

# **REGULAR CITY COUNCIL MEETING**

## **MONDAY, JANUARY 9, 2012 – 7:00 PM**

### **COUNCIL CHAMBERS, CITY HALL**

Mayor Connors called the meeting to order at 7:03pm.

The Pledge of Allegiance was led by Alderman Kupsik.

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

Mark Stinebrink, representing Piggly Wiggly grocery store (100 East Geneva Square, Lake Geneva), addressed the Council to express support for adopting Ordinance 12-01. Mr. Stinebrink stated that the ordinance would be consistent with the new State law, changing the open time for selling packaged alcoholic beverages from 8 a.m. to 6 a.m.

Kevin Fleming, 1032 Wisconsin Street, spoke in favor of adopting Ordinance 12-02 and establishing a “sidewalk café” permit. Mr. Fleming suggested that allowing restaurants to have tables and chairs in the sidewalk areas would improve the downtown area for local residents and visitors. He stated that participants of the Chamber of Commerce retail meeting also shared support for this ordinance.

**Acknowledgement of Correspondence.** None.

#### **Approval of Minutes**

Krause/Mott motion to approve the Special City Council Meeting minutes of December 28, 2011 and Regular City Council Meeting minutes of December 12, 2011, as published and distributed. Alderman O’Neill requested an amendment to the motion, asking that the Regular City Council Meeting minutes of December 12, 2011 be revised to include the City Attorney’s entire statement, verbatim, relating to one attorney general’s opinion that appointing a council member to the committees or commissions is not permissible. Amendment unanimously carried. Motion unanimously carried.

#### **Finance, License and Regulation Committee Recommendations – Alderman Krause**

#### **ORDINANCES**

##### **First reading of Ordinance 12-01, amending the closing hours for alcohol beverage retailers**

Alderman Krause indicated that the City’s current ordinance allows for packaged alcoholic beverages to be sold between the hours of 8 a.m. to 9 p.m. To be consistent with a new State law, Ordinance 12-01 would allow the sale of alcohol to begin at 6 a.m. Marsala/Mott motion to suspend the rules and proceed to a second reading of Ordinance 12-01. Unanimously carried.

Second reading of Ordinance 12-01. Krause/Kupsik motion to approve.

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

##### **First 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 Krause indicated that this item was not discussed during the Finance, License and Regulation Committee due to time constraints. Alderman Hartz said that the topic of establishing a sidewalk café permit was discussed at the January 3, 2012 Committee of the Whole Meeting. He stated that the input received from the Committee of the Whole Meeting has been incorporated into Ordinance 12-02, including the concerns about seasonality, exact cost of the permit, and minimum standards for unobstructed sidewalk space.

Alderman O'Neill expressed concern with the five foot restriction, noting that there are obstacles like trees and benches throughout the downtown area that already take up this space. He suggested that this restriction be described differently, such as requiring that tables and chairs be within seven feet of the building so that a minimum unobstructed area of five feet would be maintained. Alderman O'Neill also suggested that alcohol should be allowed at the tables, but perhaps only until 9 p.m. He noted that problems relating to alcohol do not often occur during the daytime hours. Alderman Kehoe said that this permit would be a privilege and she suggested that the Council not nit-pick the ordinance too much. She stated that she has heard positive support for the concept.

Alderman Krause expressed concern for maintaining a walkable passageway on the sidewalks. He also suggested that there could be financial implications involved with enforcing the rules of the permit, noting that the City's current code enforcement inspector works limited hours. In response to Alderman Krause's concerns, Alderman Hartz suggested that by requiring a minimum unobstructed area of five feet, a walkable area will still be maintained. He also said that the rules of the permit would be enforced in part by neighboring businesses that would be interested in avoiding overly congested sidewalks. Alderman Marsala said that he wasn't sure if many businesses would have enough space to be able to meet the five foot requirement.

