

# **REGULAR CITY COUNCIL MEETING**

## **MONDAY, JUNE 27, 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 O'Neill.

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

#### **Awards, Presentations, and Proclamations**

Mayor Connors read a proclamation designating the week of July 31 through August 7, 2011 as "Horticultural Hall Week" in the City of Lake Geneva. A plaque containing the proclamation was presented to Charlene Klein, Board President of the Geneva Area Foundation, in honor of the upcoming centennial celebration for Horticultural Hall.

**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.**

David C. Williams, 1629 Evergreen Lane, addressed the Council to speak on the items related to the requested Comprehensive Plan amendment for Geneva Ridge. He noted that the City had received two letters from Attorney Sansonetti on behalf of Geneva Ridge Joint Venture in which a hearing on the matter was requested. This appeared to be an attempt to "fly under the radar" by simply asking for a return of rights that his client claimed to have had at one time. He also stated that the letter claimed that the City had endorsed certain zoning districts for the subject property other than the current zoning classifications by its passage of the municipal water supply plan from SEWRPC. Mr. Williams expressed doubt that City officials had intended to endorse any type of zoning change for the property in its consideration of the SEWRPC plan, as the document barely mentioned Lake Geneva. The Hummel property had been designated as a Rural Holding (RH) district, and a zoning change was now being sought to spur the development of the property. He assured the Council that the groups which had previously opposed this development would once again be active in opposition to any development plan that might come forward. He further commented on the fact that the letters submitted by Attorney Sansonetti did not sufficiently meet the application criteria established by ordinance to properly initiate the process. He stated that the opposition would be closely monitoring this issue to ensure that ordinances are followed and the process is done correctly.

**Acknowledgement of Correspondence.** None.

#### **Approval of Minutes**

Kehoe/Krause motion to approve Regular City Council Meeting minutes of June 13, 2011, as published and distributed. O'Neill/Krohn motion to table approval of the minutes until the City Attorney furnished the Council with a written legal opinion as to why the requirements of Wis. Stats. 67.12 (12) (ee) and other statutory tax levy requirements did or did not apply to the promissory note borrowing approved under Resolution 11-R40. Alderman O'Neill additionally specified that this legal opinion should include a cover letter and all written communications pertaining to his obtaining of the opinion. Motion to table failed by vote of 2 to 6, with Aldermen Krause, Hartz, Mott, Marsala, Kehoe and Kupsik opposed.

O'Neill/Krohn motion to amend the second paragraph under the heading of Resolution 11-R40 on the second page of the drafted minutes, to strike all references attributed to Alderman O'Neill and replace the stricken language with the written statement read by Alderman O'Neill during the June 13, 2011 meeting. Alderman O'Neill stated that the paragraph in question contained several misstatements about what he had articulated during that portion of the meeting. He then submitted his written statement to the City Clerk for inclusion in the record of the proceedings.

Alderman Hartz suggested that members of the Council should, in the future, make it clearly known that they would like to have statements entered into the record at the time of the meeting.

Kupsik/Krause motion to amend to add the written statement supplied by Alderman O'Neill in the minutes as originally drafted by the City Clerk. Motion carried by vote of 7 to 0, with Alderman O'Neill abstaining. The motion to approve the minutes, as amended, carried by vote of 7 to 0, with Alderman O'Neill abstaining.

**Second Reading and Approval of Ordinance 11-19, amending Chapter 30, Fire Prevention and Protection, of the Lake Geneva Municipal Code regarding annual fire prevention inspection fees**

Hartz/Marsala motion to deny Ordinance 11-19. Alderman Hartz noted that the Council had previously discussed at length the concerns about using the real estate tax roll as a means to collecting these types of debts from businesses or individuals, with several aldermen having expressed some discomfort with the notion of using the tax roll for that purpose. Aldermen Mott and Kehoe also added their comments in opposition to the proposal. Unanimously carried.

**Second Reading and Approval of Ordinance 11-20, amending Chapter 58, Solid Waste, of the Lake Geneva Municipal Code regarding special collections of yard waste**

Marsala/Krause motion to approve Ordinance 11-20. Unanimously carried.

**Discussion/Action on setting date for public hearing on proposed residential rental certification and building maintenance code ordinance**

City Attorney Draper reported that a draft of the ordinance language had been included in the Council packet for review; however, Alderman O'Neill had requested at a prior meeting that this ordinance be placed on an agenda for a public hearing. In light of this request, he asked that the Council set a public hearing on the matter before a final ordinance was prepared to come forward for First Reading.

