

**CITY OF CEDARBURG
PLAN COMMISSION**

**PLN20090803-1
UNAPPROVED MINUTES**

August 3, 2009

A regular meeting of the Plan Commission of the City of Cedarburg was held on Monday, August 3, 2009 at Cedarburg City Hall, W63 N645 Washington Avenue, in the Council Chambers. The meeting was called to order at 7:00 p.m. by Vice Chairperson Mark Burgoyne.

Roll Call: Present - Council Member Chris Reimer, Mark Burgoyne, Brook Brown, Joe Emmerich, Keith Kaiman, Park & Forestry Chairperson James Schara

Excused - Mayor Gregory Myers

Also Present - Council Members Ronald Reimer and Michael Maher, City Attorney Kaye Vance, City Planner Jon Censky, Administrative Secretary Darla Drumel

STATEMENT OF PUBLIC NOTICE

Administrative Secretary Drumel confirmed that the agenda for the meeting had been posted and distributed in compliance with the Wisconsin Open Meetings Law.

APPROVAL OF MINUTES

A motion was made by Council Member Chris Reimer, seconded by Commissioner Emmerich, to approve the minutes of July 6, 2009 as presented. The motion carried without a negative vote.

COMMENTS AND SUGGESTIONS FROM CITIZENS

No comments were offered.

REQUEST FOR APPROVAL OF INSTALLATION OF ONE OR TWO ROTATING SOLAR PANELS AND A WIND TURBINE TO ENERGIZE A PRESS BOX/CONCESSION STAND WITH BATHROOM FACILITIES NORTH OF THE SOCCER FIELD AND A STORAGE/CONCESSION STAND BETWEEN THE TWO BASEBALL FIELDS OF THE HIGH SCHOOL SITE AT W68 N611 EVERGREEN BOULEVARD – CEDARBURG LIGHT & WATER/SCHOOL DISTRICT

The public hearing was opened at 7:05 p.m. Proper legal notice of the public hearing had been provided.

Planner Censky noted that the Cedarburg School District received approval of a new press box and two new concession stands at the High School on July 6, 2009. Cedarburg Light & Water is now seeking conditional use approval for one or two solar panels and a wind turbine, which will provide the power to these approved facilities. As reported at the July meeting, the School District and Cedarburg Light & Water have been jointly working on this project in an effort to naturally power these facilities and the lighting of the sports fields. They indicated that while these facilities will be generating “green” energy, they will also serve as an educational tool for all local schools.

Planner Censky advised that the state-of-the-art solar tracking panel is the same as proposed last year for in front of the Cedarburg Light & Water office building on Johnson Avenue. It is designed to be at a right angle to the sun, tracking it from dawn to dusk. For that reason, it must be located in an open area free of obstruction. In order to meet this criterion, their technical advisors have determined that the most effective location for these are in the open area north of the new baseball concession stand, east of the vacant tennis courts and south of the football field concession stand. At that location, these facilities will be over 450 feet from the nearest home.

Planner Censky advised that the wind turbine will include a 10KW unit, mounted on a self-supporting lattice tower at a height up to 120 feet, with a rotor that has a diameter of 23 feet. Each blade will be approximately 11.5 feet long. This location places them near the area where the existing 80- to 100-foot high sports field lights are. This wind turbine will be located in the general vicinity of the solar panels but far enough away to avoid casting a shadow across the panels.

Planner Censky noted that while State law allows local communities to establish a permit process for such installations, it limits the City's authority to place restrictions on such approval. More specifically, Section 66.0401(1) of the Wisconsin Statutes states that:

"No county, city, town, or village may place any restrictions on the installation or use of a solar energy system or wind energy system unless the restriction satisfies one of the following conditions:

- (a) Serves to preserve or protect the public health or safety,
- (b) Does not significantly increase the cost of the system or significantly decrease its efficiency,
- (c) Allows for an alternative system of comparable cost and efficiency."

Planner Censky reported that this use is categorized as a utility and therefore is classified as a conditional use in the I-1 Institutional District. Furthermore, according to Section 13-1-100 (c), utilities of this nature are exempt from the City's height requirements. City staff review otherwise indicated full compliance with the dimensional requirements of the Code.

