

**CITY OF CEDARBURG  
COMMON COUNCIL  
July 27, 2009**

**CC20090727-1**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, July 27, 2009 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 Myers, Council Members Chris Reimer, Ron Reimer, Art Filter, Paul Radtke, Michael Maher, Kip Kinzel, Robert Loomis

Also Present - City Attorney Kaye Vance, Director of Engineering and Public Works Tom Wiza, Police Chief Tom Frank, City Planner Jon Censky, City Clerk Constance McHugh, Board of Appeals appointee Kristofor Hanson, Town Management Assistant Eric Ryder, interested citizens and news media

**STATEMENT OF PUBLIC NOTICE**

At Mayor Myers' request, City Clerk McHugh 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 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.

**CONSIDER MAYOR MYERS' ANNUAL APPOINTMENTS TO BOARDS, COMMITTEES, AND COMMISSIONS**

Motion made by Council Member Filter, seconded by Council Member C. Reimer, to confirm Mayor Myers' appointments of Georgian Herkowski to the Park and Forestry Board (term to expire 4/30/10) and Kristofor Hanson to the Board of Appeals (term to expire 4/30/12). Motion carried without a negative vote.

City Clerk McHugh administered the oath of office to Kristofor Hanson.

**PUBLIC HEARING – CONSIDER ORDINANCE 2009-08 REZONING CERTAIN PROPERTIES AT THE NORTHWEST CORNER OF LINCOLN BLVD. AND WASHINGTON AVENUE FROM B-2 COMMUNITY BUSINESS DISTRICT TO B-1 NEIGHBORHOOD BUSINESS DISTRICT**

Mayor Myers declared the public hearing open at 7:02 p.m. on Ordinance No. 2009-08 rezoning certain properties at the northwest corner of Lincoln Blvd. and Washington Avenue from B-2 Community Business District to B-1 Neighborhood Business District. City Clerk McHugh confirmed that proper legal notice had been given with publication in the *News Graphic* on July 9, 2009 and July 16, 2009 and a mailing to all property owners within 300' of the subject properties.

Planner Censky said this corner is viewed as a transitional area between the more intensive commercial development to the south and the quieter single-family residential neighborhood to the north. The recently adopted Comprehensive Land Use Plan identifies this corner as neighborhood business. The area is currently zoned B-2 Community Business District and this zoning does not provide the transition that is desired for the area. The Plan Commission recommended this corner be rezoned to the B-1 Neighborhood Business District. The Plan Commission also recommended amending the Zoning Code pertaining to the B-1 District to bring it more in line with the vision of the Comprehensive Land Use Plan. The Common Council adopted the changes to the B-1 District in May. Any existing business at this corner will not be impacted by these changes; however, any future development must comply with the new B-1 regulations.

Council Member Filter asked if the home to the north is included in this rezoning.

Planner Censky said the home to the north is zoned residential and will remain residential. It is not part of this rezoning request.

Steve Iggens, 19019 W. Coffee Road, New Berlin, said he is a member of the family that operates this corner. These properties were purchased about one year ago with the idea of redeveloping them. These plans have gone by the wayside. He said that his family is not thrilled about the prospect of rezoning these properties, but he is thankful for the work Planner Censky has done rewriting the B-1 District Code. He will not try to hinder this change, but asked that when he does come up with an appropriate plan, the Planner and Council work with him in case it overruns the B-1 zoning. He would like to see a B-2 PUD overlay used as was done across the street with the Station Square development.

Motion made by Council Member Radtke, seconded by Council Member C. Reimer, to close the public hearing at 7:10 p.m. Motion carried without a negative vote.

Council Member Radtke asked how much flexibility there would be with a PUD.

Planner Censky said that typically a PUD is used to provide flexibility with respect to standards such as setbacks, offsets, and location of parking. It does not apply to the size of buildings or size of tenant space.

Motion made by Council Member Kinzel, seconded by Council Member C. Reimer, to adopt Ordinance 2009-09 rezoning certain properties at the northwest corner of Lincoln Blvd. and Washington Avenue from B-2 Community Business District to B-1 Neighborhood Business District. Motion carried without a negative vote.

### **APPROVAL OF MINUTES**

Motion made by Council Member C. Reimer, seconded by Council Member Loomis, to approve the minutes of the June 29, 2009 and July 13, 2009 meetings. Motion carried without a negative vote.

### **REPORTS OF BOARDS, COMMISSIONS, AND COMMITTEES** - None

### **COMMENTS AND SUGGESTIONS FROM CITIZENS** – None

**DISCUSS ISSUES RELATED TO THE TOWN OF CEDARBURG AND PROCHNOW  
LANDFILL**

Mayor Myers said the Council sent out a letter to residents of the City and Town inviting them to comment on the current situation regarding recent City/Town negotiations and express their views. He invited comments from anyone in the audience wishing to speak on this matter.

Mayor Myers stated that there was an unfortunate house fire in the Town last week that the City's Fire Department responded to. He said this is a prime example of how well the two communities work together. He said 50,000 gallons of City water was pumped during this fire.

