

REGULAR CITY COUNCIL MEETING

MONDAY, DECEMBER 12, 2011 – 7:00 PM

COUNCIL CHAMBERS, CITY HALL

Mayor Connors called the meeting to order at 7:12pm.

The Pledge of Allegiance was led by Alderman Kehoe.

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

Mayor Connors commended Lake Geneva resident Sal Dimiceli for finishing as a top 10 finalist in the 2011 CNN “Heroes” event.

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.

Raymond Ring, 951 S Lake Shore Drive, addressed the Council as acting secretary of Victorian Square in regard to the second reading of Ordinance 11-34. Mr. Ring asked that the private drive requirements not be enforced until April 1, 2012. He suggested that enforcing it January 1, 2012 would not provide adequate notice to over 30 single-family home dwellers that would be affected. Mr. Ring also noted that 14 of the 16 private drives that have been identified are located within the 2nd aldermanic district. He asked that the City investigate whether there are private drives in the other districts that should be accounted for.

Acknowledgement of Correspondence

City Clerk Hawes acknowledged that the City received a letter from George Hennerley, President of the Chamber of Commerce expressing appreciation for the City’s assistance with the Christmas Parade on December 3, 2011.

Approval of Minutes

Mott/Kupsik motion to approve the Special City Council Meeting minutes of November 21, 2011 and Regular City Council Meeting minutes of November 28, 2011, as published and distributed. Unanimously carried.

Second Reading of Ordinance 11-34, establishing minimum standards for private drives

Hartz/Marsala motion to approve Ordinance 11-34. Alderman Hartz stated that the ordinance would establish minimum requirements that must be met for private drives in order to be eligible to receive City services. He said that standards would help prevent damage to City equipment as services are provided on these roads. Alderman Kehoe asked about how affected residents would be notified of the minimum standards. Administrator Jordan stated that a letter has been drafted and will be sent to affected property owners along with a copy of the ordinance and hold harmless agreement. Alderman Kupsik asked about the time frame for notifying these individuals. Administrator Jordan noted that the Council originally intended for the ordinance to go into effect on January 1st. He was hoping that the letters to property owners would have been mailed out sooner, however, he wanted to wait until the ordinance was first approved by the Council. Mayor Connors suggested that the Council set an effective date that would allow for a 30-to-60 day notice to affected property owners.

Hartz/Krause motion for an amendment to include an effective date of March 15, 2012. Alderman Hartz suggested that this would provide time for affected property owners to consult with their neighborhood associations and attorneys, if necessary. Roll Call: Krause, Hartz, Kupsik and O’Neill voted “yes.” Mott, Marsala, Kehoe and Krohn voted “no.” Tiebreaker: Mayor Connors voted “no.” Amendment failed by vote of 5 to 4.

Alderman Mott suggested that the purpose of considering the ordinance at this time was to avoid plowing snow on all of the private drives this winter. He said that if the Council makes the effective date of the ordinance March or April it

would not address this season's snow removal process. Alderman Marsala suggested that it isn't legal to use City funds to provide City services on private roads.

Marsala/Krohn motion for an amendment to include an effective date of February 15, 2011. Alderman Marsala suggested that 60 days would be an adequate amount of time to give property owners notice of the minimum standards. Alderman Mott said that this would be in the middle of the snow season, which would defeat the purpose of trying to implement the change before the snow season. Alderman Kupsik suggested that February 15th would not give property owners enough time to make arrangements with contractors, especially the property owners who are out of town during the holidays. Alderman Kehoe noted that by the time property owners would receive the letter, it would be less than a 60-day notice. Roll Call: Krause, Hartz, Mott, Kehoe and Kupsik voted "no." Marsala, Krohn and O'Neill voted "yes." Amendment failed by vote of 5 to 3.

Kupsik/Hartz motion for an amendment to include an effective date of April 1, 2011. Roll Call: Krause, Hartz, Mott, Kehoe, Kupsik and O'Neill voted "yes." Marsala and Krohn voted "no." Amendment carried by vote of 6 to 2.

Roll Call: Krause, Hartz, Mott, Kehoe, Kupsik and O'Neill voted "yes." Marsala and Krohn voted "no." Motion carried by vote of 6 to 2.

