

REGULAR CITY COUNCIL MEETING

MONDAY, MAY 24, 2010 – 7:00 PM

COUNCIL CHAMBERS, CITY HALL

Mayor Connors calls the meeting to order at 7:14pm.

Pledge of Allegiance was lead by Alderman Kehoe

Roll Call: Alderman Kehoe, Fesenmaier, Krohn, Tolar, Krause, Hartz, Mott, and Marsala, Mayor Connors, Attorney Draper, Clerk Dykstra, and Administrator Jordan.

Awards, Presentations, and Proclamations.

Mayoral Proclamation to proclaim the Month of May as American Legion Auxiliary Poppy Month.

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.

Bill Chesen, 800 Platt Ave., commented regarding 10A he is happy to see the creation of the Ad Hoc Policy and Procedure Committee. He is not happy with the appointment of Alderman Fesenmaier. He noted that he is not happy with the turn over of records from the Alderman. Item 12B regarding the fountain policy and the investigation and he is glad to see a policy put in place finally and that is a staff error. He felt when something is taken it is theft and just because it is abandon property that does not mean it is theirs to take. He further commented on the Direct Legislation petition. He noted we have an independent audit each year, and 15 years ago they spent the money and found nothing and that is his point now.

Alastair Cumming, W3259 Lake Forest Lane, they own Sopra Restaurant for three years and they are applying again for the available liquor license. The granting will allow them to thrive. They are operating on an eight year lease. They have been negatively impacted by not serving spirits. They are looking to enhance the Sopra experience.

Ken Wenz, 1807 Miller Ct., commented that they are looking for the liquor license for Bistro 220. They promised a destination spot and they delivered. They are in their second year and people want their choice of beverage. He noted it is their turn. They have people who will not come in because they can not serve them. He noted emails and petitions have been provided.

Jim Roddy, 1110 Park Row, he commented that Bistro 220 has been a wonderful asset and he supports them obtaining the license.

Mary Gagliardi, was present to support Bistro 220 obtaining the liquor license. She felt Bistro was the highest in sales.

Judith Salmon, 250 Havenwood Dr., noted that she is present to support El Palenque for the liquor license. There is no criteria for a liquor license but there is for a bike race. She can't promise how much money might be received because they are a family restaurant and have been around for six years. They would like to be able to serve a margarita.

Art Tillman, Deignan & Associates, he lives in the Town of Troy. He is present to clear the issue of the Financial Audit. They are an independent audit. They truly do a comprehensive audit. Clifton Gunderson did a comprehensive audit. They aren't just bookkeepers. Cash and fund balances are correct. He believes if you go out for an audit in 2009 it would be a gross waste of taxpayer dollars. If you are interested you could do an RFP for 2010 and can state additional scopes required. This will cost more money to expand a typical audit. He wanted to say they have done a great job, and just wanted them to know it would be a waste of funds.

Kathy Studley, 919 Geneva Street, supporting Bistro 220 for a liquor license.

Acknowledgement of Correspondence.

Announcement of Public Meeting scheduled for improvements to WIS 120 in Walworth County from the Wisconsin Department of Transportation.

Announcement from the City Street Department reminding residents Grass Clippings are never picked up. They can be brought to the Street Department on Carey Street and placed in the appropriate container. More information is available on the City Web Site.

Krause/Kehoe motion to approve Regular City Council Meeting minutes of May 10, 2010 as published and distributed. Unanimously carried.

Resolution 10-R37 a resolution to prohibit U-turns at any signalized intersection except for the intersection of 201 S. Edwards Boulevard. (Reconsidered on 5/10/10)

Mott/Tolar motion to approve striking “except for the intersection at 201 S. Edwards Boulevard” from the resolution. Mott noted that he spoke to the Police Chief and they determined a car would have to travel into the opposite lane in order to conduct a U-Turn and it should not be allowed. Trucks would have even greater difficulty. Alderman Marsala read part of the memo received from the Police Chief regarding the difficulty in making that U-turn. Unanimously carried.