Council Member Loomis said that he talked to a number of people who expressed hope that the Council can come to an accord with the Town. People feel it would be a shame if this community broke down. However, the City has not received a response from the Town as to the City's counterproposal of June 8. Council Member Loomis said he has a proposal regarding the Prochnow lands that he would like the Council's input on. The proposal is that the City would agree to give up title to the City's interest in the Prochnow lands, in return the Town would agree to only use the land as public parkland, and the Town would agree to assume the City's portion of the cleanup costs related to the operation of the Prochnow landfill.

Mayor Myers said this is a good idea to bring to the Council. He said the City does not want to stand in the way of the parkland development.

Council Member Kinzel said that if the Town is successful in reaching an agreement with the Village of Grafton the City will not have any use for the land. He said he is worried the Town is approaching other communities for shared services. If the City turns over title to the land and the Town enters into an agreement with Grafton, Grafton residents will be using the athletic fields, not City residents.

Council Member Filter said it may be a plus to use the lands as public parkland because everyone could use the land.

Council Member Radtke said the idea of breaking down the proposal is a good one, but the real issue is the two communities looking to separate. He said if the two communities do separate, it is not something that can be undone. He said the Council and the Town Board need to work on how to make the two communities stay together.

Council Member Loomis said negotiations between the City and Town seem to be far apart and this would be a small confidence building measure. He said it would be better to break things apart and at least agree on a small part. He said the eminent domain process the Town plans to use will cost tens of thousands of dollars and his proposal would save both communities a significant amount of legal fees.

Council Member C. Reimer said Council Member Loomis' idea is a good one. He said the City should not tell the Town what they should put on the land, but he would like to see the Town indemnify the City.

Attorney Vance said that part of the property in question is developable and is zoned commercial. Most of the property was recently rezoned by the Town to M-2 Public and Private Park District. She said it is hard to tell what the Town really wants because they have not responded to the City's counterproposal and the bulk of its meetings on this matter are in closed session. She said there was very little public discussion about using eminent domain.

Council Member R. Reimer said the City has not received a response from the Town. He said he is not opposed to Council Member Loomis' proposal, but he is opposed to not getting a response or answer from the Town Board. He said that no response is extremely discourteous.

Attorney Vance said the Village of Grafton has had two closed session meetings regarding negotiations with the Town.

Council Member R. Reimer said the Town can negotiate with whoever it wants, but he is troubled by the Town holding so many discussions in closed session.

Council Member Loomis said the Town's actions are like a train departing the station. It seems the Town has already made the decision to part with the City. If this is the case, it behooves the Council to do what it can to hold the two communities together.

Council Member R. Reimer said there is no way to logically proceed until the Town responds to the City's counterproposal. He said it is wrong for the Town not to respond.

Mayor Myers said what City officials know is what they read in the papers. The number one concern is to keep both communities together as one. He said the City is not feuding with the Town. He said hopefully Town residents understand the seriousness of the situation and contact their Town representatives.

Council Member R. Reimer suggested that the City ask the Town in a letter to respond to the City's counterproposal of June 8. He said the Council should not have to read about these matters in the newspapers.

Council Member C. Reimer said that he agrees with the approach proposed by Council Member Loomis.

Mayor Myers said a representative of the Town is in the audience who can take the message back to Town representatives, who can in turn respond to this offer.

Council Member Maher explained the impact on the Library and the City if the Town were not a part of the Joint Library. The Town has partnered with the City on a library since 1963. If the Town is not part of the Joint Library, it would save \$28,085. The current contribution from the Town is \$224,905. The cost to the Town if it were not part of the Library would be \$196,820. \$168,901 of this amount would go to the libraries that residents visit, \$25,734 would go to the bookmobile, and \$2,185 would go towards shared automation. If the Town is not part of the Joint Library, the Library budget would take a hit of \$101,503, which is about 1/7 of the 2009 budget.

**CONSIDER REQUEST FROM VINTON CONSTRUCTION FOR A TIME EXTENSION TO COMPLETE DOERR WAY CONSTRUCTION**

Director Wiza said he received a letter from Vinton Construction requesting a time extension for the Doerr Way portion of the 2009 Street and Utility project. He said he supports a time extension because the work on Riveredge Drive proved to be slow due to difficult bedrock conditions and tight working space and the scope of the work on the St. John storm sewer construction was somewhat expanded as a major junction manhole needed to be replaced. The completion date was set for Labor Day, in part to minimize disruption of school bus pickups. However, the Doerr Way construction will not affect school traffic.

Motion made by Council Member Radtke, seconded by Council Member Filter, to approve the request of Vinton Construction for a time extension to complete all work on Doerr Way by October 2, 2009 because of exceptional conditions and extenuating circumstances. Motion carried without a negative vote.

**CONSIDER ORDINANCE 2009-09 AMENDING SECTION 10-1-27 OF THE MUNICIPAL CODE TO PROHIBIT PARKING ON COLUMBIA ROAD IMMEDIATELY EAST AND WEST OF THE EASTERLY INTERSECTION WITH CEDAR COURT**

Motion made by Council Member R. Reimer, seconded by Council Member Maher, to adopt Ordinance 2009-09 amending Section 10-1-27 of the Municipal Code to prohibit parking on Columbia Road immediately east and west of the easterly intersection with Cedar Court.

