

REGULAR MEETING OF THE COMMON COUNCIL  
CITY OF HUDSON  
JANUARY 23, 2012

**DRAFT-UNAPPROVED**

Meeting called to order by Mayor Alan Burchill in the Council Chambers of City Hall at 7:00 p.m. and let those present in the pledge of allegiance.

PRESENT: Mayor Burchill and Alderpersons Randy Morrisette, Mary Yacoub, Lori Bernard, Lee Wyland, John Hoggatt and Rich Vanselow.

OTHERS PRESENT: Catherine Munkittrick, Devin Willi, Marty Jensen, Denny Darnold, Randy, Hanson, Kurt Tewinkle, Miles Jensen, Joe Munson, Sarah Bruch, and others.

COMMENTS AND SUGGESTIONS FROM CITIZENS PRESENT: Miles Jensen and Joe Munson, students representing Youth Action Hudson, presented information regarding the Empty Bowls Dinner to be held on February 3, 2012 from 5:00 p.m. to 7:00 p.m. in the River Room at the Phipps Center for the Arts. They explained that this is a grassroots effort to fight hunger, and a simple supper of soup and bread will be served; proceeds will benefit The Source, and guests may keep the empty bowls as a reminder of all empty bowls in the world. The community was invited to attend.

Police Chief Jensen announced that a snowplowing event was declared in the City of Hudson; he reminded people to move their vehicles off the streets until they have been plowed curb to curb.

CONSENT AGENDA ITEMS: MOTION by Wyland, second by Bernard to approve the following consent agenda items:

MINUTES: Approve the Regular Meeting minutes of 1/9/12.

CLAIMS: Approve the following claims for payment:

		Council Claims - January 23, 2012		
FUND	DESCRIPTION	PAYABLES	PAYROLL	TOTALS
100	General	222,010.40	122,017.50	344,027.90
225	Impact Collection	939.04	0.00	939.04
280	Park Donations	24,709.65	0.00	24,709.65
450	Capital Projects	41,752.25	0.00	41,752.25
610	Sewer	129,145.22	10,917.66	140,062.88
620	Parking	2,646.42	1,113.92	3,760.34
630	Ambulance	30,961.68	8,871.16	39,832.84
860	Tax Agency	359,828.57	0.00	359,828.57
	<b>TOTALS</b>	<b>811,993.23</b>	<b>142,920.24</b>	<b>954,913.47</b>

APPLICATIONS FOR OPERATOR'S LICENSES: Approve the issuance of Regular Operator's Licenses for the period 1/24/12 to 6/30/13 **to:**

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Adam D. Christoffersen      927 Willow Ridge Road      Hudson, WI  
Thomas R. Schlieff      1037 Highway 35N      Hudson, WI

APPLICATION OF RICHARD W. INLOW FOR SECONDHAND JEWELRY DEALER'S LICENSE D/B/A/ INLOW JEWELERS AT 523 SECOND STREET: Approve issuance of a Secondhand Jewelry Dealer's License to Richard W. Inlow d/b/a Inlow Jewelers at 523 Second Street.

APPLICATION OF ANDREW J. SCHMITZ FOR AMUSEMENT DEVICE OWNER'S LICENSE D/B/A SUPERIOR VENDING, 7777 HWY. 65 NE, SPRING LAKE PARK, MN AND PERMITS FOR 11 AMUSEMENT DEVICES LOCATED AT ELLIE'S ON MAIN, 417 SECOND STREET, HUDSON, WI: Approve the issuance of an Amusement Device Owner's license to Andrew J. Schmitz d/b/a Superior Vending, 7777 Hwy. 65 NE, Spring Lake Park, MN and permits for 11 amusement devices located at Ellie's on Main, 417 Second Street, Hudson, WI.

UPDATE ON CITY GASOLINE PUMP SOFTWARE SYSTEM: Approve the update on City gasoline software system, as presented.

APPOINTMENT OF ELECTION INSPECTORS FOR 2012 THROUGH 2013: Approve the appointment of John Novak, 1704 Grey Fox Lane, and Jean Troyer, 1721 Hunter Hill Road, as Election Inspectors for the City of Hudson (Republican Party) for the term January 1, 2012 through December 31, 2013.

