

REGULAR CITY COUNCIL MEETING

MONDAY, JANUARY 23, 2012 – 7:00 PM

COUNCIL CHAMBERS, CITY HALL

Mayor Connors called the meeting to order at 7:04 p.m.

The Pledge of Allegiance was led by Alderman Krohn.

Roll Call. Present: Aldermen Krause, Hartz, Mott, Marsala, Kehoe, Kupsik, Krohn, and O’Neill. Also present: Administrator Jordan, City Attorney Draper, DPW Winkler and City Clerk Hawes.

Awards, Presentations, and Proclamations None.

Re-consider business from previous meeting. None.

Comments from the public as allowed by Wis. Stats. §19.84(2), limited to items on this agenda, except for public hearing items. Comments will be limited to 5 minutes.

Kevin Fleming, 1032 Wisconsin Street, spoke on behalf of the Business Improvement District in regard to Ordinance 12-02. He stated that the proposed sidewalk café permit is supported by many downtown businesses, the Business Improvement District and the Chamber of Commerce. He suggested that it would add an ambience to the downtown area. He noted that members of Council expressed concern about obstructions like planters, trash receptacles and benches currently located in the right-of-way. Mr. Fleming suggested that these items could be moved in order to accommodate restaurant tables and chairs. He also stated that he walked the downtown area with Alderman Hartz and found that many businesses would be able to meet the clearance requirements for the proposed ordinance.

Bethany Souza addressed the Council as owner of the Baker House, 327 Wrigley Drive. She expressed support for approving Ordinance 12-02, citing the success of past events that took place on the sidewalk. She said that 10 x 10 tents have been placed in the sidewalk area and there was still enough space for pedestrians to walk on the sidewalk. She suggested that restaurant tables and chairs would be a positive addition to the downtown area.

Acknowledgement of Correspondence. None.

Approval of Minutes

Krause/Mott motion to approve the Regular City Council Meeting minutes of January 9, 2012, as published and distributed. Unanimously carried.

Second reading of Ordinance 12-02, amending Chapter 62, Streets, Sidewalks and Other Public Places of the Lake Geneva Municipal Code, establishing a “sidewalk café” permit

Alderman Hartz suggested a few revisions for the proposed ordinance. He said that the word “chairs” should be changed to “seats” to accommodate other forms of furniture which may have one or more seats. He also suggested that the clearance requirements be changed from five feet to the curb to two feet from the curb. He said that this would accommodate businesses that would want to use the terrace area between the sidewalk and the curb. Alderman Hartz said that he took some measurements in the downtown area of available footage in front of businesses. He said that the distance from the storefront to the curb varies from block to block, ranging from 14 feet to 19 feet. He suggested that tables and chairs could fit in almost every location if businesses were allowed to be within two feet of the curb. Alderman Hartz noted that there had been discussion at the previous Council meeting about allowing alcohol to be served and consumed as part of the ordinance. He said that the Chamber of Commerce Board discussed this and there was general support for allowing alcohol. He asked what type of concerns the Public Works and Police Departments had about the sidewalk café permit.

City Attorney Draper said that the Public Works Department had questions about what to do with the benches, planters and other items if they would need to be moved in order to accommodate a sidewalk seating area. He said that there was also a question if the sidewalk seating area would be limited to the businesses’ lot lines. City Attorney Draper said

that the intent of the proposed ordinance was to limit the seating area to the lot lines. Krause/Mott motion to suspend the rules to allow Police Chief Rasmussen to address the Council. Unanimously carried. Police Chief Rasmussen asked that if alcohol were permitted in the sidewalk seating areas that businesses be required to post signage indicating that patrons cannot leave the seating area with their alcohol beverage. He said that any issues or problems will need to be documented. City Attorney Draper agreed, stating that the City will have the sole discretion to revoke a permit.

Alderman Krause expressed concern with the seating being too close to the parking meters and asked whether there would be a clear delineation to indicate where the seating area begins and ends. City Attorney Draper said that as part of the alcohol beverage provision he is recommending that bollards be connected as if to create an enclosed area. Alderman Mott asked if the Police Chief sees any problem with the sidewalk café permit. Police Chief Rasmussen said that it could cause people to walk around downtown with open alcohol beverages, so officers will need to monitor that and issue citations when needed.

