

**CITY OF CEDARBURG
COMMON COUNCIL
April 30, 2007**

**CC20070430-1
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, April 30, 2007 at City Hall, W63 N645 Washington Avenue, second floor, Council Chambers. Mayor Myers called the meeting to order at 7:00 p.m. The meeting began with a moment of silence followed by the Pledge of Allegiance.

Roll Call: Present - Common Council – Mayor Gregory P. Myers, Council Members Chris Reimer, Steven Glamm, Haly Besaw, Paul Radtke, Sandra Beck, Kip Kinzel, Robert Loomis

Also Present - City Attorney Kaye Vance, City Administrator/Treasurer Christy Mertes, Director of Engineering and Public Works Tom Wiza, City Planner Jon Censky, City Clerk Sandra Ingram, Administrative Assistant Cathie Anschuetz, Library Director Mary Marquardt, Library Board President Sue Karlman, Library Board Member Steve Ruggieri, Fire Chief Rich Van Dinter, Andy Bruce of MLG, interested citizens and news media

STATEMENT OF PUBLIC NOTICE

At Mayor Myers' request, City Clerk Ingram verified that notice of this meeting was provided to the public by forwarding the agenda to the City's official newspaper, the *News Graphic*, to all news media and citizens who had requested copies, and by posting in accordance with the Wisconsin Open Meetings Law. Citizens present were welcomed and encouraged to provide their input during the citizen comment portion of the meeting.

MAYOR MYERS' ANNUAL APPOINTMENTS TO BOARDS, COMMISSIONS AND COMMITTEES

A motion was made by Council Member Loomis, seconded by Council Member Beck, to confirm the following Mayoral appointments:

Board of Appeals

Linda Smith (4/30/10)
Vera Brissman (Chairperson) (4/30/08)
Kirsten Ruzic Wild (1st Alt.) (4/30/10)
Thomas Mesalk (2nd Alt.) (4/30/08)

Design Review Board

Randy Ahl (4/30/09)
Andrew Moss (4/30/09)

Economic Development Board

Robert Guse (4/30/10)
Mike Ruzicka (4/30/10)
Daniel Den Boer (4/30/10)

Plan Commission

Mark Burgoyne (4/30/10)
Keith Kaiman (4/30/10)

Police & Fire Commission

Robert Carroll (4/30/2012)
John Hammen (4/30/2012)

Public Art Committee

Liz Brown (4/30/09)
Roger Rhodes (4/30/09)

Landmarks Commission

James Pape (4/30/10)
Richard Ellefson (4/30/10)
Robert Helf (4/30/10)

Public Works Commission

Noel Jepson (4/30/09)
Charles Schumacher (4/30/09)
Randy Roupp (4/30/09)

Leisure Services Commission

Lynne Buehler (4/30/09)

Sewerage Commission

Arthur Filter (4/30/09)
Gary Graham (4/30/09)

Park & Forestry Board

Susan Mongoven (4/30/09)
Scott King (4/30/09)
Barbara Lythjohan (4/30/09)
James Schara (4/30/09)

Motion carried without a negative vote.

PUBLIC HEARING – RESOLUTION NO. 2007-23 AMENDING COMPREHENSIVE LAND USE PLAN FOR FORMER MERCURY MARINE SITE LOCATED AT W66 N598 MADISON AVENUE; ORDINANCE NO. 2007-15 REZONING FORMER MERCURY MARINE SITE LOCATED AT W66 N598 MADISON AVENUE

Mayor Myers declared the public hearing open on Resolution No. 2007-23 amending the comprehensive land use plan for the former Mercury Marine site, located at W66 N598 Madison Avenue, from High-Medium Urban Residential development to Government and Institutional Development; and Ordinance No. 2007-15 rezoning the former Mercury Marine site from M-1 Limited Manufacturing to I-1 Institutional and Public Service District. City Clerk Ingram verified that proper legal notice had been given with publication in the *News Graphic* on April 12 and 19, 2007.

City Planner Censky explained that the former Mercury Marine site had been considered for a library but was dropped because an old manufacturing building occupied the site. In May 2005, the building was removed. Mercury Marine and the City have been discussing the siting of a library on the property. An amendment to the Land Use Plan and rezoning are the next steps. The Plan Commission approved the land use change to Institutional and Public Service District by a 4-3 vote.