Finance, License and Regulation Committee Recommendations – Alderman Krause

RESOLUTIONS

Resolution 11-R68 a resolution to create a capitalization threshold for all capital assets, with a life of more than one year, at \$5,000

Krause/Hartz motion to approve. Alderman Krause stated that this would change the capitalization threshold from \$1,000 to \$5,000. The purpose of threshold is to track capital assets, like vehicles and large equipment. He said that the City's auditors recommended increasing the threshold so the City would not need to keep paperwork for smaller items that would not qualify as capital assets.

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

Resolution 11-R69 a resolution to amend the 2011 TID Fund Budget

Krause/Hartz motion to approve. Alderman Krause stated that Resolution 11-R69 would appropriate funds in order to fund two projects that were approved by the Council. This includes \$14,000 to the TID budget for the 2011 tree replacement program and \$231,000 to the TID maintenance and repair account for the Maple Park and Dunn Field tennis courts reconstruction. Alderman Kehoe asked about the purpose of the maintenance and repair account. Alderman Krause said that this account is earmarked for current or future maintenance project within the TID. Alderman Kehoe asked if the City has a list of items that will be scheduled for repair. Administrator Jordan said that there is not a list and that repair projects are usually funded on an as-needed basis. Alderman O'Neill questioned whether the tennis courts projects would qualify as repair since it would be a complete reconstruction. Alderman Krause suggested that the tennis courts project was already approved with the understanding that it would be funded through the TID. Alderman O'Neill disagreed that the funding method had been agreed upon.

Roll Call: Krause, Hartz, Mott, Kupsik and Krohn voted "yes." Marsala and O'Neill voted "no." Alderman Kehoe abstained. The required supermajority for passage having not been achieved, the motion failed by vote of 5 to 2.

Resolution 11-R70 a resolution to appoint Election Inspectors for the term January 1, 2012 until December 31, 2013

Krause/Hartz motion to approve. City Clerk Hawes stated that Resolution 11-R70 fulfills a statutory requirement for municipalities to appoint a list of election inspectors every two years. The proposed list of inspectors includes all of the individuals who indicated they would be willing to work at elections in 2012 and 2013. The list also includes election inspector nominees from the Democratic and Republican parties. Mr. Hawes said that the list of inspectors could fluctuate throughout the two years if individuals are unable to work at the elections or do not attend the training. Alderman O'Neill asked about the process of how inspectors will be selected from the list to work at each election.

City Clerk Hawes indicated that it would depend on the availability of the inspectors and whether they attended training. Unanimously carried.

LICENSES AND PERMITS

Original “Class A” Intoxicating Liquor and Class “A” Fermented Malt Beverage License Application for QuickNSave LLC, 1231 Grant Street, Lake Geneva, Jatinder Pal Singh, Agent

Krause/Kupsik motion to approve. Alderman Krause stated that due to type of transfer of ownership, the fees for the application were waived. Unanimously carried.

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

Krause/Marsala motion to table to the January 9, 2012 meeting. Unanimously carried.

Original Massage Establishment application for Salon 180 (new owner), 706 W. Main Street, Lake Geneva

Krause/Hartz motion to approve. Alderman Krause stated that this was an application for a new owner and that it was approved by the Police Chief and Building Inspector. Unanimously carried.

Original Operator License applications filed by Barbara Findlay, Tanya Peterson and Marisa Fellmeth

Krause/Marsala motion to approve. Unanimously carried.

Discussion/Recommendation on insurance reimbursement to the Library

Krause motion to approve. Mayor Connors suggested that a resolution be considered for the transfer. Motion withdrawn.

Krause/Hartz motion to continue to next meeting. Administrator Jordan stated that the City received a \$90,633.51 reimbursement from its insurer in 2009 for the embezzlement that occurred at the library. He said that these funds had been kept by the City in its general account but the reimbursement should have been given to the library to replenish its losses. Mr. Jordan said that staff is recommending to transfer the \$90,633.51 to the library at this time. Chairman Krause stated that as a liaison on the Library Board, he has seen how this situation has impacted the library and caused budget shortfalls. He said that this money never should have gone to the City. Unanimously carried.

