

REGULAR CITY COUNCIL MEETING

MONDAY, MARCH 26, 2012 – 7:00 PM

COUNCIL CHAMBERS, CITY HALL

Mayor Connors called the meeting to order at 7:00 p.m.

The Pledge of Allegiance was led by Alderman Mott.

Roll Call. Present: Aldermen Hartz, Mott, Marsala, Kehoe, Kupsik, Krohn and O’Neill. Absent: Alderman Krause (excused). Also present: Administrator Jordan, City Attorney Draper and City Clerk Hawes.

Awards, Presentations, and Proclamations.

City Clerk Hawes announced the Spring General Election and Presidential Preference Vote is on Tuesday, April 3. He said more information about the election is available on the City’s website, www.cityoflakegeneva.com.

Mayor Connors noted that Item 9-E has been withdrawn from the agenda.

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.

Bethany Souza, 327 Wrigley Drive, Lake Geneva, addressed the Council as the applicant for Item 12-E on the agenda. Ms. Souza said she wished to withdraw the portion of the application relating to outdoor entertainment due to concerns from the neighbors.

Cathy Stoodley, 919 Carey Street, Lake Geneva, spoke in support of the zoning change request filed by the owners of Delaney Street Mercantile. She noted the business has been the recipient of two mayoral beautification awards. She said the property is one of the most welcoming and beautiful sites in Lake Geneva.

Gerald Holmberg, 247 Summerhaven Lane, Lake Geneva, expressed support for approving the zoning change for Delaney Street Mercantile from Neighborhood Office to Planned Development. He said he eagerly endorses their request and is looking forward to seeing the results of their renovation.

Diane Muzzy, 420 Baker Street, Lake Geneva, addressed the Council in regard to Item 12-E. She said the applicant failed to discuss the request for outdoor entertainment with neighbors prior to filing the application with the City. Ms. Muzzy said she opposed changing the setbacks as proposed with Item 12-D on the agenda.

Bill Huntress, 1015 Pleasant Street, Lake Geneva, urged the Council not to approve Ordinance 12-07. He said the current ordinances relating to Outdoor Recreational Use has worked well for a long time. Mr. Huntress suggested it would be reckless behavior to change the ordinance.

Ken Wenz, 1807 Miller Court, Lake Geneva, addressed the Council as the applicant for Conditional Use Resolution 12-R31. He said the purpose of the request is to expand the restaurant seating area to the courtyard in front of the building. Mr. Wenz noted the request has the support of the Maple Park Homeowner Association and it received approval from the Plan Commission. He said the courtyard area will be monitored closely by his staff and that signage will be posted stating that food and beverages are not allowed to leave the courtyard area. Mr. Wenz said Bistro 220 has been in business for three years and he is looking forward to the buzz that the expanded seating area will create.

Tara Trent, 1103 Geneva Street, Lake Geneva, spoke as the President of the Maple Park Homeowner Association. She indicated Maple Park Homeowners Association supports the zoning requests submitted by Delaney Street Mercantile and Bistro 220. Ms. Trent said she is very pleased with how the two properties have vastly improved the neighborhood in recent years.

Jeff Leonard, 1504 Dodge Street, Lake Geneva addressed the Council as owner of Delaney Street Mercantile. Mr. Leonard urged the Council to approve the requests filed by Delaney Street Mercantile and Bistro 220. He said his goal as owner of Delaney Street Mercantile has been to make the property as pretty as possible. He explained the purpose of the zoning request is to build a conservatory on the unattractive paved area. He said the zoning change will also allow them to have outdoor displays and booths along with live Ecuadorian flute music for a limited number of times during the year. He asked for the Council's approval.

Acknowledgement of Correspondence.

City Clerk Hawes acknowledged correspondence objecting to Item 12-E, the Conditional Use Permit application filed by Geneva Bay LLC for Outdoor Commercial Entertainment (outdoor theatrical performances along with outdoor food/beverage consumption) and Group Development at 421 Baker Street. These e-mails were received from: Lee Hedman, Ellen Rivers, Doug Barnes, Kate Anderson, Ron and Camille Grabski, Paula Hafner, Jeff Maiers and Diane Muzzy.

Copies of the correspondence were distributed to the Mayor and aldermen and are on file in the City Clerk's office.

Approval of Minutes

Kehoe/Kupsik motion to approve the Regular City Council Meeting minutes of March 12, 2012, as published and distributed. Unanimously carried.