Hartz/Marsala motion to set public hearing for the July 25, 2011 regular meeting. Unanimously carried.

Hartz/Marsala motion to suspend the rules to permit the consideration of **Resolution 11-R46** as the next item of business. Unanimously carried.

**Resolution 11-R46, establishing public participation procedures of both the regular and unique consideration of amendments to the City of Lake Geneva Comprehensive Plan**

Hartz/Krause motion to approve Resolution 11-R46. Alderman Hartz reported that this resolution would establish a set of statutorily-required procedures for public participation with respect to requests for amendments to the Comprehensive Plan. The Plan Commission had reviewed the procedures and found them to be in compliance with the applicable statutes; therefore, adoption of the resolution was recommended. Motion carried by vote of 7 to 1, with Alderman O'Neill opposed.

**Discussion/Action on accepting and forwarding to the Plan Commission a request filed by Attorney Mark Sansonetti, on behalf of Geneva Ridge Joint Venture, with instructions to initiate the consideration of a Unique Comprehensive Plan Amendment process for Geneva Ridge**

City Attorney Draper stated that the Comprehensive Plan was supposed to contain a mechanism and process whereby the plan and suggested amendments thereto would be reviewed and considered; however, such a mechanism had not yet been established. Attorney Sansonetti had submitted two letters to the City requesting that this proposed amendment be considered and set for public hearing. Without discussing the merits of the changes proposed by Geneva Ridge Joint Venture, City Attorney Draper recommended that the request should be forwarded to the Plan Commission to provide that body with an opportunity to review and judge the request on its merits. At this point, the Council would simply be acting to start the process for consideration of the request. He added that it would probably not be fair to deny the requestor the right to consideration simply because the City lacked the formal mechanism and process in place.

Kupsik/Kehoe motion to accept and forward the request to the Plan Commission, with instructions to initiate consideration of a Unique Comprehensive Plan Amendment process for Geneva Ridge. Unanimously carried.

**Discussion/Action on setting date for public hearing on Geneva Ridge Plan Amendment for August 22, 2011**

City Attorney Draper advised that the Council was required to conduct a public hearing prior to acting upon any amendment to the Comprehensive Plan. With a recommendation from the Plan Commission likely to be forthcoming after its July meeting, it had been recommended to schedule a public hearing for the second regular Council meeting in August.

Kupsik/Mott motion to set public hearing for the August 22, 2011 regular meeting. Motion carried by vote of 7 to 1, with Alderman O'Neill opposed.

**Finance, License and Regulation Committee Recommendations – Alderman Krause**

**RESOLUTIONS**

**Resolution 11-R42, designating 2011 Fund Balance in the amount of \$3,000.00 for Historic Preservation**

Krause/Marsala motion to approve Resolution 11-R42. Alderman Krause reported that this resolution would set aside unspent funds from a donation made to the Historic Preservation Commission in December 2010.

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

**Resolution 11-R43, amending the 2011 Capital Budget to include capital projects totaling \$2,129,869.00, to be funded by the proceeds of the General Obligation Promissory Notes, Series 2011A**

Krause/Kehoe motion to approve Resolution 11-R43. Alderman Krause stated that this resolution would allocate proceeds from the promissory notes to certain capital projects and equipment for the 2011 budget year, as those items had not been included in the original Capital Budget approved by Council. Alderman Marsala remarked that he had hoped to see someone from the prevailing side bring this item up for reconsideration, as he continued to view the purchase of a new aerial truck for the Fire Department as an unnecessary expenditure. Despite his opposition to the aerial truck, he indicated that he would likely support the budget amendment because he did not want to stall other projects and items included in the capital budget that were essential.

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

**ORDINANCES**

**First Reading of Ordinance 11-21, amending Chapter 74, Traffic and Vehicles, of the Lake Geneva Municipal Code, regarding limited time parking on Wisconsin Street (*recommended by Parking Commission on 6/9/11*)**

Alderman Krause reported that the ordinance would correct an existing inconsistency in parking regulations on the opposite sides of Wisconsin Street, in the block between Broad and Center Streets. Ordinance 11-21 would have the effect of implementing two hours of free parking between the hours of 8:00am and 7:00pm, seven days per week.

**LICENSES & PERMITS**

**Street Use Permit application filed by Badger High School, for Homecoming Parade on September 30, 2011, from 4:30pm to 5:00pm**

Krause/Kupsik motion to approve. Unanimously carried.

**Street Use Permit application filed by the American Legion Auxiliary for Fourth of July Parade on July 4, 2011, at 10:00am**

Krause/Kupsik motion to approve, including waiver of application fee. Unanimously carried.

