

REGULAR CITY COUNCIL MEETING

MONDAY, AUGUST 22, 2011 – 7:00 PM

COUNCIL CHAMBERS, CITY HALL

Mayor Connors called the meeting to order at 7:04pm.

The Pledge of Allegiance was led by Alderman Marsala.

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

Awards, Presentations, and Proclamations

Mayor Connors announced the upcoming Walworth County Clean Sweep program for household hazardous waste and pharmaceutical collection on October 7 and 8, 2011. Citizens could find more information about the program by visiting the City's website.

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.

Robert Flemming, 315 Walworth Street, commented on Item 11, regarding the residential rental inspection and building maintenance code ordinance. He asked that the Council consider continuing the ordinance to a subsequent meeting, given the amount of business before the Council on the current agenda.

Richard Peterson, 308 Walnut Street, Burlington, addressed the Council on the subject of the Main Street traffic signal improvement and parking station proposals. He suggested that the taxpayers should be given an opportunity to decide on the approximately \$1 million parking station system, adding that it would be more prudent to simply save the \$1.5 million proposed for the two projects and close the TIF.

Cass Kordecki, 715 North Street, requested that Item 11 be tabled. She expressed her concern with the language of Ordinance 11-22 in its definition of "permanent resident", as it would effectively exempt any property owner that does not rent to a permanent resident from the registration and inspection program. She noted that this was problematic because some permanent residents rent for less than thirty days, and suggested that verbiage from State statutes could be added to the ordinance to clarify the situation.

Stan Redmer, 1155 Lake Geneva Boulevard, also requested that Item 11 be tabled to a future meeting for further discussion.

Teresa Giese, 528 Sage Street, commented on Item 11. She stated that she opposed the registration and inspection fees currently proposed in Ordinance 11-22.

Acknowledgement of Correspondence

City Clerk Reale reported on correspondence that had been received pertaining to the proposed amendment to the Comprehensive Plan, as requested by Geneva Ridge Joint Venture. He noted that a total of five letters had been filed with the City Clerk's office, including one in support of the amendment and four opposed. Filing letters in opposition to the amendment were: Casey Schiche, 231 Ridge Road; David Frost, 1556 Orchard Lane; Bonnie Weber, 825 Waverly Street; and Audrey Mathews, W4531 County Road B. A letter of support had been filed by Matthew Polyock, W4079 Oakwood Drive.

Approval of Minutes

Kehoe/Krause motion to approve Regular City Council Meeting minutes of August 8, 2011, as published and distributed. Unanimously carried.

Public Hearing on proposed amendment to the Comprehensive Plan for Geneva Ridge property, as recommended by the Plan Commission

City Planner Mike Slavney, Vandewalle and Associates, noted that when the Council adopted the Comprehensive Plan in December 2009, it had included a recommendation for the establishment of a policy for considering amendments to the plan. He stated that in his experience as a professional planner, most communities had adopted policies that called for the periodic review of the plans in addition to procedures whereby individuals could request amendments to the plans outside of the typical review cycle. He reported that the Lake Geneva Plan Commission had been in the process of developing such a policy when the request now under consideration had been received from Geneva Ridge. Under State law, plan amendments were required to identify a public participation plan, including public hearing, and be subject to a recommendation from the Plan Commission before ultimately coming to the Council for approval in ordinance form. Mr. Slavney stated that he would be listening to comments and questions raised during the public hearing, and would offer responses after the public hearing portion was closed.

City Attorney Draper asked Mr. Slavney to clarify what exactly was being considered by the Council at the current meeting. Mr. Slavney responded that a Comprehensive Plan amendment would be the first in a series of several steps toward the eventual development of a property. Subsequent steps would include zoning, inclusion in an urban service area, preliminary and final platting, and development agreements, among other processes that would require separate approval and opportunities for public comment. Only after each of these steps had been completed would actual development of the property be able to occur. The Comprehensive Plan designation presently being considered by the Council was an independent component of the process and separate from other steps that would need to be taken for the development of the property. City Attorney Draper inquired if Mr. Slavney was aware of any development proposal for the Geneva Ridge property at the present time. Mr. Slavney stated the he was not.

