

REGULAR CITY COUNCIL MEETING

MONDAY, FEBRUARY 8, 2010 – 7:00 PM

COUNCIL CHAMBERS, CITY HALL

Mayor Chesen calls the meeting to order at 7:16pm.

Pledge of Allegiance was lead by Alderman Marsala

Roll Call: Alderman Marsala, Fesenmaier, Krohn, Tolar, Krause, Roehrer, and Mott, Attorney Draper, Mayor Chesen, Clerk Dykstra, Administrator Jordan, and Comptroller Pollitt.

Statement of public notice by Mayor Chesen.

Mott/Krause motion to approve Regular City Council Meeting minutes of January 25, 2010 as published and distributed. Unanimously carried.

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.

John Halverson, 1159 S. Wells St., commented on the Regional News requesting the use of the Council Chambers for the debate. They have established a format and he is present for any questions.

Bethany Suiza, 327 Wrigley Drive, on behalf of the Baker House formerly Gilberts. They are looking to have the Liquor License transferred this evening. They are looking at establishing their living quarters also into an Inn and lounge. They would like to have showers, meetings, and celebrations there with room service and light dining. The liquor license is very important to them for this business. They are experienced owners. They are looking forward to opening their home up to the Community. Each room will be designed much like a room in a private residence.

Re-consider business from previous meeting. None.

Acknowledgement of Correspondence.

Lake Geneva Regional News announcement regarding mayoral primary race debate at City Hall Council Chambers on Thursday, February 11, 2010 from 6:45pm until 8:45pm.

Discussion and action regarding Resolution 10-R03 a resolution to amend Resolution 09-R28 which amends Tax Increment District #4 Project Plan. (Reconsidered 1/25/10)

Alderman Krause noted after this was voted on he was disturbed about the amount of money earmarked for the Skate Park. Currently there is \$515,000 in that account in addition to the \$100,000 the last amendment approved. He noted there is only \$600,000 set aside for the historic Riviera restoration.

Krause/Krohn motion to take \$100,000 from the Skate park to the Riviera Renovations, capping the Skate park at \$515,000 and capping the Riviera Renovations at \$700,000.

Alderman Tolar commented he thought the Skate park was \$200,000 to build a new one. Alderman Krause noted TIF 4 has \$515,000 in this account. Alderman Fesenmaier commented she has no problems with moving the money to the Riviera. She asked the City Administrator to explain when there is revenue in a TIF that you have to pay this back to the TIF. Administrator Jordan noted that some revenue will go back into the TIF until the TIF is closed.

Alderman Roehrer questioned once this amendment is approved, can funds still be moved between projects.

Administrator Jordan noted that amendments can be made between the projects at a later date.

Alderman Roehrer noted the amendment needed to be approved and has no problems with it coming back for changes.

Alderman Mott commented he hopes you can find more ways to use money that spending \$515,000 on a Skate park.

That seems like a great deal of money for a Skate park. Alderman Fesenmaier noted the underground utilities should be \$100,000.

“Yes” Alderman Marsala, Fesenmaier, Krohn, Tolar, Krause, Roehrer, Mott. Unanimously carried.

Discussion and action on the 2008 Audit acceptance as previously presented at the Committee of the Whole by Art Tillman of Deignan and Associates.

Alderman Fesenmaier noted the motion was made so the public can ask questions both before and after at the Committee of the Whole. She would like to allow the public an opportunity to ask questions at this time also as they have had an opportunity to review the document.

Fesenmaier/Roehrer motion to suspend the rules and allow the public to speak.

Alderman Tolar noted that everyone at the Committee of the Whole was able to ask questions.

Alderman Marsala noted they had comments from the public before and after the audit and felt there was plenty of comment.

Unanimously carried.

Terry O'Neill, 954 George Street, commented he had given Mr. Tillman a few questions prior to the meeting and wanted him to answer them.

Mr. O'Neill was asked to repeat those questions.

He noted in the Personnel Committee there had been a credit card report included in that discussion. He gave Mr. Tillman a copy of that credit card report. No receipts or itemized charges had been included in those charges and asked for his comments.

Art Tillman noted that detail should be included with each credit card statement. This is the Library and the Library Board is an autonomous board and as long as it was in the budget, the Council doesn't have much say over it.

Mr. O'Neill asked why was the \$600,000 transferred at the end of 2009 retroactive until 2008 and was wondering why it was not identified in the audit.

Art Tillman noted this was lakefront and parking meter transfers. There is a standing resolution the fund balances stay at a certain level and anything over is transferred to the General fund. They didn't comment in the audit because it has been done for years and is common practice.

Mr. O'Neill asked if the Balance on the general fund at the end of 2008 also includes the property taxes of 2008 even though they haven't been collected.