RESOLUTIONS

Resolution 10-R39 a resolution to create an Ad Hoc Policy and Procedure Committee as requested by Mayor Connors.

Krause/Marsala motion to approve. Unanimously carried.

Resolution 10-R40 a resolution to amend the Municipal Bond Schedule.

Krause/Marsala motion to approve. Roll Call: “Yes” Alderman Kehoe, Fesenmaier, Krohn, Tolar, Krause, Hartz, Mott, and Marsala. Unanimously carried.

ORDINANCES

Second Reading and approval of Ordinance 10-05 an Ordinance amending Chapter 2 ADMINISTRATION of the Municipal Code pertaining to Personnel Committee, Appointed Officials, and Administrator. (as recommended by the Personnel Committee)

Krause/Hartz motion to approve with the changes that it is added “Appointed by the Mayor subject to confirmation by the Common Council” and Term “Indefinite” Krause noted that the current funding may be placed into a resolution form. Unanimously carried.

First reading of Ordinance 10-08 for Direct Annexation by Unanimous consent of electors and property owners pursuant to Wis. Stats. 66.0217 (2) and temporary zoning of (SR-4), from the Town of Linn, Walworth County, Wisconsin, filed by Ross and Pam Adams, N2275 Wilmot Blvd, Lake Geneva.

Fesenmaier/Krause motion to suspend the rules. Unanimously carried.

Fesenmaier/Krause motion to approve the second reading, with the notation that the Department of Administration letter requires a map showing the municipal boundaries. Unanimously carried.

LICENSES & PERMITS

Original Class “B” Intoxicating Liquor and Class “B” Fermented Malt Beverage License application (*one available license*) from the following: Bistro 220, 220 Cook Street, Lake Geneva, WI 53147, Ken Wenz, Agent, Gleneagles, LLC d/b/a Sopra, 724 W. Main Street, Lake Geneva, WI 53147. Alastair Cumming, Agent, El Palenque Restaurant, 259 Broad Street, Lake Geneva, WI 53147, Laura Chihuahua, Agent.

Krause/Krohn motion to approve Bistro 220.

Alderman Krause noted there was a great deal of discussion at Finance. He noted he did get residents in the first district communications asking for him to support this. He is a representative of the people in the first district and he needs to support that.

Alderman Tolar noted that when they applied for a license they made a statement they are not interested in the alcohol license. They then got a license, then changed their hours, then change the premise, and felt this needs to stop.

Alderman Hartz commented the bigger picture is that there is no criteria on which to evaluate who gets a liquor license. He felt they are doing a disservice to the community at large because they don't have to issue the license. He felt not to issue the license to any applicants and use this as a tool for economic development.

Alderman Marsala noted they have been more than fair to the Bistro and he felt the Bistro has applied for this license the entire time they have been operating. El Palenque has been here the longest. There may be other licenses that will come up, but felt there is some kind of obligation to businesses here.

Alderman Kehoe felt she had a conflict of interest due to her location to this restaurant. She does agree with Alderman Hartz for setting the criteria. Some of these people who want this are on a main street instead of a side street. She asked for the Council to develop criteria by talking to other communities and suggested possibly tabling this item.

Alderman Fesenmaier asked which Alderman need to recues themselves, referring to a public comment earlier.

Alderman Hartz noted that the license can be used as a tool for redevelopment or expansion.

Alderman Krohn questioned why the City would sit on this license while businesses wait for a license.

Administrator Jordan noted that it is sad that Councils have to go through this. He isn't sure how they can come up with criteria.

Attorney Draper commented there is a restriction with a restaurant that the alcohol sales are less than 50% when it is within 300 feet of a Church or School. If they are inclined to approve, Bistro needs to prove he has less than 50% sales from alcohol.

Krause/Krohn motion to add to their motion that requirement.

