

# **REGULAR CITY COUNCIL MEETING**

## **MONDAY, SEPTEMBER 12, 2011 – 7:00 PM**

### **COUNCIL CHAMBERS, CITY HALL**

Mayor Connors called the meeting to order at 7:32pm.

The Council observed a moment of silent reflection on the occasion of the tenth anniversary of the terrorist attacks of September 11, 2001.

The Pledge of Allegiance was led by Alderman Krohn.

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

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

Mayor Connors presented a plaque and proclamation declaring the week of September 11-17, 2011 as “National Assisted Living Week – Forever Proud” in the City of Lake Geneva to Andy Kerwin of Arbor Village Assisted Living Community.

**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.**

Gary Milliette, 493 Wrigley Drive, commented on the parking station system proposal. He stated that he found a couple of issues surrounding the system to be troubling. First, he noted that the cost was already fifty percent over the budget as initially conceived, adding that he could not understand how the price could have increased so drastically over a two-year period. Mr. Milliette also remarked that there was a lack of specifications for the equipment and additional work required for the project, including electrical and connectivity, and questioned whether it was prudent to approve such a significant expenditure without having this information. As a data-driven system, he questioned whether there were any real advantages to using a Wi-Fi system since this would be more complex and less reliable than a cellular system. He noted that the Pro-Phoenix system utilized by the Police Department used cell card technology, and suggested that City officials discuss that technology with Pro-Phoenix representatives to see if there are any “blind spots” in the downtown area that cannot get coverage.

Robert Flemming, 315 Walworth Street, suggested that the rental registration and building maintenance code ordinance be delayed for consideration at a later date.

Pete Peterson, 1601 Evergreen Lane, addressed the Council with respect to the proposal from K-Consult, LLC, for a telecommunications audit of the City’s AT&T packages. He stated that finding unnecessary and underutilized features within the systems engaged by the City should be an ongoing responsibility of the City Administrator, noting that AT&T and other telecommunications firms provide these services at no cost. To that point, he suggested that it was time for the Council to consider whether the current Administrator was effectively fulfilling the responsibilities of the office. Mr. Peterson also expressed the opinion that the City Attorney should resign.

**Acknowledgement of Correspondence** None.

#### **Approval of Minutes**

Kehoe/Marsala motion to approve Regular City Council Meeting minutes of August 22, 2011; Special City Council Meeting minutes of August 29, 2011; and Special City Council Meeting minutes of August 30, 2011, as published and distributed. Unanimously carried.

**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 (continued from 8/22/11)**

City Attorney Draper noted that, by ordinance, the Council was required to hold two consecutive readings of any ordinance prior to taking action. Because there had been no full first reading nor any vote to waive that reading, he instructed the Council that it would not be able to take any action with respect to Ordinance 11-22. He suggested that the ordinance should be continued to the next regular meeting and placed upon that agenda for a first reading.

Hartz/Marsala motion to continue to the next regular meeting of September 26, 2011 as a First Reading. Unanimously carried.

**Discussion/Action on parking station system proposal (continued from 8/22/11)**

Hartz/Krause motion to continue to the next regular meeting of September 26, 2011. Administrator Jordan addressed the previous comments made by Mr. Milliette regarding the cost of the parking stations, stating that the City initially planned for forty-eight to sixty stations. Under the current proposal, a total of seventy-four stations was being proposed for the new LUKE system; however, subsequent investigation by City officials had centered on the possibility of reducing that amount. If, for example, it was determined that sixty stations could reasonably service the City's parking areas, this would reduce the overall project cost to approximately \$760,000.00. Administrator Jordan told the aldermen that City staff would continue to evaluate the situation and obtain more finite details before the proposal would return to the Council for action.

Alderman Marsala noted that he had taken an opportunity to look around the downtown area to visualize an appropriate number of stations that could be used, and he suggested that his colleagues should likewise conduct field investigations to help come to some consensus on that issue. Alderman Kehoe stressed the importance of looking into other options to address the City's parking issues, including the possibility of constructing a parking garage. Alderman O'Neill contended that the primary purpose of providing parking was not to create a revenue stream for the City, but rather to draw residents and visitors into the downtown and lakefront areas. He also commented on the possibility of an increase in parking fees, questioning whether this would reduce consumer traffic to downtown merchants. The concept of a minimum parking fee presented itself as problematic to Alderman O'Neill, as he speculated that this could drive business away from those establishments at which patrons generally may not spend more than a few minutes. He stated that the Council needed to specify the type of parking rates that would become effective with the new parking station system. He also raised questions about the handling of resident parking stickers and applicable time limits under the LUKE system. All of these issues needed to be addressed in a more detailed, specific plan for implementation.