Attorney Mark Sansonetti, representing applicant Geneva Ridge Joint Venture, approached the podium to discuss the request of his client to consider a modification to the Smart Growth plan, as recommended by the Plan Commission. He clarified that the applicant was not here for a zoning map amendment. Attorney Sansonetti stated that this request had been precipitated by a review of the City's historical planning documents, particularly as those plans pertained to the Geneva Ridge property. He added that the text of the current Comprehensive Plan already included a provision for Planned Neighborhood land use on this property. He asked the Council to further consider other recent factors that carried the potential of negatively affecting the City's growth potential, including levy limits being imposed on municipalities by the State and the renewed efforts of the Town of Bloomfield to incorporate as a village. Attorney Sansonetti stated that the goal in requesting the subject amendment was to open a "blank slate" productive dialogue with the Plan Commission, Council, and City staff on the future of the property. He reiterated that there was no development plan or concept on the table; rather, the applicant was simply requesting that the planned land use for the property be reverted back to that which it had been identified in the historic planning of the City. He then presented a series of maps from various planning documents to demonstrate the history of planned land use for the property, including: previous master plans of the City (1991, 1997, 1999), the Town of Linn Comprehensive Plan (2004), South Neighborhood Plan (2004), SEWRPC Comprehensive Land Use Plan (2006), and the original recommendation for the City of Lake Geneva Comprehensive Plan from May 2009. He stated that each of these plans had called for the development of the property, and the current request would be consistent with the Lake Geneva Economic Development Corporation plans for development of the adjacent property.

Alderman O'Neill commented that the past was irrelevant to the consideration of the request currently before the Council; rather, the issue was whether the request was in agreement with the current version of the Comprehensive Plan. Attorney Sansonetti responded that there were provisions in the text of the current plan that identified the property in question for planned development. Alderman O'Neill stated that the inconsistency between the plan maps and text should be addressed before the Council entertains a request for amendment. He also noted that there were justifiable reasons for some of the changes made to the plan with respect to the subject property, including the fact that the very large size of the property and its potential impact on the Geneva Lake watershed made it unique. Given the sensitivity of its location, he expressed concern that passing a plan amendment for the Geneva Ridge property would pave the way for development and subsequent runoff that would harm the lake. He noted that Geneva Lake was the

lifeblood of the City and the surrounding area. He further stated that the subject request was not consistent with the requisite plan amendment standards for growth forecasts, unique opportunities, or minor changes to the plan. Alderman O'Neill cited Wis. Stats. 66.1001 (3) on official mapping requirements, arguing that the statute required the ordinance to be consistent with the Comprehensive Plan. He stated that Ordinance 11-23 was not consistent with the plan and therefore stood in contradiction to those statutory requirements. He speculated as to whether any financial benefit was to be obtained by the developer as a result of the proposed amendment, as he reasoned that land value would be impacted by zoning potential.

Mayor Connors then opened the floor to comments from the public on the proposed ordinance.

Bob Klockars, 1201 Bridget Court, Fontana, addressed the Council as Chairman of the Geneva Lake Conservancy. He noted that the Conservancy was always committed to maintaining the environmental character of the lake, and opposed the requested change because of the significant impact that development of this property would have on the lake and surrounding communities. He stated that adversely impacting Geneva Lake and damaging the environmental character of the area would effectively destroy the economic engine that drives Lake Geneva and its neighboring communities. He urged the Council to resist the pressure to grant the request and oppose Ordinance 11-23.

Don Getzen, 15 Lakeview Drive, noted that the applicant was currently involved in approximately \$120 million worth of lawsuits against the City of Lake Geneva, adding that common sense would indicate that those who specialize in lawsuits don't make for good partners in the future. He stated that it appeared there was information pertaining to the request and its relationship to the ongoing litigation that was not being made public, suggesting that perhaps the plan amendment should be delayed until the suits have been settled and recorded. With the City still involved in litigation with the applicant, Mr. Getzen stated that the appearance of a conflict of interest loomed large for the aldermen. He also urged the Council to consider the results of the 2008 referendum in which 1,377 voters had cast ballots in opposition to the Geneva Ridge development plan.

