

REGULAR CITY COUNCIL MEETING

MONDAY, FEBRUARY 14, 2011 – 7:00 PM

COUNCIL CHAMBERS, CITY HALL

Mayor Connors called the meeting to order at 7:02pm.

The Pledge of Allegiance was led by Alderman Krohn.

Roll Call. Present: Aldermen Krohn, Tolar, Krause, Hartz, Mott, Marsala, Kehoe, and Fesenmaier. Also present: Administrator Jordan, City Attorney Draper, DPW Winkler, and City Clerk Reale.

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.

Barbara Philipps, 1600 Evergreen Lane, spoke in support of issuing the Request for Proposals for the design and construction of a skateboard plaza and revitalization of the existing skateboard park, which she noted was in dire need of repair. Ms. Philipps remarked that several youth had been in attendance during the Finance, License and Regulation Committee meeting to demonstrate support for this project, adding that they were also willing to help with the project in any way needed.

Royce DeBow, Southeastern Wisconsin Governmental Affairs Director for the Wisconsin Realtors Association, addressed the Council with respect to its consideration of Ordinance 11-03. He suggested that the Council consider forming a study group to review the issue and report back to the Council with recommendations for a possible compromise on the issue of transient rentals in the community. Mr. DeBow also pointed out that there were several dramatic changes pending before the State legislature that would be expected to have a significant impact on revenues to local government, adding that a system of regulated transient rentals could provide the City an opportunity to create an additional revenue stream to offset some of the potential losses from the State.

Mike VanderBunt, Association Executive for the Lakes Area Realtors Association, rose to speak on the subject of Ordinance 11-03, stating that he also supported putting together a study group to review the transient rental issue and develop a solution that would benefit all parties. He added that we want to bring as many people to the Lake Geneva area as possible, as these tourists and vacationers frequent local merchants and businesses, bringing money into the local economy.

Cass Kordecki, 715 North Street, addressed the Council regarding Ordinance 11-03. Ms. Kordecki relayed her personal story about renovating a home and her desire to be able to rent this improved property to vacationers or transients. She noted that this type of activity is very common in tourism areas throughout the country, where transient and vacation rentals are regulated and taxed to provide additional revenue sources to local government. She reiterated the call for a study committee to review and address this item before taking any action on the proposed ordinance. Ms. Kordecki added that any study committee should also review and address issues with full-time rentals and incorporate all of these regulations into a comprehensive rental ordinance.

Jesse Jacobs, 1575 Orchard Lane, addressed the Council as a member of the Police and Fire Commission to express support for including funding for the purchase of a new aerial fire truck as part of any capital borrowing plan. He stated a concern that failure to provide funding for a new truck could jeopardize public safety, adding that the current truck needed to be retired.

Mark Pienkos, 703 S. Lake Shore Drive, member of the Police and Fire Commission, discussed a memorandum that had been provided to the members of the Council outlining the need for capital items as recommended by the Commission. Mr. Pienkos spoke in support of borrowing funds for the replacement of the aerial ladder truck for the fire department. He noted that original cost estimates for the new truck had been \$1.2 million, adding that Chief Connelly had worked diligently to find a truck that would meet all of the City's needs for a significantly lower price of \$800,000.00. He also stated that it was important to act on this item now, as the costs of both borrowing and the purchase of a new truck would only increase in the future. Mr. Pienkos stated that he had calculated the cost of a new truck to amount to roughly \$8.00 per resident, per year for the lifespan of the vehicle.

Acknowledgement of Correspondence

City Clerk Reale reported the following items of correspondence had been placed on file in the City Clerk's office:

- 1) Correspondence from Maureen Duffy in support of Ordinance 11-03, received February 6, 2011
- 2) Correspondence from Thomas J. Anthony expressing opposition to transient rentals in residential neighborhoods, received February 9, 2011
- 3) Correspondence from Jim Mercurio in support of permitting transient rentals subject to appropriate regulations, received February 12, 2011
- 4) Correspondence from Casey Schiche in support of the recommendations from the Piers, Harbors and Lakefront Committee for agenda items #19A, B, and C.

