

**CITY OF CEDARBURG
COMMON COUNCIL
January 9, 2017**

**CC20170109-1
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, January 9, 2017, at City Hall, W63 N645 Washington Avenue, second floor, Council Chambers. Mayor Kinzel called the meeting to order at 7:00 p.m.

ROLL CALL: Present - Common Council – Mayor Kip Kinzel, Council Members John Czarnecki, Jack Arnett, Dick Dieffenbach, Rick Verhaalen, Mitch Regenfuss, Patricia Thome, Mike O’Keefe

Also Present - City Administrator/Treasurer Christy Mertes, City Attorney Michael Herbrand, Director of Engineering and Public Works Tom Wiza, Police Chief Thomas Frank, Wastewater Superintendent Eric Hackert, Deputy City Clerk Amy Kletzien, interested citizens and news media

STATEMENT OF PUBLIC NOTICE

At Mayor Kinzel’s request, Deputy City Clerk Kletzien 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.

APPROVAL OF MINUTES

Motion made by Council Member Thome, seconded by Council Member O’Keefe, to approve the special and regular minutes of the December 12, 2016 meetings.

Council Member Verhaalen made a correction to add Council Member Thome to the following sentence on page 12: Council Member Verhaalen, Council Member Arnett, Council Member Thome, and Director Hilvo met with some representatives from the School District to collaborate and discuss reducing the costs of programs.

Motion carried without a negative vote.

COMMENTS AND SUGGESTIONS FROM CITIZENS - None

PRESENTATIONS

Swearing in of Patrol Officer Bradley Meyer

Deputy City Clerk Kletzien swore in Patrol Officer Bradley Meyer.

NEW BUSINESS

CONSIDER RESOLUTION NO. 2017-02 COMMENDING RETIRING PUBLIC WORKS EMPLOYEE PAUL REGNITZ FOR HIS YEARS OF SERVICE TO THE CITY; AND ACTION THEREON

Motion made by Council Member Dieffenbach, seconded by Council Member Verhaalen, to adopt Resolution No. 2017-02 commending retiring Public Works employee Paul Regnitz for his years of service to the City. Motion carried without a negative vote.

CONSIDER RESOLUTION NO. 2017-03 COMMENDING RETIRING WASTEWATER TREATMENT PLANT OPERATOR TRACEY RINK FOR HIS YEARS OF SERVICE; AND ACTION THEREON

Motion made by Council Member O'Keefe, seconded by Council Member Thome, to adopt Resolution No. 2017-03 commending retiring Wastewater Treatment Plant Operator Tracey Rink for his years of service to the City. Motion carried without a negative vote.

CONSIDER AMENDMENT #4 TO THE PRAIRIE VIEW SUBDIVISION DEVELOPMENT AGREEMENT; AND ACTION THEREON

Director Wiza explained that Homes by Towne had attempted to complete all subdivision improvements for Prairie View Subdivision Phase II in fall of 2016, but unfavorable weather conditions caused them to fall short. They managed to place the concrete curbing and binder asphalt, but sidewalks and Cable TV installation will have to wait until spring.

He continued to explain that the conditions for placing the asphalt were less than ideal and Homes by Towne has agreed to inspect and repair any failed asphalt in summer of 2017 and then delay the final asphalt surface placement until fall of 2018.

This amendment to the Development Agreement revises the timetable accordingly and extends the bond expiration date to December 31, 2018.

In answer to Council Member Verhaalen's question regarding the change to the time period from 2010 – 2017, Director Wiza stated that this is the fourth amendment to the original Prairie View Subdivision agreement.

Motion made by Council Member Thome, seconded by Council Member Arnett, to approve amendment #4 to the Prairie View Subdivision Development Agreement. Motion carried without a negative vote.

CONSIDER REQUEST FROM POLICE CHIEF TO FILL A VACANT DISPATCHER POSITION; AND ACTION THEREON

Chief Frank explained that one of the emergency services dispatchers has submitted a letter of resignation and his last day is January 10, 2017.

