

**CITY OF CEDARBURG
COMMON COUNCIL
January 25, 2016**

**CC20160125-1
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, January 25, 2016, at City Hall, W63 N645 Washington Avenue, second floor, Council Chambers. Mayor Kip 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, Art Filter (excused at 9:20 p.m.), Rick Verhaalen, Patricia Thome, Mike O'Keefe

Excused - Council Member Mitch Regenfuss

Also Present - City Administrator/Treasurer Christy Mertes, Police Chief Tom Frank, Light & Water General Manager Dale Lythjohan, City Clerk Constance McHugh, City Assessor Cathy Timm, Parks, Recreation & Forestry Director Mikko Hilvo, Planner Jon Censky, City Attorney Michael Herbrand, Economic Development Coordinator Mary Sheffield, Economic Development Board Member Eric Stelter, interested citizens and news media

STATEMENT OF PUBLIC NOTICE

At Mayor Kinzel's 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.

APPROVAL OF MINUTES

Motion made by Council Member Thome, seconded by Council Member Arnett, to approve the minutes of the January 11, 2016 meeting as presented. Motion carried unanimously with Council Member Regenfuss excused.

CONSIDER APPROVAL OF APPOINTMENT OF ANDREA S. BROKER AS AGENT FOR WALGREENS #13620 AT W62 N190 WASHINGTON AVENUE

Motion made by Council Member Thome, seconded by Council Member Czarnecki, to approve the appointment of Andrea S. Broker as agent for Walgreens #13620. Motion carried unanimously with Council Member Regenfuss excused.

CONSIDER MAYOR KINZEL'S APPOINTMENT OF LINDA KRIEG TO THE POLICE AND FIRE COMMISSION

Motion made by Council Member O'Keefe, seconded by Council Member Czarnecki, to approve Mayor's Kinzel's appointment of Linda Krieg to the Police and Fire Commission (term expires 04/30/17). Motion carried unanimously with Council Member Regenfuss excused.

The oath of office was administered to Ms. Krieg by Clerk McHugh.

DISCUSSION OF SECTIONS 25-27 OF 2015 ASSEMBLY BILL 582 AS IT RELATES TO THE ASSESSMENT PROCESS

Assessor Timm said the assessment portion of AB 582 is just a small portion of a larger bill which pertains to property rights. This proposal would reclassify all vacant lands that are platted, fully improved, and zoned for residential, commercial or manufacturing use as "Undeveloped". To be reclassified, the land must have been in agricultural use for two consecutive years prior to being converted. Once the properties are classified as "Undeveloped", the land shall be assessed at its unimproved value until such time that an occupancy permit is issued. A classification of "Undeveloped" reduces the assessed value by 50%. There is no back date for the conversion to have taken place. This means land that was farmed and then platted and improved anytime in the past will be reclassified as undeveloped land for 2018 and be assessed at its unimproved value until occupancy is given. The impact on the City would be a loss of \$44,000 in taxes each year, which would result in the tax rate increasing from \$6.97 to \$7.007 per \$1,000 assessed value.

Mayor Kinzel said it makes sense that improved lots should be valued higher.

Council Member Verhaalen asked if this bill would slow development. Council Member Czarnecki said that this bill would probably encourage development.

Council Member Filter asked if the League of Wisconsin Municipalities has taken a position on this bill. Assessor Timm said the League is neutral on this bill.

The Council did not take a stance on proposed AB 582 and thanked Assessor Timm for bringing it to the Council's attention.

CONSIDER RESOLUTION NO. 2016-01 EXTENDING THE DATE BY WHICH WATER IMPACT FEES MUST BE USED PURSUANT TO WIS. STAT. 66.0617(9)(b)

General Manager Lythjohan said water impact fees that were created in 2006 for new development will expire in March. Since the water impact fees were established, economic circumstances from 2008 to 2013 resulted in delayed development in the City and the funds not being used. State Statutes allow a municipality to extend the time limit for refund of the impact fees by three years if there are extenuating circumstances.

Motion made by Council Member Filter, seconded by Council Member O'Keefe, to adopt Resolution No. 2016-01 extending the date by which water impact fees must be used pursuant to Wis. Stat. 66.0617(9)(b). Motion carried unanimously with Council Member Regenfuss excused.