Finance, License and Regulation Committee Recommendations – Alderman Marsala

RESOLUTIONS

Resolution 12-R28, authorizing transfers from the Lakefront and Parking Lots and Meters Funds to the General Fund in the 2011 Operating Budget

Marsala/Hartz motion to approve. Alderman Marsala explained this is an annual transfer involved with closing the books on the prior year. He said \$394,920.11 would be transferred from the Lakefront Fund to the General Fund (at year end 2011). An amount of \$475,584.22 would be transferred from the Parking Lots and Meters Fund to the General Fund (at year end 2011). Alderman Marsala indicated \$75,000 would be left in each of the Lakefront and Parking Lots and Meters Special Revenues Funds as regular practice. Alderman Hartz noted the City received more revenue than anticipated in 2011 for these funds.

Roll Call: Hartz, Mott, Marsala, Kehoe, Kupsik, Krohn and O'Neill voted "yes." Alderman Krause was absent. Motion carries 7 to 0.

Resolution 12-R29, authorizing the transfer of monies from the 2011 Contingency Account to Fire Dept. Retirement Expense in the amount of \$21,713.87

Marsala/Kupsik motion to approve. Administrator Jordan explained the City and firefighters' union agreed to set up a 401(a) retirement plan for the firefighters. He said the plan took 2-3 years to implement. He said the City was recently informed that it needed to fund the account for the period that it took to implement the plan. Resolution 12-R29 would transfer the funds necessary to fund the retirement account for that period.

Roll Call: Hartz, Mott, Marsala, Kehoe, Kupsik, Krohn and O'Neill voted "yes." Alderman Krause was absent. Motion carries 7 to 0.

Resolution 12-R30, authorizing a write-off of Delinquent Personal Property Taxes in the amount of \$21,211.57 and authorizing a budget transfer from the 2011 Contingency Account

Marsala/O'Neill motion to approve. Alderman Marsala said the resolution would remove a list of delinquent personal property taxes dating back to 2004 from the City's receivables. He said the accounts will stay with the collections agency, but it was recommended during the audit to write them off in order to more accurately reflect the current accounts. Alderman Mott asked how the Council will know when personal property taxes are collected. Mayor Connors said staff will be reporting to the Council on delinquent personal property taxes on a more regular basis. Alderman O'Neill noted staff will be working to improve processes to prevent businesses with delinquent personal property taxes from obtaining businesses licenses.

Roll Call: Hartz, Mott, Marsala, Kehoe, Kupsik, Krohn and O'Neill voted "yes." Alderman Krause was absent. Motion carries 7 to 0.

LICENSES AND PERMITS

Amendment of "Class B"/Class "B" Intoxicating Liquor and Fermented Malt Beverage License for sidewalk café premises extension filed by Gleneagles LLC, d/b/a Sopra, 724 W. Main Street, Alastair Cumming, Agent
Marsala/Hartz motion to approve. Alderman Marsala said this request will allow Sopra to serve alcohol on its sidewalk café area.

Roll Call: Hartz, Mott, Marsala, Kehoe, Kupsik, Krohn and O'Neill voted "yes." Alderman Krause was absent. Motion carries 7 to 0.

Operator License applications filed by Kimberlee Rowehl, Barbara Winden and Deneen Lichtenauer.
Marsala/Hartz motion to approve. Unanimously carried.

Discussion/Action on contract with Action Sport Design/Development for Skate Park construction administration services

Marsala/Kupsik motion to approve for the amount not to exceed \$18,200.00, with the City Attorney recommendations regarding the contract and funded from TIF. City Attorney Draper said he reviewed the contract. He noted he confirmed that the travel costs were included in the \$18,200.00. Administrator Jordan said the contract includes 10 visits for construction inspections. Alderman O'Neill said even though he voted against constructing the skate park, he supports the construction administration services to ensure the park is built correctly. Alderman Mott agreed.

Roll Call: Hartz, Mott, Marsala, Kehoe, Kupsik, Krohn and O'Neill voted "yes." Alderman Krause was absent. Motion carries 7 to 0.

Discussion/Action on CD renewal/reinvestment

Marsala/Mott motion to reinvest the CD in the amount of \$458,500.69 for a six-month period with BMO Harris at a rate of 0.25%.

Roll Call: Hartz, Mott, Marsala, Kehoe, Kupsik, Krohn and O'Neill voted "yes." Alderman Krause was absent. Motion carries 7 to 0.

Discussion/Action on disallowance of claim filed by Abra Prentice Wilkin Trust for alleged excessive real estate tax assessment pursuant to Wis. Stats. 893.80 (1g)

Mayor Connors said this item was withdrawn from the agenda.