On original motion to approve Bistro 220 with the stipulation that 50% of their sales is from the sale of food: Roll Call: "Yes" Alderman Fesenmaier, Krohn, Krause. "No" Alderman Kehoe, Tolar, Hatz, Mott, and Marsala. Motion fails 3-5

Marsala/Tolar motion to approve El Palenque Restaurant.
Roll Call: "Yes" Alderman Fesenmaier, Tolar, Marsala. "No" Alderman Kehoe, Krohn, Krause, Hartz, and Mott.
Motion fails 3-5.

Fesenmaier/Tolar motion to approve Sopra Restaurant.
Roll Call: "Yes" Alderman Kehoe, Fesenmaier, Krohn, Tolar, "No" Alderman Krause, Hartz, Mott, and Marsala. Tie Vote. Mayor Breaks Tie voting "Yes". Motion carried.

Original Class B Fermented Malt Beverage and Class C Wine License application for Ying Ying Restaurant, 526 Wells Street, Lake Geneva, WI 53147, Ying Ying Fang, Agent.
Krause/Marsala motion to approve. Unanimously carried.

Original Operator Licenses for Pablo Palos, Scot Effenheim, and Talbott Torhorst.
Krause/Marsala motion to approve. Unanimously carried.

Schedule of Agent Application from Houlihan's Restaurant, 111 Center St., Lake Geneva, to Stephen Schroeder.
Krause/Marsala motion to approve. Unanimously carried.

Street Use Permit Application for the Lake Geneva Jaycees Venetian Festival August 16, 2010 until August 23, 2010 closing Wrigley Drive from Center Street to the end of Broad Street.
Krause/Kehoe motion to approve. Unanimously carried.

Renewal Class B Fermented Malt Beverage License Application for: Lake Geneva Hospitality Group, LLC d/b/a Lake Geneva Comfort Suites, 300 E. Main Street, Lake Geneva, WI 53147, Sam Russo, Agent.
Krause/Marsala motion to approve, pending all outstanding liabilities with the City be paid, and have no outstanding distributor invoices. Unanimously carried.

**Renewal Class B Fermented Malt Beverage and Class B Intoxicating Liquor "Reserve" License Applications for: Harborside Café, 100 Broad Street, Lake Geneva, WI 53147, Spyro & Patricia Condos, Agent.
Lake Aire Restaurant, 804 Main Street, Lake Geneva, WI 53147, George Argiropoulous, Agent.
Su Wing's Chinese Restaurant, 743 North Street, Lake Geneva, WI 53147, Siu Wing Leung, Agent.
The Tempura House, 306 Center Street, Lake Geneva, WI 53147, Mei Bao Wang, Agent.
Bella Vista Suites Hotel LLC, 335 Wrigley Drive, Lake Geneva, WI 53147, Theodore Harig, Agent.**

Krause/Marsala motion to approve, pending all outstanding liabilities with the City be paid, and have no outstanding distributor invoices. Unanimously carried.

Renewal Class B Combination “Hotel Exemption License” Application for: Cove Condominium Association d/b/a The Cove of Lake Geneva, 111 Center Street, Lake Geneva, WI 53147, Sal Sardina Agent.

Krause/Mott motion to withhold granting the license until the clerk receives clear funds. Unanimously carried.

Renewal Class B Fermented Malt Beverage and Class B Intoxicating Liquor License Application for:

American Legion Post #24, 735 Henry Street, Lake Geneva, WI 53147, Charles Schlehlein, Agent.

Stone Soup, LLC d/b/a Baker House, 327 Wrigley Dr., Lake Geneva, WI 53147, Kevin Halminiak, Agent.

Samson Enterprises, LLC d/b/a Carvetti’s, 642 Main St., Lake Geneva, WI 53147, Amanda Lyn Price, Agent

422 S. Wells LTD d/b/a Celebration on Wells, 422 S. Wells St., Lake Geneva, WI 53147, Charles Lorenzi, Agent

L & B Mainstreet Inc. d/b/a Champs Sports Bar & Grill, 747 Main St., Lake Geneva, WI 53147, Richard Bush, Agent.