Utility General Manager Dale Lythjohan reiterated that the purpose of the project proposed jointly by the Cedarburg High School and Light & Water is not only to produce renewable energy, but also to integrate the project into the educational programs that would include science, math, and economics. He noted that the bottom of the 14-foot by 14-foot tracking solar panels is about 25 feet off the ground. The Bergey BWC Excel-S 10kw class wind turbine proposed has been in service since 1983 and General Manager Lythjohan explained that the higher it is placed, the more wind it can harness. It is expected that the wind turbine would operate about 20% of the year. In response to concerns he has heard regarding noise, he noted that the anticipated sound level at the property lines to the south would be about 42 decibels. On a breezy day, by comparison, trees typically measure 55 to 60 decibels. General Manager Lythjohan provided a PowerPoint presentation that helped show the proposed locations that both the High School and Light & Water found most appropriate. He added that State Law was requiring that by year 2020, 20% of consumer energy be from renewable resources.

Dennis Corrigan, W72 N524 Cider Mill Court, found the windmill to be very undesirable due to its appearance, the 90 decibels of noise at the windmill that is comparable to the 90 to 120

decibels at rock concerts, potential negative impact on property values, potential catastrophic failure of the windmill causing it to explode with athletic events occurring below it, damage to its self control if struck by lightening, the multi-million dollar insurance policy that will be required, the inability of the windmill to produce the energy required to power the lights and concession stands, that it would never be able to pay back its capital cost and that the cost would be subsidized by the City's rate payers. Mr. Corrigan also believed that the noticing of the public hearing was flawed as three property owners interested in the proposal did not receive notice. In addition, the detailed plans promised amounted to a memo, flyer on the device and a picture of the solar panel. He would like the whole process to start over from scratch.

General Manager Lythjohan advised that the payback for the project would depend on the grant received. The question was whether, since the grant money was already in the pot, the City wanted a piece of it back.

Jane Schulz, W72 N516 Cider Mill Court, advised that she and her husband agreed with Mr. Corrigan's comments. Ms. Schulz advised that she is a nurse and that another negative impact with the wind turbine was "Wind Turbine Syndrome," which could trigger seizures. She felt that the proposed location could not be worse, with the number of children that could be affected. Ms. Schulz opposed the project because of cost, safety, and footprint where competitions were held. She provided a website address to review other information: <http://betterplan.squarespace.com/>.

General Manager Lythjohan explained that the project is not intended to directly provide power for the new facilities; only replace the power utilized by the new buildings.

David Schulz, W72 N516 Cider Mill Court, opposed the project due to potential impact on property values; the attractive nuisance the tower would be for kids to vandalize or pull pranks (and possibly get hurt); the possibly a wind turbine could interfere with radio, television or cell phone reception; creation of dramatic shadows on the athletic fields and neighboring properties; strings that would be attached to the grant; legal costs; maintenance costs; and aesthetics. He felt that a similar proposal by a private entity would never have even been considered.

Dale Hamann, N54 W7244 Cider Mill Court, commended the research done by his neighbors. He was born and raised in Cedarburg and he believes that allowing the project to proceed would be oxymoronic to what the City lives and believes in. It would be a visual deterrent, could result in resale problems, and the economic issues need studying. He is vociferously opposed and believes everyone in his subdivision agrees.

Dick Dieffenbach, W67 N586 Evergreen Boulevard, supported anything that would enhance the educational opportunities for students. He had no objection to the proposal provided the cost and site concerns were resolved.

Mr. Schultz pointed out that a windmill already exists three miles away at the MATC campus on Highland Drive that could easily be utilized for education purposes.

Mary DeBroux, 542 Webster Avenue, asked whether the location of the windmill would have to be in the City of Cedarburg or could it be located on property owned by the School District at Granville and Western. General Manager Lythjohan responded that the property at Granville and Western was in the We Energies service territory. He noted that the School Director of

Buildings and Grounds worked with him to determine a suitable location on the High School grounds, adding that this is intended to be an educational tool.

DeWayna Cherrington, N54 N7268 Cider Mill Court, asked who initiated the proposal. General Manager Lythjohan answered that Light & Water has had discussions with the School District, specifically the Director of Curriculum and Instruction, on several occasions in the last sixth months to talk about ways to integrate energy education in the curriculum and as a result of those discussion, Light & Water suggested the solar panel and wind turbine project.

Action to Close Public Hearing:

Commissioner Brown moved to close the public hearing at 7:40 p.m. The motion was seconded by Council Member Chris Reimer and carried without a negative vote, with Mayor Myers excused.

Further Discussion:

City Attorney Vance advised Commissioners that there is a State Statute and two very clear appellate court decisions, consistent with Federal law, that state that the Plan Commission can restrict only if the energy use has a definitive impact on the health or safety of the public. Any directive from the Commission cannot cost the petitioner significantly more money or significantly reduce the amount of energy produced. The Courts hearing these issues around the country have addressed the health and safety issues brought forth by the public at this meeting and determined that they did not have merit.