Piers, Harbors and Lakefront Committee – Alderman Marsala

Discussion/Action on renewal of pier lease with Kenton Martzke

Marsala/Kupsik motion to approve. Alderman Marsala said it is a 10-year lease with a 3% annual increase. Administrator Jordan said he worked with City Attorney Draper to clean up the lease agreement. He said there were many different amendments over the years that they combined into a single lease document.

Roll Call: Hartz, Mott, Marsala, Kehoe, Kupsik, Krohn and O'Neill voted "yes." Alderman Krause was absent. Motion carries 7 to 0.

Parking Commission – Alderman Marsala

Discussion/Action on parking lot agreement with Roger Wolff for the Geneva Street parking lot

Marsala/Mott motion to approve. Administrator Jordan indicated the City has had an agreement with Mr. Wolff for the Geneva Street (Newport West) parking lot for the past 4-5 years. He said the City installed parking meters and collects up to \$15,000 in revenue per year. Mr. Jordan said Mr. Wolff asked if the City would consider sharing some of the

revenue. Administrator Jordan said they are proposing an agreement to split the revenue 50/50, after the costs for the new meters and sales taxes are taken out. Mayor Connors noted Mr. Wolff will continue to be responsible for plowing and maintaining the lot as part of the agreement. City Attorney Draper said they need to amend the ordinance to designate the lot as a City metered parking lot.

Roll Call: Hartz, Mott, Marsala, Kehoe, Kupsik, Krohn and O'Neill voted "yes." Alderman Krause was absent. Motion carries 7 to 0.

Plan Commission – Alderman Hartz

First reading of Ordinance 12-06, amending the Zoning Ordinance of the City of Lake Geneva, Walworth County, Wisconsin, from (NO) Neighborhood Office to (PD) Planned Development for a certain property in the City (905 W. Main Street)

Hartz/Mott motion to suspend the rules and go to a second reading. Unanimously carried.

Second reading of Ordinance 12-06. Hartz/Kupsik motion to approve. Alderman Hartz noted this Item is connected to the next item on the agenda. He said the zoning change will allow the property owners to make improvements to the property. It would also allow them up to 12 days of outdoor entertainment for their proposed Ecuadorian flute playing. Mr. Hartz indicated the proposed uses fit within the policies and programs outlined in the City's master plan. Unanimously carried.

Discussion/Action on a General Development Plan and Precise Implementation Plan filed by Jeffrey and Beverly Leonard, 1504 Dodge Street, Lake Geneva, WI 53147, to allow for flexibility in zoning requirements and land use at 905 W. Main Street, Lake Geneva, WI 53147, Tax Key Number ZOP 00243A, including all staff recommendations

Hartz/Kupsik motion to approve. Hartz said this is the same property as the previous agenda Item. He indicated the property owner is requesting flexibility for the entertainment activities they would like to do. He said the applicants would be constructing an addition to the building and hiding the dumpster behind a fence. Alderman Marsala asked how the live music will be controlled. City Attorney Draper said the music is governed by the noise ordinance. Alderman Marsala commented that some residents aren't fond of the type of flute music. Alderman Hartz said they will only be able to have the music 12 times out of the year.

Roll Call: Hartz, Mott, Marsala, Kehoe, Kupsik, Krohn and O'Neill voted "yes." Alderman Krause was absent. Motion carries 7 to 0.

Resolution 12-R31, authorizing the amendment of a Conditional Use Permit filed by Ken Wenz, 1807 Miller Court, Lake Geneva, WI 53147, to extend the eating and drinking areas to the courtyard (Outdoor Commercial Entertainment) at 220 Cook Street, Lake Geneva, WI 53147, Tax Key Number ZOP 00243, including all staff recommendations and, specifically, that this Conditional Use Amendment strictly stays with this current owner, that the seating be limited to 20 people, that the approval be reviewed in one year and that if the Council repeals the outdoor dining ordinance the applicant will have to reapply for a Conditional Use

Hartz/Kupsik motion to approve. Hartz said the Conditional Use Permit would allow Bistro 220 to have outdoor dining in its front courtyard. He said a condition is that the permit will be reviewed by the Plan Commission in a year to identify whether there are any issues with the use. Mr. Hartz said if the sidewalk café ordinance is repealed, Mr. Wenz will have to re-apply for this conditional use. Alderman Kehoe asked whether the shops on the first floor would be obstructed by the courtyard dining. Alderman Hartz indicated patrons would still have a clear path to the stairs and the entrance to access the shops. Alderman Krohn asked how food and beverages will be transported from the second story restaurant to the courtyard area. City Attorney Draper said the restaurant will have to transport food and beverages through the stairway. Alderman O'Neill asked whether the applicant would need to amend their alcohol license before serving alcohol in the front courtyard area. City Clerk Hawes confirmed the owner will need to request an extension of premises to their alcohol license.