Bar Inc. of Lake Geneva d/b/a Fat Cat, 104 Broad St., Lake Geneva, WI 53147, Thomas Craig Samuelson, Agent.

GE Geneva, LLC d/b/a Gino’s East, 300 Wrigley Drive, Lake Geneva, WI 53147, Jeff Whiteman, Agent.

Harry’s Café and Place, Inc, 808 Main St., Lake Geneva, WI 53147, James Chironis, Agent.

Hog’s and Kisses, Inc., 149 Broad St., Lake Geneva, WI 53147, Linda Chironis, Agent.

WI Houli LLC d/b/a Houlihan’s, 111 Center St., Lake Geneva, WI 53147, Stephen Schroeder, Agent.

Sandal, Inc. d/b/a Lake Geneva Lanes, 192 E. Main St., Lake Geneva, WI 53147, Franklin Guske, Agent.

Medusa Grill & Bistro, LLC, 501 Broad St., Lake Geneva, WI 53147, Gregory Anagnos, Agent.

DCR Restaurant Group, LLC d/b/a The Next Door Pub, 411 Interchange N., Lake Geneva, WI 53147, Chad Bittner, Agent.

Pop More Corks Inc., 617 W. Main St., Lake Geneva, WI 53147, David Biegemann, Agent.

Anagnos Enterprises, LTD d/b/a Popeye’s, 811 Wrigley Dr., Lake Geneva, WI 53147, Veronica Anagnos, Agent.

Swatek Sales Corp d/b/a The Red Geranium Restaurant, 393 N. Edwards Blvd., Lake Geneva, WI 53147, Mark Swatek, Agent.

LG Hospitality Group LLC d/b/a Ryan Braun’s Tavern and Grill, 430 N. Broad St. Lake Geneva, WI 53147, Arthur Hallenberg, Jr., Agent.

Scuttlebutt’s, 831 Wrigley Dr., Lake Geneva, WI 53147, Steven Sundberg, Agent.

Thumb’s Up, Inc., 260 Broad St., Lake Geneva, WI 53147, Michael Appel, Agent.

Krause/Marsala motion to approve, pending all outstanding liabilities with the City be paid, and have no outstanding distributor invoices. Unanimously carried.

Renewal Class B Fermented Malt Beverage and Class B Intoxicating Liquor License Application for:

Golden Oaks Mansion, LLC, 421 Baker St., Lake Geneva, WI 53147, Nancy Waspi, Agent.

Krause/Marsala motion for non-renewal.

Attorney Draper asked Alderman Krause to include a reason. Alderman Krause noted that the first quarter had no receipts and he believes they may be in violation of the 90 day open for business clause.

Alderman Fesenmaier motion to table. Motion fails for lack of second.

Kehoe/Marsala motion to call the question. Unanimously carried.

On motion for non-renewal. Unanimously carried.

Renewal Class B Fermented Malt Beverage and Class C Wine License Application for: Bistro 220, 220 Cook Street, Lake Geneva, WI 53147, Ken Wenz, Agent, El Palenque Restaurant, Inc., 259 Broad St., Lake Geneva, WI 53147, Laura Chihuahua, Agent, The Original Chicago Pizza Co., 150 Center St., Lake Geneva, WI 53147, John Regester, Agent, PH Green Bay d/b/a Pizza Hut, 801 Williams Street, Lake Geneva, WI 53147, Butch Nocek, Agent

Krause/Marsala motion to approve, pending all outstanding liabilities with the City be paid, and have no outstanding distributor invoices. It was noted that Gleneagles, LLC d/b/a Sopra, 724 W. Main St., Lake Geneva, WI 53147, Alastair Cumming, Agent would be stricken because they received a Class B license earlier in the meeting. Unanimously carried.