Jim Hanny, W2865 Swinghurst Lane, Town of Linn, stated that he had been asked to represent friends and property owners who would hold the City and its elected officials legally responsible for encouraging adjacent development which was in direct contradiction to the City's Comprehensive Plan and taking the first steps to nullify the will of an informed electorate, as overwhelmingly expressed in a legal, non-binding referendum. He noted that many property owners who believed the development would adversely affect their properties fully intended to engage every legal means to ensure that the government is responsive to the clearly-stated will of its constituents. He questioned the relationship of the proposed change to the ongoing settlement discussions between the City, its insurer and Geneva Ridge Joint Venture, adding that the terms of a settlement may be favorable to the City's insurance provider but not in the best interests of the City. Mr. Hanny told the Council members that they had the power to secure the trust of every citizen by openly debating, discussing and resolving this contentious issue.

Joan Thompson, 1561 Evergreen Lane, commented that the concept of representative government was relatively simple. She stated that the people of Lake Geneva and the surrounding areas have spoken, and have spoken loudly in opposition to the Geneva Ridge development. Ms. Thompson reminded the aldermen of their responsibility to represent the views of the majority of their constituents, and pleaded for a vote against Ordinance 11-23.

Marilyn Taylor, 351 Oak Terrace, stated that she did not understand why the Council was trying again to force this development through, in light of all the information provided about the negative ecological impact that the development would have on Geneva Lake and, in turn, on the local economy. She commented on the fact that it was evident that this process was linked to the ongoing litigation, and argued for more transparency from City officials in their discussions on this issue. She noted that the public had a right to have their questions answered.

Ed Yaeger, Water Street, remarked that the City found itself in the current situation largely because the majority of prior Councils had failed to listen to the voices of the citizenry. He noted that citizen surveys conducted over the years had consistently demonstrated overwhelming opposition to large-scale development. Everything associated with the Geneva Ridge development had fallen short of the goals promoted in the carefully-crafted mission statement of the City's master plan. He urged the Council to listen to the majority of citizens and neighbors who are part of the Geneva Lake community and have a right to participate in these discussions. Mr. Yaeger predicted that choosing to disregard

the effort put into the Comprehensive Plan by making the requested change would effectively create a “blueprint for disaster” for the City.

Charles Colman, W4461 N. Lake Shore Drive, Town of Linn, discussed the economics associated with the amendment request, as related to the developer, the City, and the residents living around the property. He noted that a change in zoning or zoning potential would lead to a change in the value placed upon the land. He cautioned that once the City would start down the path toward such a change, the process would only gain momentum going forward. A developer wants to sell hope, so he gets the process moving toward a zoning change, gaining access to the lake, and other measures designed to entice other developers to purchase the property. Mr. Colman noted that Geneva Ridge had already divided the property, and asked how the City would be prepared to handle multiple developers working on the large tract of land in question. This would create additional costs for the City, strains upon City resources, and increased taxpayer expenses – all to the economic benefit of the developer.

Dona Palmer, 270 Country Club Drive, commented on the fact that there was clearly a relationship between the secret settlement for the Hummel lawsuit and an inexplicable need to reopen the smart growth plan with a proposed amendment that would benefit Mr. Hummel. She noted that many social, economic, and environmental reasons had been given not to change the plan; therefore, she wondered why the Council would consider voting in favor of the change unless it was tied to the settlement of a lawsuit in which some of the aldermen were personally involved. Rather than moving forward with an approval of Ordinance 11-23, she suggested that the Council members involved in the suit should recuse themselves from participating.

Bill Huntress, 1015 Pleasant Street, discussed all of the previous developments in the City that had not been successful. He suggested that the Council should take its chances with the courts instead of making a backroom settlement that would negatively affect the City. Mr. Huntress further commented that he had been given a unique opportunity to hunt the property in question, which he described as one of the most incredible pieces of land he had ever seen. He stated that one needed to physically walk the property to fully appreciate the beauty of its current state, because many of the ecological features were not visible from the surrounding roadways.

Grace Hanny, W2685 Swinghurst Lane, Town of Linn, stated that the Friends of Geneva Lake had held a meeting at Horticultural Hall on August 10 to discuss the proposed change, with over sixty residents in attendance. She noted that the opposition had been mobilized, as evidenced by the overwhelming crowd present at City Hall for the public hearing. She further discussed the pristine beauty of Geneva Lake and the environmental stress that development of the Geneva Ridge property would place upon the lake. She urged the Council to vote against the proposed amendment.