In answer to Council Member Radtke's question on why three Plan Commission members voted against the Land Use Plan amendment, Planner Censky stated one member thought it should have a basement for emergencies, another member stated the City would be settling for a problem building on a problem location, and a third member stated the City should wait until the Town is ready to participate in the new library design and construction.

A neighbor of the former Mercury Marine site questioned whether there were any representatives from Mercury Marine present at the meeting. He also asked whether placing a library on the site was a way to sidestep cleaning up the site. He urged the Council to do things right and clean up the site.

Mayor Myers stated that any remediation plan has to be approved by the DNR and the EPA. The City and Mercury Marine do not have the final say.

A Center Street resident stated that building a library on the site would look better than the current vacant site and the library would still be in the vicinity of the downtown area. Two residents from Madison Avenue concurred.

Marilyn Axt, W66 N605 Madison Avenue, stated she agreed with placing the library on that site but was not happy with the proposed footprint of the library. With the parking lot located north of the library building, she was concerned about lighting at night spilling outside the library site.

City Planner Censky stated the site plan will be reviewed by the Plan Commission.

Ann Schoenenberger, W66 N585 Madison Avenue, thought the location of the library on the former Mercury Marine site was a great idea and added she is looking forward to construction.

A motion was made by Council Member Besaw, seconded by Council Member Reimer, to close the public hearing.

At Council Member Besaw's request, Mayor Myers stated options for remediation of the site are not known at this time but could include removing all contaminated soil, capping and removing contaminated soil at a later time or remediation according to DNR and EPA approval.

Motion carried without a negative vote.

Council Member Beck stated she is confident that state and federal agencies will make sure remediation is done properly.

Council Member Radtke added that he is happy neighbors are behind constructing the library on the former Mercury Marine site because it makes decisions easier.

Council Member Glamm offered and moved for the adoption of Resolution No. 2007-23 amending the Comprehensive Land Use Plan from High-Medium Urban Residential development to Government and Institutional Development and Ordinance No. 2007-15 rezoning the 1.6 acre former Mercury Marine site located at W66 N598 Madison Avenue from M-1 Limited Manufacturing to I-1 Institutional and Public Service District. Motion was seconded by Council Member Reimer and carried without a negative vote.

PUBLIC HEARING – ORDINANCE NO. 2007-16 REZONING 49.25 ACRE PARCEL LOCATED APPROXIMATELY 1,320 FEET SOUTH OF HWY. 60 ALONG EAST SIDE OF SHEBOYGAN ROAD

Mayor Myers declared the public hearing open on Ordinance No. 2007-16 rezoning the 49.25 acre parcel located approximately 1,320 feet south of Highway 60 along the east side of Sheboygan Road from Temporary RS-1 Single-Family Residential District to permanent RS-7(PUD) Low Density, Single-Family District/Planned Unit Development District, as recommended by the Plan

Commission on April 2. City Clerk Ingram verified that proper legal notice had been given with publication in the News Graphic on April 12 and 19, 2007.

City Planner Censky explained that the RS-7 District is the base zoning where the density standard is determined based on the minimum lot size of 20,000 square feet. The PUD Overlay District provides the flexibility to allow for a reduction in lot sizes and the clustering of lots together to reduce the amount of roadway surface and preserve resultant open spaces. The PUD is tied to the plan, and any changes to the plan would require the developer to go through the process again. TopView Trails and Prairie View Subdivisions have base zoning of RS-7.

A neighbor voiced her approval of the proposed subdivision.

A motion was made by Council Member Reimer, seconded by Council Member Glamm, to close the public hearing. Motion carried without a negative vote.

The trail and park will be open to the public and maintained by the City, Planner Censky added. In answer to Council Member Besaw's question, Planner Censky explained that the Homeowners' Association will own all the vacant land.

Council Member Beck stated that lately every development involves a homeowners association. She questioned whether the City had any say in whether that is allowable. City Attorney Vance answered no.

In response to Council Member Reimer's question, City Attorney Vance explained that if a problem did occur, the City could take care of that problem and assess individual homeowners.

Council Member Besaw questioned whether this was the track the City wanted to follow, including open land in developments. City Attorney Vance advised that would be another discussion that was not on this meeting agenda.