Approval of Minutes

Krause/Mott motion to approve Regular City Council Meeting minutes of January 24, 2011, as published and distributed. Unanimously carried.

Public Hearing on Petition for Discontinuance of a Public Way pursuant to Sec. 66.1003, Wis. Stats., filed by James E. Davis Trust, et al. (roadway off of South Lake Shore Drive)

Petitioner James Davis addressed the Council to discuss the plans for the roadway, which provided access to Lake Shore Drive for the four adjoining properties. He noted that the ultimate plan would be to install a gate across the roadway. City Attorney Draper stated that he had reviewed the agreement document and believed that it provided for access to the road and easements for utility and other services. DPW Winkler also noted that he was satisfied with the terms of the agreement. In response to a question from Alderman Mott, Mr. Davis stated that maintenance and snow removal on the roadway would be the responsibility of the four petitioning property owners.

Tolar/Kehoe motion to close the public hearing. Unanimously carried.

Discussion/Action on Petition for Discontinuance of a Public Way pursuant to Sec. 66.1003, Wis. Stats., filed by James E. Davis Trust, et al. (roadway off of South Lake Shore Drive)

Hartz/Krause motion to approve the petition for discontinuance. Unanimously carried.

Second Reading and Approval of Ordinance 11-01, amending Section 54-34 of the Lake Geneva Municipal Code to permit trapping on certain City property

Krause/Marsala motion to approve Ordinance 11-01. Administrator Jordan noted that the language of the ordinance had been modified, as previously recommended by Council, to establish that the northern boundary of the White River estuary was effectively the WE Energies property line. Alderman Fesenmaier noted that a resolution would be forthcoming from the City Attorney to specify the local regulations for trapping activity and applicable permit procedures. Unanimously carried.

Second Reading and Approval of Ordinance 11-03, amending the Zoning Ordinance to clarify the regulation of free-standing commercial indoor lodging uses (tabled on 1/24/11)

Marsala/Mott motion to remove from the table. Motion carried by vote of 7 to 1, with Alderman Fesenmaier opposed.

Fesenmaier/Tolar motion to continue Ordinance 11-03 to an unspecified date, pending the formation of an ad hoc committee to review the issue of transient rentals and report back to Council with recommendations. Alderman Fesenmaier stated that the City needed to take the time to review the proposal and any possible alternatives, so as to ensure that the concerns of all parties would be adequately addressed. Alderman Hartz clarified that the proposed ordinance was not providing a blanket ban on all short-term rentals; rather, it was concentrated on activities within

residentially-zoned districts in the City. Alderman Marsala added that the proposal merely sought to clarify definitions in the existing ordinance to bring it into conformity with State terminology. He stated that he had spoken to Building and Zoning Administrator Brugger, who had ensured him that the ordinance would not have the effect of changing anything that the City already did in practice with respect to transient rentals in residential areas.

Roll Call: Krohn, Tolar, Krause, Hartz, and Fesenmaier voted “yes”. Mott, Marsala, and Kehoe voted “no”. Motion carried by vote of 5 to 3.

Second Reading and Approval of Ordinance 11-04, prohibiting the sale and/or possession of synthetic chemical cannabinoids (synthetic marijuana)

Krause/Mott motion to approve Ordinance 11-04. City Attorney Draper noted that the ordinance combined provisions from several jurisdictions to cover otherwise legal chemicals and substances that were known to be used by individuals to achieve effects similar to those experienced from the use of illegal products. Unanimously carried.

Second Reading and Approval of Ordinance 11-05, amending the Zoning Map of the City of Lake Geneva, Walworth County, Wisconsin, to assign standard zoning district designations on certain expired Planned Developments

Hartz/Tolar motion to approve Ordinance 11-05. Unanimously carried.