Stan Fairchild, 814 Kendall Lane, stated that he had come into the hearing with a neutral stance on the request. There had not been much information made available to the public on the issue, although he agreed with previous speakers that preservation of Geneva Lake was a high priority. Given the fact that it appeared there was misinformation on both sides, he suggested that the Council vote against the request for the time being. He stated that development was not likely to occur for many years anyway, so he saw no reason to rush to take action on something about which the public lacked adequate information.

Jim Gee, Town of Linn, noted that he managed the Yerkes Observatory for the University of Chicago. He discussed the earlier plans of the Mirbeau development to come into Williams Bay and take over a significant portion of the lake frontage. Despite overwhelming pressure from the university, he stated that all of the employees at the observatory joined together with Village officials to fight against the Mirbeau development. He urged the Lake Geneva City Council to likewise have the courage to listen to its residents and vote no on Ordinance 11-23.

Richard Marra, W2990 S. Lake Shore Drive, Town of Linn, reminded the Council that the law clearly prohibited “contract zoning”, adding that any deals made in the settlement of the Hummel case needed to be disclosed to the public immediately. He stated that there was no legitimate reason to amend the Comprehensive Plan, as even the court appeared inclined to reject the developer’s claims if mediation failed. He requested that the Council respect the decisions of the previous Council and the wishes of its constituents, and opposed this proposed change to the map.

Maureen Zimmerman, 3174 S. Lake Shore Drive, Town of Linn, stated that what appeared to be an attempt at voter nullification gave the appearance that the Council doesn't recognize the rights, voices, or hard work of its citizens. She suggested countering with an economic disincentive by refusing to patronize Lake Geneva businesses and contributing to the City economy if the Council approves Ordinance 11-23.

Jim McCullough, 1551 Evergreen Lane, noted that it appeared the Council was caving in to the demands of the developers involved in the ongoing lawsuits, and acting contrary to the wishes of its citizens.

Spyro Condos, 1760 Hillcrest Drive, remarked that many individuals had invested a great deal of time in developing a plan that they believed was in the best interests of the City of Lake Geneva. He noted that the Council was finding itself in the current situation because of a failure to follow policies and procedures, including "backroom meetings" and discussions taking place outside of the public eye. While he agreed with those who had expressed opposition to the change, Mr. Condos simply urged the Council to vote for the best interests of the taxpayers of the community.

Gary Milliette, 493 Wrigley Drive, commented that in a capitalist society, people take economic risks and some win while others lose. He suggested this was another example in a continuing series of government bailouts for people who "make bad bets", and expressed concern about shifting private losses to become the public burden.

David C. Williams, 1629 Evergreen Lane, spoke in opposition to Ordinance 11-23. He discussed a recent editorial in the *Regional News* that had been favorable to the proposed Comprehensive Plan amendment, and refuted some of the statements included in that editorial in support of the change. He noted that the applicant had failed to present anything to justify making such a significant change to the plan, and disputed the claim that the developer ever had a serious expectation that he would be able to develop the property as planned. Attorney Williams stated that he appreciated the distinction between a plan amendment and a zoning amendment; however, he wondered if anyone seriously believed that a zoning change request would not be following any Comprehensive Plan change. He likened this situation to kicking the can down the road.

Jim Montemurro, 321 Ridge Road, stated that the Comprehensive Plan had been designed and approved by qualified individuals, and questioned why it was suddenly being viewed as deficient less than two years later. He also commented on his concerns about the negative impact of additional residential development on City services, parking, boat traffic, and taxes.

Mark Leahy, Lake Geneva, noted that the issue was really about the value differential in the land between its present zoning classification and the proposed change in zoning potential. He urged the Council to reject the change and let the matter be decided in the courts.

Richard Malmin, N1991 S. Lake Shore Drive, Town of Linn, remarked that the Council should reject the settlement agreement and let the court decide the fate of the Geneva Ridge Joint Venture lawsuit, as the judge in the case had all but told Mr. Hummel he couldn't win in court. Making this change would represent the first step in the rezoning process for the Hummel property, and it was likely the City would then ultimately be forced to make the same concessions for Mirbeau as well. He noted that three parties were involved in the Geneva Ridge mediation: the developer, the City, and the City's insurer. Mr. Malmin suggested that any settlement deal being advanced by the attorneys for the insurance company would take into consideration only the interests of the insurer, and not the best interests of the City. He cautioned the Council against making the proposed change, as it would put the City at risk of additional litigation for violating conflict of interest and contract zoning prohibitions, and possibly put the aldermen in jeopardy of personal lawsuits. He urged the Council members to not violate the faith of the people who had elected them by voting to amend the Comprehensive Plan.