Director Wiza said this matter was brought to the attention of the Public Works Commission by Commissioner Beck. Given the amount of traffic on Columbia Road and the fact that Columbia Road is a narrow street, the Public Works Commission unanimously supported the request to prohibit parking. A petition in favor of the no parking restriction was signed by 13 nearby residents.

Motion carried without a negative vote.

**CONSIDER REQUEST OF ANVIL PUB & GRILLE TO AMEND THE PREMISE DESCRIPTION OF ITS CLASS B BEER AND LIQUOR LICENSE TO SERVE BEVERAGES IN A TENTED AREA IN THE PARKING LOT OF THE CEDAR CREEK SETTLEMENT FOR AN EVENT TO BE HELD ON AUGUST 29, 2009**

Motion made by Council Member Kinzel, seconded by Council Member C. Reimer, to approve the request of Donna Taylor to amend the premise description of the Anvil Pub & Grille to serve alcohol in a tented area in the parking lot of the Cedar Creek Settlement on August 29, 2009 for "Anvil Fest", subject to adequate fencing as suggested by Police Chief Frank to keep the patrons in the area. Motion carried without a negative vote.

**CONSIDER ESTABLISHING A DATE AND TIME FOR TRICK OR TREAT**

Motion made by Council Member Radtke, seconded by Council Member Maher, to set Saturday, October 31, 2009 from 5:00 p.m. to 8:00 p.m. as Trick or Treat in the City of Cedarburg. Motion carried without a negative vote.

**CONSIDER THE USE OF ELECTRONIC COUNCIL PACKETS**

City Clerk McHugh said that in an effort to save money and use available technology she is proposing the use of electronic, or paperless, packets that can be emailed to Council Members. She suggested that if the Council is receptive to this idea it be done on a trial basis where paperless packets are emailed and paper packets are also prepared. The concept can be reevaluated after the trial period.

Council Member Radtke said that he applauds the City Clerk's efforts to save money; however, he likes to have a paper packet in hand that he can take with him and use at the meeting. He said that if he prints out the materials at home it will cost him more using his printer than it would cost the City.

Council Member Kinzel says that he agrees. He said he would be supportive of electronic packets for the committees and commissions he is member of.

Council Member Filter pointed out that all materials do not have to be printed.

Council Member Loomis said that he would be in favor of placing larger documents such as the voucher list, financial reports, and police and fire reports on a website that can be accessed by everyone rather than being printed. He said he likes to have the Council materials on paper so he can make notes.

Council Member R. Reimer said that many international companies have transitioned over the years from using large amounts of paper for agendas and meeting documents to using no paper at all; although these organizations typically provide laptops. He said he is in support of doing things electronically and said this is something that will have to be done at some point in the future.

Council Member Radtke said he feels electronic packets will make it difficult to get the information and this will make the job more difficult.

Council Member Maher said this idea is worth a try.

City Clerk McHugh said that all Council Members would have to be on board for the concept to work. It would be inefficient to do paper packets for some Council Members and electronic packets for others.

Mayor Myers said the general agreement at this time is to leave things as is and possibly look at other ways to distribute larger documents such as reports.

**LICENSE APPLICATIONS**

Motion made by Council Member Kinzel, seconded by Council Member R. Reimer, to authorize issuance of renewal Operator's licenses for the period ending June 30, 2010 to Melissa M. Mann and Scott A. Guzinski and to authorize issuance of new Operator's License for period ending June 30, 2010 to Rhyann E. Talbot, Amber N. Gengozian, and Todd R. Luft. Motion carried without a negative vote.

**CITY ADMINISTRATOR'S REPORT** - None

**COMMENTS AND SUGGESTIONS BY CITIZENS** - None

**REPORTS AND COMMENTS BY COUNCIL MEMBERS**

Council Member Filter said he received an email from a constituent who has a concern with the lack of recycling at Summer Sounds. He asked that this matter be referred to the Park and Forestry Board.

Mayor Myers suggested Council Member Filter speak to Judy Guse in the Public Works Department about this matter. Staff has been looking into ways to come up with a solution.

Council Member Loomis said a constituent near the cat house on Walnut Street asked what is going on in terms of the clean up of the house. He said that he wasn't sure how to respond as the City is waiting for a response from the County. He said there is a lot of frustration in the neighborhood regarding this house.

Council Member C. Reimer said a survey was held at the Library the week of July 6-11 and 3,630 visits were recorded. This is the highest number of recorded visits in one week at the Cedarburg Public Library since the Library has been keeping track of this information. He said this is likely a product of the weak economy. This shows how important the Library is and demonstrates the need to keep the current level of service.

Council Member R. Reimer suggested that the item regarding the Town issues remain on future agendas.

**MAYOR'S REPORT**

Mayor Myers said German Fest and the Cycling Classic were very successful again this year.

**ADJOURNMENT**

Motion made by Council Member Filter, seconded by Council Member Kinzel, to adjourn at 8:04 p.m. Motion carried without a negative vote.

Constance K. McHugh, MMC  
City Clerk