Vice Chairperson Burgoyne asked if the units would be insured by the City and it was confirmed that they would be covered by the City's general liability insurance.

In response to questions from Council Member Chris Reimer, General Manager Lythjohan said that, based on present estimates, all three units are needed to provide the energy levels targeted. Without grant funds, the capital costs would not pay off. The decision on whether or not to build the facilities would not be made until all the costs and funding amounts were known and the grant cannot be applied for unless there is an authorization to build. The project is expected to cost from between \$100,000 to \$140,000 with a Federal grant, State grant and utility grant covering approximately 60% to 70% of the capital costs.

Commissioner Emmerich said that the courts seemed to have eliminated a lot of the logical arguments that can be used, except public safety. He questioned whether any magnetic field was associated with the proposed equipment and General Manager Lythjohan answered that it is no more than any other electrical system. Commissioner Emmerich advised that he had driven by the proposed location twice and given the congestion on the site on any football Friday night, he opposed the proposal. He can't imagine pole vaulters competing in that area with two solar panels and a wind turbine. Also, all the participants, fans and visitors would be assaulted with the 90 decibel sound level.

Planner Censky noted that the City of Mequon did use the safety arguments to deny construction of two wind turbines in the past, but their denial was overturned by appellate court.

General Manager Lythjohan explained that the proposed location was as far north as possible and it is an area that is already fenced in, which would provide some security. The wind turbine

was projected at 120 feet. However, depending on the site analysis, it could be lowered to 100 or 80 feet if it would eliminate some objections.

Vice Chairperson Burgoyne asked if installing only solar tracking panels would be adequate. General Manager Lythjohan answered that it might, except both were preferred to demonstrate each type of technology.

Council Member Chris Reimer asked if four solar panels would compensate if the wind turbine was not included in the approval. General Manager Lythjohan thought that the capital costs would be the same, but would be 15% to 20% less efficient.

Commissioner Emmerich said that solar panels were more acceptable but still had a problem with the location. He also advised that he had spoken with a School Board Member who was unaware of the project.

Vice Chairperson Burgoyne suggested that a member of the School Board be in attendance for any future proposal presentation.

Council Member Chris Reimer questioned whether the equipment could be mounted on the roof of the school. General Manager Lythjohan explained that it would eliminate the educational element of visibility and roof panels would be unable to track the sun.

Commissioner Kaiman felt that because athletic fields should be clear of obstructions, the windmill would indeed cause a strobe affect and distraction. He opined that the proposed structures would certainly pose health hazards and the minor output of energy they would produce did not warrant approval.

Commissioner Schara did not believe the equipment would interfere with the crowds, but may be an attraction for vandalism. Solar would not be a problem.

Action:

Vice Chairperson Burgoyne moved to approve the proposal with the condition that the wind turbine be excluded, and in its place, two additional solar panels be allowed.

Continued Discussion:

Council Member Chris Reimer asked General Manager Lythjohan if the modification would impact the cost or efficiency significantly. He also asked if it would affect grants. General Manager Lythjohan responded that the impacts would likely not be significant.

Commissioner Kaiman urged Commissioners to vote against the motion due to the costs and location.

Commissioner Brown agreed that alternate sources of energy are needed and it is important to have discussions at the Plan Commission and general public levels; however, there are many other locations where education can occur.

Final Action:

The motion failed with Council Member Chris Reimer, Vice Chairperson Burgoyne, and Commissioner Schara voting in favor; Commissioners Brown, Emmerich and Kaiman voting against, and with Mayor Myers excused.

PROPOSAL TO INSTALL A MEMORIAL AT THE FIRE STATION LOCATED AT W61 N631 MEQUON AVENUE - CEDARBURG VOLUNTEER FIRE DEPARTMENT

Planner Censky reported that the Cedarburg Fire Department is requesting approval of a Memorial Garden behind the Fire Station which will include a Lannon Stone fountain, bronze statue, brick walkway and a seat wall. The proposed garden was designed by local business owner/firefighter Captain Mike LaRosa and the sculpture by local artist Norm Christensen.

Planner Censky reviewed the plans which propose a life-size sculpture of two firefighters and a child on a fire hydrant holding a hose on a Lannon-stone outcropping within the pool. This sculpture will be of silicone bronze material and depicts the firefighters dressed in period uniforms with one from the early 1900s era and the other in current-day gear. Water will circulate from the hose to the pool and back through the hose again. The masonry fountain and surrounding seat wall will be constructed of Lannon stone material and a serpentine wall of similar material will border the walk leading from the fountain to the Cedarburg Fire Department's Maltesse Cross Logo at the north end of the garden. The logo will be made of different shades of gray brick and the meandering walk will be of Patterned Bluestone material. Individual bronze lettering "CEDARBURG FIRE DEPARTMENT" will be mounted to the west side of the serpentine wall.

