

REGULAR CITY COUNCIL MEETING

MONDAY, APRIL 9, 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 Marsala.

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.

Mayor Connors announced it was the last Council meeting with Aldermen Krause, Hartz and Marsala due to the expiration of their term as aldermen. He presented a plaque to each alderman and thanked them for their service.

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.

Diane Muzzy, 420 Baker Street, addressed the Council to request denial of Ordinance 12-07. She said the current ordinance relating to outdoor entertainment has been effective for many years. She expressed opposition for land uses that are not appropriate in residential neighborhoods. She suggested that restricting outdoor entertainment to the downtown and commercial areas of the City will not prevent people from continuing to visit Lake Geneva. Ms. Muzzy also expressed opposition for eliminating the elected Treasurer position. She argued it would disregard the basic precepts of the founding of this country.

Acknowledgement of Correspondence.

City Clerk Hawes acknowledged correspondence received from Diane Muzzy, 420 Baker Street, dated April 9, 2012, asking the Council to deny Ordinance 12-07. Ms. Muzzy also submitted correspondence expressing opposition for eliminating the elected Treasurer position. Copies of the correspondence were distributed to the Mayor and aldermen and are on file in the City Clerk's office.

Approval of Minutes

Alderman O'Neill suggested a correction to the minutes regarding Resolution 12-R28. He said the words "an additional" should be added on the fourth line in front of \$75,000. Kupsik/Mott motion to approve the Regular City Council Meeting minutes of March 26, 2012, with adding "an additional" in front of \$75,000 on the fourth line under Resolution 12-R28. Unanimously carried.

Second 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

Mayor Connors asked City Attorney Draper to clarify the intent of the ordinance. City Attorney Draper said there was belief that the ordinance was drafted to help accommodate an outdoor theater. He explained the ordinance actually has more to deal with restaurants along Wrigley Drive that are going to be applying for sidewalk café permits. He said the beach area is zoned ER and under the current definition of Outdoor Commercial Entertainment, these businesses would not be allowed to obtain the sidewalk café permit being located near the ER zoning. Ordinance 12-07 would clarify the difference between outdoor commercial entertainment, like sidewalk cafes, and "intensive outdoor recreation." Hartz/Kupsik motion to approve.

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

Discussion/Action on acceptance of streets located in the Meadowlands Subdivision (*continued 2/27/12*)

Administrator Jordan said DPW Winkler and the City Engineer have inspected Meadowlands Subdivision since the February 27th meeting to see if the curb repairs were made. He said all repairs have been made, except for the installation of the stop sign. Mr. Jordan said the stop sign has been ordered and will be installed once it comes in. He recommended accepting the streets at this time.

Mott/Kupsik motion to accept North Andrea Drive and Joshua Lane in phase two of the Meadowlands Subdivision. Alderman Hartz asked if a street sign could be installed at the intersection as well. DPW Winkler said it could be arranged. Aldermen Mott and Kupsik agreed to adding the street sign into their motion. Alderman O'Neill said he was still troubled that the City Engineer did not specify in writing that the roads met City standards. DPW Winkler said this was communicated in the letter from the City Engineer. Motion carries 7 to 1, with Alderman O'Neill opposed.

Finance, License and Regulation Committee Recommendations – Alderman Krause

RESOLUTIONS

Resolution 12-R33, amending the Fee Schedule to reflect a combined parking permit for City residents and senior residents

Krause/Marsala motion to approve, on the condition that the parking sticker be described as “Resident and Non-Resident residence owners.” Alderman Hartz said the purpose of this change is to get all of the residents on the same sticker. Alderman Kehoe asked if this item could be discussed at the Committee of the Whole or the Parking Commission. Mayor Connors noted this was recommended by the Parking Commission. Alderman Kehoe asked how long seniors could park with their current sticker. Mayor Connors said the current senior stickers were good for the duration of the meter. Administrator Jordan said the new parking system will not be able to track these different types of stickers. He also noted that this will prevent seniors who work in the downtown area from parking in the 10-hour meter area, making them unavailable for most of the day. Alderman O'Neill agreed this is a good step to simplify the process and make the permits uniform.