Art Tillman noted the balance sheet shows taxes receivable. You net those two out and they are not included in fund balance. It notes it will be collected but they are not collected yet.

Tom Spellman, 270 Country Club Drive, commented the City of Lake Geneva has an internal controls report and in terms of what to do next year is it possible for you to monitor the internal controls. In the 2010 audit this should be a good policy instead of hiring an independent auditor.

Art Tillman responded they can do this.

Alderman Fesenmaier asked if this will increase their fee.? Tillman responded it would.

Alderman Fesenmaier questioned if there was an extension filed for the City Audit?

Art Tillman noted that there is no deadline for the Audit. They filed the Schedule C which is a report due by May 15th of each year. However, there is no deadline for the annual audit.

Krause/Tolar motion to accept as presented.

Alderman Roehrer questioned if there was a management letter?

Art Tillman noted that within a week it would be completed.

Unanimously carried.

Park Donation Policy as recommended by the Park Board. (Alderman Fesenmaier) (Continued on 12/14/09, 1/11/10, Tabled 1/25/10)

Krause/Marsala motion to remove from the Table. Unanimously carried.

Krause/Marsala to approve. Alderman Fesenmaier noted there were changes made that include: page 3 deleted "or" to always have Council approval, and on page 4 to delete the last sentence that "staff will add as necessity dictates."

Unanimously carried.

Revised request to approve the Library Impact Fee Budget for the Library not to exceed \$27,500 and request from the Lake Geneva Public Library for Library Impact Fees to purchase additional shelving units for the library collection, as recommended by the Library Board. (Tabled 1/11/10, left on Table 1/25/10)

Krause/Marsala motion to remove from the Table. Unanimously carried.

Krause/Mott to remove from the agenda.

Administrator Jordan noted they have correspondence that the Library will come back with a finite description. Unanimously carried.

Impact Fee Budget for 2010. (Tabled 1/25/10)

Krause/Roehrer motion to remove from the table. Unanimously carried.

Krause/Marsala remove from the agenda. Unanimously carried.

Alderman Fesenmaier questioned the expenditures.

Alderman Roehrer suggested they not put this in budget form but handle by resolution when the items come up.

Mayor Chesen noted the Council controls park fees but not the library and the fire.

Unanimously carried.

Resolution 10-R05 a budget resolution to designate the WE Energies property purchase from TID and undesignated reserves. (Administrator Jordan) (Tabled 1/25/10)

Krause/Tolar to remove from the Table. Unanimously carried.

Krause noted this item came without recommendation.

Krause/Marsala motion to approve.

Alderman Fesenmaier asked for this to be split into two parts to reflect they are voting on two different portions.

Fesenmaier/Roehrer motion to amend to separate the two items to vote on them individually.

Attorney Draper noted they originally approved the purchase price of \$452,000 the closing statement shows less because they got a credit for the taxes we had been required to pay. They gave us \$27,000 on the closing statement but we paid the taxes and it ends up being \$452,000.

Comptroller Pollitt noted the TID amount would be \$169,000 and the general fund portion would be \$283,000

Alderman Fesenmaier motion to amend her earlier motion to separate, to forward to the next Council meeting reflecting the numbers that are accurate. Motion fails for lack of second.

Motion to split the items carried on amendment. Unanimously carried.

Original motion as amended to approve with the designation of \$283,000 from undesignated reserve and \$169,000 from the TID.

Fesenmaier motion to table. No second. Motion fails.

Original motion as amended for **Resolution 10-R05** to designate the purchase \$169,000 from TID and \$283,000 from undesignated reserves.

Alderman Fesenmaier noted she was not seated on the Council when the discussion came from undesignated reserves. She asked the City Administrator to show the other options that were discussed.

Administrator Jordan noted it was discussed regarding various percentages from banks for a borrowing, to take it from TIF, and Reserves. With the current interest rates, the Council didn't want to make the payments on 4% and said to take out of the reserves with a payback in 8-12 months if the road can get finished by October 1 and start the marketing of the property.

Alderman Krause commented that it isn't depleting the reserves is around \$2,000,000 and doesn't consider that being depleted.

Alderman Marsala noted they have until the end of 2010 to get this road completed before you lose those funds. Jordan clarified if they started before the end of the year they would have those funds.

Alderman Fesenmaier questioned if the environmental impact had been addressed from the land itself.

Administrator Jordan stated WE Energies sent all those items and phase 1 environmental study came back clean or to their satisfaction.

Attorney Draper also commented he saw the Phase 1 audit revealed items that allowed them to ask for certain items to be removed from the purchase which changed the amount.