In answer to Council Member Dieffenbach's questions, Chief Frank stated that the Department has six dispatchers and that provides them with bare minimum coverage. In regard to a joint dispatch center, he stated that this was explored during a two year study period and it was determined that none of the current facilities were large enough to house a dispatch center for the entire County. It would have been more expensive and less efficient to do so.

Council Member Dieffenbach asked if the southern Ozaukee County municipalities have considered their own dispatch center. Chief Frank stated that discussions have taken place over the last several months to determine if this is a possibility.

Council Member Dieffenbach stated that he supports replacing the dispatcher and commended Chief Frank for reaching out to area Departments.

Council Member Czarnecki asked how many dispatchers work each day. Chief Frank stated that there is one dispatcher per shift and a dispatcher is added for a power shift during second shift hours when it is the busiest. On rare occasions, five dispatchers may work in a 24 hour period. Chief Frank explained that the dispatchers are responsible for clerical duties during their shifts.

Motion made by Council Member Regenfuss, seconded by Council Member Czarnecki, to approve the Police Chief's request to fill a vacant Dispatcher position. Motion carried without a negative vote.

CONSIDER ORDINANCE NO. 2017-01 AMENDING SEC. 2-4-17 OF THE CODE OF ORDINANCES TO ELIMINATE THE COMMUNITY POOL COMMISSION AND AMENDING SEC. 2-4-6 OF THE CODE PERTAINING TO THE PARKS, RECREATION AND FORESTRY BOARD; AND ACTION THEREON

City Administrator/Treasurer Mertes explained that Ordinance No. 2017-01 has been drafted to eliminate the Community Pool Commission, as there is no longer a pool agreement with the Town of Cedarburg. The ordinance also modifies the section of the Code pertaining to the Parks, Recreation and Forestry Board so that the pool is under the purview of the Board. Finally, there is a change in the membership section of the Parks, Recreation and Forestry Board to eliminate the provision that the Board Chair is also a member of the Plan Commission. This change was made to the section of the Code pertaining to the Plan Commission in 2012, but was never changed in this section.

In answer to Council Member Verhaalen's question, City Administrator/Treasurer Mertes explained that two senior adults need to serve on the Parks, Recreation and Forestry Board because they oversee the Senior Center.

Council Member Dieffenbach stated that he was opposed to abolishing the Community Pool Commission because he hopes the City and Town of Cedarburg can work together in the future.

Mayor Kinzel stated that the Commission can be reinstated if there is another joint pool agreement in the future.

Motion made by Council Member O'Keefe, seconded by Council Member Czarnecki, to adopt Ordinance No. 2017-01 amending Sec. 2-4-17 of the Code of Ordinances to eliminate the Community Pool Commission and amending Sec. 2-4-16 of the Code pertaining to the Parks, Recreation and Forestry Board. Motion carried with Council Members Czarnecki, Arnett, Verhaalen, Regenfuss, Thome and O'Keefe voting in favor and Council Member Dieffenbach opposed.

CONSIDER AGREEMENT WITH AGILEX FOR ACCOUNTS PAYABLES; AND ACTION THEREON

City Administrator/Treasurer Mertes explained that in an effort to create efficiencies in time and money, the Treasurer's office would like to work with Agilex in the payment of City vendors. To do this, the City would send a list to Agilex of vendors to pay, the City would send an ACH payment to Agilex for the total amount due to all vendors, and Agilex would make the payment to the vendor via credit card payment. The vendor will receive an email with a one-time use only credit card number. The City will receive a rebate with this process; one half percent will be retained by Agilex and the balance will be paid to the City. Paul Hultgren, Ashley York, Robb Thiel were available to answer questions.

Paul Hultgren explained that they work with municipalities, schools and businesses to help optimize the payment process. It is a free service and based on their review of our accounts, they estimate that the City could earn approximately \$75,000 in rebates.