**2011-2012 Renewal Operator License applications**

Krause/Marsala motion to approve the sixty-one renewal applications, as included in the Council packet. Unanimously carried.

**Original 2011-2012 Operator License applications filed by Dan Lipinski, Nicholas McCann, Linda Shehadeh, Yanely Magallanes, Leah Egger, Lola Bearder, Marie Rugg, Angela Ryan, and Jonathan Stevenson**  
Krause/Marsala motion to approve. Unanimously carried.

**Hearing on Non-Renewal of Reserve “Class B”/Class “B” Intoxicating Liquor & Fermented Malt Beverage and “Class A” Intoxicating Liquor License applications filed by Cove Condominium Association, d/b/a The Cove of Lake Geneva, 111 Center Street, Lake Geneva, WI, Sal Sardina, Agent, pursuant to Wis. Stats. 125.12 (3)**  
Alderman Krause noted that the non-renewal hearing was no longer required for these applications. City Clerk Reale confirmed that the previously-delinquent room tax payments had been made to the City, and the applicant had no additional liabilities which would prevent the license from being renewed or issued.

**Hearing on Non-Renewal of “Class A”/Class “A” Intoxicating Liquor & Fermented Malt Beverage License application filed by Global Gourmet LLC, d/b/a Global Gourmet & Village Baker, 738 W. Main Street, Lake Geneva, WI, Terence Conell, Agent, pursuant to Wis. Stats. 125.12 (3)**

City Attorney Draper stated that the Council was required to conduct a hearing to establish a record of the basis for non-issuance of the renewal license, if the facts given were proven to be true. He noted that statutes prevented the City from issuing alcohol licenses to any retailer with delinquent payments due to a wholesaler. There were no representatives of the subject applicant present for the hearing.

City Clerk Reale offered sworn testimony that the City had received on February 28, 2011 a Wisconsin Department of Revenue Wholesaler’s Report of Delinquent Retail Licensee from Depere Liquor Co., Inc., regarding twelve outstanding delinquent invoices from Global Gourmet, LLC. He further testified that he had personally contacted the credit office of Depere Liquor on June 27, 2011 and had confirmed that the licensee remained indebted to the wholesaler for the invoices as of the current date. He stated that the licensee had been notified of this hearing via certified mail, with receipt acknowledged on June 18, 2011.

There being no further testimony to be given for the record, the hearing was closed. City Attorney Draper reiterated that no license could be issued to the applicant until such time that the outstanding invoices were paid to the wholesaler. He recommended approving the renewal of the license, with issuance being made subject to the full payment of the outstanding invoices. While statutes would forbid the license to be issued until the debts were cleared, he stated that he was not certain the evidence presented an adequate basis to denial the renewal of the license.

Krause/Kehoe motion to suspend the rules to permit the consideration of the renewal application as the next item of business. Unanimously carried.

Marsala/Krause motion to approve renewal “Class A”/Class “A” Intoxicating Liquor and Fermented Malt Beverage License application filed by Global Gourmet LLC, d/b/a Global Gourmet & Village Baker, 738 W. Main Street, Terence Conell, Agent, subject to all outstanding wholesaler invoices being paid prior to issuance and pending all outstanding liabilities to the City being paid and all distributor invoices and Department of Revenue holds being cleared prior to issuance of the license. Unanimously carried.

**Renewal Reserve “Class B”/Class “B” Retail License applications for 2011-2012**

Krause/Kupsik motion to approve renewal Reserve “Class B”/Class “B” Intoxicating Liquor and Fermented Malt Beverage License application filed by Cove Condominium Association, d/b/a The Cove of Lake Geneva, 111 Center Street, Sal Sardina, Agent, pending all outstanding liabilities to the City being paid and all distributor invoices and Department of Revenue holds being cleared prior to issuance of the license. Unanimously carried.

**Renewal “Class A”/Class “A” Retail License applications for 2011-2012**

Krause/Kehoe motion to approve renewal “Class A”/Class “A” Intoxicating Liquor and Fermented Malt Beverage License application filed by Geneva Corner Market, Inc., 1231 Grant Street, Kathleen M. Ketterhagen, Agent, pending all outstanding liabilities to the City being paid and all distributor invoices and Department of Revenue holds being cleared prior to issuance of the license. City Clerk Reale confirmed that the City had received notice from the distributor that the previously-delinquent invoices for the applicant had been paid, and all holds were thereby released. Unanimously carried.