Alderman Krause asked how many seats will be allowed in each sidewalk café area. Alderman Kupsik suggested that the restaurant owner is going to want to ensure a comfortable seating area, so overcrowding should not be a problem. Alderman Kehoe asked whether businesses that do wine tastings could have a sidewalk café permit. Mayor Connors reiterated that only restaurants, as defined in the statutes, would be eligible for the permit.

Hartz/Kehoe motion to approve Ordinance 12-02, subject to changing the word “chairs” to “seats;” allowing tables and seats to be located no closer than two feet from the curb; allowing alcohol to be served and consumed until 9 p.m., as long as there is signage requiring alcohol to remain within the seating area and requiring bollards to be connected in such a manner so that it creates an enclosed area. Alderman Hartz said the purpose of this ordinance is to provide an outdoor seating area to restaurants that are otherwise landlocked and unable to construct a patio of their own. He said that it would also provide an opportunity for residents and visitors to enjoy the outdoors when they visit the downtown businesses. Alderman Kehoe asked about health issues relating to flies or pollution in the sidewalk areas. Alderman Hartz said that the restaurant would still need to comply with State health standards. Mayor Connors indicated that business owners would need to comply with the sanitation standards outlined in part “g” of the ordinance.

Hartz/Kupsik motion for an amendment that tables and seats shall be removed each night. Alderman O’Neill suggested that this requirement would limit the quality of furniture that restaurant owners could use, resulting in cheaper, fold-up furniture. Roll Call: Krause, Hartz, Marsala, Kehoe, Kupsik and Krohn voted “yes.” Mott and O’Neill voted “no.” Motion carried by vote of 6 to 2.

Roll Call: Krause, Hartz, Mott, Marsala, Kehoe, Kupsik, Krohn, and O’Neill voted “yes”. Unanimously carried.

Approval of application for housing tax credits filed by Havenwood Apartments (Administrator Jordan)

Administrator Jordan said that he was contacted by Dan Kroetz, Acquisitions Manager for Cardinal Capital Management, who is interested in applying for grant money from the Wisconsin Housing and Economic Development Authority (WHEDA) to help fund renovations to the Havenwood Apartments. Dan Kroetz approached the Council to describe the request. Mr. Kroetz indicated that they propose to make \$20,000 to \$30,000 in renovations to each unit. He said that the ownership group will remain in tact and no residents will be displaced. Mr. Kroetz said that as a part of the application process, they are required to indicate the municipality’s level of support for the project. Alderman Krohn asked when the project would start. Mr. Kroetz said that the application is due by February 3 and WHEDA will announce the award of the grant in mid-April. He said that ideally the project would start in June or July of 2012. City Attorney Draper asked if the renovations would impact the pilot program that the City has with Havenwood. Mr. Kroetz said that the only result may be that the owner changes from a non-profit to a for-profit entity and will be required to pay property taxes.

Krause/Hartz motion to approve the application for housing tax credits filed by Havenwood Apartments. Unanimously carried.

Finance, License and Regulation Committee Recommendations – Alderman Krause

RESOLUTIONS

Resolution 12-R02, a resolution amending the 2011 budget to transfer \$2,210.00 from the Contingency account to the PD Communication System Exp Account for the Police Dept. 911 System repairs

Krause/Marsala motion to approve. Krause said that the Council previously approved paying for the 911 system repairs from the 2011 contingency account. This resolution would transfer those funds.

Roll Call: Krause, Hartz, Mott, Marsala, Kehoe, Kupsik, Krohn, and O'Neill voted "yes". Unanimously carried.

Resolution 12-R03, adopting the 2012 Tax Increment District #4 Fund Budget for the City of Lake Geneva

Krause/Hartz motion to approve. Alderman Krause said that the proposed TID budget outlines a list of prioritized projects to be completed in 2012, but approving the budget does not guarantee they will be funded and completed. The total budget is \$7,184,301. Mayor Connors said that each project would be considered individually by the Council before final approval. Alderman O'Neill asked about the discretionary fund account. Administrator Jordan said that this account was created in previous years to fund projects that would come up throughout the year that the Council would be interested in funding. Alderman Kehoe asked if any of the escrow account funds have been spent. Mayor Connors said that none of the funds identified in the TID budget have been spent. Alderman O'Neill expressed opposition for funding the skateboard park and the downtown traffic light signals.