Roll Call: Hartz, Mott, Marsala, Kehoe, Kupsik, Krohn and O'Neill voted "yes." Alderman Krause was absent. Motion carries 7 to 0.

First reading of Ordinance 12-07, amending the Zoning Ordinance of the City of Lake Geneva, Walworth County, Wisconsin to revise and further clarify Outdoor Commercial Entertainment, add a new category Intensive Outdoor Recreation and modify off-street parking spaces as required by the Zoning Ordinance and to amend the parking requirements to reflect patrons instead of persons

First reading only; no action taken.

Resolution 12-R32, authorizing the amendment of a Conditional Use Permit filed by Geneva Bay Club LLC, 421 Baker Street, Lake Geneva, WI 53147 for Outdoor commercial Entertainment (outdoor theatrical performances along with outdoor food/beverage consumption) and Group Development at 421 Baker Street, Lake Geneva, WI 53147, Tax Key Number ZOP 00352, including all staff recommendations and, specifically, a Plan Commission review of the Conditional Use prior to December 31, 2012, a condition that the sound not be amplified, the agreement with the YMCA regarding parking be enforced and contingent on the approval of the zoning text amendment

Mayor Connors indicated the applicant requested to withdraw the portion of the Conditional Use Permit application relating to outdoor commercial entertainment. Mr. Connors asked the resolution be read as requested to be amended by the applicant. Hartz read the revised resolution. Hartz/Kehoe motion to approve as revised, authorizing the amendment of a Conditional Use Permit filed by Geneva Bay Club LLC, 421 Baker Street, Lake Geneva, WI 53147 for Group Development at 421 Baker Street, Lake Geneva, WI 53147, Tax Key Number ZOP 00352, including all staff recommendations as to the group development. Alderman Hartz indicated a Group Development is required for two businesses to operate out of the same building. He said the applicant is requesting this because they would like to do catering in the building in addition to the restaurant operations.

Roll Call: Hartz, Mott, Marsala, Kehoe, Kupsik, Krohn, and O'Neill voted "yes." O'Neill voted "no." Alderman Krause was absent. Motion carries 6 to 1.

Presentation of Accounts – Alderman Krause

Marsala/Hartz motion to approve a Purchase Order in the amount of \$17,583.00 to American Custom Metal for parking stall signs.

Roll Call: Hartz, Mott, Marsala, Kehoe, Kupsik, Krohn and O'Neill voted "yes." Alderman Krause was absent. Motion carries 7 to 0.

Marsala/Kupsik motion to approve Prepaid Bills in the amount of \$22,279.71.

Roll Call: Hartz, Mott, Marsala, Kehoe, Kupsik, Krohn and O'Neill voted "yes." Alderman Krause was absent. Motion carries 7 to 0.

Krause/Hartz motion to approve Regular Bills in the amount of \$136,124.27.

Roll Call: Hartz, Mott, Marsala, Kehoe, Kupsik, Krohn and O'Neill voted "yes." Alderman Krause was absent. Motion carries 7 to 0.

Marsala/Kupsik motion to accept the Treasurer's Report of December 2011. Motion carries 7 to 0.

Closed Session

Kupsik/Hartz motion to go into Closed Session 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 (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 Annexation (City Attorney Draper), with Ted Waskowski present.

Roll Call: Hartz, Mott, Marsala, Kehoe, Kupsik, Krohn, and O'Neill voted "yes." Alderman Krause was absent. Motion carries 7 to 0.

The Council entered into Closed Session at 8:17 p.m. Also present: Administrator Jordan, City Attorney Draper, City Clerk Hawes and Ted Waskowski.

Kupsik/Krohn 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: Hartz, Mott, Marsala, Kehoe, Kupsik, Krohn, and O'Neill voted "yes." Alderman Krause was absent. Motion carries 7 to 0. The Council reconvened in open session at 9:11 p.m.

Hartz/Marsala motion to authorize Mr. Waskowski to offer to settle litigation with the Pellers according to the terms discussed in closed session. Motion carries 7 to 0.

Kupsik/Marsala motion to instruct City Attorney to proceed with what was discussed in closed session with regard to Village of Bloomfield annexation. Motion carries 7 to 0.

Adjournment

Kehoe/Mott motion to adjourn at 9:13 p.m. Unanimously carried.

/s/ Michael D. Hawes, City Clerk

THESE ARE NOT OFFICIAL MINUTES UNTIL APPROVED BY THE COMMON COUNCIL