Planner Censky stated that the size of the park would be two acres, in answer to Council Member Radtke's question. Council Member Radtke added that because of the new state law, the City cannot accept funds in lieu of land dedication. City Planner Censky stated that is correct.

Council Member Beck offered and moved for the adoption of Ordinance No. 2007-16 rezoning the 49.25 acre parcel from Temporary RS-1 Single-Family Residential District to RS-7/PUD Low Density, Single-Family Residential District/Planned Unit Development. Motion was seconded by Council Member Reimer and carried without a negative vote.

PRELIMINARY PLAT FOR SEVEN GABLES SUBDIVISION

The preliminary plat for the proposed Seven Gables Subdivision was denied last year because sewer and water were not available, Planner Censky explained. With the creation of TID No. 2, the possibility of development has changed. This project is critical to extend sewer under Cedar Creek and to install a lift station on the west side of the Creek. Sewer will be extended through this plat to the north and eventually to the intersection of Highways 60, which is the first phase of TID No. 2.

Seven Gables Subdivision results in 52 lots on 49.25 acres for a density of 1.06 units per gross acre which complies with the 1.1 unit/acre density recommended by the Land Use Plan.

Andy Bruce of MLG explained that the lift station will be located on Outlot 3 which was slated to be a storm water retention pond. He suggested the storm water retention pond be moved to Outlot 4 which is in the primary environmental corridor.

Planner Censky added that as long as the storm water retention pond is out of the flood plain, the DNR should approve the location.

In answer to who names the streets in a subdivision, Planner Censky stated that typically the Plan Commission or Council approves the names as proposed by the developer.

Council Member Besaw requested that the bike trail through the subdivision be made a little wider.

Mayor Myers explained the trail through the subdivision would be a nature trail, and Andy Bruce added there is a bike trail along Sheboygan Road.

A motion was made by Council Member Beck, seconded by Council Member Besaw, to approve the preliminary plat for the Seven Gables Subdivision subject to the following recommendations by the Plan Commission on April 2:

- Approval of preliminary plat shall be effective only upon the extension of the sanitary sewer system under Cedar Creek and a lift station being constructed on the west side of the Creek.
- This project shall be supported by the full compliment of improvements typical of all subdivisions in Cedarburg (i.e. curb & gutters, sidewalks, street trees, etc.).
- An open space and lake maintenance plan shall be submitted and approved by the Plan Commission prior to final plat approval.
- The FAR = 36% and LCP = 25%.
- Engineering Department review and approval of the grading, drainage, storm water management, and erosion control plans.
- The applicant shall provide a 20' wide public trail access easement through the Environmental Corridor as shown on the preliminary plat.
- All user fees being paid prior to Final Plat recording.
- Dedicate the land where the sanitary lift station is located to the City at Final Plat.
- Development Agreement and Homeowners' Association document approved.

Motion carried without a negative vote.

PRESENTATION – 2006 FIRE DEPARTMENT REPORT

Fire Chief Van Dinter presented the 2006 Fire Department Report.

The Cedarburg Fire Department continues to be a customer-service driven, improvement focused organization which continues to provide outstanding fire and Emergency Medical Services to the City and Town, all with professional and dedicated volunteers.

Total call volume dropped 6% or 57 calls from 2005 with a total of 888. Rescue calls declined 5% to 678, a decrease of 35 responses. Fire calls dropped from 189 to 180. Mutual aid decreased from 43 to 30 calls.

A second grass fire/utility vehicle was purchased, which is housed at Station 2 in the Town. A heavy duty rescue squad was also purchased. The \$630,000 cost for these two vehicles was made possible by dedicated volunteers at fundraising events at Firemen's Park and fees made from ambulance transports to local hospitals.

Other programs provided by the Department are an explorer program with 11 members, educational opportunities to promote fire safety, and "Change Your Clock, Change Your Battery." Nolan Hurley created a promotional DVD which tells the story of the Fire Department from membership, responding to calls, fundraising, etc. Copies were made available free of charge to the community.

Volunteer members put in a total of 6,589.50 hours of training in 2006. The department has 78 active members, half of which have less than five years' experience.

The Fire Department is second to none. A great group of men and women do an outstanding job of serving the City and Town, Chief Van Dinter concluded.

Council Member Reimer stated that the Department does do a great job which is very much appreciated by the community.

