

CITY OF GLENDALE COMMON COUNCIL

Meeting Minutes
December 6, 2021

Regular meeting of the Common Council of the City of Glendale held in City Hall, 5909 North Milwaukee River Parkway, Glendale, Wisconsin and via Zoom conference call.

The meeting was called to order by Mayor Bryan Kennedy at 6:00 p.m.

Roll Call: Present: Mayor Bryan Kennedy, Ald. Tomika Vukovic, Jim Daugherty, John Gelhard, Richard Wiese, and Steve Schmelzling. Absent: Ald. JoAnn Shaw.

Other Officials Present: Rachel Safstrom, City Administrator; Shawn Lanser, Deputy City Administrator; John Fuchs, City Attorney; Mark Ferguson, Police Chief; and Megan Humitz, City Clerk.

PLEDGE OF ALLEGIANCE.

The members of the Common Council, City staff, and all those present pledged allegiance to the flag of the United States of America.

OPEN MEETING NOTICE.

Administrator Safstrom advised that in accordance with the Open Meeting Law, the local news media was advised on Thursday, December 2, 2021, of the date of this meeting; that the Agenda was posted on the official bulletin board of City Hall, the Glendale Police Department, and the North Shore Library; that copies of the Agenda were made available to the general public in the Municipal Building and the Police Department; and those persons who requested, were sent copies of the Agenda.

PUBLIC COMMENT.

Chief Ferguson presented City Attorney John Fuchs with a plaque in recognition and appreciation for 34 years of dedicated public service to the citizens of Glendale and the Glendale Police Department from April 13, 1987 to December 31, 2021.

PRESENTATION: NORTH SHORE LIBRARY FOUNDATION FOR FUNDING OF A NORTH SHORE LIBRARY IN THE VILLAGE OF BAYSIDE.

Administrator Safstrom stated Rinka Associates has been retained as part of the development process on the North Shore Library and will providing a presentation of initial concepts.

Rinka Associates introduced several of their representatives who were present: Matt Rinka – Partner, Audry Grill – Project Manager, Buck Knitt – Design Director, and Daniel Kabara – Architect. Mr. Rinka stated his firm is funded on a vision of thoughtful design specializing in unique places brining community together. The concept of the design is opportunity, vision and response to redefine the library as a destination. Rinka Associates sees the opportunity for the new library as the living room of the community, with a space for co-working, shared resources, activated spaces and hospitality. Offering the library as a community hub opens the door for space for programing and a place for learning in every form for all ages. The ideal space would include labs, maker spaces, studios, and meeting spaces. A similar design in the Memphis Library increased the usage of the space by 400%. The vision to redefine the library as a forward-thinking destination for the North Shore and beyond aims to be “new, best and different.” Rinka Associates

provided a concept of a destination community space, open and connected layout, indoor/outdoor connection, and activation. The response portion of the design is the site plan, and the Bayside TIF district finalized the approval last week. The base building will be placed on a community square in this area and there numerous potential uses off of the base building which are all interconnected. These include an open lawn for concerts and markets, a living room area, café community room, children's area, adult area, young adult section, resource library, community support, and circulation. Several of these areas would be able to function for after-hours events and special events. Mr. Rinka added they are excited to have the influence from the community members on the designs for the project.

Ald. Schmelzling stated he appreciated seeing the conceptual drawings provided by Rinka Associates. He raised concern that all the design concepts have to occur in 20,000 square feet, which includes the parking and that seems difficult to envision. Mr. Rinka stated he has spoken with the developer and as this is a multi-use building, which is becoming a popular trend in libraries to be mixed with apartments, there is some flexibility on the square footage to ensure it functions the way it needs to. The developer is not locked into the 20,000 square feet and would like to ensure the efficiency and maximum development possible are met, and they will work with staff to meet the space needs of the community.

Ald. Wiese questioned why there are no definitive plans for the physical structure. Mr. Rinka stated they are letting the library set the tone for the library itself, and the developer has put this forward as the most important piece of a larger puzzle. The overall size is still something that is being determined, but they anticipate having renderings and plans over the next several weeks. While there is complexity in the process, they would like to have plans to share with the community to get the influence of what the community needs are in the final design. The initial designs have begun but are not ready to be shared.