Nicholas Egert, McCormack and Egert, spoke on behalf of local property interests that would be adversely impacted by the proposed change and any subsequent development. Attorney Egert expressed concern that an unjustified change to the Comprehensive Plan could increase the City's potential exposure to legal action instead of reducing it. He noted that court records indicated that the City was in a strong position to survive the current lawsuits without the need for making any changes to the plan.

Sarah Schuster, N1970 S. Lake Shore Drive, Town of Linn, spoke in opposition to the proposed change to the Comprehensive Plan, reminding the Council of the decades of effort that area residents had put in to protecting Geneva Lake and the environmental qualities of the area.

Pete Peterson, 1601 Evergreen Lane, remarked that he had heard many comments from Linn Township residents in opposition to the proposal. He stated that the Council should make its decision based upon what is in the best interests of Lake Geneva, and should not be influenced by the opposition from Linn. He suggested that the Conservancy and the property owners interested in preserving the land should band together and purchase the property from the developer. He also commented on the recent series of closed session meetings that the Council had held, adding that if potential legal settlement discussions were affecting the Council's decision on the subject request, that fact should be immediately disclosed to the public.

Mike Mooney, Town of Merton, Waukesha County, noted that he had been attending several meetings to follow this issue as an economic development and community planning professional, though he disclosed that he had no economic interest in any development for the Geneva Ridge property. He stated that he had observed an inordinate amount of pressure being placed upon the Lake Geneva City Council by outside groups, even though it is the citizens of the City whom the Council is there to serve. Mr. Mooney also commented on the potential economic advantages of a larger tax base that could be realized for the City with additional development, including revenues that could be used to fund adequate protections of the lake and watershed. He noted that Lake Geneva and Linn have different socioeconomic profiles and therefore different interests and goals with respect to development. He suggested that the information and comments being offered from residents of Linn should be discounted in the decision-making process employed by the Council.

Marcie Hollmann, 1566 Orchard Lane, noted that there are so many people present from Linn Township because there is a common interest among all Geneva Lake area residents in protecting the lake and the quality of life enjoyed here. She also reminded the Council of the results of the 2008 referendum in which seventy-seven percent of the electorate opposed the development of this property.

Teresa Giese, 528 Sage Street, stated that the City needed to keep conservation in mind and oppose any more development.

Margaret Lass Gardner, Town of Linn, reminded the Council about the amount of food produced from the farming interests on the land in question. She noted that seventy-seven percent of Lake Geneva voters opposed the development; therefore, the source of opposition was not only from the Town of Linn. She urged the Council to vote against the proposed change.

Jo Ann Williams, 307 Water Street, spoke in opposition to the proposed plan amendment. She reiterated that it was Lake Geneva residents who opposed the development in the referendum. Ms. Williams expressed concerns about an overabundance of available homes already in the City, properties in foreclosure, pollution in Geneva Lake and the White River, and burdening taxpayers with the expense of additional City services required for a new large-scale development. She urged the Council to consider putting some money into the older sections of the City that desperately needed attention instead of investing in the fringe areas.

James Loftus, 500 S. Edwards Boulevard, asked that the public hearing be closed and have the Council vote immediately.

Jerry Summers, 930 Maytag, approached the podium to declare that he would donate \$10,000.00 toward any effort to purchase the subject property from Mr. Hummel and dedicate it to the Conservancy.

Mayor Connors announced a brief recess at 9:52pm. The Council reconvened at 10:08pm.

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

Mr. Slavney responded to some of the questions that had been raised during the hearing with respect to development density and certain plan designations. He briefly discussed the draft Comprehensive Plan document from May 2009

that had been mentioned, adding that he had drafted the document with the original future land use designations in order to focus the considerations of the Plan Commission on that important topic. The land use designation that he had included in the May draft had been consistent with the previous plans that Attorney Sansonetti had referenced in his presentation, and he felt this would be a logical starting point for discussions. He further noted that the draft had been designed to fit Lake Geneva's housing profile, which was typical of southeastern Wisconsin municipalities but quite different from the profiles of the other communities on Geneva Lake. He also stated that the City has strong environmental protection policies in place within its zoning ordinance that provided additional protection to environmental corridors and natural features.