Alderman Hartz responded that the proposal was being continued precisely for the purpose of getting the details sought by Alderman O'Neill and other members of the Council. He also disputed the notion that lower parking rates had any effect in improving revenues to local businesses, adding that studies of the issue appeared to indicate that the opposite was true. Alderman Krause suggested that the Council should consider holding a special meeting to focus entirely upon addressing the questions and concerns about the parking system proposal. Alderman Marsala noted that the City was looking into ways to bring its existing parking system up-to-date and improve efficiency. While he agreed that parking was not designed primarily as a revenue source, he acknowledged that it does in fact provide revenue to the City that would otherwise have to come from the taxpayers. Administrator Jordan asked the Council to consider the fact that the features of the new parking stations would provide ease of payment, pay-by-phone capabilities, multilingual display, and would have allowances for resident parking. From an organizational standpoint, the system would also address internal controls concerns about the City's collection and handling of parking fees. Alderman Kupsik asked if continuing to delay making a decision on the system would impact the ability of the City to get a new system in place and operational before the next season. Administrator Jordan asked that the aldermen provide him with any questions or concerns in writing as soon as possible, so these issues could be addressed at the next meeting.

Motion to continue carried unanimously.

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

### RESOLUTIONS

#### **Resolution 11-R51, amending the 2011 budget to transfer \$850.00 from the Historic Preservation Account to the Undesignated Fund Balance**

Krause/Hartz motion to approve Resolution 11-R51.

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

#### **Resolution 11-R52, amending the 2011 Capital Projects Fund Budget to transfer a total of \$96,000.00 from various budgetary accounts associated with projects included in the 2011 Street Improvement Program, to the 2011 Street Improvement Program Account**

Krause/Marsala motion to approve Resolution 11-R52.

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

### ORDINANCES

#### **First Reading of Ordinance 11-24, amending Chapter 26, Elections, of the Lake Geneva Municipal Code by establishing new boundaries for aldermanic districts**

Krause/Kupsik motion to waive the full reading of Ordinance 11-24, and to read by title only. Unanimously carried.

#### **First Reading of Ordinance 11-25, amending Chapter 2, Administration, of the Lake Geneva Municipal Code regarding the appointment of positions designated as officers of the City (*recommended by the Personnel Committee 8/30/11*)**

Krause/Hartz motion to waive the full reading of Ordinance 11-25, and to read by title only. Unanimously carried. Alderman O’Neill stated that he had been bothered by the fact that Ordinance 11-25 would eliminate the positions of Street Superintendent, Building Inspector, and Zoning Administrator from the list of individuals designated as appointed officers of the City, which would effectively transfer the termination authority for those positions out of the hands of the Council. City Attorney Draper noted that the ordinance would accomplish two things: first, it would pare down the list of officers to include only those personnel identified as statutory officers (with the exception of the City Administrator, which is not a statutory officer) and it would provide the Council with the appointment authority for those officers. As currently written, City ordinances provided that officers were to be appointed by the mayor, subject to Council approval. City Attorney Draper reasoned that eliminating the mayor from the process would reduce the potential for the hiring process to become politicized, and would more closely conform to the actual hiring practices already being used by the City. Alderman O’Neill agreed with the elimination of the mayoral appointment; however, he continued to object on the basis that termination authority over the Street Superintendent, Building Inspector, and Zoning Administrator should remain with the Council.

#### **First Reading of Ordinance 11-26, regarding the collection and assessment of delinquent municipal debts**

Krause/O’Neill motion to waive the full reading of Ordinance 11-26, and to read by title only. Motion carried by vote of 7 to 1, Alderman Mott opposed.

### 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 (*continued from 8/22/11*)**

Krause/Kupsik motion to approve the request, including specification for live music between the hours of 2:00pm and 11:00pm. Unanimously carried.