Ald. Gelhard questioned as this agenda item was noticed as a funding item if Rinka Associates was able to speak to the funding aspect of the project. Mr. Rinka stated he is not able to answer anything related to finances, as he is solely working on the design aspect of the project and not the fundraising.

Administrator Safstrom stated earlier today Bayside shared estimates regarding cost per square foot which are \$150-200 per square foot, with an estimated \$3-4.8 million estimated to be fundraised. Bayside will be looking into the assistance of a fundraising organization to assist with the process so it does not have to be done solely through the Library Foundation.

Ald. Daugherty requested clarification if the costs are for the structure or the inside only. Administrator Safstrom clarified it is for the inside, as the structure was a contribution from the developer.

Ald. Wiese requested more information on the status of the fundraising to date. Paul Pederson from the North Shore Library Foundation was present and stated that while they have been working on this for six years, nothing could officially be raised without renderings and concepts to determine how to go forward, and the official process could not begin until anything was established. Now that there are details in place, the Foundation can begin aggressively raising money and is determined to do so.

Glendale resident Helaine Glass, 6911 N. Crestwood Drive, stated that while it was an interesting presentation, she does not feel it defines a library, but it is more of a recreation center. She did not see anything about a children's room, area for teenagers, promotion of literacy or coming for books, and is concerned about the availability of parking. Ms. Glass was on a library committee and believes that there are library professionals who know how much space is needed for four communities, which would be more in the realm of 30,000 square feet, and while a library does not need to be all books the central focus should remain books and literacy. She would also like to know how many libraries Rinka Associates has designed and built, and feels professional input is necessary in going forward.

Glendale resident Robert Cronwell, 7530 N. Applewood Lane stated he enjoyed seeing the design concept, but feels it resembles more of a bookstore than a library. He is unsure why the Council wants to delay the amendment until June 30th, when the Foundation's raising money was not a contingency of the original amendment. Mayor Kennedy clarified an agreement cannot be reached without renderings and drawings, and as far as the budget item there is no way to know what can be raised towards a final cost if there is no design in mind. Therefore, the resolution was put forth to determine if the communities can reach a full understanding on the budget and the plans themselves. If library were to move to Bayside, they would not want any of the four communities to have to put up taxpayer money or capital expenditures. Administrator Safstrom added the MOU for fiscal agent had already been approved prior to this resolution. If the Council approved the extension, it would be acceptable to Bayside. If the expectations are still not met, the referendum on a Glendale library would not be until fall. Over the next six months, the Library Foundation would have time to meet their goals toward fundraising.

Ald. Vukovic requested clarification that motion being requested tonight is an extension of the deadline of the exact resolution previously approved from December 31, 2021, to June 30, 2022. Mayor Kennedy clarified this is the motion being presented. If the resolution does not pass, it will go to referendum in April and if extended to June it would be a fall referendum. Administrator Safstrom added December 2023 is the date to exit out of the library, however a fully functional library does not need to be in place by that date. During conversations with MCFLS, the City would need to hire a director and could have a plan to move forward.

Ald. Daugherty raised concerns that the fundraising is now unrealistic, when it seemed that at the time of the initial resolution the Council was reassured there would be costs provided and all would be in place by December 31, 2021. Mayor Kennedy stated without plans, there could not be marketing done because the specific details were completely unknown.

Ald. Schmelzling stated he would like to see expertise from libraries to build out the plans provided by Rinka Associates further and would like to see the confidence displayed by the Library Foundation show up in numbers. Since there are options, he would like to consider going to referendum and see where the votes fall. If the referendum fails, it will show the best interest is to go forward whole-heartedly with the Bayside option. Mayor Kennedy stated this could be a breach in contract if the City went to referendum after signing an agreement to be a part of the Bayside library. Attorney Fuchs added there would be difficulty in drafting a referendum question as it calls for a yes answer and must be phrased with sufficient specificity, which would mean taking a very large chance if giving voters an "in Glendale" vs outside option that could be challenged.

Mayor Kennedy stated the least expensive option for taxpayers is the Bayside option, and he does not want to put a referendum before the people if we are able to proceed with this option. Ald. Vukovic questioned if a referendum failed, what the options would be. Administrator Safstrom clarified one option is the \$980,000 annual fee to MFLS which would require cuts in the general fund budget. Another option would be to ask the Village of Brown Deer if they would allow Glendale to join their library.

