

**CITY OF CEDARBURG
COMMON COUNCIL
APRIL 26, 2021**

**CC20210426-1
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held online on Monday, April 26, 2021, utilizing the Zoom app.

Mayor O'Keefe called the meeting to order at 7:00 p.m.

Roll Call: Present - Mayor Michael O'Keefe, Council Members Jack Arnett, Patricia Thome, Barbara Lythjohan, Sherry Bublitz, Rick Verhaalen, Robert Simpson, Kristin Burkart

Also Present - City Administrator Mikko Hilvo, Attorney Michael Herbrand, City Clerk Tracie Sette, Engineering & Public Works Director Mike Wieser, City Planner Jon Censky, news media and interested citizens.

STATEMENT OF PUBLIC NOTICE

At Mayor O'Keefe's request, City Clerk Sette 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.

COMMENTS AND SUGGESTIONS FROM CITIZENS - None

APPROVAL OF MINUTES

A motion was made by Council Member Bublitz and seconded by Council Member Verhaalen, to approve the April 12, 2021 Common Council minutes. Motion carried without a negative vote.

NEW BUSINESS

**CONSIDER FAIRWAY VILLAGE FINAL PLAT AND DEVELOPMENT AGREEMENT;
AND ACTION THEREON**

City Planner Censky explained Fairway Village subdivision is the first of two phases, consisting of eight (8) townhomes and (52) single family lots ranging in size from 8,080 square feet up to 16,000 square feet. This phase also includes the dedication of the right-of-way for the future road connection connecting the City Business Park to Hilltop Drive in the Town of Cedarburg. Part of the request includes a street tree and landscape plan. City Forester Westphal was also involved in the creation of the plan. This agreement serves to spell out the responsibilities of the Developer and the City. Staff review of the plat indicates full compliance with State pledge requirements. This plan is consistent with preliminary plans already approved. The Plan Commission approved this final plat and unanimously agreed to recommend the Council give final approval.

Mayor O'Keefe appreciates the tree wall that runs along Washington Avenue and commended the well thought out design.

Council Member Burkart expressed concerns about the lot sizes but supports the project citing the City needs more housing in Cedarburg.

City Planner Censky confirmed there will be a sidewalk in front of Fairway Village which will run along Washington Avenue and mentioned the architectural style theme of the subdivision will be determined by the Plan Commission.

According to the Newman Development group, the goal is to create more affordable housing in the City. They hope to maintain the valuation of the townhomes to the mid three hundred thousand range.

A motion was made by Council Member Thome to approve the final plat and development agreement for the first phase of Fairway Village to include the 13 staff recommendations as set forth on page eleven (11) in the Council packet and seconded by Council Member Arnett.

A discussion took place about the replacement of Autumn Blaze Maple Trees. City Forester Westphal cited the reasons why Autumn Blaze Maple Trees were not optimum trees to plant for the long term.

Motion carried without a negative vote.

DISCUSSION ON UTILIZING CONES TO BLOCK OFF PARKING FOR BUSINESSES IN THE DOWNTOWN DISTRICT; AND ACTION THEREON

Several downtown businesses currently utilize cones to block off parking spots in front of their business for ease of access to accommodate takeout orders. The City temporarily allowed this to assist the businesses through the pandemic. Concerns have been raised about the already limited parking in the downtown area. Other concerns brought to Administrator Hilvo's attention have been about the curb appeal of the cones.

Gordon Goggin, owner of the Stilt House, explained that his carryout business grew from 1% before the pandemic to 19% because of the pandemic.

Many Council Members expressed support of the local businesses utilizing the reserved parking system to aid in curbside pickup.

Council Member Verhaalen would like to see the cones removed during the hours those businesses are closed.

Council Member Arnett suggested perhaps painting new parking spaces to further utilize parking spaces.

Council Member Simpson expressed concerns with the ability of Cedarburg Police to enforce this parking situation without an ordinance in place.

A motion was made by Council Member Thome to revisit this agenda item at the first meeting in July 2021 and seconded by Council Member Simpson. Motion carried without a negative vote.

CONSIDER REQUEST TO OBTAIN A PARCEL BOUNDARY SURVEY FOR THE PROPERTY FRONTAGE JUST SOUTH OF HIGHLAND DRIVE BRIDGE OVER CEDAR CREEK; AND ACTION THEREON

The owner of the property at W51 N664 Highland Drive requested the City maintain the limestone retaining wall running along the south half of the owner's frontage on Highland Drive. The property owner made the original request in March of 2017 suggesting the wall was constructed by the City. This item was brought to the Common Council in June of 2018 and funding of a property survey by the Council was rejected. A portion of the wall has now begun to deteriorate. The cost of a boundary survey would be \$1,450. The cost of a road right away survey would be \$800.00. A title search was conducted, and no easements were found to be associated with this retaining wall.

Engineering Director Wieser discussed possible replacement cost estimates. One estimate, for \$50,000 - \$60,000, entails removal of the wall and grading of the slope back to the property line. The second estimate for \$55,000 - \$65,000 includes reconstructing the wall with landscape block. The final estimate for \$30,000 - \$40,000 includes reconstructing the wall with poured concrete.

Director Wieser explained the homeowner has no interest in obtaining a survey of the property and feels the City is responsible.

The Council discussed various ways the City could temporarily fix the portion of the wall that has fallen until next year when Highland Drive street repair will be done. This would provide a short-term fix until the owner and City could determine who is ultimately responsible.

Attorney Herbrand suggested the City not enter the property until an agreement is signed by the owner allowing City employees access to the wall and further detailing the City is not acknowledging any amount of ownership or responsibility of this property. This temporary fix would fall under the City's police powers maintaining the safety of city sidewalks.