Mayor Connors inquired about the typical duration of a comprehensive plan. Mr. Slavney responded that plan recommendations should go out twenty years and State law required jurisdictions to update plans on a ten-year cycle. He added, however, that it was common for many units of government to adopt shorter update cycles. He also stated that he had participated in the development of approximately 200 comprehensive plans and, in his professional experience, most of those plans had been amended in some fashion after three or four years. Alderman Hartz inquired about the City's current environmental control over the property in question. Mr. Slavney responded that standard overlay protections would apply; however, the additional City protection of "isolated natural features" would not take affect until the land was zoned for use other than agricultural.

Alderman O'Neill reiterated the requirement in Wis. Stats. 66.1001 (3) that ordinances associated with official mapping be consistent with the jurisdiction's comprehensive plan, adding that the proposed amendment would create an inconsistency within the City's plan. Mr. Slavney responded that those provisions applied to zoning map amendments, which would need to be consistent with the specifications in the plan. He stated that there was no requirement for plan amendments to be consistent with the plan, as such a requirement would make it virtually impossible to ever amend the plan. City Attorney Draper read from Wis. Stats. 66.1001 (3) and concurred with the analysis offered by Mr. Slavney. Mr. Slavney also noted that the proposed change, if adopted, would allow for a possible future zoning change for the Geneva Ridge property; however, it would not require the Council to make such a change to the zoning map. Alderman O'Neill responded that it was highly unlikely the Council would be able to justify denying a change to the zoning map in that instance without opening the City up to legal action based upon unfair treatment.

Alderman O'Neill also noted that the City was not following the standards specified in the Comprehensive Plan for making an amendment, which required proposed changes to be based upon growth forecasts, unique economic opportunities, or minor changes to the plan. Mr. Slavney responded that the Council has the authority to amend the plan in any instance. Although it was encouraged to follow the criteria included in the recommendation, there was no legal requirement to do so. He agreed with Alderman O'Neill's assertion that the proposed change was substantive, and stated that it would be prudent for the Council to clearly indicate its reasoning for making any change, if approved. Alderman O'Neill returned to the issue of inconsistencies between the maps and the text of the plan, reiterating his point that those inconsistencies should be addressed before changing the plan through this amendment. Mr. Slavney noted that there were various elements throughout the plan that might be seen as contradictory in some instances, including the goals of promoting economic development, conservation, and the preservation of agricultural land. To that point, he commented that some policies within the Comprehensive Plan would probably support one decision on the request where other policies might support a different conclusion. Alderman O'Neill stressed that the single largest component involved the protection of Geneva Lake and the quality of the watershed. Mr. Slavney agreed that this had consistently been a feature throughout the history of planning documents; however, he noted that farming activities typically had a more negative impact on water quality than some forms of development.

First Reading of Ordinance 11-23, amending the City of Lake Geneva Comprehensive Plan

Kehoe/Marsala motion to suspend the rules and proceed to Second Reading of Ordinance 11-23.

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

Second Reading of Ordinance 11-23, amending the City of Lake Geneva Comprehensive Plan

Marsala/Kehoe motion to approve Ordinance 11-23.

Alderman Marsala responded to the frequent comments made during the public hearing in reference to the seventy-seven percent of the residents of Lake Geneva who opposed this plan amendment. He disputed those figures based upon the public attendance at the meeting and the amount of telephone calls he had received on the issue, estimating that opposition amounted to one percent of the residents of his aldermanic district. He suggested that opponents were distorting the facts by declaring that the Council was opposing the will of the overwhelming majority of its citizens.

Alderman Hartz commented on the importance of maintaining a civil discourse in spite of the emotional nature of the issue at hand. He stated that legal and personal threats were not a constructive part of any reasonable dialogue on the request, and noted that the Council was bound to make a decision based on the facts and not on emotions.

City Attorney Draper was asked to comment on the issue that had been raised about conflicts of interest. He stated that elected officials have indemnification from the City; therefore, none of the aldermen had anything personal at stake at this point.