In answer to Council Member Dieffenbach's questions, Paul Hultgren explained that Agilex will rebate the City on a monthly basis. They will contact our vendors to see if they accept Master Card on the City's behalf.

In answer to Council Member Thome's question, Paul Hultgren stated that Agilex is on the agenda to work with the Village of Grafton. City Administrator/Treasurer Mertes received references from the School District of New Berlin, Lake Geneva Joint #1 School District, Kobussen Buses, Merton Community Schools, and Lake Geneva (2 districts).

In answer to Council Member Verhaalen's question, Paul Hultgren stated that Agilex has been in business for 13 months.

Council Member Arnett asked if the rebate was coming from the payee. Paul Hultgren explained that the payee is paying the Master Card fee, which is passed along to the vendor. This is an attractive method of payment because they normally get paid faster through Master Card.

Mayor Kinzel commented that it will save the City from issuing so many checks each month.

City Administrator/Treasurer Mertes added that it will save on paper, time and postage.

Council Member Dieffenbach stated that it will help with bank reconciliations.

Council Member Dieffenbach asked if Agilex was insured and requested that Agilex provide copies of their insurance coverage to the City.

Motion made by Council Member Dieffenbach, seconded by Council Member Arnett, to approve the agreement with Agilex for accounts payables. Motion carried with Council Members Czarnecki, Arnett, Dieffenbach, Verhaalen, Thome and O'Keefe voting in favor and Council Member Regenfuss recusing himself.

CONSIDER PAYMENT OF BILLS FOR THE PERIOD 12/09/16 THROUGH 12/21/16, TRANSFERS FOR THE PERIOD 12/10/16 THROUGH 12/30/16, AND PAYROLL FOR THE PERIOD 12/04/16 THROUGH 12/31/16; AND ACTION THEREON

Motion made by Council Member Dieffenbach, seconded by Council Member Czarnecki, to approve payment of bills for the period 12/09/16 through 12/21/16, transfers for the period 12/10/16 through 12/30/16, and payroll for the period 12/04/16 through 12/31/16. Motion carried without a negative vote.

CONSIDER LICENSE APPLICATIONS; AND ACTION THEREON

Motion made by Council Member O'Keefe, seconded by Council Member Czarnecki, to approve new Operators License applications for the period ending June 30, 2017 for Andrew William Conley, Ashley J. Daley, and Patrick R. Riley. Motion carried without a negative vote.

ADMINISTRATOR'S REPORT

City Administrator/Treasurer Mertes stated that Mayor Kinzel, City Attorney Herbrand, City Planner Censky and she met with HSI and the neighbors of St. Francis Borgia and their attorneys last week Tuesday. HSI and the neighbors are going to meet to come to a compromise.

The Community Development Authority is tentatively meeting on January 24 to discuss a developer agreement. Spending to date on this project is \$41,000.

In answer to Council Member Czarnecki's questions, City Attorney Herbrand stated that a good majority of the \$41,000 has resulted in getting up to speed on the site and knowing the possibilities. It is money well spent and is not wasted. City Attorney Herbrand explained that the deliverables will be providing needed information to move forward on a developer's agreement.

City Administrator/Treasurer Mertes explained that the City's health insurance plan will not change this year; however, Caremark will be the new prescription provider. This was decided at the end of December because the insurance provider could not make their proposal work with the prescription provider. Therefore, the City is paying an 8% increase in health insurance instead of the 12% increase that was originally proposed to keep the current plan.

In answer to Council Member Dieffenbach's question, City Administrator/Treasurer Mertes stated that the financial picture has not changed.

City Administrator/Treasurer Mertes stated that an insurance review for 2018 will take place this summer.

COMMENTS AND SUGGESTIONS FROM CITIZENS - None

COMMENTS & ANNOUNCEMENTS BY COUNCIL MEMBERS

Council Member Czarnecki stated that elected officials are elected to a representative government and representative democracy. When Council Members are elected they are required and agree to be knowledgeable and engaged in all aspects of the City (budgets, services benefits, and costs). They are required to be dispassionate and to address the needs of all residents and to consider all of the needs of the City, along with considering today's needs and future needs of the City.

