

REGULAR CITY COUNCIL MEETING

MONDAY, APRIL 11, 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 Mott.

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

Awards, Presentations, and Proclamations.

Mayor Connors asked that any citizens interested in being considered for board or committee appointments contact him with their preferences, as annual appointments would be made at the next regular meeting of the Council.

Mayor Connors also announced that a Special Joint Meeting of the Council and Board of Park Commissioners was being scheduled for April 20, 2011 at 6:00pm, to review presentations and proposals for the renovations to the skateboard park.

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.

Terry O'Neill, 954 George Street, addressed the Council with a question on the proposal to borrow through promissory note. He noted that Wisconsin Statute 67.03 specified that, except as provided in 67.01(9), cities may borrow money and issue municipal obligations only for the purposes and by the procedures specified in Chapter 67. As such, he requested that City officials identify the procedure being followed by the City in accordance with the statute referenced.

Pete Peterson, 1601 Evergreen Lane, rose to speak on the subject of the borrowing for capital projects and equipment. He stated that the Council needed to recognize the fact that fiscal problems currently existed at the federal, state, and local levels. He noted that the Council spent a significant amount of time discussing line items and seeking input during the annual budget process, but had now returned to discuss borrowing without any public hearings on the matter. Mr. Peterson suggested that the aldermen needed to abide by their campaign pledges to be fiscally conservative, adding that the City was currently spending \$900,000.00 per year in principal and interest payments for outstanding debt. He stated that, rather than issuing additional debt, the City could wait a couple years and use the monies saved to build sinking funds for these projects. He urged the Council to reject the borrowing proposal.

Acknowledgement of Correspondence.

City Clerk Reale noted that an item of correspondence had been filed by Chris and Jerry Hawver expressing opposition to the proposed borrowing of \$3 million to fund capital projects.

Approval of Minutes

Tolar/Marsala motion to approve Regular City Council Meeting minutes of March 28, 2011 and Special City Council Meeting minutes of April 4, 2011, as published and distributed. Unanimously carried.

Hartz/Krause motion to suspend the rules and proceed to Item No. 10(G) regarding the proposed promissory note and borrowing process for capital projects and equipment. Unanimously carried.

Discussion/Action on approving amount to borrow for promissory note and directing staff to begin the borrowing process for capital projects and equipment

Administrator Jordan responded to some of the suggestions made during the public comment portion of the meeting. Specifically referring to the idea of building sinking funds for capital, he noted that the existing needs for capital replacements combined with the limits of levy caps made it highly unlikely that the City would ever be able to save enough money to sufficiently fund continuing capital requests without borrowing in the short term.

Krause/Kehoe motion to suspend the rules to permit Mr. Joe Murray of Springsted Advisors to address the Council. Unanimously carried.

Mr. Murray provided a brief overview of the borrowing process and the options available to the City. In response to public comments previously made, he noted that the City derived its statutory authority for borrowing through the manner of promissory notes in Section 67.12 of the Wisconsin Statutes. He explained the difference between bonds and notes, including the fact that notes are limited to a maximum term of 10 years whereas bond terms are longer. The promissory note, unlike a bond, would not require the City to adopt an initial resolution and Class 1 notice and would not be subject to inverse referendum. Mr. Murray stated that the City would have the legal authority to issue a note for the projects included in the capital request list, as bond counsel had reviewed the items and determined them to be eligible. He reported that the interest rate, based on current information and the City's credit rating, was projected at 3.27%. Using that estimate, anticipated debt service schedules had been prepared for total project costs of \$2.5 million and \$2.9 million, depending upon whether the Council decided to use TIF funding for a portion of the aerial truck purchase costs. The debt service schedules were distributed to the Council for review and discussion. He noted that there would be an additional \$50,000.00 to \$55,000.00 in fees related to the costs of issuance and the underwriter's discount.