Roll Call: Krause, Mott, Hartz, Marsala, Kehoe, Kupsik and Krohn voted "yes." O'Neill voted "no." Motion carried by vote of 7 to 1.

Resolution 12-R04, adopting the 2012 Capital Budget for the City of Lake Geneva

Krause/Marsala motion to approve. Alderman Krause said that most of the items are Public Works projects and equipment. He said that any items over \$10,000 would go out for bid. He indicated that most of the projects were approved in 2011 as part of the bonding.

Roll Call: Krause, Hartz, Mott, Marsala, Kehoe, Kupsik, Krohn, and O'Neill voted "yes". Unanimously carried.

Resolution 12-R05, a resolution amending the 2012 budget to transfer \$44,800 for the purchase of a one-ton dump truck for the cemetery

Krause/Marsala motion to continue to the February 13, 2012 meeting. Alderman Hartz suggested that representatives from the cemetery be present at the meeting to provide information about the operations of the cemetery and the need with regard to this funding request. Mayor Connors suggested that the item be discussed at the Committee of the Whole meeting on February 6. Unanimously carried.

ORDINANCES

First reading of Ordinance 12-03, amending Chapter 50, Offenses and Miscellaneous Provisions, relating to advertising display utilizing vehicles

Chairman Krause said that Ordinance 12-03 is a follow-up to the Street Use Permit approved at the last meeting for the Genoa City Lions Club. The ordinance would allow holders of a valid street use permit to display signage. The current ordinance only allows advertising signage to be displayed for holders of a valid parade permit. City Attorney suggested a grammatical change to the proposed ordinance, replacing "nor shall this section be deemed to" with "nor shall this section prohibit such advertising."

Marsala/Mott motion to suspend the rules and proceed to a second reading of Ordinance 12-03. Roll Call: Mott, Marsala, Kehoe, Kupsik, Krohn, and O'Neill voted "yes." Krause and Hartz voted "no." Amendment carried by vote of 6 to 2.

Second reading of Ordinance 12-03. Marsala/Kupsik motion to approve. Alderman Marsala said that he supports accommodating the Genoa City Lions Club in continuing to post signage to support their event. Alderman Hartz suggested adding a provision that would require the signage to meet the same standards that business owners are required to meet when they display signage. Alderman Krause agreed, noting that there is nothing to prevent the street use permit holder from displaying a very large sign in the street. Alderman O'Neill said that the applicant for the street use permit could indicate the specifications of the signage as part of their application. City Attorney Draper suggested

that it is a good idea to outline certain standards for the signage. Alderman Marsala suggested amending the ordinance to require signage to conform with downtown design standards.

Hartz/Krause motion to table the second reading of Ordinance 12-03. Roll Call: Krause, Hartz, Kehoe and Kupsik voted “yes.” Mott, Marsala, Krohn and O’Neill voted “no.” Tiebreaker: Mayor Connors voted “yes.” Motion carried by vote of 5 to 4.

LICENSES AND PERMITS

Park Permit application filed by Midwest Action Cycle/Vespa Club of America for “Amerivespa Motor Scooter Rally” event at Flat Iron Park, from 11:00 a.m. to 10:00 p.m. on June 22, 2012 and from 9:00 a.m. to 10:00 p.m. on June 23, 2012 (recommended by Board of Park Commissioners 1/4/12)

Krause/Marsala motion to continue to the February 13, 2012 meeting. Mayor Connors said that the applicant requested that the item be continued to the next meeting because they are still making arrangements for the event. Unanimously carried.

Original Operator License applications filed by Thomas Yanke, Brittany Carlson, Nicholas Tripoli and Alexis Jansen (recommended for approval by the Police Chief)

Krause/Hartz motion to approve. Unanimously carried.

Discussion/Action on funding for limited-term employee for the Police Department (continued 1/9/12)

Krause/Marsala motion to provide \$13,689 for funding a limited-term employee for the Police Department from the 2012 contingency fund. Alderman Krause said that the department currently has some personnel needs due to an injury to one of the officers.

Roll Call: Krause, Hartz, Mott, Marsala, Kehoe, Kupsik, Krohn, and O’Neill voted “yes”. Unanimously carried.