**Temporary Class “B” Retail License application filed by St. Francis de Sales Church for the sale of fermented malt beverages during Fall Festival/Pig Roast at St. Francis de Sales Church, 148 E. Main Street, on September 18, 2011, from 11:30am to 5:00pm**

Krause/Marsala motion to approve. Motion carried by vote of 7 to 0, Alderman O’Neill abstaining.

**Park Permit application filed by Boy Scout Troop 235 for rocket launching contest at Dunn Field on September 17, 2011, from 8:00am to 2:00pm, with rain date of September 24, 2011 (recommended by Board of Park Commissioners 9/7/11, including waiver of fees)**

Krause/Kupsik motion to approve, including waiver of park rental fees. Unanimously carried.

**Original Operator License applications filed by Jazzmine Behn, Todd Henricksen, Jodi Chapman, and Nicholas Jensen**

Krause/Hartz motion to approve. Unanimously carried.

**Discussion/Action on RFP for professional auditing services**

Alderman Krause reported that this item had been recommended for continuation to afford each of the aldermen additional time to review the proposals from Baker Tilly, Deignan & Associates, and Schenck.

Krause/Marsala motion to continue to the next regular meeting of September 26, 2011, subject to review of the proposals by the aldermen. Unanimously carried.

**Discussion/Action on award of bid for sale of 1988 E-One aerial ladder truck**

Krause/Kupsik motion to authorize sale to the Brownsville Fire Department for the amount of \$96,895.00, with proceeds of the sale to be directed to the General Fund. Mayor Connors suggested that the Council may wish to dedicate a portion of the proceeds to a vehicle replacement fund, which could be built to fund future vehicle purchases in accordance with the stated will of the Council to begin creating sinking funds for capital items. During subsequent discussion, Alderman Krohn noted that funding had previously been set aside for the purchase of a new fire truck, only to have those funds taken and applied toward an ambulance. To that point, she questioned how the Council could control access to capital replacement funds to ensure that they were spent only on those purposes for which they were intended. City Attorney Draper advised that the Council would not have the authority to bind future councils to a particular course of action with respect to the spending of these capital replacement funds, adding that the only way to regulate spending was through borrowing. Alderman O’Neill suggested the possibility of passing an ordinance to require unanimous approval by the Council for any request to spend money from capital replacement funds on items other than those originally intended. In the subsequent discussion, the consensus of the Council was that it had been previously specified that the proceeds from the sale of any City property would be returned to the General Fund. City Attorney Draper commented on the suggestion that an ordinance could be adopted to require unanimous approval for spending of capital replacement funds on other items. He stated that he would investigate the issue; however, his sense was that it probably would not be permitted, as such an ordinance would effectively bind future councils to a particular course of action with respect to the spending of those funds.

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

**Discussion/Action on award of bid for 2011 fall tree planting**

Krause/Marsala motion to authorize the award of bid to Dan Larsen Landscaping in the amount of \$13,351.30, to be funded from TIF.

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

**Discussion/Action on award of bid for Flat Iron Park pavilion replacement**

Kupsik/Mott motion to authorize the award of bid to Big Foot Construction in the amount of \$45,900.00, contingent upon the approval of the accompanying purchase order for materials. DPW Winkler reported that the bid would cover the installation of the pavilion materials purchased by the City, along with additional sidewalk and electrical work associated with the replacement of the existing gazebo. The pavilion was to be a 24’ octagonal structure with masonry columns and tiled roof to complement the Riviera.

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

**Discussion/Action on approval of contract with k-Consult, LLC, to negotiate changes with AT&T for City telecommunications packages**

Administrator Jordan was asked to respond to previous comments made regarding the responsibility of the administrator to discern and negotiate possible cost-saving changes with the City’s telecommunications services. He noted that the City had begun working with a representative from AT&T on this approximately three years earlier; however, the results had been less than satisfactory. He also stated that AT&T would confirm the existence of certain telecommunications features, but would not confirm whether or not they are being utilized without being pressed by the customer. He added that it was very difficult for a person without specialized knowledge to read the terms of the services and understand the nomenclature used by AT&T.

