

**CITY OF CEDARBURG
COMMON COUNCIL
February 12, 2018**

**CC20180212-1
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, February 12, 2018, 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, Patricia Thome, Mike O’Keefe

Vacant - Aldermanic District 5

Also Present - City Administrator/Treasurer Christy Mertes, City Attorney Michael Herbrand, City Planner Jon Censky, Deputy City Clerk Amy Kletzien, 1st Aldermanic District candidate Sara Dunstone, 3rd Aldermanic District candidates Kristin Burkart and Ryan Hammetter, 5th Aldermanic District candidates Garan Chivinski and Vera Brissman, David Ferrell and Tony DeRosa from HSI Properties, Todd Taves and Frank Roman from Ehlers, 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 Arnett, seconded by Council Member Dieffenbach, to approve the minutes of the January 29, 2018 meeting as presented. Motion carried without a negative vote with Aldermanic District 5 vacant.

COMMENTS AND SUGGESTIONS FROM CITIZENS - None

ADJOURNMENT – CLOSED SESSION

Motion made by Council Member O’Keefe, seconded by Council Member Thome, to adjourn to closed session at 7:01p.m. pursuant to State Statutes 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, more specifically, to consider a Tax Incremental Financing (TIF) Development Agreement with HSI Properties regarding the St. Francis Borgia site at N44 W6035 – N43 W6005 Hamilton Road. Approval of January 29, 2018 closed session minutes. Motion carried on a roll call vote with Council Members Czarnecki, Arnett, Dieffenbach, Verhaalen, Thome, and O’Keefe voting aye, and Aldermanic District 5 vacant.

RECONVENE TO OPEN SESSION

Motion made by Council Member Dieffenbach, seconded by Council Member Czarnecki, to reconvene to open session at 8:25 p.m. Motion carried on a roll call vote with Council Members Czarnecki, Arnett, Dieffenbach, Verhaalen, Thome, and O'Keefe voting aye, and Aldermanic District 5 vacant.

NEW BUSINESS

CONSIDER PLANNED UNIT DEVELOPMENT AGREEMENT (PLAN COMM. 02/05/18) AND TAX INCREMENTAL FINANCING (TIF) DEVELOPMENT AGREEMENT WITH HSI PROPERTIES REGARDING THE ST. FRANCIS BORGIA SITE AT N44 W6035 – N43 W6005 HAMILTON ROAD; AND ACTION THEREON

City Attorney Herbrand explained that the first agreement is a Planned Unit Development agreement. This agreement covers the infrastructure improvements, zoning changes, and the site improvements on the St. Francis Borgia site. This agreement was viewed and recommended for approval by the Plan Commission on February 5, 2018. The terms of the agreement are dictated by the Zoning Code and have a commencement date of July 31, 2018 and completion date by the end of 2019. It shows all of the public improvements that will go into the site. There are no roads; however, there will be some sidewalks, street trees and stormwater. There are also private improvements that include the shared parking agreement with the church and also a relocation of the monument sign at the intersection of Hamilton Road and Washington Avenue. The agreement outlines terms on the impact fees. The Developer is given a small credit towards the impact fees for the existing structures on the property. There are a few small changes from what the Plan Commission reviewed and the most notable change is that the developer has asked for permission to have occupancy of each building as they are developed. This was approved by Building Inspector Baier and Section 12 Q was added to allow the developer to seek occupancy permits for each building so long as the buildings have been inspected by the Building Inspector and the Fire Inspector and they deem them safe for fire and life systems along with safe exterior access.

City Attorney Herbrand stated that the Tax Incremental Financing (TIF) Development agreement is also before the Council. This agreement sets forth all of the financing terms related to the creation of the TIF district and remains the same as shown in the packet. There is one change related to the clawback provision, that while the municipal revenue obligation exists, if there is a sale of the property or a cash out refinancing of the property, the City will be allowed to do clawback calculations and if the rate of return is 450 basis points higher than the projected rate of return this also will trigger the clawback provision. These terms will be in effect for the life of the municipal revenue obligation.

Motion made by Council Member Thome, seconded by Council Member O'Keefe, to approve the Planned Unit Development agreement with HSI Properties regarding the St. Francis Borgia site at N44 W6035 – N43 W6005 Hamilton Road. Motion carried with Council Members Czarnecki, Arnett, Verhaalen, Thome and O'Keefe voting in favor, Council Member Dieffenbach opposed, and Aldermanic District 5 vacant.