Discussion/Action on specifying the new expiration date for Southland Farms, LLC General Development Plan. (*The Council previous approved the First Amendment to the Developer’s Agreement and an extension of the General Development Plan for Southland Farms, LLC, but did not specify the number of years the GDP was to be extended.*) (Mayor Connors)

City Attorney Draper noted that under the original Zoning Ordinance, there was a provision allowing for an extension of a general development plan for up to five additional years. Although it had not been specified during the Council’s prior approval of the extension for Southland Farms, LLC, he stated that he believed it would be appropriate to authorize such extension for the full additional period as allowable by ordinance. This would extend the lifespan of the GDP to August 2016.

Kehoe/Krohn motion to authorize the extension of the Southland Farms, LLC General Development Plan for a period of five additional years from the initial expiration date. Unanimously carried.

Discussion on State Transportation Aids (Administrator Jordan)

Administrator Jordan stated that he had requested this item be placed upon the agenda to provide City officials with an opportunity to respond to recent public comments made about the City’s spending of State transportation aids (GTA funds). He noted that State statutes provided that these funds could be used for transportation-related expenditures, which would include such things as street sweeping, crack filling, manhole repairs and the like. He also reported that he had solicited feedback from colleagues in other municipalities, with the majority indicating that they put these transportation aids into their general funds. This information contradicted public claims made at previous meetings that these aids were specifically for road construction expenses, with the inference that the City had been spending these funds improperly for other purposes.

Discussion/Action on requested capital items for Capital Budget (*continued on 1/24/11*)

Krause/Kehoe motion to approve bonding the amount of \$3.2 million over a 10-year period for three-year capital projects spending. Alderman Krause reported that seven of the eight aldermen had providing priority rankings of the various requested capital items for compilation by the City Clerk. The responses were averaged, with items then being divided into “high priority”, “mid priority”, and “low priority” categories. He noted that the items considered “high priority” totaled approximately \$1.9 million, with “mid priority” items totaling roughly \$386,000.00 and “low priority” requests at about \$80,000.00. Alderman Krause noted that none of these figures included the costs for a new aerial truck for the Fire Department, as the Council had previously agreed to discuss that item separately. He stated that his motion would provide for the funding of all “high” and “mid” priority items, including the aerial truck, plus any additional administrative fees.

Alderman Krause stated that the motion would exclude only the “low priority” items, which included: Willow Road, carpeting for the library, office furniture for Emergency Government, Emergency Operations Center expenses, and

Veterans Park volleyball courts. Mayor Connors noted that the Willow Road project would be funded through the Street Improvement Program and could therefore be eliminated from the list altogether. He also remarked that the proposed borrowing would include funding for new office furniture for the Police Department and suggested that Emergency Government could utilize the older furniture being replaced. Alderman Hartz stated that he was comfortable with approving borrowing for the “high priority” items; however, he would prefer more discussion and information about some of the “mid priority” requests before taking action on them. He specifically mentioned the purchase of the aerial truck, citing the fact that there had been conflicting information as to whether or not a delay in replacing the existing ladder truck would have a significant impact on ISO ratings for the City.

Alderman Kehoe responded that she believed the reduction in the original request for the aerial truck from \$1.2 million to \$800,000.00 demonstrated that Chief Connelly had worked diligently to identify a piece of equipment that would be adequate to service the City’s needs at a reasonable cost. She further stressed that several capital items on the list were directly related to public safety and needed immediate approval. With the cost of borrowing fairly favorable at the present time, Alderman Kehoe reasoned that it would be prudent for the Council to take action on these requests now. Alderman Hartz reiterated the importance of having accurate information before taking action on such significant expenditures. Mayor Connors suggested that the Council should move forward to borrow for the aerial truck, given current interest rates and the fact that State-shared revenues would likely continue to decline.

Alderman Krause stated that he had not made the motion lightly; adding that he understood that borrowing of this magnitude would cost taxpayers about \$1.2 million in interest over the life of the bond. Although he agreed that the City needed to begin setting aside funds to plan for future needs without additional borrowing, he noted that the City was currently in relatively good shape with respect to its debt. Administrator Jordan had confirmed that the City had approximately \$4.3 million in debt. Alderman Krause added that the Council would need to consider possible means to generating additional revenues to be able to begin setting aside funds sufficient to cover future equipment replacements without relying upon borrowing. Alderman Marsala stated that the Council needed to exercise frugality and focus on providing only for immediate needs with the current borrowing proposal, further commenting that he did not believe the aerial truck was a critical need at the present time. Mayor Connors remarked that because the City had neglected to set aside funds for capital for such a long period of time, he doubted that the City was in a position to be able to save enough money to cover these large purchases within a reasonable time.