Alderman Mott stated that the Council was nit-picking too much and said that the ordinance should provide just the basic framework so that businesses would have the opportunity to be creative with it. He also believed that serving alcohol at these tables would not be a problem. Alderman O'Neill stated that restaurant owners will be responsible for the conduct of patrons sitting within their bollards. Administrator Jordan asked whether the serving of alcohol could be allowed under the sidewalk café permit. City Attorney Draper said that special exceptions may need to be addressed in the ordinances to allow alcohol to be served as part of the permit.

First reading only; no action taken.

## **LICENSES AND PERMITS**

### **Temporary "Class B"/Class "B" License application for the sale of fermented malt beverages and wine at St. Francis De Sales Church, 148 W. Main Street, Lake Geneva, for Italian Festival on January 28, 2012**

Krause/Marsala motion to approve. Alderman Krause indicated that this is an annual request that has been approved in the past. Unanimously carried.

### **Amendment of "Class B"/Class "B" Intoxicating Liquor and Fermented Malt Beverage License for outside premises extension filed by Capital Geneva LLC, d/b/a Sprecher's Restaurant & Pub, 111 Center Street, Stephen J. Schroeder, Agent**

Krause/Hartz motion to approve. Alderman Krause stated that this is an update to the business' liquor license to include the outside dining area that is being constructed. Alderman Kehoe asked how this differed from allowing alcohol to be served on tables and chairs on the sidewalks. Alderman Krause stated that the difference is that this is private property and the sidewalk is public property.

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

### **Street Use Permit Application filed by Genoa City Lions Club for Harley-Davidson Raffle using the Northwest corner of Hwy 50 and Hwy 120 from April through July 2012 (weekends and holidays), from 6:00am to 6:00pm (continued 12/12/11)**

Krause/Marsala motion to approve, contingent upon changing Sec. 50-9 of the municipal code to add street use permit holders as an exception to prohibited signage in parking spaces.

Alderman O'Neill noted that the application should identify the location as "the corner of Hwy 50 and Broad Steet," because it is no longer the Highway 120 intersection.

O'Neill/Krohn motion for an amendment to allow the application to be approved without signage in the event that the exception does not get added to Sec. 509 of the municipal code. Roll Call: Mott, Kupsik, Krohn, and O'Neill voted "yes." Krause, Hartz, Marsala, and Kehoe voted "no." Tiebreaker: Mayor Connors voted "yes." Amendment carried by vote of 5 to 4.

Krause/Hartz motion for an amendment to charge the applicant an up-front, flat fee of \$272 per stall (\$544 for two parking stalls) in lieu of depositing money in the parking meters. Alderman Krohn asked if the applicant paid a flat fee in the past or just deposited coins in the meters. Mayor Connors stated that the applicant had used the meters in the past. By paying the flat fee up-front, the City would not have to enforce the applicable meters during the raffle. Aldermen Marsala and Krohn expressed concern about the flat rate including all 34 days, when the raffle could be rained out some days and the applicant would not get reimbursed. Roll Call: Krause, Hartz, Marsala, Kehoe, Kupsik, and O'Neill voted "yes." Mott and Krohn voted "no." Amendment carried by vote of 6 to 2.

Alderman Kehoe asked if it was allowable for the applicant to use a table and chairs in the public right-of-way. City Attorney Draper said that the use of table and chairs in public space would be permitted as part of the street use permit. Alderman Mott expressed support for approving the permit, noting that the applicant has held the raffle for many years and that the funds that are raised go to a worthy cause. Alderman O'Neill agreed with Alderman Mott. Alderman Hartz stated that his main concern is whether the event abides by the ordinances listed in the ordinance book. He also suggested it could set a bad precedent to allow any applicant to use the public right-of-way in this manner downtown during the summer season. Alderman Marsala stated that as a generous, courteous City, these types of applications for civic organizations serving a good cause should be approved.

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.