Alderman O'Neill commented that he felt the Council had been boxed in to a corner on this issue, as the things said behind closed doors could not withstand the light of day. The Council can do things legally and suffer the consequences, or illegally and suffer the consequences. Finally, he likened the situation to the historical photograph of the demonstrations in Tiananmen Square, in which the student protester represented the citizens of Lake Geneva and the military tank represented the bureaucracy driving this issue forward with the Council behind the wheel.

City Attorney Draper noted that the Council needed to provide some justification for making the proposed change. Alderman Marsala stated that he believed the plan amendment was in the best interests of the future of Lake Geneva. Mayors Connors noted that the Comprehensive Plan was intended to be a working document that reflects market changes and other factors, noting that the recent Department of Administration approval of a referendum on the Town of Bloomfield incorporation could have major implications on the City's future growth potential. He also reiterated that no zoning was being changed at this time.

Roll Call: Marsala, Kehoe, Kupsik, Krause, and Mott voted "yes". Krohn, O'Neill, and Hartz voted "no". The motion was declared to have carried by vote of 5 to 3.

*** Clerk's note for the record: It was clarified subsequent to the adjournment of the meeting that the Council had failed to achieve the three-fourths majority of affirmative votes required by City ordinance to suspend the rules and proceed to the Second Reading of Ordinance 11-23. Therefore, although the ordinance had been declared to have passed during the meeting, this vote was later deemed to be null and void.*

Second Reading and Approval of Ordinance 11-22, amending Chapter 14, Buildings and Building Regulations, of the Lake Geneva Municipal Code, regarding residential rental inspections and adopting a building maintenance code

Hartz/Krohn motion to continue to the next regular meeting of September 12, 2011. Unanimously carried.

Discussion/Action on parking station system proposal (*continued from 8/8/11*)

Hartz/Marsala motion to continue to the next regular meeting of September 12, 2011. Unanimously carried.

Finance, License and Regulation Committee Recommendations – Alderman Krause

RESOLUTIONS

Resolution 11-R50, amending the 2011 budget by transferring \$6,984.00 from the Contingency Account to the Council Miscellaneous Expense Account, for the purchase of Roll Call Pro voting system

Krause/Kehoe motion to approve Resolution 11-R50.

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

LICENSES & PERMITS

Request for Temporary Extension of Licensed Premises filed by Sprecher's Pub & Restaurant to include the lower surface parking lot on Center Street on October 1, 2011, from 11:00am to 12:00am

Krause/Marsala motion to continue to the next regular meeting of September 12, 2011. Unanimously carried.

Street Use Permit application filed by Don Heise for annual Franklin Avenue Block Party on September 10, 2011, from 12:00 to 5:00pm, with rain date of September 17, 2011

Krause/Marsala motion to approve. Unanimously carried.

Request from Lake Geneva Fire Bells for the use of seven metered parking spaces on the east side of Broad Street, from the alley northward to the corner at Main Street, for annual fundraiser on September 18, 2011, including waiver of all fees

Krause/Marsala motion to approve, including waiver of fees. Unanimously carried.

Original Operator License applications filed by Nicole Thalacker, Bobbi Nelson, Tracy Hicks, Cameron Myers, Krista Cocroft, and Pamela Schryver

Krause/Marsala motion to approve. Unanimously carried.

Original Taxi Driver License applications filed by Cory Vos and Brian Koszykowski

City Clerk Reale reported that both applicants had been approved by Chief Rasmussen, and no formal action was required by the Council.

Report from the Comptroller on Community Bank of Delavan CD and CDARS renewals

Alderman Krause reported on the interest rates secured for the CD and CDARS that had been authorized for 26-week rollovers at the previous Council meeting. The Community Bank CD in the amount of \$303,011.26 had been renewed at 0.30 percent, and the CDARS in the amount of \$600,000.00 had been renewed at a rate of 0.20 percent.

Discussion on 2012 Budget Schedule

Alderman Krause noted that the proposed schedule had been included in the Council packets for review.

Discussion/Action on authorization for sale and/or disposal of surplus property

Krause/Hartz motion to authorize the sale and/or disposal of surplus items as listed in the Council packets, with all proceeds to be returned to the General Fund.

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

Discussion/Action on award of bid for 2011 Street Maintenance Program

Krause/Kehoe motion to award bid to Payne and Dolan for an amount not to exceed \$605,000.00, to be funded from the Capital Projects Fund; including approval of Sections 1-11, 13, 17, 19-20; designation of Section 18 to be funded from TIF; and any remaining balance to be applied toward a portion of Section 12.