Krause/Marsala motion to suspend the rules to permit Joe Kitzinger to address the Council. Unanimously carried. Mr. Kitzinger stated that it required a highly specialized set of skills to be able to properly discern the scope of telecommunication services offered and identify possible areas in which savings could be realized. He noted that AT&T had recently downsized its staffing in the City’s market and was unlikely to be of much assistance in identifying potential cost savings for the client. He also reminded the Council that it really was not in the best interests of AT&T to assist their clients in finding ways to reduce the amounts billed for services. Mr. Kitzinger stated that payment for his services would come entirely from a percentage of actual savings realized by the City for the first year of the agreement; there was no guaranteed minimum payment. Therefore, the contract provided him with an incentive to find as much savings as possible for the client.

Krause/Hartz motion to approve contract with k-Consult, LLC, for term of one year.

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

**Discussion/Action on disallowance of claim for water damages at 7253 Sheridan Springs Road, filed by Robert Horvath, Geneva Lakes Carpet Cleaning, and Alan & SueAnn Gezunterman, pursuant to Wis. Stats. 893.80 (1g)**

Krause/Kupsik motion to disallow the claim. Motion carried by vote of 6 to 2, Aldermen Krohn and O’Neill opposed.

**Public Works Committee Recommendations – Alderman Mott**

**Discussion/Action on maintenance agreement for extended sidewalk from U.S. Highway 12 and STH 120 Interchange to Showboat Theatres (*recommended on 8/18/11*)**

DPW Winkler reported that the Wisconsin Department of Transportation had proposed constructing a sidewalk from the Geneva Square area to the Showboat Theatres as part of the overall improvements at the U.S. Highway 12 and STH 120 interchange. This sidewalk was to be constructed at no cost to either the City or the Town of Lyons; however, the town had indicated that it would not accept maintenance responsibility for the sidewalk. Because the sidewalk would generally serve as a means of transportation for City residents to the theater, the Public Works Committee had discussed the possibility of having the City personnel accept responsibility for the routine clearing and maintaining of the sidewalk.

Alderman Krause expressed skepticism regarding the potential use of the sidewalk, noting that it was quite a distance from most of the residential districts in the City. He asked if the State had conducted any studies on the potential use of the sidewalk, and also inquired about the City’s liability for maintenance. Alderman Marsala noted that Street Superintendent Carstensen had indicated to the Public Works Committee that maintenance of the additional sidewalk would not be problematic for his personnel. Alderman Hartz added that the sidewalk extension would provide a safe means for children to travel to the Showboat.

Mott/Kupsik motion to recommend acceptance of maintenance responsibility for the east/south sidewalk, subject to State construction of the sidewalk and clarification from the City’s insurance provider as to liability.

During subsequent discussion, City Attorney Draper noted that the approval of the Town of Lyons would be required for the construction of the sidewalk, as the City could not authorize the project to proceed outside of its jurisdiction. He therefore suggested entering into a shared services agreement with Lyons. There were additional questions as to whether the location of the proposed sidewalk would place it under the jurisdiction of the town or the State. DPW Winkler stated that the sidewalk was to be situated within the State right-of-way and it was his understanding that the Town of Lyons had no standing to deny its construction.

Motion withdrawn.

Hartz/Mott motion to accept maintenance responsibility for the east/south sidewalk, subject to: State construction of the sidewalk, approval by Town of Lyons, approval of the City's insurance provider as to any potential liability concerns, and clarification of any jurisdictional issues between the State and the Town of Lyons.

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

#### **Presentation of Accounts – Alderman Krause**

Krause/Marsala motion to approve Purchase Order No. 46 in the amount of \$19,510.00.

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

Krause/Kupsik motion to approve Purchase Order No. 47 in the amount of \$16,440.00.

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

Krause/Hartz motion to approve prepaid bills in the amount of \$3,449.80.

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

Krause/Hartz motion to approve regular bills in the amount of \$242,300.05.

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

Krause/Hartz motion to approve regular bill for Del's Service, Inc., in the amount of \$100.00.

Roll Call: O'Neill, Krause, Hartz, Mott, Marsala, Kehoe, and Kupsik voted "yes". Alderman Krohn abstained. Motion carried by vote of 7 to 0, with 1 abstention.

#### **Adjournment**

Kehoe/Kupsik motion to adjourn at 9:48pm. Unanimously carried.

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/s/ Jeremy A. Reale, City Clerk

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