Ald. Wiese raised concerns over the potential for fundraising efforts, given the efforts it took half of the amount for construction costs towards Maslowski Park in a 10-month period. Mayor Kennedy stated the Library Foundation has current commitments and contact with potential large donors and believes the goals are reachable given their past track record. Mr. Pederson confirmed they have a donor willing to put forth at least \$1 million, however it is based on the contingency that the agreement is approved.

Motion by Ald. Vukovic, seconded by Ald. Schmelzling, to approve the Resolution Amending the Conditional Approval of Amended and Re-Stated Joint Library Agreement for the North Shore Library. Ayes: Ald. Vukovic, Schmelzling. Noes: Ald. Daugherty, Gelhard, Wiese. Absent: Ald. Shaw. Abstain: None. Motion failed.

Mayor Kennedy requested an additional Council meeting on December 20, 2021 to determine if the Library Agreement will be signed. Administrator Safstrom confirmed the other communities will have already made decisions on the agreement prior to that date.

CONSENT AGENDA.

I. File No.

Adoption of Minutes of Meeting held on November 22, 2021, Approval of Accounts Payable, Appointment of Election Inspectors, and Pay Application First and FINAL to MJ Construction for Payment on Lead Service Lateral Program.

Motion by Ald. Wiese, seconded by Ald. Schmelzling, to adopt the minutes of the meeting held on November 22, 2021, Approve Accounts Payable, Appointment of Election Inspectors, and Pay Application First and FINAL to MJ Construction for Payment on Lead Service Lateral Program. Ayes: Ald. Vukovic, Daugherty, Gelhard, Wiese, and Schmelzling. Noes: None. Absent: Ald. Shaw. Abstain: None. Motion carried.

UNFINISHED BUSINESS.

II. File No.

Discussion on Potential Referendum for a possible Glendale Library.

Administrator Safstrom stated the Council requested additional information on a what a tax rate increase looks like for operating and debt. Two resolutions were also provided to the Council. The resolutions are consistent with the information provided from the League of WI Municipalities for formatting. They have also been reviewed by the City Attorney and Deputy Administrator. The increased requested for operational is 4.32% and for capital costs is 5.99% for a total of 10.31% increase in tax levy.

Ald. Wiese questioned if the City of Glendale goes the route of it's own library, what building what would be used to determine the costs. Administrator Safstrom clarified in determining the cost estimates, operational is fairly close as the level of service would want to be

kept the same. Capital expenses are more challenging because the building is unknown, as are any potential renovation costs, therefore the \$10 million is a fairly conservative number.

Ald. Vukovic questioned how the additional \$110 and \$75 increases for taxes in were determined. Administrator Safstrom clarified the assessed tax rate is \$1.02 per \$1,000 property valuation. The median home value in Glendale is \$250,000.

Ald. Schmelzling raised a question for the City Attorney in the event of a referendum that would pass, would the City be required to follow through if another option would be available, and what is the deadline in order to ensure an April referendum. Attorney Fuchs stated if a referendum passes, but the City chooses not to move forward on the project they are not required to do so, however they cannot increase the taxes if the project does not exist. January 25, 2022 is the deadline for the April ballot referendum.

Glendale resident Robert Cronwell, 7530 N. Applewood Lane, expressed the need for a referendum for the opportunity for those who want a library in Bayside to vote no and in the instance of a yes vote and passing referendum it will ensure funding is available and the process for a Glendale library can move forward. In regards to buying a new building, Mr. Cronwell has concerns regarding the lack of discussion over the possibility of utilizing the current North Shore Library space and rehabilitating the facility to keep it in the same location and call it a Glendale Library.

This item was for discussion and informational purposes only.

NEW BUSINESS.

III. File No.

Discussion and possible action for directing the City Attorney to file suit regarding 6801 N. Ironwood Lane – Public Nuisance.