**Renewal “Class A” Retail License applications for 2011-2012**

Krause/Kupsik motion to approve renewal “Class A” Intoxicating Liquor License application filed by Cove Condominium Association, d/b/a The Cove of Lake Geneva, 111 Center Street, Sal Sardina, Agent, pending all outstanding liabilities to the City being paid and all distributor invoices and Department of Revenue holds being cleared prior to issuance of the license. Unanimously carried.

**Renewal Massage Establishment License applications for 2011-2012**

Krause/Kupsik motion to approve renewal Massage Establishment License applications filed by the following, pending all outstanding liabilities to the City being paid prior to issuance of the licenses:

- Jasmine Salon & Spa, LLC, 251 Cook Street, Lake Geneva, WI
- Healing Muscle Therapies, 201 Broad Street, Ste 1-D, Lake Geneva, WI
- Salon 180, 706 W. Main Street, Lake Geneva, WI
- Lake Geneva Massage Therapy, 905 Marshall Street, Lake Geneva, WI

Unanimously carried.

**Renewal Taxi Company License applications for 2011-2012**

Krause/Marsala motion to approve renewal Taxi Company License applications filed by the following, pending all outstanding liabilities to the City being paid prior to issuance of the licenses:

- N & T Enterprises, Inc., d/b/a Lakes Area Taxi, P.O. Box 382, Delavan, WI
- A1 Limousine & Taxi, 515 Prairie View Road, Williams Bay, WI
- Senior Cab Plus, LLC, W3099 Krueger Road, Lake Geneva, WI
- Yellow Cab of Walworth, 722 Faryl Avenue #8, Delavan, WI

Unanimously carried.

**Renewal Carriage Company License application for 2011-2012**

Krause/Kupsik motion to approve renewal Carriage Company License application filed by Field Stone Farm Carriage & Pony, LLC, 6913 Womack Lane, Burlington, WI, pending all outstanding liabilities to the City being paid prior to issuance of the license and including the specification that four horses were approved for the operation. Unanimously carried.

**Renewal Taxi/Trolley Drive License applications for 2011-2012**

City Clerk Reale noted for the record that Chief Rasmussen had approved renewal licenses for the following applicants: David J. Bole, Richard C. Skipper, Kimberley Yanke, Ronald R. Skipper, Goldie M. Stacey, Larry D. Rygielski, Vito F. Gieron, Marta Gieron, John K. Albert, Russell G. Ford, Tom Rock, Nancy Rock, Martin Andrew Blackmore, Wayne R. Sertzel, Alison W. Maehler, and Rhonda M. Bowler. No action was required by the Council with respect to these applications.

**Discussion/Action approval of the 2011 Operating Plan and Budget for the Downtown Lake Geneva Business Improvement District**

Krause/Hartz motion to approve the 2011 Operating Plan and Budget, as submitted. Alderman Krause noted that the members of the Finance, License and Regulation Committee had asked for more specific information on some of the line items included in the budget.

Krause/Hartz motion to suspend the rules to permit BID President Kevin Fleming to address the Council. Unanimously carried. Mr. Fleming stated that the BID Operating Plan and Budget had traditionally been included as part of the approval process for the City budget; therefore, the BID had believed that its budget for 2011 had already been approved in November 2010. Since statutes apparently required these items to be approved separately from the City budget, the Council would now be taking this formal step to approve the plan and budget. Mr. Fleming also clarified some of the expenditures listed in the budget and discussed projects being undertaken by the BID.

Original motion unanimously carried.

**Discussion/Action on approving extension of sidewalk to the pavilion in Seminary Park using TIF #4 funds, including the creation of two handicapped parking stalls at the location where the new sidewalk meets the Lakeshore Drive sidewalk (recommended by Public Works on 6/16/11)**

Krause/O'Neill motion to approve with funds from TIF maintenance/repair account, including the specification that the sidewalk would be constructed at a width of five feet. DPW Winkler explained that a sidewalk would be extended to the pavilion at a distance of roughly eighty feet westward from the existing sidewalk along Lakeshore Drive on the east side of Seminary Park. He added that the two parking stalls adjacent to the new sidewalk intersection would be designated for handicapped parking and a ramp installed for access.

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

**Discussion/Action on approve the paving of additional parking spaces on the west end of the drive in front of Central Denison School by Amon, for the amount of \$7,200.00 to be funded by TIF (recommended by Public Works on 6/16/11)**

Krause/Marsala motion to approve. It was noted that this would provide nine additional parking stalls in the area in question.