He continued by saying that the No Vote group is:

- not listening to the needs of the residents or the City and they do not care about the City's needs
- not listening to the needs of the Downtown businesses – bars, restaurants, shops and salons
- not listening to the needs of the School District
- not concerned about the budgets for the pool, parks, Police Department, Recreation Department or the Library
- not concerned about the dwindling volunteers for the Fire Department or the budget impact of such
- not concerned about tree trimming, trash removal, road repair, brush pick-up or flower baskets
- not concerned about the rising costs of City personnel or their benefits.

The No Vote group is fractured and is not one group. The No Vote group(s) has different opinions, agendas, hopes and goals.

Parts of this group are hiring attorneys and are trying to “negotiate” with the City and the developer on behalf of their individual groups.

The residents of Cedarburg elected the Council Members to represent them and the City. The No Vote group elected us too.....they are represented by us as well.

Council Member Czarnecki shared an example of putting passion before the resident's needs....a rallied cause before the City's future. Former Mayor John Kuerschner shared this story before he became a Council Member in the late 1980s when the Piggly Wiggly was proposing their store and he lived across the street. He was opposed of the project because it was across from his home. He and others brought in legal counsel to stop the project. They were able to get a petition to force a super majority; therefore, the project was delayed. But ultimately the store was approved. What started out as an emotional response to change in his neighborhood, Mr. Kuerschner quickly came to understand the convenience and benefit of having this amenity across the street from his house.

Council Member Czarnecki stated that it is the Council's duty to do what is in the best interest of the City.

Council Member Verhaalen introduced the idea of the Council adopting a unanimous vote process, which would require a unanimous vote the first time an item is brought before the Council for a vote. If anyone has any doubts about the decision, then one no vote will bring the item back at the next meeting. Then when the item comes back a second time it would require a majority vote. The down side to this process is that it would delay items. However, when there is not much time to review an item, this process would allow extra time to review it. He learned that West Bend uses this process and he is presenting it to the Cedarburg Common Council for consideration in the future.

Council Member Arnett provided the following comments:

Public Works Building

The Public Works & Sewerage Commission is meeting this Thursday, January 12. The Public Works Building was responsible for just over 80% of the tax increase this year. The average homeowner is paying \$12 per month or about \$144 per year for this new facility. One of the

popular selling points for the new facility was significantly increased drop off times for lawn waste. Council Member Arnett feels strongly that residents who use the drop off facility should not be charged an additional annual fee for an access card. He would propose an access card which carries a deposit that is refundable if the card is returned. The cost of the card should be the approximate cost of issuing the card (maybe \$25) or whatever is appropriate. Council Member Arnett urged the Commission to not charge our residents any additional annual and ongoing fees to use this facility for which they are already paying dearly.

Liquor License Changes

Council Member Arnett requested that the Clerk mail the revised law pertaining to hours of operation to all active license holders in the City.

Saint Francis Borgia

Council Member Arnett is concerned about some of the divisive rhetoric which has entered our community, and he addressed it in a public forum and open meeting as follows:

On page 77 of today's Council package, we read: "City staff met with HSI and the neighbors of SFB and their attorneys on Tuesday." (January 3rd)

Additionally, we read: "The neighbors of the property have hired an attorney, and will be meeting with HSI next week to work on a plan that the neighbors could endorse..."

To me this all sounds positive, the City, the Developer, and those opposed to the zoning change are all gathering to share information and communicate and listen to each other.

However, in a social media post from four days ago, a leader of the opposition group states: "As of Tuesday afternoon, HSI has not made any changes to their proposal in response to Common Council requests and the public hearing on November 14. They claim that the community is "afraid of change" as they continue to push for the 26.2 units per acre development on a site that is recommended to have a maximum of 10.8 units per acre according to the City's Comprehensive plan. *As a result of their unresponsiveness*, the SFB discussion has been removed from the January 9, 2017 agenda. It was previously removed from the December 12, 2016 agenda due to a lack of response."