City Attorney Fuchs stated this matter was brought to Council's attention at the last meeting, and it was noted that litigation as a public nuisance was an option. A file has been assembled and discussed with Attorney Bayer to discuss handling as there is a transition in City Attorneys. Assuming a summons a complaint is filed in December, City Attorney Fuchs will be replaced as attorney of record before an answer is due, which makes sense to file under Attorney Bayer's name. There will also be four matters of Circuit Court litigation pending simultaneously, which is a unique situation in the City's history and much to pass on. Attorney Fuchs recommends the discussion center upon whether the attorneys attempt to reach out to the State, or the Council authorizes the filing of litigation as a precursor to any discussions with the operator. Because of lack of response of the State to date, litigation is recommended.

Attorney Fuchs stated he has reviewed the police call log, activity reports and the final determination is not difficult in terms of whether there is a nuisance issue at 6801 N. Ironwood Lane. In less than one year's time, there were 36 incidents at the residence, which is a basis to file litigation. The primary individual behind most of the complaints at the residence has been transferred out and back into the facility, which could add a challenge to the suit. However, there is still reason to file even if the individual is gone as it indicates the business has operational issues allowing problems to come and go on a habitual basis. Attorney Fuchs recommendation is for Attorney Bayer to proceed with the filing, as the neighbors have tolerated the issue for a considerable length of time and the residence has not been receptive thus far to providing a positive

response. It is unlikely the home or the Department of Health Services will voluntarily proceed with rectifying the situation.

Glendale resident Ginny Gerth, 6861 N. Ironwood Lane, provided a copy of the Wisconsin State Statutes Chapter 50 Uniform Licensure Subchapter 1, Care and Service Residential Facilities, referring specifically to 50.03 (attached herein). Ms. Gerth noted this statute cites the facility was supposed to make efforts prior to licensure to notify the community and establish a community-based committee to inform residents of who is in the facility. While she understands there are varying degrees of licensure for homes and is not sure what the process entails, a community-based committee would potentially have alleviated some concerns.

Ald. Wiese stated in the Riveredge subdivision, there are multiple homes of this nature, and the key words in the state statute are “good-faith effort”. He added many of these organizations do not need much to change their charter or level of care with the State. Attorney Fuchs clarified this residence is licensed as a CBRF facility, and the applicant is tasked with founding a committee and the enforcing arm is not the City, it is the same agency granting the license.

Glendale resident Stephen Needham, 6933 N. Elm Tree Road, stated he submitted a letter to Bronze Living LLC on November 29, 2021 and as of December 1, 2021 was informed the resident at the facility causing problems had been removed from the premises. Mr. Needham added items to note from police reports included facility calls to 911 when residents disappear from the premises and the police are used to track them down, and other structural problems in the way the facility operates.

Ald. Gelhard requested clarification on the likely end result of the litigation process. Attorney Fuchs stated if the property is declared a nuisance, the court has broad spectrum of whatever it takes to abate the nuisance, which could potentially mean taking steps leading to closure or immediate closure.

Ald. Vukovic raised the question of what happens if the current owners change the LLC in order to remain at the property. Attorney Fuchs stated this would be possible with a new license, but a remedy around it would be to continue filing suits against the property if they are a perpetual nuisance and ensure they operate a business that fits the neighborhood.

Motion by Ald. Gelhard, seconded by Ald. Wiese, to approve directing the City Attorney to file suit regarding 6801 N. Ironwood Lane – Public Nuisance. Ayes: Ald. Vukovic, Daugherty, Gelhard, Wiese, and Schmelzling. Noes: None. Absent: Ald. Shaw. Abstain: None. Motion carried.

IV. File No.

Discussion and possible action on proposal from Wisconsin Policy Forum for a study on Joint North Shore Police Services.

Administrator Safstrom stated for many years that has been various discussions related to Joint North Shore Police Services. Though there has been some opposition, there are some benefits that could be attained with joint services including social services department, enhanced emergency response plans, additional resources for crime prevention, and ease of procedures (1

set of processes instead of 7) for North Shore Dispatch. A proposal from Wisconsin Policy Forum to conduct a study for consolidating the North Shore Police Departments was provided to Council.

Ald. Wiese questioned if there is a cost sharing of the \$19,350 total expense for the study between the communities. Mayor Kennedy stated his opinion is the data is necessary before other communities can be brought into the conversation, so our good faith effort is to fund the study and then approach the North Shore communities with the data.

Ald. Daugherty and Ald. Gelhard concurred that we should canvass the other communities to see if cost sharing would be a possibility. Mayor Kennedy stated he is seeking a motion to go forward and have the City fund the study, but if other municipalities are unwilling to participate in the study we would not move forward.