Alluding to the financial report, Council Member Loomis pointed out the income that was generated by rescue squad transportation and Maxwell Street Days, adding that it was fantastic to see profitability from the rescue squad. Based on the shared services agreement with the Town, he asked how many dry hydrants the Town had constructed to provide a water supply.

Chief Van Dinter stated two dry hydrants are available and the Town has put in seven 30,000-gallon cisterns.

Council Member Loomis asked whether the Town would be self-sufficient in the case of a fire.

Chief Van Dinter stated that is hard to answer. Usually the water in the fire trucks and an additional 30,000 gallons from a cistern would be sufficient. In the case of a very large fire, city hydrants might have to be accessed.

Mayor Myers agreed that the Cedarburg Fire Department is second to none.

RESOLUTION NO. 2007-24 RECOGNIZING THE CEDARBURG FIRE DEPARTMENT FOR AN OUTSTANDING AUDIT BY THE WISCONSIN DEPARTMENT OF COMMERCE

A motion was made by Council Member Besaw, seconded by Council Member Glamm, to adopt Resolution No. 2007-24 recognizing the Cedarburg Fire Department for an outstanding on-site audit by the Wisconsin Department of Commerce. Motion carried without a negative vote. Chief Van Dinter accepted the resolution on behalf of the Fire Department.

PRESENTATION – MAYOR’S COUNCIL MEMBER APPOINTMENTS

Mayor Myers stated the appointments are not completed and asked Council Members to continue to serve on their current boards, commissions and committees until the appointments are finalized.

APPROVAL OF MINUTES

Motion made by Council Member Reimer, seconded by Council Member Glamm, to approve the minutes of the April 16, 2007 regular and organizational meetings. Motion carried without a negative vote.

REPORTS OF BOARDS, COMMISSIONS & COMMITTEES - None

COMMENTS AND SUGGESTIONS FROM CITIZENS – None

AWARD OF CONTRACT TO MCMAHON ASSOCIATES FOR CONSTRUCTION MANAGEMENT SERVICES ASSOCIATED WITH HIGHLAND DRIVE LIFT STATION UPGRADE

Only one bid was received for construction management services associated with the Highland Drive lift station upgrade, Director Wiza stated. This bid was rejected at the April 16 Council meeting because it was substantially over estimate. He suggested Council consider a construction management option. For an estimated \$10,000, McMahon Associates would break down the project into bid packages, possibly five. This would eliminate the general contractor and simplify the scope of work for those bidding. The actual construction would be split up into five separate contracts which would then be brought to Council for approval. This would save the cost of a general contractor, Director Wiza concluded.

In answer to Council Member Reimer’s question, Director Wiza stated that the cost for a general contractor would be about 15% of the total or \$160,000.

A motion was made by Council Member Beck, seconded by Council Member Besaw, to award the contract to McMahon Associates for construction management services associated with the Highland Drive lift station upgrade. On a roll call vote, motion carried unanimously.

AUTHORIZE CHANGE ORDER TO 2007 STREET AND UTILITY CONTRACT TO INCLUDE RELAY OF SANITARY SEWER AND STREET PAVING OF JOHNSON AVENUE FROM HAMILTON TO WURTHMANN

Sanitary sewer installation (estimated at 206 ft.) south on Johnson Avenue to the intersection of Wurthmann Street is scheduled to take place in 2010, Director Wiza reported. With bids coming in lower than expected for the 2007 Street and Utility Contract, he is recommending extending the construction limits for sanitary sewer and street paving in Johnson Street from Hamilton Road to Wurthmann Street. The contract add-on would be based on unit prices in the bid, and the total cost is estimated at \$40,000.

A motion was made by Council Member Loomis, seconded by Council Member Radtke, to authorize a change order to the 2007 Street and Utility Construction contract to extend sanitary sewer construction and paving in Johnson Avenue to Wurthmann Street. Motion carried without a negative vote.

AUTHORIZE CITY STAFF TO ALLOW PLACEMENT OF CENTENNIAL PARK POND DREDGE SPOILS IN SOUTHEAST CORNER OF CITY-OWNED FORMER KOHLWEY PROPERTY

The DNR is requiring that placement of dredge spoils from Centennial Park Pond be approved and permitted, Director Wiza explained. The City has to determine where to place the dredge spoils which cannot be placed on buildable land. In the past, quarry encroachment occurred in the area located in the southeast corner of the former Kohlwey property. The area has been partially filled in over the years but the soil can never be certified as structurally sound for building. If dredge spoils are placed there, in the future trees could be planted to serve as a buffer from the quarry. He added that this is not hazardous waste. This land has been leased for farming and access would have to be negotiated. To place the pond dredge in a landfill would be very expensive. Dredging occurs every 30 to 40 years, he concluded.

