

SPECIAL CITY COUNCIL MEETING

TUESDAY, AUGUST 30, 2011 – 5:00 PM

COUNCIL CHAMBERS, CITY HALL

Mayor Connors called the meeting to order at 5:00pm.

The Pledge of Allegiance was led by Alderman Kupsik.

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

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.

Nancy Alberty, 1039 Wheeler Street, commented that there appeared to be something fishy about the events surrounding the Council's consideration of Ordinance 11-23. As a native of Wisconsin, she stated that she had been instilled with certain values and principles that were shaken during the time she spent exposed to the corruption and dishonesty of Illinois politics while she lived in that state. She noted that she had moved to Lake Geneva for its small-town character and because she desperately craved an escape from the political culture of Illinois. She therefore urged the Council to think of the citizens of Lake Geneva and embrace the values of honesty and integrity in its deliberations.

Spyro Condos, 1760 Hillcrest Drive, stated that he believed the special meetings being held by the Council for the readings of Ordinance 11-23 were illegal in that they had not been properly noticed in the official newspaper of the City, which is only published on a weekly basis. Given the importance of the issue at hand, he felt that simply posting notice of the meetings at City Hall was insufficient to inform the public of the business being conducted by the Council. He further asked that the City Attorney provide an opinion as to the legal timeframe required between consecutive readings of ordinances, as the First Reading on Ordinance 11-23 had just been completed on the previous evening. He also noted that the citizens who attended the special meeting on August 29 had not been informed at that time that another meeting for a Second Reading was to be held the following day. Mr. Condos stated that City officials who take an oath to uphold the law should be deeply concerned about these events.

Jerry Summers, 930 Maytag, noted that the Council had been given another chance to correct its previous mistake in supporting a change to the Comprehensive Plan, adding that he believed there was a reason for this additional opportunity. He stated that he hoped the aldermen would find it in their consciences to realize the previous mistake and take this opportunity to vote against the amendment.

Dona Palmer, 270 Country Club Drive, discussed her familial roots in the Geneva Lake area and commented on the fact she now realized that her passion for protecting the resources of the area paled in comparison to the passion of the generations who preceded her and those that would follow. She joined in the call of the Conservancy to oppose this amendment, and pleaded that the land in question be allowed to continue in its natural state to preserve the watershed of Geneva Lake. She recited a quotation from Chief Dan George that underscored her concerns about the impact of modern activities on the ability of future generations to enjoy the quality of environmental resources that their ancestors had enjoyed. She then presented each member of the Council with a City Hall "safe fire" to be used to signal their support for preserving the natural environment for future generations by voting against the amendment or recusing themselves.

Richard Malmin, N1991 S. Lake Shore Drive, Town of Linn, referenced a recent letter published in *The Regional News* regarding the "sleeping giant" in Lake Geneva that loves and will do anything to protect the lake. He noted that this "giant" was an amalgam of the wealthy families and residents who live on Geneva Lake and were willing to invest considerable amounts of personal funds to preserve the beauty and quality of the lake and its surrounding environment. Mr. Malmin discussed the history of the efforts employed by this group in negotiating with Mr. Hummel to purchase the property in question and the fact that, after those negotiations had fallen apart, the developer then ultimately sued

many of those individuals involved. He cautioned the Council against approving this change as a means of settling the lawsuit with Geneva Ridge Joint Venture, as such an action carried further legal risks because it would constitute illegal contract zoning. He stated that it was obvious the citizens of Lake Geneva did not want this development; however, it appeared they were no match for the powerful Hummel lobbyists in the City such as the Utility Commission, Chamber of Commerce, Lake Geneva Economic Development Corporation, City staff, and *The Regional News*. He suggested that five members of the Council would risk their reputations by moving forward with this amendment, and appealed to them to find it in their hearts to change their votes.

Bob Nordhaus, 1566 Orchard Lane, challenged the Council members to look into the eyes of the good people of Lake Geneva who had consistently voiced opposition to this development. He asked that City officials honor the trust placed in them by those they were elected to represent, rather than siding with developers who have no local ties and don't care about the area or its resources. He questioned the need to act so quickly on this ordinance, and to act without providing any explanation to the public as to the reasons for taking an action to change the Comprehensive Plan. Mr. Nordhaus noted that he had traveled around the world and had found very few lakes with the quality and atmosphere of Geneva Lake. This was something he believed was worth protecting.