Discussion/Recommendation on CD reinvestment

Krause/Kupsik motion to approve renewal of CD in the amount of \$141,749.61 with M&I Bank for a period of nine months at a rate of 0.3%.

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

Discussion/Recommendation on request to pre-pay bills before December 31, 2011

Alderman Krause reported that no action was taken on this item at the Finance, License and Regulation Committee meeting. He stated that the purpose of the request was to allow staff to pre-pay all bills before December 31, 2011 in order to save staff the time of having to accrue payments made in 2012 back to 2011. Mayor Connors suggested as an alternative that the Finance, License and Regulation Committee and Council hold a special meeting between Christmas and New Year’s to approve bills.

Krause/Kupsik motion to continue to a special meeting to be held during the last week in December. Motion carried by vote of 7 to 1, with Alderman Kehoe opposed.

Public Works Committee Recommendations – Alderman Mott

Discussion/Action on accepting gift of Veterans Park parking lot island repairs (*recommended on 11/17/2011*)

Mott/Kupsik motion to accept the gift from the Sons of the American Legion to repair the Veterans Park parking lot islands. Alderman Mott stated that the Sons of American Legion has volunteered to improve the parking lot islands at Veterans Park which aren’t in very good condition. Alderman Kupsik asked how much they plan to spend and whether the work will be supervised. Alderman Mott replied that the total cost will be covered by the Sons of American Legion

and that DPW Winkler will watch over the construction. Mayor Connors suggested that the gift be contingent upon approval of a site design. Alderman Mott said that the improvements would include replacing the woodwork and bushes, with no major design deviations.

Hartz/Krause motion an amendment that acceptance of the gift will be contingent upon the Public Works Committee's approval of a design. Amendment carried, 6 to 2, with Alderman Krohn and Mott opposed.

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 \$6,933.87

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 \$201,490.76, denying the payment to Dan Larsen Landscaping for the street tree program as funding for this project was not approved.

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

Mayoral Appointments – Mayor Connors

Mayor Connors announced the appointment of Tom Hartz to the Police & Fire Commission. Alderman Hartz recused himself from the proceedings. Mayor Connors stated that this would be effective December 15, 2011 for the balance of the term (May 1, 2013).

Krause/Kupsik motion to appoint Tom Hartz to the Police & Fire Commission. Alderman O'Neill expressed concern with an alderman serving as a voting member of the commission. He stated that the purpose of a commission like the Police & Fire Commission is to operate independently from the Council, without the political influence of the Council members. City Attorney Draper stated that he read the State Statutes on the matter and consulted with the League of Municipalities. He found from both sources that appointing an alderman as a voting member of the commission is permissible. In addition, City Attorney Draper said "I will point out that there is an attorney general opinion out there that says it's improper for a City Council member to be sitting on this commission, but in discussing the matter with the League and reviewing the statutes, we quite frankly think that the attorney general opinion is wrong and that it is permissible to have the Police & Fire Commission to be represented by a city council member because it's specifically allowed by state statute." Mayor Connors noted that Alderman Hartz has filed for non-candidacy and will only be an alderman until the end of his current term this spring.

Roll Call: Krause, Mott, Marsala, Kehoe, and Kupsik voted "yes." Krohn and O'Neill voted "no." Hartz recused. Motion carried by vote of 5 to 2.

Closed Session

Hartz/Kehoe motion to go into Closed Session pursuant to Wis. Stat. 19.85 (1)(b) for considering licensing of Patrick Shaff 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)(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: Peller Investments, LLC

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

The Council entered into Closed Session at 8:35pm. Also present: Administrator Jordan, City Attorney Draper, Attorney Ted Waskowski, Patrick Shaff, and City Clerk Hawes.

Marsala/Hartz 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 9:22pm.

Krause/Marsala motion to approve the Original Operator License application filed by Patrick Shaff. Unanimously carried.

Hartz/Kupsik motion to authorize the Stafford Rosenbaum LLP to file appeal in the condemnation case with Peller Investments, LLC.

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

Adjournment

Kehoe/Mott motion to adjourn at 9:24pm. Unanimously carried.

/s/ Michael D. Hawes, City Clerk

THESE ARE NOT OFFICIAL MINUTES UNTIL APPROVED BY THE COMMON COUNCIL