REPORTS OF CITY OFFICIALS, BOARDS, AND COMMISSIONS: Place on file the Quarterly report of the Police Chief, Fire Chief, and Building Inspector, quarterly investment report and monthly financial report of the Finance Officer, and Public Utility Commission minutes of 1/10/12.

Roll call vote taken, all ayes (6) MOTION CARRIED.

CONSIDER AMENDING CHAPTER 145 OF MUNICIPAL CODE REGARDING ALCOHOLIC BEVERAGE LICENSES - ORDINANCE NO. 2-12: City Attorney Catherine Munkittrick review the proposed ordinance and pointed out the changes the Council requested for revising the quota for "Class B" liquor licenses and wording on the 90-day start up and continuation of business. She also pointed out that wording was added regarding a licensee undertaking business activity related to their license at their own risk. Additional updates to Chapter 145 were recommended regarding sections, 145-8 (D) and 145-8 (E), as housekeeping items.

MOTION by Morrissette, second by Bernard to suspend the rules toward adoption of Ordinance No. 2-12. Roll call vote taken, Ayes (6), MOTION CARRIED.

Discussion was held regarding possible extensions to the 90-day requirement (to be open for business). It was noted a request for an extension should be requested at the time the application was being considered by the Council, or in a timely manner before the 90 days expire. Additional discussion was held concerning the criteria Council could use when applications are being considered for approval or denial.

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Mayor Burchill asked if anyone in the audience had any comments or concerns, none were heard. MOTION by Morrissette, second by Yacoub to adopt the following:

ORDINANCE NO. 2-12  
AMENDING CH. 145 OF MUNICIPAL CODE RE: LIQUOR LICENSES  
(Copy on file in Clerk's office and attached)

All ayes (6), MOTION CARRIED.

CONSIDER REFERRING TO THE PLAN COMMISSION THE APPLICATION REQUESTING REZONING THE PROPERTY AT 2200 CARMICHAEL ROAD FROM B-2 GENERAL BUSINESS TO PUB, PUBLIC OR QUASI-PUBLIC DISTRICT: Community Development Director Denny Darnold presented information regarding the application from Croixland Properties Ltd for rezoning the property at 2200 Carmichael Road from B-2 General Business to PUB, Public or Quasi-public District.

Mr. Darnold recommended referring the application to the Plan Commission and to set the public hearing date for Monday, March 12, 2012 or March 26, 2012. Discussion was held regarding past rezoning requests, the referendum question on the April 3, 2012 ballot, and estimated tax assessment information.

MOTION by Yacoub, second by Morrissette to forward the application requesting rezoning (the property at 2200 Carmichael Road from Croixland Properties Ltd.) to the Plan Commission and to set the public hearing date for Monday April 9, 2012 at 6:45 p.m. Brief discussion was held regarding the review process and possible rezoning options. All ayes (6) MOTION CARRIED.

DISALLOWANCE OF CLAIM OF SAFECO INSURANCE/SHAWN BORG/HARRY BORG - RESOLUTION NO. 3-12: MOTION by Morrissette, second by Yacoub to suspend the rules toward adoption of Resolution 3-12. Roll call vote taken, Ayes (6), MOTION CARRIED. MOTION by Vanselow, second by Yacoub to adopt the following:

RESOLUTION NO. 3-12  
DISALLOWING CLAIM OF SAFECO INSURANCE/SHAWN BORG/HARRY BORG  
(Copy on file in Clerk's office and attached)

All ayes (6), MOTION CARRIED.

COMMUNICATIONS AND RECOMMENATIONS OF THE MAYOR AND APPOINTMENT TO HUDSON HOUSING AUTHORITY: Mayor Burchill requested approval of his appointment of Darrell Youngberg to the Hudson Housing Authority to replace Everald DuBois, who recently resigned. MOTION by Bernard, second by Hoggatt to approve the appointment of Darrell Youngberg to the Hudson Housing Authority for the remainder of a five year term, through July of 2015. All ayes (6) MOTION CARRIED.

Mayor Burchill stated the 2010 Audit has been received and questions may be directed to the City Administrator or Finance Officer.

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COMMUNICATIONS AND ITEMS FOR FUTURE AGENDAS: Alderperson Wyland announced that the skating rinks (at Burton Field) were open. Alderperson Bernard reminded everyone to attend the Hot Air Affair events.