CONSIDER REQUEST OF POLICE CHIEF FRANK TO CREATE AN ELIGIBILITY LIST FOR POLICE OFFICER

Chief Frank said it is anticipated a police officer will retire in August of 2016. He is seeking permission to start the hiring process and create an eligibility list. It typically takes 6 to 9 months to work through all of the steps of the screening process for police officer applicants to create an eligibility list. No officer will be hired until the officer retires and permission to hire is obtained from the Common Council. The list will be valid for one year at the end of the process and can be extended by the Police and Fire Commission.

Motion made by Council Member O'Keefe, seconded by Council Member Thome, to authorize Chief Frank to begin the hiring process and to create an eligibility list for a police officer. Motion carried unanimously with Council Member Regenfuss excused.

CONSIDER RECOMMENDATION OF THE ECONOMIC DEVELOPMENT BOARD THAT THE COUNCIL FUND A HOTEL MARKET ANALYSIS

Economic Development Coordinator Sheffield said the AmericInn hotel chain is interested in building a hotel in the City, possibly on Pioneer Road or near Highway 60. The chain requires a feasibility study in order to move forward with the project, with the study to be funded by the City. Representatives of the hotel chain and consultant Hotel R & D, LLC made a presentation to the Economic Development Board on November 24, 2015. The Economic Development Board recommended on January 12, 2016 that the City fund the study to determine if the City can support a hotel as well as to understand the impact a hotel would have on the inns in the City. The cost is expected to be \$6,500 - \$8,500 and would be good for five years.

Coordinator Sheffield said other reasons for the study include the possibility of providing more family friendly hotel accommodations, keeping potential guests in Cedarburg supporting local businesses, an increase in the tax base and room taxes collected, possibly acting as a catalyst for development on Pioneer Road or Highway 60, and use of the study as a marketing tool for hotel chains.

Council Member Filter asked if these studies ever conclude that a hotel should not be built. Coordinator Sheffield said the study would stop if it finds the community could not support a hotel. The cost would then be reduced.

Mayor Kinzel suggested that RFPs be put out for the study and the City own the study. This would provide a marketing tool that could be possibly used to attract other hotels.

Council Member Arnett said the proposal for a hotel market analysis provided by Hotel R & D, LLC does not address how a hotel might impact the existing inns in the City.

Council Member Czarnecki said he is not aware of anyone asking for hotels to locate in the City. He said this approach is backwards as the chain is coming to the City to ask the Council to spend money. He said it is up to this Council to determine if a hotel is really needed.

Council Member Thome said there needs to be a discussion of whether a feasibility study is something to explore. She said she does not want the study to tie the City to anything.

Council Member O'Keefe said making the investment to do the study shows the City is open to the idea of a hotel. The cost is small compared to the property taxes and room taxes the City would realize.

The consensus of the Council is that there is some interest in doing a study to use as a marketing tool. Mayor Kinzel said the City needs to own the study. Council Member Verhaalen said doing a study would be a proactive approach.

Motion made by Council Member O'Keefe, seconded by Council Member Filter, to approve the funding for a hotel market analysis not to exceed \$8,500. RFPs are to be sent out after review by the City Attorney and the study is to address the impact a hotel may have on the inns in the City. With Council Members Czarnecki, Filter, Verhaalen, Thome, and O'Keefe voting aye, Council Member Arnett voting nay, and Council Member Regenfuss excused, the motion carried.

CONSIDER POSSIBLE AGREEMENT WITH THE CEDARBURG SCHOOL DISTRICT REGARDING THE FUNDING OF THE HIGH SCHOOL TENNIS COURT

Director Hilvo said the Cedarburg School District approached the Council in 2013 about a 50% cost sharing for the reconstruction of the tennis courts. The Council verbally agreed to the funding. The lowest bid for the project came in at \$425,194 . The School District is again asking the Council to fund \$212,597. The City did borrow \$212,500 for the costs of the courts. A written agreement has been prepared by Attorney Herbrand outlining what the City would contribute. The School District did approve the agreement with some changes. Director Hilvo said he has heard comments as to why the City is paying for 50% of these costs.

Attorney Herbrand said the Council is not bound by the verbal decision in 2012 to pay for 50% of the costs of the reconstruction of the tennis courts. He said one Council cannot bind a future Council in terms of policy. His firm did draft the proposed Intergovernmental Agreement. The terms include a maximum payment from the City of \$212,597, no future payments from the City, the length of the agreement at 20 years, and provisions for first priority use of the courts during the summer months and second priority use during the school year.