By saying "as a result of their unresponsiveness..." this individual is implying that the Council has pulled the discussion from the agenda due to the developer's "lack of response."

- Why does this individual omit that he was actually at the meeting with the developer?
- Why does he omit the fact that it was HSI, not the Council, that pulled the agenda item so that HSI could meet with the opposition group and listen?
- Why does he omit the fact that all sides are actually working together?

Council Member Arnett shared a picture of the front page of the opposition group's online petition that was printed a few hours ago.

- Why does the opposition group still have the oversized rendering on its front page....a rendering which has been withdrawn and was never presented to this Council?
- The Journal Sentinel published a revised rendering. Why hasn't the opposition group?

The original online petition mentioned "four-stories", language which has subsequently been removed. I have a question for the manager of that online petition:

- How many signed the petition before you removed the reference to four-stories?
- Why does this group still have a "flyover" rendering on the front page of its web page which is seven months old, has been withdrawn by the developer, and has never even been presented to the Common Council?

The result of this rhetoric has been to create confusion and divide the City.

Council Member Arnett said there should be a real debate on the impact of this project. As a Council, they have a responsibility and an obligation to govern based on the real facts, and the actual most recent proposal, not dated renderings and on-line hyperbole.

An elderly woman visited City Hall a few weeks ago, and begged that the City not allow the SFB Church to be torn down. In my opinion, she and many others are victims of this hyperbole.

For these reasons, Council Member Arnett insisted that whatever final plan is presented by the developer, be available for public viewing in City Hall and the Public Library for at least two weeks prior to any vote. He asked to debate the actual facts once they are finally available.

Council Member Arnett called on the opposition groups to do the same, to update your sites by removing dated and withdrawn proposals, tell the truth about ongoing cooperation/discussions, and when available, present the revised final plans prior to the vote, so that we are all dealing with the same facts and can have a healthy debate on the actual proposal instead of internet rumors. He asked for a civil and factual debate on the positives and negatives of this proposal and how it will affect the City in the future.

MAYOR'S REPORT

Mayor Kinzel issued a Proclamation for School Choice Week in Cedarburg – January 22-28, 2017.

ADJOURNMENT – CLOSED SESSION

Motion made by Council Member O'Keefe, seconded by Council Member Thome, to adjourn to closed session at 7:53 p.m. pursuant to State Statutes 19.85(1)(e) to deliberate or negotiate the investing of public funds or conducting other specified public business, whenever competitive or bargaining reasons require a closed session, more specifically, to discuss negotiations with the Cedarburg Police Officers' Association, Local 223. Approval of closed session minutes of November 28, 2016. Motion carried unanimously on a roll call vote.

RECONVENE TO OPEN SESSION

Motion made by Council Member Dieffenbach, seconded by Council Member Thome, to reconvene the meeting at 8:07 p.m. Motion carried unanimously on a roll call vote.

DISCUSSION REGARDING AN AGREEMENT BETWEEN THE CITY OF CEDARBURG AND THE CEDARBURG POLICE OFFICERS' ASSOCIATION, LOCAL 223, AND CONSIDER RESOLUTION NO. 2017-01 RATIFYING THE AGREEMENT; AND ACTION THEREON

Motion made by Council Member O'Keefe, seconded by Council Member Thome, to ratify the agreement between the City of Cedarburg and the Cedarburg Police Officers' Association, Local 223 by adopting Resolution No. 2017-01. Motion carried without a negative vote.

ADJOURNMENT

Motion made by Council Member Dieffenbach, seconded by Council Member Arnett, to adjourn the meeting at 8:09 p.m. Motion carried without a negative vote.

Amy D. Kletzien, MMC/WCPC
Deputy City Clerk