ADJOURNMENT: MOTION by Bernard, second by Yacoub to adjourn the meeting. All ayes (6), MOTION CARRIED at 7:26 p.m.

Nancy J. Korson, City Clerk

I hereby certify that the City Clerk has submitted the foregoing minutes to me, and I hereby by my signature approve said minutes and all acts of the Common Council as set forth therein.

Alan D. Burchill, Mayor

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Date approved by Council

**CITY OF HUDSON  
ORDINANCE NO. 2-12**

WHEREAS, the City of Hudson is growing and experiencing increased commercial development within the city limits;

WHEREAS, the City has received requests for alcohol beverage licenses from new businesses, primarily restaurants, to be located in the City;

WHEREAS, the Common Council believes restaurant development within the City is good for the City and the public;

WHEREAS, currently the City has granted all retail "Class B" liquor licenses authorized under its quota and has no further retail "Class B" liquor licenses available;

WHEREAS, the Common Council further finds that there is a need for new retail "Class B" liquor licenses for businesses locating in the City;

WHEREAS, the Common Council also finds that it is in the public interest that alcohol beverage licenses that are granted, be required to be used in connection with active operating businesses;

WHEREAS, the Council also finds that there may be some situations in which an alcohol beverage license applicant or existing alcohol beverage licensee may not be able start up or be open for business within or during the 90 day start up/continuation of business period, yet granting the license would be in the best interest of the City. Examples of such situations include, but are not limited to, situations where the applicant or existing licensee is proposing extensive remodeling of an existing building or construction of a new building as the alcohol beverage licensed premises.

NOW THEREFORE, the Common Council of the City of Hudson finds that it is in the interest of the public health, safety, and welfare, to amend Hudson City Code Chapter 145 regarding alcohol beverage licenses, and therefore ordains as follows:

Section 1. Timely Start-up and Continuation of Business.

Hudson City Code Section 145-12 F. regarding Timely Start Up and Continuation of Business shall be amended to read as follows:

1. Ninety Day Start-Up/Continuation of Business. Timely start-up and continuation of business is an on-going condition of an alcohol beverage license issued under this chapter. The Common Council may cancel, revoke, or not renew any license granted under this chapter if: 1) the privileges granted under the license are not exercised within 90 days after the granting of the license; or 2) the business for which the license was issued is discontinued or not open for business for the purpose of the license for a period of ninety consecutive days or more. Being open intermittently for periods of two days or less during the 90 day

period shall not be sufficient to avoid cancellation under this paragraph.

2. Extension of 90 day period. The Council, in its discretion, may extend the 90 day start-up or continuation of business period in situations in which the applicant or licensee is not able to start up within 90 days, or continue to be open for business for 90 days, due to circumstances such as extensive remodeling of a licensed premises, or where the license is issued for new construction and the applicant shows that the construction cannot reasonably be completed within the 90 day period, or other similar circumstances. The Council may require applicants/licensee requesting such an extension to provide information documenting and supporting the need for the extension. In such situations, the Council may extend the 90 day period as it deems reasonable and appropriate under the circumstances, and may condition any such extension upon evidence of progress, or other conditions that may be reasonable and appropriate under the circumstances.

3. Licensee undertakes business activity related to license at its own risk. Whether or not an extension is granted, any licensee granted an alcohol beverage license under this chapter commences any construction/remodeling or other activity related to opening the licensed business at its own risk. The granting and/or issuing of a license under this chapter are subject to the start up/continuation of business requirement. The granting and/or issuing of the license does not in any way preclude or limit the Council's authority to cancel, revoke, or not renew the license if the licensee fails to comply with the ongoing 90 day start-up/continuation of business requirement or any extension that is granted or any conditions of such an extension.

4. Notice of Hearing Before Cancellation. Before cancellation, revocation or non-renewal of the alcohol beverage license under this section, the City shall notify the licensee in writing of the City's intent to cancel, revoke or not renew the license for non-compliance with Section 145-12 F and provide the licensee with an opportunity for a hearing. The hearing shall be conducted according to Wis. Stat. §125.12 (2)(b) or any amendments thereto.