**Park Permit application filed by Duffy Nottestad Memorial Fund Inc. for "5<sup>th</sup> Annual Duffy Nottestad Fishing Derby" event at the beach, from 8:00am to 4:00pm on January 28, 2012 (recommended by Board of Park Commissioners 1/4/12)**

Krause/Kupsik motion to approve contingent upon the Police Department's approval. Alderman Krause stated that this is the fifth year that this event is taking place. If the lake is not frozen, the applicant will hold its event at the beach. Carries unanimously.

**Discussion/Action on funding of 911 system repairs in the amount of \$2,210.00 (recommended by Police & Fire Commission 12/08/11)**

Krause/Hartz motion to approve funding the 911 system repairs in the amount of \$2,210.00 from the 2011 contingency fund. Alderman Krause said that the 911 system failed in the spring of 2011. The Police Chief negotiated the original repair costs down from \$4,662.50 to \$2,210.00. Alderman Kupsik asked where calls go when the 911 system fails. Alderman Krause said that calls are backed up by the County. Mayor Connors said that the City learned its 911 system will reach the end of its useful life in March 2015.

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

**Discussion/Action on funding for limited-term employee for the Police Department (recommended by Police & Fire Commission 12/08/11)**

Krause/Hartz motion to continue to the Finance, License and Regulation Committee Meeting and Regular City Council Meeting on January 23, 2012. Unanimously carried.

**Discussion/Action on Memorandum of Understanding between Lake Geneva Fire Department and Paratech Ambulance Services, Inc. relating to ambulance back-up to the Town of Geneva (recommended by Police & Fire Commission 12/08/11)**

Krause/Hartz motion to approve. City Attorney Draper said that the purpose of the memorandum is to describe the chain of command when crews from both the City of Lake Geneva and Paratech arrive at the scene of an emergency in

the Town of Geneva. The Memorandum of Understanding indicates that the City of Lake Geneva will provide backup ambulance services.

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

**Discussion/Action on purchase of one-ton dump truck with dump box, plow and salter for the cemetery  
(Aldermen Krohn and O'Neill)**

Krause/Marsala motion to continue to the Finance, License and Regulation Committee Meeting and the Regular City Council Meeting on January 23, 2012. Alderman Mott stated that the Cemetery Commission currently has two trucks. He asked why one truck was being purchased to replace two trucks. He also stated that the Street Department recently sold some items and asked whether the funds from these sales could be used toward this new truck. Alderman Krause said that these questions are similar to those raised at the Finance, License and Regulation Committee meeting and that the answers were not available. He said that staff will investigate and this item could be discussed further at the January 23 meeting. Alderman Krohn said that DPW Winkler has the specifications for the truck being requested and could share this information before the next meeting. Unanimously carried.

**Plan Commission Recommendations – Alderman Hartz**

**Resolution 12-R01, authorizing the issuance of a Conditional Use Application filed by Kocourek Property Holdings LLC, 880 S. Lake Shore Drive, Lake Geneva, WI, 53147, for a Group Development in the Central Business zoning district at 269 Broad Street, Tax Key No. ZOP 00262, including all staff recommendations.**

Hartz/Krause motion to approve. Alderman Hartz stated that this is the former McCullough building located at the corner of Geneva and Broad Streets. He said that the applicant is looking to divide the space into three retail units, with the option of a fourth retail unit. He indicated that the applicant would also be in process of improving the exterior of the building. Alderman Hartz stated that the Plan Commission felt the project would be in harmony with the goals and policies of the comprehensive plan. Alderman Krohn asked whether the project included just one exit for the four units. Alderman Hartz indicated the plan mentioned that one exit would be adequate but that additional exits will be constructed.

Roll Call: Krause, Hartz, Mott, Marsala, Kehoe, Kupsik, and Krohn voted "yes." O'Neill abstained. Motion carried by vote of 7 to 0.