Discussion/Recommendation on Change Order No. 1 for the 2010 Street Improvement Program

Krause/Hartz motion to approve. Alderman Krause said that the change order reflects a decrease of \$6,150.75 in the 2010 Street Improvement Program due to the actual cost of materials used.

Roll Call: Krause, Hartz, Mott, Marsala, Kehoe, Kupsik, Krohn, and O’Neill voted “yes”. Unanimously carried.

Discussion/Action on Notice of Final Acceptance and Correction Period to Payne & Dolan, Inc. for the 2010 Street Improvement Program

Krause/Hartz motion to approve. As outlined in Change Order No. 1, the final cost of the 2010 Street Improvement Program is \$574,134.10, which is \$6,150.75 lower than the original contract amount of \$580,284.85.

Roll Call: Krause, Hartz, Mott, Marsala, Kehoe, Kupsik, Krohn, and O’Neill voted “yes”. Unanimously carried.

Discussion/Action on Change Order No. 2 for 2011 Street Improvement Program

Krause/Hartz motion to approve, subject to the correct contract price appearing on the change order document. Mayor Connors said that Comptroller Pollitt gave him the correct figures. The contract price prior to Change Order No. 2 is \$605,000, and the contract price incorporating this change order is \$606,530. The original contract price is \$751,544.60.

Roll Call: Krause, Hartz, Mott, Marsala, Kehoe, Kupsik, Krohn, and O’Neill voted “yes”. Unanimously carried.

Discussion/Action on disallowance of claim filed by Derek and Tammy Straight for sewerage backup pursuant to Wis. Stats. 893.80 (1g)

Krause/Marsala motion to disallow the claim. Alderman Krause said that the City’s insurance carrier has reviewed the claim and recommended disallowance. He said that the City’s past practice has been to use the insurance carrier’s recommendation. Alderman O’Neill disagreed with the insurance carrier’s findings.

Roll Call: Krause, Mott, Hartz, Marsala, Kehoe and Kupsik voted “yes.” Krohn voted “no.” O’Neill abstained. Motion carried by vote of 6 to 1.

Discussion/Action on purchase of park restroom hand dryers (*recommended by Public Works Committee 1/19/12*)
Krause/Kupsik motion to approve the purchase and installation of 22 hand dryers in the amount not to exceed \$10,429.40. Alderman Krause indicated that they are high-powered hand dryers at a cost of \$337.70 per unit. Installation of the units would be done by the City Electrician at a cost of \$300 per restroom.

Roll Call: Krause, Hartz, Mott, Marsala, Kehoe, Kupsik, Krohn, and O’Neill voted “yes.” Unanimously carried.

Plan Commission Recommendations – Alderman Hartz

Resolution 12-R06, authorizing the issuance of a Conditional Use Permit filed by Mrs. Christine Purich, 6916 Waterford Drive, McHenry, IL 60050, for a Creperie, Gelato and Panini Café (Indoor Commercial Entertainment) at 234 Broad Street, Tax Key No. ZOP 00257, including all staff recommendations
Hartz/Marsala motion to approve, including a downtown design review for the sign. Alderman Hartz said that this was a storefront previously occupied by a business that sold furniture and crafts. He indicated that the Plan Commission found the proposed use was consistent with the land use standards and comprehensive plan for this parcel. Unanimously carried.

Resolution 12-R07, authorizing the issuance of a Conditional Use Permit filed by Michael Raymond Custom Homes, 2000 W. Main Street E., St. Charles, IL 60174 for construction of a new single family residence in the ER-1 District using the setback requirements of the SR-4 District at 1641 N. Lake Shore Drive, Lake Geneva, Tax Key No. ZLM 00019, including all staff recommendations
Hartz/Krause motion to approve. Alderman Hartz said the Plan Commission found that the proposed conditional use is in harmony with the goals and objectives of the City’s comprehensive plan. He said that a plan had been approved last year for a larger home on this property and the plan has since been scaled back considerably. Unanimously carried.