## Section 2. Quota for "Class B" Intoxicating Liquor License.

Hudson City Code Section 145-20 C. (1) (a). regarding quota for retail "Class B" intoxicating liquor licenses shall be amended to read:

a) The number of licenses as allowed under the provisions of Wis. Stat. Chapter 125, which, at the time of enactment of this ordinance is one per 500 population of the City, as annually estimated by the Wisconsin Department of Administration. Any future amendments, revisions or modifications of the quota under Wis. Stat. 125 shall, without further action by the Council, be made part of this Chapter.

Section 3. Repeal of Section 145-8 D and Amendment of Section 145-8 E .

- A. Hudson City Code Section 145-8 D regarding providing copies of alcohol beverage license applications to the State Treasurer is hereby repealed because it is obsolete.
- B. Section 145-8E shall be relettered to 145-8 D and the first sentence of the new Section 145-8D(1) shall be amended to read as follows:
  - (1) Whenever any Retail "Class A" liquor license, Retail Class "A" fermented malt beverage license, Retail "Class B" liquor license, Retail Class "B" fermented malt beverage license, or Retail "Class C" Wine license becomes available, the City Clerk shall publish a notice in the official newspaper that the alcohol beverage license is available, (identifying the type of license) and that further information is available from the City Clerk's office.

Section 4. Severability.

If any section or portion of this ordinance shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect.

Section 5. Effective Date.

This ordinance shall become effective after adoption and publication as required by law.

Adopted this 23<sup>rd</sup> day of January 2012.

CITY OF HUDSON:

BY: 

Alan D. Burchill, Mayor

ATTEST:

By: 

Nancy J. Korson, City Clerk

First Reading:     -    -  
~~Second~~ Reading:   1/23/12    
Date Published:   02/02/12    
Effective:   02/03/12

**RESOLUTION NO. 3-12**

**DISALLOWANCE OF CLAIM  
of SAFECO INSURANCE**

**WHEREAS**, a letter dated November 23, 2011, from Wilber Lane Law Firm, attorney for Safeco Insurance, was received by the City Clerk's office on November 28, 2011, and subsequent letters from the same law firm were received on December 9, 2011, and January 13, 2012; and

**WHEREAS**, in said letters Safeco claims a subrogation claim against the City of Hudson in the amount of \$11,000, then reduced January 13, 2012, to \$10,000, arising out of a sewer back-up incident that occurred at the Borg house on July 10, 2011 and alleges that said damages were caused by the City of Hudson and City of Hudson employees; and

**WHEREAS**, after a review of this matter by the City of Hudson Common Council, City Attorney, and the City's insurer, it is recommended that the claim be denied. The reason(s) for this denial include, but are not limited to: the investigation shows that the operator's action which led to this situation are protected under discretionary immunity, Safeco did not properly serve its notice of circumstances of claim and claim on the City, and failed to include an itemized statement of relief sought, and also fails to include a mailing address for Safeco Insurance, plus other defenses that may be available to the City.

**NOW, THEREFORE, BE IT RESOLVED** by the Common Council of the City of Hudson, Wisconsin that the claim submitted by Safeco Insurance, through its attorneys Wilber Lane Law Firm, be and the same is hereby disallowed. No action on this claim may be brought against the City of Hudson or any of its officers, officials, agents or employees after six months from the date of service of this notice upon you, pursuant to Sec. 893.80(1g) of Wisconsin Statutes.

**BE IT FURTHER RESOLVED**, that a copy of this resolution be forwarded to the claimant's attorney, by certified mail, return receipt requested, as a Notice of Disallowance. Because the claim does not include an address for the claimant, Safeco Insurance, the City has no information with which to send this Notice of Disallowance directly to Safeco Insurance.

Dated this 23th day of January 2012.

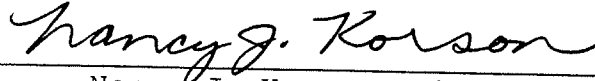
APPROVED:



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Alan D. Burchill, Mayor

ATTEST:



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Nancy J. Korson, City Clerk

cc: (Via Certified Mail Return Receipt Requested):

Shawn Borg/Harry Borg  
1312 Grandview Drive  
Hudson, WI 54016

Donald L. Wilber  
Wilber Lane Law Firm  
P.O. Box 2155  
Bloomington, Il 61702-2155