Roll Call: Krause, Hartz, Mott, Marsala, Kupsik, Krohn and O'Neill voted “yes.” Kehoe voted “no.” Motion carries 7 to 1.

Resolution 12-R34, authorizing the transfer from the Undesignated Fund Balance to the Designated Fund Balance-OPEB in the amount of \$100,000

Krause/Hartz motion to approve. Administrator Jordan said the City has been advised after various audits to set aside additional funding for post-employment benefits. He said \$100,000.00 was budgeted about five years ago and there is currently \$57,541.00 left in this account. Mr. Jordan indicated there is currently \$2.4 million in the City's undesignated fund balance for 2011. He suggested this is a good time to transfer \$100,000.00 to the OPEB account. He said this would reduce the 2011 reserves to about \$2.3 million.

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

LICENSES AND PERMITS

Amendment of Class “B”/“Class C” Fermented Malt Beverage and Wine License for front courtyard premises extension filed by Bistro 220, 220 Cook Street, Ken Wenz, Agent

Krause/Kupsik motion to approve, with the license description being revised as follows: “Second-story restaurant area, second-story balcony, common stairway, first-floor porch and outdoor courtyard area, and basement storage area with conditional use regulation that outdoor balcony dining is limited to 10AM-10PM during the week, 10AM-12AM during the weekend, and 10AM-1AM on New Year's Eve. There are no music or speakers allowed outdoors.” Unanimously carried.

Original Operator License applications filed by Oleg Kizimenko, Cassandra Welch, Karina Cataldo, George Frirsch, Scott Runge, Brandi Carey and Scott Sparks

Krause/Hartz motion to approve. Unanimously carried.

Discussion/Action on designating Ragtop Valet as a preferred vendor for Riviera valet services (*recommended by Parking Commission 3/15/12*)

Alderman Krause said this item was forwarded from the Finance, License and Regulation Committee without recommendation. Marsala/Krause motion to approve Ragtop Valet as a preferred vendor for Riviera valet services on a one-year trial basis. Alderman Marsala said the item has been discussed at Parking Commission, Committee of the Whole and Piers, Harbors and Lakefront Committee. He indicated many questions were brought up and Ragtop came forward with a business plan to address the questions. Alderman O'Neill noted the Dunn Lumber parking lot is about half a mile away from the Riviera. He didn't think their proposed travel time of approximately 90 seconds could be achieved. Alderman Marsala said Ragtop plans to have eight drivers, which should help minimize the wait time. Alderman Kupsik asked if the request was reviewed by Police Chief Rasmussen. Alderman Marsala confirmed that it was and the chief is okay with the request. Alderman Krause asked who would be evaluating the success of the valet services during the trial period. Alderman Marsala suggested that the Harbormaster monitor the valet services because he would be the first to know if there were issues with the customers renting the Riviera. Alderman Krause suggested the Harbormaster be responsible for evaluating the valet services during the trial basis. Aldermen Marsala and Krause added this to their original motion.

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

Discussion/Action on rejecting the bid submitted by Outdoor Lighting Construction Company, Inc. for Main Street Traffic Signal Improvements

Krause/Marsala motion to reject the bid. Alderman Krause said the City only received one bid for the project and it was higher than anticipated. He said staff would like to make changes to the bid packet in an effort to attract more bidders at more competitive prices. Mayor Connors said the City Engineer from Crispell-Synder is working with DPW Winkler to refine the project and develop a strategy for rebidding it. Alderman Kehoe asked when the project would be rebid. DPW Winkler indicated it would be rebid in the late Spring or Summer and construction would take place in the Fall. He said they originally planned to have the traffic signals installed in the Spring before the busy summer season, but this is no longer a possibility. Alderman O'Neill asked how long the project was out for bid. DPW Winkler said two weeks. He said we could do three or four weeks next time since we will have fewer time constraints. Alderman O'Neill suggested it would be a good idea to allow three or four weeks for bid responses next time.