A motion was made by Council Member Loomis, seconded by Council Member Beck, to authorize city staff to allow placement of the Centennial Park Pond dredge spoils in the southeast corner of the city-owned former Kohlwey property on Highway 60. Motion carried without a negative vote.

FILL VACANT ASSISTANT CITY ENGINEER POSITION

Bob Eichner has submitted his resignation as Assistant City Engineer to take the position of Public Works Director in the Town of Cedarburg, Director Wiza announced. This is a very ambitious year for construction in the City with the 2007 Street and Utility Project. DNR approval letters for the sewer and water improvements require that a competent resident inspector be provided throughout the course of construction. A requirement of the DNR is to have a qualified construction inspector on construction project sites 40 – 45 hours a week. In addition, Bob maintains all city maps, and serves as the City's in-house AutoCAD and GIS operator.

A motion was made by Council Member Glamm, seconded by Council Member Reimer, to authorize filling the vacant Assistant City Engineer position. Motion carried unanimously on a roll call vote.

AUTHORIZE CITY STAFF TO RETAIN SERVICES OF OUTSIDE ENGINEERING FIRM TO PROVIDE CONSTRUCTION INSPECTION FOR THE 2007 STREET AND UTILITY PROJECT

A motion was made by Council Member Besaw, seconded by Council Member Beck, to authorize staff to retain the services of an outside engineering firm to provide construction inspection for the 2007 Street and Utility Project. On a roll call vote, motion carried unanimously.

ORDINANCE NO. 2007-17 ESTABLISHING 2007 WAGES FOR POLICE CHIEF

Council Member Loomis offered and moved for the adoption of Ordinance No. 2007-17 setting the 2007 Police Chief's wages at \$80,724. Motion was seconded by Council Member Besaw and carried unanimously on a roll call vote.

RESOLUTION NO. 2007-25 DESIGNATING DEPOSITORIES AND AUTHORIZING SIGNATURES FOR CITY CHECKING AND SAVINGS ACCOUNTS FOR ENSUING YEAR

A motion was made by Council Member Besaw, seconded by Council Member Reimer, to adopt Resolution No. 2007-25 designating depositories and authorizing signatures for the City's checking and savings accounts for the ensuing year. Motion carried without a negative vote.

LICENSE APPLICATIONS

A motion was made by Council Member Glamm, seconded by Council Member Loomis, to authorize issuance of a new Operator's License for the period ending June 30, 2007 to Adam A. King. Motion carried without a negative vote.

CITY ADMINISTRATOR'S REPORT

City Administrator/Treasurer Mertes reported that lead found at the shooting range at the former Police Station must be cleaned up at a cost of \$5,400. Changes to the ventilation system will also be made.

City Attorney Vance added that because of the low cost, Council approval is not needed.

COMMENTS AND SUGGESTIONS BY CITIZENS - None

REPORTS & COMMENTS BY COUNCIL MEMBERS

Council Member Loomis suggested the Economic Development Board hold a meeting in May. He also questioned what he has to do to be NIMS compliant.

Mayor Myers stated that of the Council, only the Mayor and Council President are required to take NIMS training.

Council Member Loomis requested that City Administrator/Treasurer Mertes prepare a summary of what NIMS training is needed and how to receive that training.

MAYOR'S REPORT

Mayor Myers stated he issued a proclamation declaring the week of April 29 to May 5, 2007 as Municipal Clerk's Week.

ADJOURNMENT – CLOSED SESSION

On motion by Council Member Reimer, seconded by Council Member Besaw, the meeting adjourned at 8:35 p.m. pursuant to 19.85(1)(g) to confer with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved, specifically the Fagan and Town of Cedarburg lawsuits; and (c) to consider employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility, specifically filling the City Clerk's position. Closed session minutes of 4/16/07. Motion carried without a negative vote. Meeting did not reconvene to open session.

Sandra M. Ingram, MMC
City Clerk