Ald. Schmelzling questioned if this was planned for in the upcoming budget and why we have selected this particular group for the study. Administrator Safstrom clarified it is not in the current budget, but could be included in capital costs as borrowing has not been set. Additionally, this group was selected as they have conducted similar studies for many other municipalities and similar processes in the area.

Ald. Vukovic stated she will always be against consolidation of the police services, and therefore will always vote no for matters related to this topic. She added that not all saving money is good saving money. Her concern is that Glendale Police Department has done their best to make sure things are equitable and fair, and she is not sure other departments do the same thing. She is not willing to take the chance that our department, which is nationally accredited, could be negatively affected by other departments.

Mayor Kennedy stated a study was recently done on the police department, and it was determined we have big city problems but do not have a big city budget. It is his belief that we could address these issues if we had resources and those things could be done if we had a consolidated police department. If there was an opportunity to streamline patrols and administration it would free up resources to provide services needed to deal with the issues in the North Shore, and in order to make any kind of decisions a study to obtain data is necessary.

Ald. Wiese suggesting surveying the other municipalities prior to committing to the study, and if there is not willing participation from at least four of the seven communities there would not be a sense in spending the money on the study.

Motion by Ald. Schmelzling, seconded by Ald. Wiese, to approve staff working with the Wisconsin Policy Forum on a study on Joint North Shore Police Services at a cost not to exceed \$19,350, contingent on participation of four of the seven North Shore Communities. Ayes: Ald. Gelhard, Wiese, and Schmelzling. Noes: Ald. Vukovic and Daugherty. Absent: Ald. Shaw. Abstain: None. Motion carried.

V. File No.

Review and Acceptance of the Wisconsin Department of Natural Resources Urban Forestry Grant (Glendale Ash Tree Management: Treatment, Replanting & Education Project).

Administrator Safstrom stated at the September 13, 2021 Common Council meeting, City Staff was authorized to submit an Urban Forestry Grant application to the Wisconsin Department of Natural Resources in the amount of \$25,000. On November 18, 2021, City Staff was notified that the application for the “Glendale Ash Tree Management: Treatment, Replanting & Education” project has been selected to receive a 2022 Urban Forestry grant for \$12,500.00. This is a 50/50 cost-share grant. The City’s portion was included in the 2022 Annual Program Budget.

Motion by Ald. Daugherty, seconded by Ald. Wiese, to accept the Wisconsin Department of Natural Resources Urban Forestry Grant (Glendale Ash Tree Management: Treatment, Replanting & Education Project). Ayes: Ald. Vukovic, Daugherty, Gelhard, Wiese, and Schmelzling. Noes: None. Absent: Ald. Shaw. Abstain: None. Motion carried.

VI. File No.

Review and Possible Action on Consultant Agreement for City Administrator Recruitment.

Administrator Safstrom stated in 2016, the Common Council utilized GovHR for recruitment of a City Administrator. Information on two recruitment firms, including pricing, was provided to the Council and representatives from both firms are available for questions.

Public Administration Associates representatives Kevin Brunner & Darrell Hofland presented information on their experience in recruitment and 20-30 years of experience in public administration. The firm is currently engaged in the recruitment process of a Village Administrator for Brown Deer.

Ald. Schmelzling questioned what the intention of the firm is to reach out to potential candidates. Public Administration Associates will produce a video, utilizing a spokesperson for the City, and send the video to potential candidates nationwide. The recruitment process typically draws 25-30 potential candidates and spans various public forums.

Ald. Vukovic raised the question of Public Administration Associates (PAA) prices, as she did not see an hourly price only a flat rate. PAA clarified that their prices are flat rate, except for the addition of special psychological testing which is identified in the proposal.

GovHR representative Lee Szymborski was present on Zoom to discuss his experience as a primary recruiter with 7 years of full-time recruitment and consulting and 30 years of experience in local government and management. GovHR is a local firm with a nationwide reach bringing candidates from beyond Wisconsin. Each candidate presented will have a personal interview 30-45 minutes in length to understand what they represent on their resume and what they bring to the table. GovHR is a female-owned company with a commitment to diversity.