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

Personnel Committee – Alderman Hartz

Discussion/Action on eliminating the elected Treasurer position and combining the Treasurer duties with the Deputy Clerk position

Hartz/Krause motion to direct the City Attorney to prepare a charter ordinance that would eliminate the elected Treasurer position and replace it with a non-elected, combined Treasurer/Deputy Clerk position. Alderman Hartz said there were a number of reasons why the Personnel Committee recommended the change: (1) increased efficiency by combining positions; (2) there are certain technological qualifications needed for someone in the Treasurer position, which could be met through a hiring/appointment process; (3) the internal controls audit in 2009 recommended making the Treasurer position an appointed position; and (4) it would bring Lake Geneva into the 21st Century, as currently 89% of the Treasurers in Wisconsin are appointed. Alderman Hartz said it wouldn't take power away from the voters because it puts the hiring decision in the hands of the elected Council members. He noted the Council has used a thorough hiring process to hire appointed officials in recent years. Mr. Hartz said by making the Treasurer position an appointed position it would give the Council the chance to hire someone with qualifications that are specific to the position. He gave the example of someone elected as Treasurer who would be ill-qualified for the position. Alderman Hartz said this move would take the politics out of a financial position.

Alderman Kehoe clarified that this would not be implemented until the current Treasurer's term expires in two years. She said City residents are accustomed to voting for its Treasurer. Alderman Krohn asked if a referendum would be required if the charter ordinance is adopted. City Attorney Draper said the charter ordinance would require a two-thirds vote of the Council for approval. He said the public has 60 days to collect signatures for a petition asking for a referendum if they do not agree with the ordinance. Alderman Krohn asked how many signatures would be needed.

Mr. Draper said it would require 7% of the number of electors who voted in the last gubernatorial election. City Clerk Hawes said he would have to check the results for the last election but it could be around 150.

Alderman O'Neill said he preferred to keep the Treasurer an elected position. He said that if someone was ill-qualified to be the Treasurer that their opponent would point this out. Alderman O'Neill also expressed concern with work-flow, suggesting it was more preferable for the Treasurer to report to the community as a whole instead of the Council or a staff position. Alderman Krause said it is a matter of being able to have a Treasurer that fulfills the duties of the office. He said the appointing process would allow them to hire someone with a financial or investments background. Alderman Mott agreed, noting the success of the Council's hires in recent years.

Mayor Connors asked Administrator Jordan to comment on how the combined Treasurer/Deputy Clerk would be supervised. Administrator Jordan said the position would be supervised by the City Clerk, just as the Deputy Clerk is currently supervised. He said combining the Treasurer and Deputy Clerk positions makes sense from an efficiency standpoint. He said the Treasurer's office is busiest during the tax collection season in the Winter. The Deputy Clerk is busiest during election season and the license renewal period. Mr. Jordan suggested the new position could also help with human resources functions. Administrator Jordan described an experience he had in a previous community where the elected Treasurer wasn't qualified to complete the required work and the City had to hire an additional employee to fulfill the Treasurer functions.

Mayor Connors reiterated that this change was recommended by outside auditors and suggested it be something the Council gives strong consideration to.

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

Discussion/Action on adding Working Foreman to City Organizational Chart under Street Department Superintendent

Hartz/Mott motion to add Working Foreman to the City Organizational Chart under the Street Superintendent position. Alderman Hartz said this was a request from the Street Superintendent to reflect current practice. Alderman O'Neill asked how this would impact pay rates and if this is a union position. Administrator Jordan said it is currently a union position and pay rates would not be affected. Alderman O'Neill asked if the position has any authority. Mr. Jordan said the Working Foreman oversees departmental staff in the absence of the Street Superintendent. Alderman Krause suggested the box in the organizational chart also have a dotted line between the Street Superintendent to indicate the Working Foreman is in charge when the superintendent is absent. Aldermen Hartz and Mott agreed to adding the dotted line as part of their original motion. Motion carries, 7 to 0, with Alderman Krohn abstained.