Roll Call: Krause, Mott, and Kehoe voted “yes”. Krohn, Tolar, Hartz, Marsala, and Fesenmaier voted “no”. Motion failed by vote of 3 to 5.

Hartz/Marsala motion to approve bonding the amount of \$1.932 million over a 10-year period for three-year capital projects spending to cover items rated as “high priority” on the list compiled by the City Clerk.

Alderman Hartz stated that there appeared to be a general consensus among the aldermen as to which items represented immediate priorities. This motion would ensure adequate funding for those priority items, and still give the Council an opportunity to further discuss some of the requests of lesser priority. Administrator Jordan responded that the City department heads had worked to pare down the original list of capital requests and focus on genuine priorities. Notwithstanding the priority rankings supplied by the aldermen, he felt that several items on the “mid priority” list were indeed critical priorities. Alderman Hartz stated that he would like to get some accounting of the annual operational costs associated with the proposed capital improvement, as this would give the Council a sense of the implications that this borrowing would have for future operating budgets.

Fesenmaier motion to amend to remove the trash receptacles from the list of “high priority” items and add the tree replacement program to the “high priority” list. Motion died for lack of a second.

Roll Call: Krohn, Tolar, Krause, Hartz, Mott, Marsala, and Kehoe voted “yes”. Fesenmaier voted “no”. Motion carried by vote of 7 to 1.

Mott/Hartz motion to approve including the additional amount of \$386,158.00 in the 10-year bond issue, to cover items rated as “mid priority” on the list compiled by the City Clerk. Alderman Mott clarified that this motion did not include funding for the aerial truck. Alderman Marsala noted that there was a fair amount of variation in the

aldermen's rankings of many of the items in question, suggesting that the Council should instead vote on each of the "mid priority" items on an individual basis.

Roll Call: Mott voted "yes". Krohn, Tolar, Krause, Hartz, Marsala, Kehoe, and Fesenmaier voted "no". Motion failed by vote of 1 to 7.

Finance, License and Regulation Committee Recommendations – Alderman Krause

RESOLUTIONS

Resolution 11-R06, establishing wages, salaries and benefits for non-represented employees of the City for the 2010 Budget Year

Krause/Hartz motion to approve Resolution 11-R06.

Roll Call: Krohn, Tolar, Krause, Hartz, Mott, Marsala, Kehoe, and Fesenmaier voted "yes". Unanimously carried.

LICENSES & PERMITS

Original "Class A" Retail Liquor and Class "A" Fermented Malt Beverage License application for 433 Broad Street, Inc., d/b/a Roses, 433 Broad Street, Lake Geneva, Eric B. Rose, Agent

Krause/Marsala motion to approve. Unanimously carried.

Temporary "Class B" Retail License application for Catholic Daughters Court #914, for the sale of wine at St. Francis De Sales Church, 148 Main Street, Lake Geneva, for Wine Tasting on March 8, 2011 from 6:00pm to 9:00pm

Krause/Tolar motion to approve. Unanimously carried.

Temporary Class "B" Retail License application for St. Francis De Sales – Parish Life, for the sale of fermented malt beverages at St. Francis De Sales Church, 148 Main Street, Lake Geneva, for Irish Dinner on March 12, 2011 from 5:00pm to 9:00pm

Krause/Tolar motion to approve. Unanimously carried.

Street Use Permit application filed by Geneva Lakes YMCA for "Shamrock Shuffle" 5K Walk/Run using a section of Geneva Parkway North on March 20, 2011, from 8:30am to 10:30am

Krause/Marsala motion to approve. Unanimously carried.

Park Board application filed by Cathy Nickels, representing Geneva Lakes YMCA, for "Shamrock Shuffle" 5K Walk/Run in Veterans Park on March 20, 2011, from 8:30am to 10:30am (recommended by Board of Park Commissioners on 2/8/11)

Krause/Mott motion to approve. Unanimously carried.