Motion made by Council Member Czarnecki, seconded by Council Member Arnett, to approve the Tax Incremental Financing (TIF) Development agreement with HSI Properties regarding the St. Francis Borgia site at N44 W6035 – N43 W6005 Hamilton Road including the change to the

clawback provision that if there is a sale of the property or a cash out refinancing of the property the City will be allowed to do clawback calculations and if the rate of return is 450 basis points higher than the projected rate of return this also will trigger the clawback provision. These terms will be in effect for the life of the municipal revenue obligation.

In answer to Council Member Dieffenbach's question, Mr. Taves explained that the \$4.4 million figure is what the property is projected to generate in tax increment if it were to remain open for its entire allowable 27 year statutory life. The current TIF will be \$1.9 million for all of the entities. Council Member Dieffenbach expressed concern for the amount of the TIF and questioned how a project this size did not know until the last minute that they need almost \$2 million of assistance.

Motion carried with Council Members Czarnecki, Arnett, Verhaalen, Thome and O'Keefe voting in favor, Council Member Dieffenbach opposed, and Aldermanic District 5 vacant.

CONSIDERATION OF RESOLUTION NO. 2018-04 APPROVING THE PROJECT PLAN AND ESTABLISHING THE BOUNDARIES FOR AND THE CREATION OF TAX INCREMENTAL DISTRICT NO. 5, CITY OF CEDARBURG, WISCONSIN; AND ACTION THEREON

Mr. Taves stated that Resolution No. 2018-04 serves to create Tax Incremental District No. 5 that will provide the source of funds for the development agreement the Common Council has approved. If this resolution is approved by the Common Council it will still be subject to approval by the Joint Review Board on February 27. The costs of the TIF are limited to the payment of \$1.925 million. An incentive for this project will be paid out, as tax increments are realized over the length of the district. Although the District would generate over \$4 million, if left open for its entire 27 year life; the \$1.925 million is projected to be fully repaid by 2032. If there are no other project cost obligations, the District would be projected to close. This explains the difference between the \$4 million and \$1.925 million.

In answer to Council Member Verhaalen's question, City Administrator/Treasurer Mertes explained that the church is included in the boundaries because the sign needs to be moved. City Attorney Herbrand added that there is a small section where the sidewalk is being moved into public right-of-way in addition to the sign.

Motion made by Council Member O'Keefe, seconded by Council Member Czarnecki, to approve Resolution No. 2018-04 approving the Project Plan and establishing the boundaries for and the creation of Tax Incremental District No. 5, City of Cedarburg, Wisconsin. Motion carried with Council Members Czarnecki, Arnett, Verhaalen, Thome and O'Keefe in favor, Council Member Dieffenbach opposed, and Aldermanic District 5 vacant.

CONSIDER PLANNED UNIT DEVELOPMENT (PUD) OVERLAY EXTENSION FOR THE ST. FRANCIS BORGIA SITE AT N44 W6035 - N43 W6005 HAMILTON ROAD; AND ACTION THEREON

Planner Censky explained that the Zoning Code requires a building permit be issued within one year of a PUD zoning establishment or the PUD is automatically discontinued. Because the deadline is near for this one year period on March 13 and the applicant has not secured a building permit, he is asking for an extension. Planner Censky stated that since the applicant is diligently working towards securing a building permit, he recommends approval.

Motion made by Council Member Czarnecki, seconded by Council Member Arnett, to accept the Planned Unit Development (PUD) extension for the St. Francis Borgia Site at N44 W6035 – N43 W6005 Hamilton Road. Motion carried with Council Members Czarnecki, Arnett, Verhaalen, Thome and O'Keefe in favor, Council Member Dieffenbach opposed, and Aldermanic District 5 vacant.

CONSIDER CERTIFIED SURVEY MAP (CSM) FOR THE ST. FRANCIS BORGIA SITE AT N44 W6035 – N43 W6005 HAMILTON ROAD; AND ACTION THEREON

Planner Censky explained that the survey information that was received by the City indicates that the public sidewalk north of the church, which wraps around from Washington Avenue to Hamilton Road, actually crosses the church's private property. As part of the process, through the recording of the Certified Survey Map, the City is asking that the applicant dedicate sufficient right-of-way so that the public sidewalk is at least one foot in the right-of-way. This was reviewed and recommended by the Plan Commission by unanimous vote.