Alderman Hartz asked if the statute identified the types of projects eligible for monies received through the issuance of notes. Mr. Murray responded that the statutory provisions for notes contained the much broader definition of projects for "public purposes" whereas bond provisions would be much more specific as to what types of projects and equipment for which the City would have the authority to issue bonds. Alderman Krause inquired about the administrative fees of notes versus bonds. Mr. Murray stated that the additional costs were essentially the same, with the only significant difference being the underwriter's discount for the note. Mayor Connors asked about the anticipated time table for receiving the monies. Mr. Murray responded that the process would typically take six to eight weeks. If the Council approved commencing the process at the present meeting, it was estimated that the first sale would be approved at a June meeting. Alderman Hartz asked about the security to be offered by the City. It was noted that the City would make an irrevocable commitment to levy for payments on the debt, not subject to levy limits.

Hartz/Kehoe motion to recommend that the City Administrator commence the process to borrow \$2,923,869.00 on a promissory note with interest rate not to exceed 3.27% for a term of ten years. Alderman Hartz stated that he preferred to specify a not-to-exceed amount on the interest rate so the Council could revisit the issue if interest rates ultimately were to come in higher. He further expressed opposition to the option of using TIF funds for a portion of the aerial truck, as he preferred to limit additional TIF expenditures and close out the TIF on schedule. Mayor Connors noted that the figure approved for the note would need to include the associated administrative costs.

Alderman Hartz agreed to amend the motion to specify the amount of \$3,020,000.00 for the borrowing. Alderman Kehoe, having seconded the motion, accepted the amendment.

City Attorney Draper recommended that the motion include designation of Springsted as agent and Quarles and Brady as bond counsel.

Krause/Marsala motion to suspend the rules to permit Mr. Murray to address the Council again. Unanimously carried. Mr. Murray offered the additional suggestion that the motion include the appointment of Moody's Investors Service for the bond rating.

Alderman Hartz agreed to amend the motion to specify the designation of Springsted as agent, Quarles and Brady as bond counsel, and using Moody's Investors Service for the bond rating. Alderman Kehoe, having seconded the motion, accepted the amendment.

Krause/Mott motion to suspend the rules to permit Mr. Murray to address the Council with respect to the interest issue. Unanimously carried. Mr. Murray reiterated that the schedules distributed to the Council included the best estimate of

interest rates, adding that the City would have the opportunity to see the actual rates before giving any formal authorization to issue the note. The action now before the Council was simply to begin the process; a resolution would ultimately come back before the Council at a later date to formalize all figures.

Mayor Connors restated the main motion, as modified: to recommend that the City Administrator commence the process to borrow \$3,020,000.00 on a promissory note with interest rate not to exceed 3.27% for a term of ten years; to designate Springsted as agent, to designate Quarles and Brady as bond counsel; and to appoint Moody's Investors Service for the bond rating.

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

Alderman Fesenmaier objected to the fact that the motion had been declared to have passed with five affirmative votes, asking that the City Attorney be directed to draft a memorandum to the Council to explain the vote requirements. City Attorney Draper responded that he had reviewed statutes, as well as an opinion from the League of Wisconsin Municipalities, which affirmed that a promissory note only required a simple majority vote. Alderman Fesenmaier formally requested that the Council be provided with this opinion in writing.

Second Reading and Approval of Ordinance 11-13, amending the Zoning Map of the City of Lake Geneva, Walworth County, Wisconsin, to designate Planned Development zoning for certain property in the City (834 Dodge Street)

Hartz/Tolar motion to approve Ordinance 11-13. Alderman Hartz explained that the applicant had requested to open a two-room bed and breakfast, which required flexibility on two zoning items of concern. First, the driveway would need to run closer to the property line than setbacks would have required. Second, the applicant would have been required to erect a six-foot fence along the property line, which would have significantly obstructed the view of the adjacent house. As a result, the applicant had requested to substitute landscaping for fencing. Unanimously carried.

Finance, License and Regulation Committee Recommendations – Alderman Krause

RESOLUTIONS

Resolution 11-R17, authorizing the transfer of monies from the unreserved fund balance to the designated fund balance for police department uniform allowances, in the amount of \$165.61 (*continued 3/14/11*)

Krause/Hartz motion to approve Resolution 11-R17.

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

Resolution 11-R24, a resolution to carry forward from the 2010 Capital Budget to the 2011 Capital Budget the amount of \$17,149.00 to the following capital accounts: \$1,000.00 to PD Covert Cameras; \$13,500.00 to PD Squad Cameras; and \$2,649.00 to PD ProPhoenix System

Krause/Kehoe motion to approve Resolution 11-R24.