Ald. Vukovic questioned if there is a guarantee in place if the person recruited does not stay in the position, as well as requested an explanation of the “\$1500 due diligence costs”. GovHR stated their policy is a one-year guarantee if the person leaves or the Council determines it is not working out, they will redo the recruitment for no additional fee, except advertising costs. The due diligence costs is in reference to significant reference checks, which allow the firm to speak with each reference for 30 minutes, plus conduct a third-party background check including education,

financial, and criminal records. There is no expectation of any additional charges or meetings, but in the case of something that is requested outside of the proposal, it is outlined in the contract.

Mayor Kennedy stated the motion to approve this item would take place after closed session.

VII. File No. _____

Discussion and possible action on potential Common Council meeting for December 20, 2021.

Mayor Kennedy stated a meeting will need to be held on December 20, 2021 at 6:00 p.m. to discuss unfinished business from tonight's meeting.

Motion by Ald. Daugherty, seconded by Ald. Schmelzling, to schedule a Common Council meeting for December 20, 2021 at 6:00 p.m. Ayes: Ald. Vukovic, Daugherty, Gelhard, Wiese, and Schmelzling. Noes: None. Absent: Ald. Shaw. Abstain: None. Motion carried.

COMMISSION, COMMITTEE, BOARD, AND STAFF REPORTS.

There were several updates from Council members, on the activities of the various Commissions, Committees and Boards on which they serve.

CLOSED SESSION.

Motion by Ald. Wiese, seconded by Ald. Gelhard, to convene in Closed Session per Wis. Stats. §19.85(1)(c) to consider the employment, promotion, compensation, or performance evaluation data (Interim City Administrator Interviews) and Wis. Stats. §19.85(1)(e) to consider potential purchase of property (6373 N. Jean Nicolet Rd. – Glendale Library). Ayes: Ald. Vukovic, Daugherty, Gelhard, Wiese, and Schmelzling. Noes: None. Absent: Ald. Shaw. Motion carried.

A closed session of approximately 2 hours and 45 minutes was held. The Council conducted the Interim City Administrator Interviews and discussed 6373 N. Jean Nicolet Rd. – Glendale Library.

Motion by Ald. Gelhard, seconded by Ald. Daugherty, to reconvene to open session and regular order of business. Ayes: Ald. Vukovic, Daugherty, Gelhard, Wiese, and Schmelzling. Noes: None. Absent: Ald. Shaw. Motion carried.

ACTION ON CLOSED SESSION ITEMS.

Motion by Ald. , seconded by Ald., to approve selection of Public Administration Associates to complete the recruitment process for City Administrator. Ayes: Ald. Vukovic, Daugherty, Gelhard, Wiese, and Schmelzling. Noes: None. Absent: Ald. Shaw. Motion carried.

Motion by Ald. Gelhard, seconded by Ald. Wiese, to approve Darrell Hofland as the Interim City Administrator. Ayes: Ald. Vukovic, Daugherty, Gelhard, Wiese, and Schmelzling. Noes: Ald. Vukovic. Absent: Ald. Shaw. Motion carried.

ADJOURNMENT.

There being no further business, motion was made by Ald. Daugherty, seconded by Ald. Gelhard, to adjourn the meeting. Ayes: Ald. Vukovic, Daugherty, Gelhard, Wiese, and Schmelzling. Noes: None. Absent: Ald. Shaw. Abstain: None. Motion carried and adjournment of the Common Council was ordered at 10:46 p.m., until Monday, December 20, 2021, at 6:00 p.m.

Megan Humitz
City Clerk

Recorded: December 7, 2021.