**Precise Implementation Plan filed by Parkside Management Services LLC, 5215 Old Orchard Road Suite 860, Skokie, IL 60077-1045, to allow for a senior living facility that includes 110 independent, assisted and memory care units near N. Bloomfield Road and Southland Farms Drive, Tax Key No. ZSF 00074, allowing the Fire Chief to review the cul de sac radiuses and exit points**

Hartz/Kupsik motion to approve, subject to elimination of the sidewalk around the memory care building; elimination of the access gate at the entrance drive; the review criteria outlined in the letter from City Planner Slavney dated December 14, 2011, including the conditions and exemptions noted in Attachments A and B; the Fire Chief's recommendations relating to the cul-de-sac radiuses and access points; and, all other staff recommendations. Alderman Hartz indicated that this project was also discussed at the Committee of the Whole. He explained that it is a 110-unit independent, assisted and memory care facility. He said that the building will have an attractive design and will present a wonderful view to Bloomfield Road. He stated that a bus service will be provided to its residents. Alderman Hartz said that the project would address a need in additional senior housing around Walworth County. Alderman Mott agreed that the project will be a great addition to the community. He asked that the Council keep in mind that there are other areas of the City that could be built out. Alderman O'Neill suggested that the project is similar to one of the projects proposed by the Hummel Group which the City turned down. He said that this project is one of the reasons why the Hummel project was turned down. Because of this, Alderman O'Neill said he would be abstaining. Alderman Kehoe expressed support for the project.

Roll Call: Hartz, Mott, Marsala, Kehoe, Kupsik, and Krohn voted "yes." Krause and O'Neill abstained. Motion carried by vote of 6 to 0.

**Discussion/Action on request by Windstream Wireless for the location of underground conduit to be placed through the City of Lake Geneva within the road right of way (recommended 12/19/11)**

Hartz/Marsala motion to approve. Alderman Hartz said that the plan for underground conduit was reviewed by DPW Winkler and Building Inspector Brugger who recommended changes to better accommodate the City. He stated that the project helps complete a loop that goes from Rockford to Madison to Milwaukee. Mayor Connors stated that this would allow 4G wireless service to be provided to the area.

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

#### **Discussion/Action on razing of property at 943 Marshall Street (City Attorney Draper)**

City Attorney Draper said that the City issued a raze or repair order to the property in September. He indicated that no response or repairs have been made to the property. He said that the state statutes provide two different procedures that can be followed. The Council can choose to proceed to demolish the building and assess the cost to the property owner on their tax bill. Alternatively the Council can pursue the matter in court and the court can require the property owner to tear the building down. City Attorney Draper recommended pursuing the matter in court in order to protect the City from any potential liability.

Krause/Mott motion to direct the City Attorney to pursue the matter in court. Alderman O'Neill asked if the cost associated with the razing was indicated in the Building Inspector's letter to the property owner. City Attorney Draper said that it was not. Alderman Hartz asked what criteria was met that prompted the City to issue a raze or repair order. City Attorney Draper said that it had to do with the building being unsafe and having poor sanitary conditions. He said that the property owner has not made any attempt to repair the property.

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

#### **Presentation of Accounts – Alderman Krause**

Krause/Hartz motion to approve Prepaid Bills in the amount of \$2,549.95

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 \$124,435.71

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

#### **Closed Session**

Marsala/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 ; and pursuant to Wis. Stat. 19.85 (1)(e) for competitive bargaining reasons for the union negotiations update; 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 with.

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

The Council entered into Closed Session at 8:15pm. Also present: Administrator Jordan, City Attorney Draper, City Clerk Hawes.

Kupsik/Krause 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 9:00pm

Krause/Kupsik motion to continue considering licensing of Nathaniel Holden to the Finance, License and Regulation Committee meeting and City Council meeting on January 23, 2012. Unanimously carried.

Krause/Marsala motion to direct Administrator Jordan to proceed with union negotiations as discussed in closed session. Unanimously carried.

The third closed session item was informational only; no action taken.

**Adjournment**

Kehoe/Kupsik motion to adjourn at 9:02pm Unanimously carried.

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/s/ Michael D. Hawes, City Clerk

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