Planner Censky explained that the existing aged Red Maple and the foundation shrubbery will be removed and replaced with clump River Birch trees, various decorative grasses, daylilies and low growth shrubs to provide the needed ambiance and feel for the memorial garden. Low-intensity lighting will be placed at the base of each birch tree, within the pool and at the base of the flags. In addition, a line of low-intensity lights will be placed under the stone lip of the sitting wall.

Planner Censky advised that the Fire Department hopes to have this garden in place for a ceremony that is being planned for October 2010. This proposal was reviewed by the Landmarks Commission at their July 23rd meeting and they unanimously recommend approval. Planner Censky then introduced Fire Chief Rich Van Dinter, Fire Department Captain Mike La Rosa, and sculpturist Norm Christianson.

Chief Van Dinter explained that the volunteer Fire Department has been in existence for 143 years. Through all these years, numerous members have gone through the door of the firehouse, with one goal in mind, and that was to protect the citizens of the City and the Town of Cedarburg. Over all these years, there has never been recognition of the hard work the Fire Department has done and now they wish to finally thank all the members with a memorial. The sculpture chosen for this memorial is called "Generations" and depicts an older gentleman representing the early 1900s with a speaking trumpet that was used for communications, a firefighter in current day gear and the equipment used in today's firefighting techniques, and a young child in the middle, signifying the old, the new and the future members coming into the organization.

Captain Mike La Rosa advised that they were creating an inviting environment to attract people to the memorial, which includes seating, the sound of water, and incorporating elements of the existing Creek Walk. There they could learn a little bit about the history of the Fire Department and the men and women who have served that last 143 years. This area, he added, would also be used for Fire Department ceremonies, such as promoting fire fighters or swearing in new chiefs. He noted that the fire station is not identified at all on the west elevation of the station, so the memorial would include low profile lettering, symbols, the statue and flags. The products to be used in the memorial are time-tested and will last well into the future.

Vice Chairperson Burgoyne complimented the petitioners on the design and asked if a plaque was included that would tell the story of the Fire Department. Captain La Rosa responded that there would be a sign at the north entryway that would highlight major events in the Fire Department's history.

Norm Christianson, the artist who designed the statue, advised that the life-size statue would stand a little over six feet tall and would be made of Silica Bronze material.

Commissioner Brown asked if donations would be solicited for the memorial by selling memorial bricks. Captain La Rosa responded that the idea was considered but was not incorporated because it would make the area too busy and detract from the whole presentation. He added that the engraver bricks have not weathered very well.

Action:

A motion was made by Commissioner Brown, seconded by Commissioner Emmerich, to approve the Cedarburg Fire Department proposal to install a memorial at the west elevation of the Fire Station located at W61 N631 Mequon Avenue as presented.

Further Discussion:

Commissioner Kaiman asked what the memorial would cost and was advised that those numbers were not yet available. Chief Van Dinter and Captain La Rosa confirmed that they would be working closely with the City's Engineering Department regarding stormwater runoff and related issues. Commissioner Kaiman thought the project was a marvelous and wonderful project.

Commissioner Emmerich asked if the lighting would be on through the night. Captain La Rosa advised that the exterior of the building was already lit by four existing wall fixtures and the Creek Walk was also lit by street lights. The new lighting would eliminate the mercury fixtures on the building and would consist of soft up-lighting on the flag poles and birch trees, under the capstones of the seat walls and possibly up-light the rear wall columns. This lighting would not be considered light pollution and would be energy efficient. Commissioner Emmerich also thought the memorial was a great project.

Final Action:

The motion carried without a negative vote, with Mayor Myers excused.

PLAN COMMISSION
August 3, 2009

PLN20090803-8
UNAPPROVED MINUTES

DETERMINE SEPTEMBER 2009 MEETING DATE

Planner Censky advised that the regular meeting date fell on Labor Day and asked if a quorum could be reached for a meeting on Thursday, September 10, 2009 instead. The Commissioners requested that they be contacted by e-mail after they have a chance to check their schedules.

MAYOR'S ANNOUNCEMENTS

No announcements were made.

ADJOURNMENT

Commissioner Brown moved to adjourn the meeting at 8:30 p.m. The motion was seconded by Commissioner Emmerich and carried without a negative vote.

Darla Drumel,
Administrative Secretary