Resolution 12-R08, authorizing the issuance of a Conditional Use Permit filed by U.S. Cellular, 3545 N. 124th Street, Brookfield, WI 53005 for a communications tower to be located on land located East of Highway 12 and South of Highway 50 in a Rural Holding zoning district more precisely located on tax parcel ZYUP 00159, including all staff recommendations and, specifically, to add lighting to the tower
Hartz/Krause motion to approve. Alderman Hartz said that the application was reviewed by the FAA because of the proximity to the Grand Geneva landing strip. He said that the Plan Commission recommended adding the warning light to the tower as a public benefit and additional element of safety. Alderman O’Neill noted that this is City owned land and asked if U.S. Cellular would be entering into a lease with the City. DPW Winkler said that the Utility Commission would enter into a lease with U.S. Cellular, subject to Council approval, allowing U.S. Cellular to utilize the land. He said that one of the benefits of the lease will be that the City will be able to add a communications antenna to the tower if needed at a future time. The City would receive approximately \$12,000-\$15,000 per year from the lease, but the final amount has not been finalized. DPW Winkler said that the revenues would go to the waste operations fund, which operates like a subsidiary to the City. Mayor Connors noted that the City could receive additional revenue from the lease if other communications companies agree to utilize the tower. Unanimously carried.

Parking Commission Recommendations – Alderman Marsala

Discussion/Action on reserving seven parking spaces on the north side of the Geneva Lake Museum for museum visitors, and designating parking spaces located east of the building for museum staff (*recommended by Public Works Committee 12/16/11; recommended by Parking Commission 1/10/12*)
Marsala/Mott motion to approve. Alderman Marsala said that the museum requested seven spots on the north side of the building to be designated for museum guest and visitor parking. The museum would use the area east of its building for staff parking. Alderman Marsala said that both the Public Works Committee and Parking Commission approved the request. Mayor Connors asked if there would be signage installed. Alderman Mott indicated that an individual from the museum is prepared to make the signs. Motion carried by vote of 7 to 1, with Alderman O’Neill opposed.

Presentation of Accounts – Alderman Krause

Krause/Hartz motion to approve Prepaid Bills in the amount of \$5,020,191.10

Roll Call: Krause, Hartz, Mott, Marsala, Kehoe, Kupsik, Krohn, and O’Neill voted “yes”. Unanimously carried.

Krause/Marsala motion to approve Regular Bills in the amount of \$776,202.13. Alderman Mott noted that the descriptions for the Alliant Energy bill were incorrect. Alderman Krause said that staff is working with Alliant Energy to correct the incorrect descriptions.

Roll Call: Krause, Hartz, Mott, Marsala, Kehoe, Kupsik, Krohn, and O’Neill voted “yes”. Unanimously carried.

Krause/Hartz motion to accept the Monthly Report from the City Treasurer for November. Unanimously carried.

Closed Session

Krause/Kupsik motion to go into Closed Session pursuant to Wis. Stat. 19.85 (1)(b) for considering licensing of Nathaniel Holden by a board or commission or the investigation of charges against such person and the taking of formal action on any such matter (City Attorney Draper); and pursuant to Wis. Stat. 19.85 (1)(g) to confer with legal counsel who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation which it is or is likely to become involved in re: Village of Bloomfield Incorporation (City Attorney Draper); and pursuant to Wis. Stat. 19.85 (1)(e) for competitive bargaining reasons for the union negotiations update (Administrator Jordan)

Roll Call: Mott, Marsala, Kehoe, Kupsik, Krohn, O’Neill, Krause, and Hartz voted “yes.” Unanimously carried.

The Council entered into Closed Session at 8:50 p.m. Also present: Administrator Jordan, City Attorney Draper and City Clerk Hawes.

Kehoe/Kupsik motion to return to open session pursuant to Wisconsin Statutes 19.85 (2) and take action on any items discussed in Closed Session

Roll Call: Mott, Marsala, Kehoe, Kupsik, Krohn, O’Neill, Krause, and Hartz voted “yes.” Unanimously carried. The Council reconvened in open session at 9:31 p.m.

Krause/Kupsik motion to deny the Operator License application filed by Nathaniel Holden based on the discussion in the closed session. Unanimously carried.

Hartz/Kehoe motion to authorize the City Attorney to take whatever action is necessary to protect the City’s best interest in the event that the Town/Village of Bloomfield files an incorporation petition, as discussed in closed session. Unanimously carried.

Marsala/Krause motion to direct the City Administrator and City Attorney to prepare a letter to the unions describing the matter discussed in closed session. Unanimously carried.

Adjournment

Mott/Kehoe motion to adjourn at 9:34. Unanimously carried.

/s/ Michael D. Hawes, City Clerk

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