Executive Order authorizing the declaration of a Snow Emergency in the City of Lake Geneva pursuant to Sec. 74-10 (a) of the Lake Geneva Municipal Code from 12:00pm February 1, 2011 until 12:00pm February 4, 2011

Krause/Marsala motion to approve the executive order. Mayor Connors acknowledged and thanked the City streets, police, fire, and emergency government personnel for their efforts during the winter storm. He also thanked the news media and the public for their cooperation during the snow emergency. Unanimously carried.

Discussion/Action on Change Order #3 for Riviera remodeling project, providing for six contract changes resulting in a net deduction of \$865.00 from the contract price

Krause/Hartz motion to approve Change Order #3, as amended to reflect an additional ten percent adjustment for the drapery change order contractor fee, resulting in a net deduction of \$1,715.00 from the contract price. Alderman Krause noted that the Committee had recommended deducting an additional ten percent from the proposed change order for the draperies (PCO#1) to subtract the standard contractor fee.

Roll Call: Krohn, Tolar, Krause, Hartz, Mott, Marsala, Kehoe, and Fesenmaier voted "yes". Unanimously carried.

Discussion/Action on approval of compensation package for former City Assessor, as recommended by the Personnel Committee (recommended by Personnel on 1/25/11)

Krause/Tolar motion to authorize total payout in the amount of \$4,884.63 for sick leave and vacation benefits. It was noted that the former Assessor was, by contract, entitled to this payout for unused benefits subsequent to her removal from office.

Roll Call: Krohn, Tolar, Krause, Hartz, Mott, Marsala, Kehoe, and Fesenmaier voted “yes”. Unanimously carried.

Discussion/Action on authorizing application for Wisconsin Environmental Education Board (WEEB) Grant for Lakefront Solar Recycling Project (recommended by Board of Park Commissioners on 2/8/11)

Krause/Marsala motion to authorize the application, as amended. DPW Winkler had explained that the project to be covered by the grant would involve a collaborative effort between the City and Eastview School to create public awareness of recycling through the purchase and installation of a recycling container and solar garbage compactor in the lakefront area. If the grant application was approved, the project would necessitate an initial commitment of \$4,740.00 from the City. Alderman Fesenmaier had recommended two modifications to the grant application, to change the applicant mailing address to City Hall and to amend the budget summary sheet to reflect the fact that both the recycling container and garbage compactor were solar-powered units. Mayor Connors asked if this project would be TIF-eligible. Administrator Jordan responded that he believed it would, adding that he would verify this. Unanimously carried.

Discussion/Action on proposal to increase Waiting List fee to \$50.00, make the fee non-refundable, and apply the amount toward the first rental (recommended by Piers, Harbors and Lakefront on 1/27/11)

Krause/Marsala motion to approve the proposal, as recommended. Alderman Marsala had reported that the waiting list fee had been set at \$5.00 for several years. The Committee had recommended the increase in an effort to deter individuals from adding their names to the list without being serious about pursuing a rental. The waiting list fee would then be applied toward the applicant’s first rental fee. It was also noted that any individuals currently on waiting lists would be grandfathered. Mayor Connors noted that the meeting agenda had specified “slip waiting list” and clarified that the reference to “slip” should be stricken, as the recommendation applied to all lakefront waiting lists. Alderman Marsala confirmed that clarification.

Roll Call: Krohn, Tolar, Krause, Hartz, Mott, Marsala, Kehoe, and Fesenmaier voted “yes”. Unanimously carried.

Discussion/Action on request from the League of Wisconsin Municipalities for waiver of fees for the use of the Riviera (recommended by Piers, Harbors and Lakefront on 1/27/11)

Krause/Marsala motion to authorize use of the Riviera on July 6, 2011 for a minimum payment of \$400.00. The League had requested a fee waiver to use the Riviera on a weekday date, which would not conflict with any other rentals. It had been recommended to approve the date and specify that a minimum payment of \$400.00 would be required. Administrator Jordan had confirmed that this event would include the Executive Board members and their spouses, for a total of approximately sixteen attendees.