Motion made by Council Member Czarnecki, seconded by Council Member Arnett, to approve the Certified Survey Map (CSM) for the St. Francis Borgia site at N44 W6035 – N43 W6005 Hamilton Road. Motion carried without a negative vote with Aldermanic District 5 vacant.

CONSIDER ORDINANCE NO. 2018-02 INCREASING THE ALLOCATED FUNDS IN THE RECREATION PROGRAM SPECIAL REVENUE FUND TO THE POOL FUND; AND ACTION THEREON

City Administrator/Treasurer Mertes explained that this Ordinance is transferring money from the Special Revenue Recreation Programs fund to the Pool fund because there was a deficit at the end of the year.

Motion made by Council Member Dieffenbach, seconded by Council Member Arnett, to adopt Ordinance No. 2018-02 increasing the allocated funds in the Recreation Program Special Revenue fund to the Pool fund. Motion carried without a negative vote with Aldermanic District 5 vacant.

CONSIDER PAYMENT OF BILLS FOR THE PERIOD 01/23/18 THROUGH 02/05/18, TRANSFERS FOR THE PERIOD 01/23/18 THROUGH 02/06/18, AND PAYROLL FOR THE PERIOD 01/14/18 THROUGH 01/27/18 AND ACTION THEREON

Motion made by Council Member Dieffenbach, seconded by Council Member Arnett, to approve the payment of bills for the period 01/23/18 through 02/05/18, transfers for the period 01/23/18 through 02/06/18, and payroll for the period 01/14/18 through 01/27/18. Motion carried without a negative vote with Aldermanic District 5 vacant.

CONSIDER LICENSE APPLICATIONS; AND ACTION THEREON

Motion made by Council Member O'Keefe, seconded by Council Member Thome, to approve a new Operators License application for the period ending June 30, 2018 for Benjamin J. Dereszynski. Motion carried without a negative vote with Aldermanic District 5 vacant.

Motion made by Council Member Thome, seconded by Council Member O'Keefe, to approve issuance of a Festival Celebration permit to Festivals of Cedarburg, Inc. for Strawberry Festival to

be held on Saturday, June 23, 2018 from 10:00 a.m. to 8:30 p.m. and on Sunday, June 24, 2018 from 10:00 a.m. to 5:00 p.m. Motion carried without a negative vote with Aldermanic District 5 vacant.

Council Member Czarnecki offered an amendment to add the approval of issuance of a Festival Celebration Permit to Festivals of Cedarburg, Inc. for Wine and Harvest Festival to be held on Saturday, September 15, 2018 from 10:00 a.m. to 8:30 p.m. and Sunday, September 16, 2018 from 10:00 a.m. to 5:00 p.m. and issuance of a Festival Celebration Permit to Festivals of Cedarburg, Inc. for Oktoberfest to be held on Saturday, October 13, 2018 from 11:00 a.m. to 8:00 p.m. and Sunday, October 14, 2018 from 10:00 a.m. to 5:00 p.m. The amendment was accepted by Council Member Thome and Council Member O'Keefe.

Motion carried without a negative vote with Aldermanic District 5 vacant.

ADMINISTRATOR'S REPORT

City Administrator/Treasurer Mertes reminded the Council Members that they need to complete the Security Awareness Training by March 9, as mandated by Ozaukee County.

In answer to Council Member Dieffenbach's question, City Attorney Herbrand stated that the City does not yet have the title for the Highland Drive lift station.

COMMENTS AND SUGGESTIONS FROM CITIZENS - None

COMMENTS & ANNOUNCEMENTS BY COUNCIL MEMBERS

Council Member Dieffenbach reminded the Council of the Spring Primary Election on February 20, 2018.

MAYOR'S REPORT

Mayor Kinzel issued a Proclamation to the Cedarburg Lions Club, commending them for their community blood drives and receiving the 5,000th donor on February 8, 2018.

ADJOURNMENT

Motion made by Council Member O'Keefe, seconded by Council Member Czarnecki, to adjourn the meeting at 8:45 p.m. Motion carried without a negative vote with Aldermanic District 5 vacant.

Amy D. Kletzien, MMC/WCPC
Deputy City Clerk