A motion was made by Council Member Burkart directing City staff to repair the damaged part of (the Highland Drive) retaining wall with owner consent to be on the property and with the caveat that this is not an acknowledgement of the land belonging to the City, seconded by Council Member Bublitz. Motion carried without a negative vote.

DISCUSSION ON PROPOSED AMENDMENTS TO SECTIONS 6-2-8, 14-1-62, 14-1-70, 14-1-10, 14-1-100 AND CHAPTER FOUR OF TITLE SIX OF CITY CODE PERTAINING TO TREES AND SHRUBS

City Forester Westphal began working on updating the City Code pertaining to trees and shrubs many years ago. The Code is outdated and mainly centers around Dutch Elm Disease. He explained how he condensed many areas of the Code and updated verbiage. The portions of the Code relating to Dutch Elm Disease have been removed. The section on tree preservation was condensed and now references city policy since it is dealt with so infrequently. A standards and specifications section has been created along with a new section pertaining to tree protection. Parkway verbiage has been updated to include the term Tree Terrace.

The Council was invited to provide feedback on the proposed ordinance revision.

Current right-of-way widths in the City range from 60 feet to 66 feet. The Council discussed the range of right-of-way widths in the City. City Forester Westphal explained a 60 foot right of way will provide a seven-foot-wide tree terrace. He explained a ten-foot-wide tree terrace is optimal for tree growth as well as sidewalk preservation. Council Members explained the importance of the ability to adjust the right-of-way width based on varying sizes of construction developments. Council Member Arnett suggested the City should maintain the ability to adjust those widths without the need to change the ordinance for each instance. The ability to appeal should also be spelled out in the ordinance.

The Council Members thanked City Forester Westphal for his work on updating the ordinances and expressed appreciation at his depth of knowledge of the subject.

CONSIDER CHANGE IN MAY COMMON COUNCIL MEETING DATES; AND ACTION THEREON

Clerk Sette explained the last Monday in May, when a regular Council Meeting would normally take place, falls on Memorial Day and suggested the meeting be moved to May 24, the week prior.

A motion was made by Council Member Arnett to move the May 31 Council meeting to May 24 and seconded by Council Member Thome. Motion carried without a negative vote.

CONSIDER MAYOR O'KEEFE'S COUNCIL MEMBER APPOINTMENTS; AND ACTION THEREON

A motion was made by Council Member Verhaalen to approve the Mayoral Council Member appointments for 2021-2022 and seconded by Council Member Thome. Motion carried without a negative vote.

CONSIDER PAYMENT OF BILLS DATED 04/02/2021 THROUGH 04/16/2021, TRANSFERS FOR THE PERIOD 04/08/2021 THROUGH 04/20/2021 AND PAYROLL FOR PERIOD 04/04/2021 THROUGH 04/17/2021; AND ACTION THEREON

A motion was made by Council Member Burkart to pay the bills dated 04/02/2021 through 04/16/2021, transfers for the period 04/08/2021 through 04/20/2021, and payroll for period 04/04/2021 through 04/17/2021 and was seconded by Council Member Lythjohan. Motion carried without a negative.

ADMINISTRATOR'S REPORT

The Administrator's Report was included in the Council packet. In addition, Administrator Hilvo added that so far approximately 400 people have taken the Citizen Survey. He hopes more people will respond soon.

CLERK'S REPORT

Clerk Sette informed the Council of the 2021 Open Book and Board of Review dates. Open Book will take place on June 2, 2021 from 9:00 a.m. – 11:00 a.m. via phone or email only. The Board of Review will take place at City Hall (in person) on June 30, 2021 6:00 p.m. – 8:00 p.m.

COMMENTS AND SUGGESTIONS FROM CITIZENS – None

COMMENTS AND ANNOUNCEMENTS BY COUNCIL MEMBERS

Council Member Arnett explained the much-anticipated Evergreen Boulevard street repair will begin soon.

MAYOR'S REPORT – None

ADJOURNMENT - CLOSED SESSION

A motion was made by Council Member Thome and seconded by Council Member Bublitz, at 8:23 p.m., to adjourn to closed session pursuant to State Statute 19.85(1)(e) to deliberate or negotiate the purchasing of public properties, the investing of public funds, or conducting other specified public business whenever competitive or bargaining reasons require a closed session. Specifically discussed was the Hwy 60 Business Park Land Offer and the application to alter a highway on a line between the Town of Cedarburg and the City of Cedarburg relating to the connection of Forward Way to Hilltop Drive and related intergovernmental agreement. Motion carried on a roll call vote with Council Members Bublitz, Arnett, Verhaalen, Thome, Lythjohan, Simpson and Burkart voting aye. (7-0)

RECONVENE TO OPEN SESSION

Open session reconvened at 9:37 p.m.

CONSIDER HWY 60 BUSINESS PARK OFFER TO PURCHASE; AND ACTION THEREON

A motion was made by Council Member Arnett to approve the Hwy 60 Business Park Offer subject to the minor changes discussed in Closed Session and seconded by Council Member Burkart. Motion carried without a negative vote.

CONSIDER RESOLUTION AUTHORIZING THE APPLICATION TO ALTER A HIGHWAY CONNECTING FORWARD WAY TO HILLTOP DRIVE; AND ACTION THEREON

A motion was made by Council Member Arnett to postpone this item to a future Council Meeting and seconded by Council Member Bublitz. Motion carried without a negative vote.

ADJOURNMENT

A motion made by Council Member Arnett and seconded by Council Member Thome to adjourn the meeting at 9:39 p.m. Motion carried without a negative vote.

Tracie Sette
City Clerk