Alderman Fesenmaier stated she will vote No. She has concerns with the procedure and felt there was opportunity to do this correctly, and we really need to make sure we follow the procedure.

Administrator Jordan noted that staff is getting concerned about the thought they didn't do something right. This has been very dysfunctional, there was a time they didn't have a Council, and they also had a meeting set up and one Alderman got mad at another for voting a certain way and left so there was no quorum, then they had to call a special meeting on December 21st to resolve this and they only had seven members and another Alderman didn't show which was only six. An amendment was made and voted on 6-0 and then the full subject was brought up and it went forward with just two voting "No." This is being thrown at staff and he doesn't know why. There was a referendum and it has been a fight all the way. When all this comes out you will find out this is misinformation and there is nothing illegal. This is misinformation for political purposes

Mayor Chesen states this reminds him of the Veterans Memorial.
Alderman Roehrer calls for the Question. No second.

Mayor Chesen states when this Memorial was finally erected the people who attempted to stop this process took credit.
Alderman Roehrer again called for the Question. No Second.

Original motion as amended for **Resolution 10-R05** to designate the purchase \$169,000 from TID and \$283,000 from undesignated reserves.

Roll Call on the \$283,000 from undesignated reserves. Roll Call: "Yes" Alderman Marsala, Krohn, Tolar, Krause, Roehrer, and Mott. "No" Alderman Fesenmaier. Motion carried.

Roll Call on the \$169,000 from the TID.
Roll Call: "Yes" Alderman Marsala, Fesenmaier, Krohn, Tolar, Krause, Roehrer, and Mott. Unanimously carried.

Administrator Jordan clarified the TID amount is the purchase of the 3.2 acre right of way.

Resolution 10-R06 a budget resolution to authorize \$140,000 for the demolition and abatement of the WE Energies property. (Tabled 1/25/10)

Krause/Marsala motion to remove from the Table. Unanimously carried.
Krause/Marsala motion to approve. Krause noted it came with no recommendation from the Finance Committee. It is to demolish the office building. Alderman Tolar clarified people are interested in the property not the land.
Roll Call: "Yes" Alderman Marsala, Krohn, Tolar, Krause, Roehrer, and Mott. "No" Alderman Fesenmaier. Motion carried.

Accounts Payable Regular Check Policy and Accounts Payable Prepaid Check Policy as recommended by the City Comptroller. (Tabled 1/25/10)

Krause/Roehrer motion to remove from the table. Unanimously carried.
Krause/Roehrer motion to approve.
Alderman Krause noted there is one change from FLR on paragraph 2 of page 1 to insert "must be given written notice from the Comptroller."
Unanimously carried.

Original Operator License for Chadwick Hove, 1321 Main Street, Lake Geneva.

Krause/Roehrer motion to approve. Unanimously carried.

Original Class B Fermented Malt Beverage License and Class B Liquor License for Stone Soup, LLC d/b/a Baker House, 327 Wrigley Drive, Lake Geneva, Wisconsin, Ken Hnilo, Agent.

Krause/Marsala motion to approve.

Alderman Roehrer questioned if this was a bed and breakfast? It was noted it is a Hotel. Unanimously carried.

Agreement with Health Payment Systems for prompt payment of health care bills. (Administrator Jordan)

Krause/Mott motion to approve. Alderman Krohn clarified if they would send a bill for each claim

Administrator Jordan, they pay the claims immediately and provider gives more of a discount.

Roll Call: "Yes" Alderman Marsala, Fesenmaier, Krohn, Tolar, Krause, Roehrer, Mott. Unanimously carried.

Resolution 10-R07 a resolution to transfer \$25,529.78 from Contingency to Outside Attorney Fees for the retention of von Breisen & Roper for legal representation. (Attorney Draper)

Krause/Tolar motion to approve.

Alderman Fesenmaier questioned who authorized this expenditure.

Attorney Draper noted that he could go through the long history, but he hired at that point Kyle Gulya. There are times where he can do things, but this was unprecedented. He had a conflict of interest for a number of reasons and he has a code of conduct to abide by. There was no one he could confide in to get that approval at that point. He authorized and hired. He did the best he could for the interests of the City. Roll Call: "Yes" Alderman Marsala, Tolar, Krause, Mott.

"No" Alderman Fesenmaier, Krohn, and Roehrer. Motion carried 4-3.

CDARS investment renewal or options. (Comptroller Pollitt)

Krause/Roehrer motion to move \$350,000 to Community Bank, \$650,000 to M&I, and \$1,500,000 to Community Bank.

Roll Call: "Yes" Alderman Marsala, Fesenmaier, Krohn, Tolar, Krause, Roehrer, Mott. Unanimously carried.