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

Discussion/Action on construction services proposal from Crispell-Snyder for 2011 Street Maintenance Program

Krause/Kehoe motion to approve proposal from Crispell-Snyder for an amount not to exceed \$41,000.00 to be funded from Capital Projects Fund, subject to any modifications recommended by the City Attorney for the standard terms and conditions of the agreement.

Roll Call: Marsala, Kehoe, Kupsik, O'Neill, Krause, Hartz, and Mott voted "yes". Krohn voted "no". Motion carried by vote of 7 to 1.

Discussion/Action on repair of storm sewer connection inside the Center Street storm tunnel by Humphreys Contracting (recommended by Public Works 8/18/11)

Krause/Marsala motion to approve repairs for an amount not to exceed \$1,200.00, to be funded from the Street Maintenance Program.

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

Discussion/Action on Main Street traffic signal improvement proposal from Crispell-Snyder (continued from 8/8/11)

Krause/Mott motion to approve proposal from Crispell-Snyder for an amount not to exceed \$40,000.00 to be funded from TIF, subject to any modifications recommended by the City Attorney for the standard terms and conditions of the agreement.

Roll Call: Marsala, Kehoe, Kupsik, Krohn, Krause, Hartz, and Mott voted "yes". O'Neill voted "no". Motion carried by vote of 7 to 1.

Discussion/Action on proposal from Energy Consultants for installation of motion-activated sensors and lighting upgrades at City Hall (recommended by Public Works 8/18/11)

Krause/Marsala motion to approve proposal in the amount of \$5,050.50, subject to determination from Alliant Energy on the City's qualification for the shared savings program.

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

Discussion/Action on Memorandum of Understanding between the City of Lake Geneva and the Geneva Lakes Family YMCA

Krause/Mott motion to approve, subject to inclusion of the specifications identified in the Plan Commission recommendation on the Site Plan Amendment for the volleyball courts. This memorandum would specify that all construction and maintenance costs associated with the volleyball courts would be the responsibility of the YMCA. Unanimously carried.

Plan Commission Recommendations – Alderman Hartz

Discussion/Action on sale of City-owned land at 120 Sheridan Springs Road, more precisely described as Tax Key No. ZYUP 00123 and the Southwest portion of ZYUP 00138

Hartz/Kehoe motion to approve. Alderman Hartz noted that Plan Commission approval is required by ordinance for the sale of any land by the City. Administrator Jordan reported that the Council had previously authorized a counter-offer of \$300,000.00 for the sale, and the purchaser was in the process of drawing up an agreement.

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

Discussion/Action on Site Plan Amendment filed by the City of Lake Geneva for an amendment to the Dunn Field Skate Park

Hartz/Kupsik motion to approve the Site Plan Amendment. Alderman Hartz reported that the proposed configuration of the new skate park site would not conflict with any utility lines or easements. Unanimously carried.

Discussion/Action on Site Plan Amendment filed by the City of Lake Geneva for an amendment to Veterans Park adding volleyball courts

Hartz/Mott motion to approve the Site Plan Amendment, subject to specified dimensions including an end clearance of 26 feet, with a side clearance of 16 feet, and 10 feet between the two standards. Unanimously carried.

Presentation of Accounts – Alderman Krause

Purchase Orders. None.

Krause/Marsala motion to approve prepaid bills in the amount of \$2,475.00.

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

Krause/Marsala motion to approve regular bills in the amount of \$352,650.45.

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

Krause/Marsala motion to accept the monthly report of the City Treasurer for the month ending July 31, 2011.
Unanimously carried.

Closed Session

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

The Council entered into Closed Session at 11:58pm. Also present: Administrator Jordan, City Attorney Draper, and City Clerk Reale.

Marsala/Mott 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: Marsala, Kehoe, Kupsik, Krohn, O'Neill, Krause, Hartz, and Mott voted "yes". Unanimously carried. The Council reconvened in open session at 12:12am.

Hartz/Kupsik motion to direct the City Attorney to dismiss the case against the Village of Bloomfield incorporation without cost to either party.

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

Adjournment

Mott/Kupsik motion to adjourn at 12:16am. Unanimously carried.

/s/ Jeremy A. Reale, City Clerk

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