Mayor Kinzel said the School Board discussed the agreement last week at a meeting and made some revisions. Director Hilvo said the biggest revision is that the School Board wants the City to share the annual maintenance costs at a level of 50%.

Council Member Filter said he voted no when this was agreed to in 2012 and has a problem with sharing the costs at 50%. He said the cost sharing should be 30% or less.

Council Member Arnett questioned why the City and its residents are being charged twice for this. If the Council contributes \$212,000, taxes would have to be raised by 2.4% for one year. He said the Town of Cedarburg is not contributing to the costs of the tennis courts and has not been asked to contribute. He said the School District will likely reconstruct the court regardless if any funding is received from the City. He said his analysis shows the City of Cedarburg uses the courts 5% to

10% of the time. The City should not be subsidizing the Town, and the costs should be assessed across the entire School District.

Motion made by Council Member Arnett to reject the proposed Intergovernmental Agreement for Tennis Court Reconstruction and Use. The motion was seconded by Council Member Czarnecki.

Council Member O'Keefe asked Director Hilvo if the Parks, Recreation and Forestry Department can run the summer tennis program using only City courts.

Director Hilvo said the Adlai Horn courts may need to be shut down due to disrepair. That only leaves two City courts left, and the summer programs cannot be run using two courts.

Council Member O'Keefe asked if it is possible to rent the School District courts.

Director Hilvo said that this is a discussion that may need to take place. He said if the City does not fund the reconstruction costs the School District will look for other ways to make up the costs.

Mayor Kinzel said the Town has grown considerably in the past few decades in terms of the number of residents. This arrangement has been going on for years and how the City did things in the 1960s does not apply today.

Council Member Arnett said the Grafton School District implemented fees for facilities used by the Grafton Recreation Department. The Cedarburg School District may do the same thing here. The City and Town would then be charged. It is possible the School District may even increase fees to a high level. He suggested the Council reject this agreement and discussions with the School District continue. He said there should not be a 2.4% increase in City taxes so that the Town taxes can be lower.

Council Member Verhaalen said he agrees with Council Member Arnett. He feels the usage by the City is more like 20% since the City is using 4 courts out of 14. He also said that anything agreed upon or decided should be in the form of a written agreement.

Council Member Thome said she is disappointed that no one from the School District is present. She said the Town is the School District's issue. She said she is open to discussion about possibly paying a smaller percentage or paying fees to the School District; however, the City still needs priority in terms of the use of the courts.

With Council Members Czarnecki, Arnett, Filter, Verhaalen, Thome, and O'Keefe voting aye, and Council Member Regenfuss excused, the motion to reject the Intergovernmental Agreement carried.

Discussions with School Districts representatives on this matter will continue to determine how to proceed.

PAYMENT OF BILLS

Motion made by Council Member Filter, seconded by Council Member Czarnecki, to approve the payment of the bills for the period 01/08/16 through 01/18/16, ACH transfers for the period

01/09/16 through 01/22/16, and payroll for the period 01/03/16 through 01/14/16. The motion carried unanimously with Council Member Regenfuss excused.

LICENSE APPLICATIONS

Motion made by Council Member O'Keefe, seconded by Council Member Czarnecki, to authorize the issuance of a new Operator license for the period ending June 30, 2016 to: Cassandra M. Hogan. Motion carried unanimously with Council Member Regenfuss excused.

Motion made by Council Member O'Keefe, seconded by Council Member Czarnecki, to authorize issuance of a Festival Celebration Permit to Festivals of Cedarburg, Inc., for Winter Festival to be held on Saturday, February 20, 2016 from 8:30 a.m. to 10:00 p.m. and on Sunday, February 21, 2016 from 8:30 a.m. to 4:00 p.m. Motion carried unanimously with Council Member Regenfuss excused.

ADJOURNMENT – CLOSED SESSION

Motion made by Council Member Thome, seconded by Council Member O'Keefe, to adjourn to closed session at 8:09 p.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. Approval of closed session minutes of 01/11/16. With Council Members Czarnecki, Arnett, Filter, Verhaalen, Thome and O'Keefe voting aye and Council Member Regenfuss excused, the motion carried on a roll call vote.

ADJOURNMENT

Motion made by Council Member Arnett, seconded by Council Member Thome, to adjourn the meeting at 9:30 p.m. Motion carried unanimously with Council Members Filter and Regenfuss excused.

Constance K. McHugh, MMC/WCPC
City Clerk