Piers, Harbors and Lakefront Committee – Alderman Marsala

Discussion/Action on Beach Water Sampling Policy

Marsala/Krause motion to direct the City Attorney to repeal the current beach sampling ordinance and replace it with a policy. Alderman Marsala said Alderman O'Neill brought it to the committee's attention that the beach sampling process wasn't effective in addressing high readings last year. Alderman Marsala said the proposed policy is written to provide flexibility to utilize other testing facilities and to more effectively address high readings. Alderman Kupsik agreed, stating the samples last year were sent to be processed by a lab in Madison. The new policy would provide an option to have readings tested at a local lab with a 24-hour turnaround period. Alderman O'Neill said he preferred an ordinance to a policy because it carries more weight legally. He said if the beach should be closed, it should be closed as a force of law. Mayor Connors said the current ordinance was written in 2007 with the intent that every community around the lake would adopt it, but Lake Geneva was the only one to actually adopt it. Mr. Connors said the intent with using a policy is that it would provide the necessary flexibility for addressing issues as they arise. He said amending ordinances can be a cumbersome process that may not help address certain situations involving the safety of the beach water. He noted the testing process would actually be more rigorous with the policy as opposed to ordinance. Alderman Kehoe asked who would put up the closed beach signs. Mayor Connors indicated it could be the City Administrator or Harbormaster. Alderman O'Neill indicated the Geneva Lake Environmental Agency was involved with drafting the policy.

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

Discussion/Action on renewal of pier lease with Gage Marine

Marsala/Kupsik motion to accept the renewal of pier lease with the amendments and changes recommended. Administrator Jordan said Gage Marine is seeking two additional six-year terms added to their lease. He said the lease would be extended from 2028 to 2040. The lease would increase by \$10,000 in 2028 and in 2035. Mr. Jordan said an additional parking space is being added as part of the lease. Gage Marine will be responsible for adding striping and signage for the parking stall. The new parking stall wouldn't interfere with any existing stalls. Alderman O'Neill said he felt a lease extended to 2040 was way too long.

O'Neill/Krohn motion to suspend the rules to allow Bill Gage to address the Council. Unanimously carried. Mr. Gage said they are requesting the lease extension because they are needing to continually reinvest in the business. He said banks require that the dates of loans match the dates of the lease. Alderman O'Neill said if the City needed to replace a pier it would cost about \$500,000 and the money collected from Gage Marine would hardly be enough to fund that. Alderman O'Neill also expressed concern that the lease rate does not take in consideration the high rate of inflation that some expect over the next couple of decades. Mr. Gage said he believes the proposed lease addresses these concerns.

Alderman Krause asked if there is an out-clause in the lease. City Attorney Draper said there isn't an out-clause, but the lease could be broken if there was a breach on the part of Gage Marine. Alderman O'Neill asked if Gage Marine has the ability to sublet the pier if they so wished. Mr. Draper said there is a provision in the new amendment requiring City approval for any transfer of interest. Alderman O'Neill commented that if the lease was shorter he might be in favor of it.

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

Presentation of Accounts – Alderman Krause

Krause/Marsala motion to approve Prepaid Bills in the amount of \$5,361.22

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

Krause/Hartz motion to approve Regular Bills in the amount of \$145,860.22

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

Krause/Hartz motion to accept Treasurer's Report of January 2012

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

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: claim for excessive real estate tax assessment filed by Abra Prentice Wilkin Trust (City Attorney Draper).

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

The Council entered into Closed Session at 8:42 p.m. Also present: Administrator Jordan, City Attorney Draper and City Clerk Hawes.

Kupsik/Kehoe 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: Krause, Hartz, Mott, Marsala, Kehoe, Kupsik, Krohn and O'Neill voted "yes." Unanimously carried. The Council reconvened in open session at 8:52 p.m.

Kehoe/Krause motion to deny the claim for excessive real estate tax assessment filed by Abra Prentice. Unanimously carried.

Adjournment

Krause/Marsala motion to adjourn at 8:54 p.m. Unanimously carried.

/s/ Michael D. Hawes, City Clerk

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