Renewal Class B Fermented Malt Beverage and Class C Wine License Application for: Simple Café, LLC, 525 Broad Street, Lake Geneva, WI 53147, Thomas Andrew Hartz, Agent.

Krause/Kehoe motion to approve, pending all outstanding liabilities with the City be paid, and have no outstanding distributor invoices. Motion carried, Alderman Hartz Abstained.

Renewal Class A Retail Fermented Malt Beverage License and Class A Intoxicating Liquor License Application for: Queso LLC d/b/a The Cheese Box, 801 Wells Street, Lake Geneva, WI 53147, Leslie Schwinn, Agent, Geneva Corner Market, Inc., 1231 Grant Street, Lake Geneva, WI 53147, Kathleen Ketterhagen, Agent, Geneva Country Store, 605 Williams Street., Lake Geneva, WI 53147, Thomas Kaczmarek, Agent, Global Gourmet LLC d/b/a Global Gourmet and Village Baker, 738 W. Main Street, Lake Geneva, WI 53147, Terence Conell, Agent, Prairie State Enterprises, LLC d/b/a Lake Geneva Mobil, 350 Edwards Blvd, Lake Geneva, WI 53147, Rick Mistretta, Agent, Roddy's Liquor and Deli, 880 Main Street, Lake Geneva, WI 53147, James Roddy, Agent, Stinebrink's Lake Geneva Foods, LLC d/b/a Stinebrink's Piggly Wiggly, 100 East Geneva Square, Lake Geneva, WI 53147, Mark Stinebrink, Agent, Stop N Go of Madison, Inc d/b/a Stop N Go #265, 896 Wells St., Lake Geneva, WI 53147, Crystal Jean Dent, Agent, Target Store #T2348, 660 N. Edwards Blvd., Lake Geneva, WI 53147, Donna Bulington, Agent, Walmart Stores East LP d/b/a Walmart Supercenter #910, 201 S. Edwards Blvd., Lake Geneva, WI 53147, Clifford Floerke, Agent.

Krause/Marsala motion to approve, pending all outstanding liabilities with the City be paid, and have no outstanding distributor invoices. Unanimously carried.

Renewal Class A Fermented Malt Beverage License Application for: Tienda El Rancho, Inc., 1151 Elkhorn Rd., Lake Geneva, WI 53147 Mercedes Jaramillo, Agent, Geneva Lake Convenience Corp d/b/a Lake Geneva Clark, 728 Williams St., Lake Geneva, WI 53147, Debra Van Horn, Agent.

Krause/Marsala motion to approve, pending all outstanding liabilities with the City be paid, and have no outstanding distributor invoices Unanimously carried.

Renewal Class A Intoxicating Liquor License Application for: Cove Condominium Association d/b/a The Cove of Lake Geneva, 111 Center Street, Lake Geneva, WI 53147, Sal Sardina Agent.

Krause/Kehoe motion to withhold until clerk receives all clear funds for all outstanding liabilities. Unanimously carried.

Renewal Class A Intoxicating Liquor License Application for Lake Geneva School of Cooking, 727 Geneva Street, Lake Geneva, WI 53147, John Bogan, Agent.

Krause/Marsala motion to approve. Unanimously carried.

Request for Staff to apply for Bird City USA status.

Fesenmaier/Marsala motion to approve.

Alderman Fesenmaier noted that Fontana has applied for the status, allowing a migratory bird day and it is good publicity for the City and reaches out to another group of people who might be interested in Lake Geneva. There is a \$250 fee initially and \$100 annual fee after that. Unanimously carried.

Appointment of Susan Pedersen as the Front Desk Parking Meter Clerk position effective May 25, 2010.

Hartz/Krause motion to approve. Alderman Hartz noted that over 30 resumes were submitted and they interviewed five applicants and her qualifications were recognized. Unanimously carried.

Riviera Fountain Collection Policy

Hartz/Mott motion to approve. It was noted between one and two weeks the money will be collected.

