

To: Kerry Kincaid

Cc: David Duax; Catherine Emmanuelle; David Klinkhammer; Eric Larsen; Kathy Mitchell; Monica Lewis; Bob VonHaden; David Strobel; Andrew Werthmann; Michael Xiong; 'Marty Green'; 'andrew.dowd@ecpc.com'; 'Mark Halvorsen'; don.huebscher@ecpc.com

Subject: Please Recognize that Tonight's Planned Closed Hearing is a Violation of the Wisconsin Open Hearing Law and Cancel it

Dear President Kincaid:

I was dismayed to learn that the City Council plans to hold another closed hearing on the Confluence Project. It has received virtually no publicity. Fortunately, I found details in a recent post at www.VotersWithFacts.com, which I recommend that you review. The post provides several reasons why a closed session is not only inappropriate, but also illegal under Wisconsin's Open Meeting law as interpreted by the State Appellate Court in State ex rel. Citizens for Responsible Dev. v. City of Milton, 2007 WI App 114. At a minimum you are obligated to disclose to the public the subject of the negotiation. If it is in fact providing subsidies to the developer of the student housing building, that information should be the subject of a public hearing. The City should plan in that hearing to justify the subsidy and identify the source(s) for the funds. I realize that the subject is potentially embarrassing for both the City and the Haymarket Concept partners. Certainly, the request for subsidies at this juncture contradicts the statements made to citizens during the referendum campaign, i.e., that property taxes from the student housing building would fund the pledge for the Confluence theaters. Instead it appears that the amount of the subsidy will in all likelihood exceed the proposed pledge amount. Potential embarrassment, however, per the City of Milton case cited above, is not a basis for a closed session.

While reading yesterday's Leader Telegram, I did note the Editor, Don Huebscher's, advice to taxpayers: "No matter where government revenues come from, the best policy is for citizens to press their elected representatives to operate government as efficiently as possible to help ensure all tax dollars are spent wisely."

As I'm sure you are aware, it is not possible to heed this advice with a Council that ignores Wisconsin's Open Hearing law. Please do cancel the closed hearing and henceforth comply with the Open Hearing laws.

I would appreciate a reply to this email.

Thank you.

P.S. As I believe there are penalties for Council members that participate in unlawful closed session, you may wish to review the matter with the City Attorney.