were authorized under a 1999 CUP are an illegal, off-premise sign, and that the new buyer shall have until September 30, 2012 to provide the City with a plan for the removal of the existing off-premise signage, and the possible replacement of similar on-premise signage, or repainting of the structure eliminating signage.

Ayes, 7. Nays, 0. Motion unanimously carried.

Upon motion by Olson, second by Able, Common Council adjourned at 6:35 p.m. Ayes, 7. Nays, none.

Respectfully submitted,

Deborah A. Neuser, Deputy City Clerk

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