Alderman Marsala questioned when the no trespassing signs be posted. Jordan stated soon.

Alderman Fesenmaier questioned what the policy would be when coins are dropped in off season. She asked "while in season" be deleted.

Alderman Marsala noted it will be enclosed and they will not be able to put coins in.

Alderman Tolar noted the fountain will be covered and it will be impossible for coins to be there.

Alderman Fesenmaier questioned if coins from parking meters are taken directly to bank, why are these taken to the Treasurer?

Alderman Krause stated they need to be cleaned and dried prior to taking to bank.

Alderman Marsala noted previously the bank wouldn't take coins.

Alderman Hartz commented the Treasurer is a bonded position and the idea was to have little handling of coins as possible and two people.

Alderman Mott commented by going to the bank and coming back and in one or two weeks they shouldn't have that much build up on the coins.

Alderman Kehoe asked for the "no trespassing" sign to be defined.

Motion carried, Alderman Kehoe opposed.

Direct Legislation Petition for a moratorium, and an independent, comprehensive, objective audit filed on April 26, 2010.

Tolar/Marsala motion to deny.

Alderman Hartz noted that is not one of the three options.

Attorney Draper commented he passed out a memo explaining direct legislation. He briefly noted the process is the petition is presented, the Clerk then has the duty of certifying the petition by simply approve to form she makes no determination on the ordinance or resolution because her duties are merely ministerial. It is then referred to the Council and there are 30 days to make a decision. You basically have three options. You can adopt the ordinance in the present form unaltered, refer to a referendum, or you can do nothing. There are four limitations judicially imposed on Direct Legislation. It must be legislative and not administrative in nature, it can not repeal existing legislation, and it may not exceed legislative powers of the body, and may not modify statutorily prescribed procedures. The definition of administrative and legislative is based on case law.

There is a blurred distinction of what that is. He can't tell anyone what to do, but he can say what the options are. If you decide to make the determination you do not want to pass this in the present form, and do not want to refer to referendum, there should be a record of a reason in the event a mandamus action is brought by the petitioners.

Marsala withdraws his second. Tolar withdraws his original motion.

Fesenmaier/Marsala motion to postpone and reschedule this to a special meeting before the expiration of the 30 day window. Fesenmaier noted that this was a great deal to review during the meeting and wished to have a special meeting. Unanimously carried.

Presentation of Accounts, Alderman Krause.

Purchase Orders. None.

Krause/Marsala motion to approve Prepaid Bills in the amount of \$10,252.81. Roll Call: "Yes" Alderman Kehoe, Fesenmaier, Krohn, Tolar, Krause, Hartz, Mott, and Marsala. Unanimously carried.

Krause/Marsala motion to approve Regular Bills in the amount of \$376,655.15. Roll Call: "Yes" Alderman Kehoe, Fesenmaier, Krohn, Tolar, Krause, Hartz, Mott, and Marsala. Unanimously carried.

Appointments to Committees, Commission & Boards by Mayor Connors.

Mayor Connors appointed Thomas Anthony to the regular position of the Zoning Board of Appeals.

Hartz/Krause motion to approve. Ellen Kehoe questioned the appointment of Mr. Anthony to fill the regular position and suggested he fill the alternate position that is currently held by Robert McCormack. Unanimously carried.

Mayor Connors re-appointed Robert McCormack to the Zoning Board of Appeals as an alternate position. Alternate. Krause/Marsala motion to approve. Unanimously carried.

Mayor Connors appointed Frank Marsala, and Mary Jo Fesenmaier to the Ad Hoc Policy and Procedure Committee. Hartz/Krohn motion to approve. Mayor Connors noted he is still looking for a third volunteer. Unanimously carried.

Krause/Mott Motion to Adjourn at 9:30pm. Unanimously carried.

/s/ Diana Dykstra, City Clerk

THESE ARE NOT OFFICIAL MINUTES UNTIL APPROVED BY THE COMMON COUNCIL