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

**Discussion/Action on amendment to Chapter 4 (Lakefront), Section 4.2, of the City Policy Manual, regarding wrist bands for daily beach admissions**

Alderman Krause reported that the auditors had examined the City's cash handling procedures and recommended putting into place a policy to address the collection and reconciliation of admission fees at the beach. The Committee had been told that the proposed amendment would provide controls for the maintenance and storage of the wrist bands used for daily admissions, and would further stipulate that the City Treasurer was responsible for monitoring wrist band usage by reconciling the band numbers on a daily basis. During subsequent discussion, it had also been noted that Section 4.2 erroneously listed the price of an adult resident pass fee as \$60.00. The correct price was \$70.00.

Krause/Kupsik motion to approve the amendment, including an additional amendment to specify that the annual resident pass fee is \$70.00. Unanimously carried.

**Discussion/Action on approving two sand volleyball courts to be located in the open area east of the maintenance shed in the center of Veterans Park (recommended by Board of Park Commissioners on 6/23/11)**

Krause/Marsala motion to deny. Administrator Jordan asked if the Council was simply opposed to the concept of having sand volleyball courts in the park, or if it might be interested in moving forward if park impact fees were available to pay the City back for the in-kind labor and equipment costs associated with the excavation. Alderman Hartz stated that he was opposed to the project because the Council had previously rejected the idea during the capital budget process, adding that the proposal did not clearly identify the costs to the City or address drainage and maintenance issues. He further mentioned that consideration could also be given to having sand volleyball at the beach rather than constructing courts at Veterans Park. Alderman Kupsik suggested that the matter should be referred back to the Board of Park Commissioners for clarification on some of these issues raised by Alderman Hartz.

Roll Call: Hartz, Marsala, Kehoe, and Krohn voted "yes". O'Neill, Krause, Mott, and Kupsik voted "no". A tie having thereupon been declared, Mayor Connors voted "no". Motion to deny failed by vote of 4 to 5.

Kupsik/Mott motion to refer the item back to the Board of Park Commissioners for clarification on the questions raised by the Council, including installation costs, maintenance, and usage. Alderman Hartz offered a friendly amendment to include a request for clarification as to the City's expected portion of the cost and source of funding. Aldermen Kupsik and Mott, as maker and seconder of the motion, accepted the amendment as friendly.

Motion carried by vote of 7 to 1, with Alderman Marsala opposed.

**Plan Commission Recommendations – Alderman Hartz**

**Resolution 11-R44, authorizing the issuance of a Conditional Use Permit filed by Benny Singh for Outdoor Display, located in a Planned Business Zoning District, at 797 Wells Street, Lake Geneva, WI, Tax Key Number ZOP 00399, including all staff recommendations**

Hartz/Krause motion to approve Resolution 11-R44. Unanimously carried.

**Resolution 11-R45, authorizing the issuance of a Conditional Use Permit filed by Dr. Michael and Kerry Sherman for a second floor addition to an existing single family residence in the ER-1 District using the setback requirements of the SR-4 District and also for Lawn Care located in the Lakeshore Overlay District at 8 Lake Shore Drive, Lake Geneva, WI, Tax Key Number ZYUP 00094J, including all staff recommendations and, specifically, that staff is to approve of the plant material**

Hartz/Krause motion to approve Resolution 11-R45. Unanimously carried.

**Presentation of Accounts – Alderman Krause**

Purchase Orders. None.

Krause/Marsala motion to approve prepaid bills in the amount of \$50,817.31.

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

Krause/Hartz motion to approve regular bills in the amount of \$152,836.53

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

**Closed Session**

Hartz/Kupsik motion to go into Closed Session pursuant to Wis. Stat. 19.85 (1)(g) to confer with legal counsel who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation which it is or is likely to become involved in re: Village of Bloomfield Incorporation (City Attorney Draper).

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

The Council entered into Closed Session at 8:52pm. Also present: Administrator Jordan, City Attorney Draper, and City Clerk Reale.

Kupsik/Marsala motion to return to open session pursuant to Wis. Stat. 19.85 (2) and take action on any items discussed in Closed Session.

Roll Call: O’Neill, Krause, Hartz, Mott, Marsala, Kehoe, Kupsik, and Krohn voted “yes”. Unanimously carried. The Council reconvened in open session at 9:24pm.

Krause/Marsala motion to direct the City Administrator to prepare a letter on behalf of the City of Lake Geneva objecting to the petition for incorporation. Unanimously carried.

**Adjournment**

Marsala/Mott motion to adjourn at 9:26pm. Unanimously carried.

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/s/ Jeremy A. Reale, City Clerk

**THESE ARE NOT OFFICIAL MINUTES UNTIL APPROVED BY THE COMMON COUNCIL**