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

Resolution 11-R25, a resolution to carry forward from the 2010 Capital Budget to the 2011 Capital Budget the amount of \$8,000.00 to the capital account for Fire Department Protective Fire Clothing

Krause/Kehoe motion to approve Resolution 11-R25.

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

Resolution 11-R26, a resolution amending the 2010 Budget to allow for a carryforward of 2009 funds in the amount of \$10,000.00 to fund the sidewalk grinding project in budget year 2010

Krause/Marsala motion to approve Resolution 11-R26.

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

Resolution 11-R27, a resolution approving the write off of \$39,595.77 in various old account balances in fiscal year 2010

Krause/Mott motion to approve Resolution 11-R27. Comptroller Pollitt explained that this resolution would bring all accounts up-to-date and reconciled, adding that all of the balances proposed to be written off pre-dated 2008. Some of the old account balances dated back into the 1990s.

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

Resolution 11-R28, a resolution authorizing the transfer of funds in the amount of \$11,250.00 from the Contingency account to the Police Department Grant Purchases account, for the City’s match for a federal grant to purchase P25 compliant radios

Krause/Marsala motion to approve Resolution 11-R28, contingent upon acceptance of the grant.

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

Resolution 11-R29, a resolution amending the budget to reverse the transfer from the General Fund to the 2010 Capital Projects Fund for Police Department Dictaphone in the amount of \$14,316.00

Krause/Marsala motion to approve Resolution 11-R29.

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

Resolution 11-R30, a resolution to carry forward from the 2010 Capital Projects Budget to the 2011 Capital Projects Budget in the amount of \$22,025.00 to the capital account for New Court Computer Software

Krause/Marsala motion to approve Resolution 11-R30. It was noted that this would cover the costs associated with the conversion to the new TiPss software program, thereby allowing that capital item to be deleted from the proposed borrowing.

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

Resolution 11-R31, a resolution amending the 2010 Budget to authorize transfers within the General Fund to fund expense shortfalls in the departmental budgets for Municipal Court, Legal, Emergency Management, Parks, Traffic Control and Fire

Krause/Hartz motion to approve Resolution 11-R31. Alderman Hartz commended the Comptroller for her efforts in cleaning up accounts and reconciliations for the City.

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

LICENSES & PERMITS

Park Permit application filed by the Geneva Lake Area Chamber of Commerce for “Concerts in the Park” at Flat Iron Park, between 6:00pm and 8:00pm, on the following dates in 2011: July 7, 14, 21, 28, and August 4, 11, and 25 (recommended for approval by Board of Park Commissioners 4/6/11)

Krause/Mott motion to approve. Unanimously carried.

Park Permit application filed by the Geneva Lake Area Chamber of Commerce for Winterfest 2012 at Riviera Park, from January 30, 2012 through February 5, 2012 (recommended for approval by Board of Park Commissioners 4/6/11)

Krause/Tolar motion to approve, contingent upon payment of the \$25.00 application fee. Unanimously carried.

Street Use Permit application filed by the Geneva Lake Area Chamber of Commerce for Oktoberfest, utilizing downtown streets and alleys and closing the 200 block of Broad Street, from 10:00am to 6:00pm on October 8 and 9, 2011

Krause/Tolar motion to approve. Unanimously carried.

Street Use Permit application filed by the Geneva Lake Area Chamber of Commerce for Children's Christmas Parade on December 3, 2011

Krause/Tolar motion to approve. Unanimously carried.

Original Operator License applications for David Stinebrink, Cindy Todd, Janet Haley, and Brian Cik

Krause/Marsala motion to approve. Unanimously carried.

Discussion/Action on approving federal grant in the amount of \$75,000.00 for the purchase of P25 compliant radios for the Police Department

Krause/Marsala motion to approve accepting the grant.

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

Discussion/Action on disallowance of claim for injuries filed by Diana Sullivan pursuant to Wisconsin Statutes 893.80 (1g)

Krause/Marsala motion to disallow the claim. Unanimously carried.