Changing the Non-profit rate across the board to \$400 and the regular security deposit of \$1,000 and direct the Harbormaster to change the application and policy to reflect these changes.

Alderman Marsala noted this was previously Badger district and had requests for outside areas, this prompted their request. Marsala/Tolar motion to approve.

Motion carried. Alderman Fesenmaier opposed.

Request Attorney Draper to draft an ordinance to reflect restricted trailer parking signs and make the fine \$150.

Marsala/Tolar motion to approve. It was noted they will change the sign and the statutes actually note the fine can not exceed \$100 plus court costs and include amount on the sign. Attorney Draper noted the resolution should reflect a change in the bond amount. He didn't feel an amendment to the Ordinance should be made. He suggested a change in the bond resolution.

Marsala/Tolar motion to ask the City Attorney to draft a Resolution to amend the bond schedule of \$100 plus court costs.

Unanimously carried.

Setting the Kayak rack rental agreement at \$175 and charge a \$5 wait list fee with first renters being chosen by lottery and remaining names being put on a list by seniority.

Marsala/Krause motion to approve. Unanimously carried.

Commercial Buoy and Slip Lease Agreement renewals for Marina Bay, Lake Geneva Boat Line, and Gage Marine for one year with 0% increase.

Marsala/Krause motion to deny. Marsala noted that this had come before the Council and then to Piers and Harbors.

They had discussions that one year term is difficult for a business to deal with. He would like to see a slight increase and longer lease. Roll Call: "Yes" Alderman Marsala, Fesenmaier, Krause, and Roehrer. "No" Alderman Krohn, Tolar, and Mott. Motion carried 4-3

Marsala/Krause motion to approve a three year lease with the presented option 2 three year lease with increases and the City retaining 14 slips after first year and no increase in 2010.

Alderman Krohn noted it was passed at Piers, Harbors, and Lakefront for a one year lease.

Alderman Marsala clarified that the 14 slips are 10 of Gage and 4 for Geneva Boat Lines. Buoys would remain and the increases would be on those.

Alderman Mott questioned if it could be made clear the preference of the committee.

Alderman Roehrer stated she had gotten comments after the meeting they should not give the commercial people a break.

Krohn/Fesenmaier motion to send by to committee. Motion carried. Alderman Marsala opposed.

Request the City Attorney to draft an Ordinance prohibiting U-turns at all of the City's signalized intersections.

Tolar/Marsala motion to approve. Unanimously carried.

Presentation of Accounts

Purchase Orders. None.

Krause/Roehrer motion to approve Prepaid Bills in the amount of \$46,682.24

Roll Call: "Yes" Alderman Marsala, Fesenmaier, Krohn, Tolar, Krause, Roehrer, and Mott. Unanimously carried.

Krause/Marsala motion to approve Regular Bills in the amount of \$417,627.15

Roll Call: "Yes" Alderman Marsala, Fesenmaier, Krohn, Tolar, Krause, Roehrer, and Mott. Unanimously carried.

Appointments to Committees, Commission & Boards by Mayor Chesen.

Mayor Chesen asked to appoint Sheldon Shepstone to the Utility Commission to replace Tim Schiller who resigned.

Fesenmaier/Roehrer motion to forward to the next council meeting, because she believes the Council would have the appointments listed on the agenda as they requested in the past..

Mayor Chesen stated in the past he has provided this information as a courtesy however if you don't know Sheldon Shepstone then two more weeks will not help you make a decision. He apologized for not getting it listed separately on the agenda, but it was on the seats prior to FLR.

Motion fails. Alderman Roehrer and Fesenmaier opposed.

Krause/Tolar motion to approve. Unanimously carried.

Mayor Chesen appointed Al Swartz to the Green Ribbon Ad Hoc Committee. He noted that Al has attended all the meetings and is an asset. He spoke to members of the committee and they agreed. Mr. Swartz is an owner at Golf View Condos adjacent to the Golf Course. He is number two in Finance at Kenosha County and at one point in his career he managed over 90 holes of Golf for their park and recreation division. He is still involved in property management and has attended all the meetings.

Tolar/Marsala motion to approve. Unanimously carried.

Marsala/Roehrer motion to go into closed session pursuant to Wis. Stats. 19.85 (1) (e) competitive bargaining reasons for the union negotiations updates. (Administrator Jordan). Unanimously carried.

Krause/Marsala motion to return to open session pursuant to Wis. Stats. 19.85 (2). Unanimously carried.

Krause/Mott motion to Adjourn at 9:52pm. Unanimously carried.

/s/ Diana Dykstra, City Clerk

THESE ARE NOT OFFICIAL MINUTES UNTIL APPROVED BY THE COMMON COUNCIL