Roll Call: Krohn, Tolar, Krause, Hartz, Mott, Marsala, Kehoe, and Fesenmaier voted “yes”. Unanimously carried.

Discussion/Action on directing the City Administrator to issue a Request for Proposals (RFP) for parking system (forwarded from Committee of the Whole on 2/7/11)

Krause/Hartz motion to continue this item to the next regular meeting on February 28, 2011. Alderman Kehoe requested that this item also be placed upon the next agenda for recommendation from the Parking Commission. Unanimously carried.

Discussion/Action on directing staff to issue a Request for Proposals (RFP) to design and build a pre-cast Skateboard Plaza and to revitalize the existing skateboard park (recommended by Board of Park Commissioners on 2/8/11)

Krause/Hartz motion to strike the reference to “pre-cast” and approve issuance of the RFP, as amended. Alderman Fesenmaier had recommended deleting the reference to “pre-cast”, as this would open the project to additional potential bidders. It was noted that DPW Winkler had offered to develop the RFP, as directed. Unanimously carried.

Piers, Harbors & Lakefront Committee Recommendations – Alderman Marsala

Discussion/Action on policy to restrict the use of a dinghy pad to individuals renting buoys and to limit dinghy pad use to dinghies only

Marsala/Mott motion to instruct the City Attorney to draft an ordinance providing for the restrictions, as recommended. Unanimously carried.

Discussion/Action on kayak rack selection policy to number racks and issue on a first-come, first-served basis

Marsala/Tolar motion to instruct the City Attorney to draft an ordinance providing for the selection policy, as recommended. Mayor Connors inquired about notification of the new policy. Alderman Marsala responded that there would be a notice period provided in advance of the date, to give individuals adequate time to prepare for the change. Unanimously carried.

Discussion/Action on restricting dogs from the West End Pier, providing an exception for those dogs boarding boats with their owners

Marsala/Mott motion to instruct the City Attorney to draft an ordinance providing for the restrictions, as recommended. In subsequent discussion, questions were raised regarding the enforcement of the restrictions. City Attorney Draper noted that there was a City ordinance on leash requirements already in place that would address the issue of dogs swimming in the West End Pier area.

Fesenmaier/Krohn motion to refer back to committee. Unanimously carried.

Presentation of Accounts – Alderman Krause

Purchase Orders. None.

Krause/Hartz motion to approve Prepaid Bills in the amount of \$30,193.83.

Roll Call: Krohn, Tolar, Krause, Hartz, Mott, Marsala, Kehoe, and Fesenmaier voted “yes”. Unanimously carried.

Krause/Marsala motion to approve Regular Bills in the amount of \$311,006.21.

Roll Call: Krohn, Tolar, Krause, Hartz, Mott, Marsala, Kehoe, and Fesenmaier voted “yes”. Unanimously carried.

Krause/Marsala motion to accept the monthly report of the City Treasurer, as submitted. Unanimously carried.

Closed Session

Krause/Kehoe motion to enter into Closed Session pursuant to Wis. Stats. 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: Town of Bloomfield incorporation.

Roll Call: Krohn, Tolar, Krause, Hartz, Mott, Marsala, Kehoe, and Fesenmaier voted “yes”. Unanimously carried.

The Council entered into Closed Session at 9:16pm. Also present were: Administrator Jordan, City Attorney Draper, and City Clerk Reale.

Krause/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: Krohn, Tolar, Krause, Hartz, Mott, Marsala, Kehoe, and Fesenmaier voted “yes”. Unanimously carried.

The Council reconvened in open session at 9:44pm.

Hartz/Marsala motion to direct the City Attorney to file a motion to the Court to reconsider its decision regarding incorporation of the Village of Bloomfield. Unanimously carried.

Adjournment

Hartz/Krause motion to adjourn at 9:46pm. Unanimously carried.

/s/ Jeremy A. Reale, City Clerk

THESE ARE NOT OFFICIAL MINUTES UNTIL APPROVED BY THE COMMON COUNCIL