CHAPTER 50

UNIFORM LICENSURE

SUBCHAPTER I

CARE AND SERVICE RESIDENTIAL FACILITIES

- 50.01 Definitions.
- 50.02 Department; powers and duties.
- 50.025 Plan reviews.
- 50.03 Licensing, powers and duties.
- 50.032 Certification of certain adult family homes.
- 50.033 Licensure of certain adult family homes.
- 50.034 Residential care apartment complexes.
- 50.035 Special provisions relating to regulation of community-based residential facilities.
- 50.037 Community-based residential facility licensing fees.
- 50.04 Special provisions applying to licensing and regulation of nursing homes.
- 50.045 Therapeutic alternate drug selections in nursing homes.
- 50.05 Placement of monitor and appointment of receiver.
- 50.053 Case conference.
- 50.06 Certain admissions to facilities.
- 50.065 Criminal history and patient abuse record search.
- 50.07 Prohibited acts.
- 50.08 Informed consent for psychotropic medications.
- 50.085 Visitation by family members.
- 50.09 Rights of residents in certain facilities.
- 50.095 Resident's right to know; nursing home reports.
- 50.097 Registry.
- 50.098 Appeals of transfers or discharges.
- 50.10 Private cause of action.
- 50.11 Cumulative remedies.
- 50.12 Waiver of federal requirements.
- 50.13 Fees permitted for a workshop or seminar.
- 50.135 Licensing and approval fees for inpatient health care facilities.

which the facility is licensed as a condition of its licensure and such additional information and special conditions as the department may prescribe.

- (f) The issuance or continuance of a license after notice of a violation has been sent shall not constitute a waiver by the department of its power to rely on the violation as the basis for subsequent license revocation or other enforcement action under this subchapter arising out of the notice of violation.

- (g) Prior to initial licensure of a community-based residential facility, the applicant for licensure shall make a good faith effort to establish a community advisory committee consisting of representatives from the proposed community-based residential facility, the neighborhood in which the proposed community-based residential facility will be located and a local unit of government. The community advisory committee shall provide a forum for communication for those persons interested in the proposed community-based residential facility. Any committee established under this paragraph shall continue in existence after licensure to make recommendations to the licensee regarding the impact of the community-based residential facility on the neighborhood. The department shall determine compliance with this paragraph both prior to and after initial licensure.

(4m) PROBATIONARY LICENSE.

- (a) If the applicant for licensure as a nursing home has not been previously licensed under this subchapter or if the nursing home is not in operation at the time application is made, the department shall issue a probationary license. A probationary license shall be valid for 12 months from the date of issuance unless sooner suspended or revoked under sub. (5). Prior to the expiration of a probationary license, the department shall inspect the nursing home and, if the nursing home meets the applicable requirements for licensure and, if applicable, substantially complies with requirements under 42 CFR 483 related to the operation of a nursing home, shall issue a regular license under sub. (4) (a) 1. a. If the department finds that the nursing home does not meet the requirements for licensure or does not substantially comply with requirements under 42 CFR 483 related to the operation of a nursing home, the department may not issue a regular license under sub. (4) (a) 1. a.
- (b) If the applicant for licensure as a community-based residential facility has not been previously licensed under this subchapter or if the community-based residential facility is not in operation at the time application is made, the department shall issue a probationary license, except that the department may deny licensure to any person who conducted, maintained, operated or permitted to be maintained or operated a community-based residential facility for which licensure was revoked within 5 years before application is made. A probationary license shall be valid for up to 12 months from the date of issuance unless sooner suspended or revoked under sub. (5g). Prior to the expiration of a probationary license, the department shall evaluate the community-based residential facility. In evaluating the community-based residential facility, the department may conduct an inspection of the community-based residential facility. If, after the department evaluates the community-based residential facility, the department finds that the community-based residential facility meets the applicable requirements for licensure, the department shall issue a regular license under sub. (4) (a) 1. b. If the department finds that the community-based residential facility does not meet the requirements for licensure, the department may not issue a regular license under sub. (4) (a) 1. b.

(5) SUSPENSION AND REVOCATION OF NURSING HOME LICENSES.

- (a) *Power of department.* The department, after notice to a nursing home applicant or licensee, may suspend or revoke a license in any case in which the department finds that the nursing home has substantially failed to comply with the applicable requirements of this subchapter and the rules promulgated under this subchapter, with s. 49.498, or with requirements under 42 CFR 483 related to the operation of a nursing home. No state or federal funds passing through the state treasury may be paid to a nursing home that does not have a valid license issued under this section.
- (b) *Form of notice.* Notice under this subsection shall include a clear and concise statement of the violations on which the revocation is based, the statute, rule, or federal requirement violated and notice of the opportunity for an evidentiary hearing under par. (c).
- (c) *Contest of revocation.* If a nursing home desires to contest the revocation of a license, the nursing home shall, within 10 days after receipt of notice under par. (b), notify the department in writing of its request for a hearing under s. 227.44. The department shall