Discussion/Action on Change Order No. 4 for Riviera remodeling project, resulting in a net deduction of \$32,870.08

Alderman Krause reported that the Committee had continued this item to the next regular meeting, as the members wanted more specific information about the materials being purchased for the project through Scherrer Direct and clarification as to whether associated contractor fees were being deducted.

Krause/Marsala motion to continue to the April 25, 2011 Regular Meeting. Unanimously carried.

Discussion/Action on approving proposal for operation of concessions at Veterans Park from Ro-Della, Inc. (recommended by Board of Park Commissioners 4/6/11)

Krause/Marsala motion to approve proposal from Ro-Della, Inc. City Attorney Draper recommended adding a clause under paragraph 11 of the proposed agreement to specify that "no improvements shall be made to City property without City consent". He also suggested adding to the end of paragraph 14 a clause stating "including all attorney fees incurred by the City in defense of such claims or demands". These changes were accepted by Aldermen Krause and Marsala, as maker and seconder of the motion, respectively. Alderman Mott asked if a provision could be added to give the contractor the responsibility for collecting any litter that might accumulate throughout the area of its sales. City Attorney Draper reviewed the agreement and stated that there was already a provision under paragraph 8 that appeared to address that concern. Unanimously carried.

Plan Commission Recommendations – Alderman Hartz

Resolution 11-R22, approving a General Development Plan (GDP) and Precise Implementation Plan (PIP), and authorizing the issuance of a Conditional Use Permit filed by Maureen Marks, 834 Dodge Street, Lake Geneva, WI, for the operation of a Bed and Breakfast at 834 Dodge Street, Lake Geneva, WI, Tax Key Number ZOP 00097, including all staff recommendations and the specification that paving in the parking area be completed by July 15, 2011 (continued 3/28/11)

Hartz/Mott motion to approve Resolution 11-R22. Unanimously carried.

Ad Hoc Policy and Procedure Committee Recommendations – Aldermen Fesenmaier & Marsala

Discussion/Action on adopting a revised Chapter 1 of the City Policy Manual (forwarded with recommendation for approval 4/6/11)

Fesenmaier/Marsala motion to approve Chapter 1 (Financial Policies), as presented. Unanimously carried.

Discussion/Action on directing the City Attorney to draft a residential rental inspection ordinance (*continued 3/28/11*)

Tolar/Marsala motion to continue this item. City Attorney Draper explained that he had been working with Building & Zoning Administrator Brugger to draft a building code for Council approval, and was still awaiting feedback on the building code provisions.

Presentation of Accounts – Alderman Krause

Krause/Marsala motion to continue Purchase Order in the amount of \$32,870.08 to the regular meeting of April 25, 2011. It was noted that this purchase order correlated with the continued Change Order No. 4 for the Riviera remodeling project. Unanimously carried.

Krause/Marsala motion to approve Prepaid Bills in the amount of \$10,366.57. Alderman Hartz explained the concerns he had raised during Committee with respect to the purchase of taser equipment for the Police Department. Two tasers had been purchased for training purposes with the authorization of the Police and Fire Commission to temporarily use funds from the vehicle account for this purchase. Alderman Krause noted that approximately \$3,100.00 of the \$10,000.00 earmarked for tasers would be deducted from the capital borrowing as a result of this purchase. Alderman Fesenmaier noted her opposition on procedural grounds to using prepaids to fund purchases from other accounts.

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

Krause/Marsala motion to approve Regular Bills in the amount of \$210,769.76.

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

Mayoral Appointments – Mayor Connors

Mayor Connors announced the following appointments to the Avian (Bird) Committee:

- Alderman Frank Marsala, Chairman
- Don Forbes (1 year term)
- Harvey Larson (1 year term)
- Lois Larson (2 year term)
- Greg Smith (2 year term)

Kehoe/Krause motion to approve the appointments to the Avian Committee, as presented. Unanimously carried.

Prior to adjournment, Mayor Connors acknowledged retiring Aldermen Mary Jo Fesenmaier and Donald Tolar, expressing appreciation to each for their years of dedicated service to the citizens of the City of Lake Geneva. Aldermen Fesenmaier and Tolar were then recognized with a round of applause from those in attendance.

Adjournment

Hartz/Mott motion to adjourn at 8:34pm. Unanimously carried.

/s/ Jeremy A. Reale, City Clerk

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