Grace Hanny, W2865 Swinghurst Lane, Town of Linn, relayed the story of her time as a resident of Williams Bay in the 1970s, when a developer had bought the area known as Kishwauketoe with the intention to construct a large-scale development on the site. At that time, another village board was voted into power and joined together with the citizens in opposing the development plan, which ultimately went to referendum and was defeated. The parties were sued by the developer and accepted the consequences, and now area residents were able to enjoy the beauty of Kishwauketoe. Ms. Hanny noted that the Geneva Ridge property was another example of a pristine wetlands area worthy of preservation, and urged the Council to oppose Ordinance 11-23.

Marcie Hollmann, 1566 Orchard Lane, remarked that she had been very disheartened when she left the Council meeting on August 29. She noted that she had seen so many faces of good, community-minded people in the Council chambers over the past few nights, all pleading for the Council to stop this development from moving forward. She wondered why City officials would be contemplating working with an entity with whom it was already involved in litigation, and why the public had not been given any answers to the questions raised about the proposed amendment. Ms. Hollmann asked the aldermen to look to the citizens and to the future in casting their votes on Ordinance 11-23.

Second Reading and Approval of Ordinance 11-23, amending the City of Lake Geneva Comprehensive Plan
City Clerk Reale publicly read Ordinance 11-23 in its entirety.

Hartz/Kehoe motion to approve Ordinance 11-23.

Alderman Hartz noted that several speakers had asked for an explanation from the Council as to why an amendment was necessary. He then offered the following points in support of Ordinance 11-23:

- 1) the Comprehensive Plan adopted in 2009 contemplated that changes in the plan would be considered;
- 2) the Comprehensive Plan identified the property in question as one to be developed;
- 3) the text of the plan identifies and defines the area in question as Planned Neighborhood;
- 4) the issue at hand was not one of zoning;
- 5) there was no development plan nor concept for the property before the Council;
- 6) all previous development plans submitted by the developer had been denied;
- 7) the single largest number of permits issued for single-family home construction in a single year had been twenty-five in 2006;
- 8) adopting the plan amendment would not raise taxes;
- 9) the City does not control the number of boats on Geneva Lake;
- 10) passage of the plan amendment would not destroy Geneva Lake;
- 11) the Geneva Ridge property is currently in the Geneva Lake watershed
- 12) the City exercises no environmental control over the property;
- 13) current farming practices utilized on the property adversely affected the watershed;
- 14) the City exercises zoning control over the property, and any changes would require a well-defined process to be followed that would include opportunities for public input;

- 15) threats of additional lawsuits or economic boycotts would have no effect on decisions rendered by the Council on this request, as it was acting as a quasi-judicial body; and
- 16) the issue is not about a developer, but rather about a piece of land in the City.

Alderman Hartz then commented on factors in the City that had changed since the original adoption of the Comprehensive Plan in 2009, including: a substantial decrease in the number of available lots; the completion of the Highway 120 bypass that had been designed to direct the growth of the City southward; construction of Citywide Electric along Highway 120; the Lake Geneva Economic Development Corporation had begun construction on an adjacent property; and the Town of Bloomfield had been granted permission from the State to begin the incorporation process which, if approved, would restrict the City's ability to control growth on its southern and eastern borders.

Alderman O'Neill noted that the City had not followed the amendment procedures specified in the Comprehensive Plan, adding that if the plan was to be of any value, it should be followed by the City. He also reiterated that the change being proposed was a significant change to the Comprehensive Plan, and noted that nothing in the law would prevent a future Council from reversing the decision in the following spring. He further cautioned that the Council should not be making agreements in closed session, as discussions and agreements made behind closed doors led to an erosion of the public's trust. Finally, he questioned what good is a representative who doesn't listen and represent the will of his or her constituents.

O'Neill/Krohn motion to strike the word "no" contained in the reference to the future land use for the Geneva Ridge property on Map 5a, as attached and incorporated into Ordinance 11-23. According to the motion, the reference to the subject property would read "To: Planned Neighborhood with Long Range Exurban Growth Area". Alderman O'Neill stated that this change would be entirely compatible with the Comprehensive Plan, and it would give the developer the zoning potential he sought while maintaining the desire of the public to see the property remain undeveloped for an extended period of time. Alderman Hartz argued that such a change would be counterintuitive to the factors he had previously delineated in support of Ordinance 11-23.

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

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

Adjournment

Hartz/Kehoe motion to adjourn at 5:45pm. Unanimously carried.

/s/ Jeremy A. Reale, City Clerk

THESE ARE NOT OFFICIAL MINUTES UNTIL APPROVED BY THE COMMON COUNCIL