

**CITY OF CEDARBURG
COMMON COUNCIL
April 11, 2016**

**CC20160411-1
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, April 11, 2016, 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, Art Filter, Rick Verhaalen, Mitch Regenfuss, Patricia Thome, Mike O’Keefe

Also Present - City Administrator/Treasurer Christy Mertes, Assistant City Attorney Tim Schoonenberg, Director of Engineering and Public Works Tom Wiza, Deputy City Clerk Amy Kletzien, Planner Jon Censky, Parks, Recreation & Forestry Director Hilvo, Council Member Elect Dick Dieffenbach, 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 Arnett, to approve the minutes of the March 28, 2016 meeting as presented. Motion carried without a negative vote with Council Members Czarnecki and Regenfuss abstaining.

COMMENTS AND SUGGESTIONS FROM CITIZENS - None

NEW BUSINESS

CONSIDER FINAL PLAT AND DEVELOPMENT AGREEMENT APPROVAL FOR THE FIRST PHASE OF THE GLEN AT CEDAR CREEK SUBDIVISION (PLAN COMM. 12/7/2015 AND 03/17/16); AND ACTION THEREON

City Planner Censky stated that the Council is considering the final plat and Development Agreement for the first phase of the Glen at Cedar Creek Subdivision consisting of 46 single-family lots ranging in size from 9,863 square feet to 18,538 square feet. The applicant received preliminary plat approval for this 69 lot single-family subdivision last December and has been working with Director Wiza and the City Attorney on the Development Agreement and to complete the necessary work to pursue final plat approval. The Development Agreement serves as a contract between the Developer and the City that establishes the Developer’s responsibilities regarding the public and private facilities, improvements within this project, fee structure, and any other mutually agreed to terms and requirements.

In answer to Council Member Filter's question, Civil Engineer Carey stated that they will have the DNR approvals within the next two weeks and construction is planned to begin on May 22.

In answer to questions from Mayor Kinzel and Council Member Regenfuss, Director Wiza stated that the meander line is only a survey line and is not the designated walking path. The path is only partially shown going into outlot 4 where it will go through to the next phase. It will take time to establish the path to the south because of the farm and easements.

Motion made by Council Member Filter, seconded by Council Member Thome, to approve the final plat and Development Agreement for the first phase of the Glen at Cedar Creek Subdivision as recommended by the Plan Commission and contingent upon the stormwater management plan and the recordation of a temporary access easement for construction. Motion carried without a negative vote.

CONSIDER OUTDOOR ALCOHOL BEVERAGE LICENSE FOR SAL'S PIZZA AT W63 N635 WASHINGTON AVENUE; AND ACTION THEREON

Planner Censky stated that late last summer Sal's Pizzeria began serving food on the grassy area north of their building in accordance with the permitted accessory uses in the B-3 District. The restaurant has received numerous requests for beer to be served with their food, and has now decided to pursue an Outdoor Alcohol Beverage License. An agreement was drafted by the City Attorney defining the responsibilities of the applicant for using this area, because this grassy area is part of the adjacent parcel which is owned by US Bank and leased by the City. Because the restaurant cannot legally carry an opened bottle or can of beer across a public sidewalk, the applicant will need to either carry the unopened alcohol to the grassy area and then open them or pass the alcohol beverage through one of the windows on the north side of the building.

The Landmarks Commission reviewed the fence, arbor enclosure and the tables and chairs at their March 24, 2016 meeting and recommended approval by unanimous vote. The Plan Commission reviewed this request at their April 4, 2016 meeting and recommended approval subject to:

- The terms and commitments of the agreement with the City.
- Before use of a window is permitted for passing alcohol from the building to the outdoors, the applicant will need to return to the Landmarks and Plan Commissions for approval for a properly designed service window.
- Any unanticipated problems with this activity shall be the responsibility of the owner to correct immediately upon notification.

In answer to Council Member Czarnecki's concerns about the fencing, Planner Censky explained that the fence is not placed on a flat surface and it is similar in nature to the fencing at the Chiselled Grape Winery.

Council Member Thome stated that she understood the nature of the fence and asked that the owners keep it perpendicular and as sound as possible.

Stephen Leonard stated that the fence was chosen to match the fencing at the Chiselled Grape and to accommodate its temporary use to help festivals.

In answer to Council Member Filter's question, Christian Leonard explained that the fencing and furniture will be removed several times to accommodate Festival's use of the area.

In answer to Council Member Czarnecki's question, Planner Censky explained that the Outdoor Alcohol Beverage License will allow Sal's Pizzeria to use the fencing and arbor each year on this space, as long as there is a valid agreement with the City to use the property.

Motion made by Council Member Filter, seconded by Council Member Thome, to approve the Outdoor Alcohol Beverage License for Sal's Pizza at W63 N635 Washington Avenue as recommended by the Landmarks and Plan Commissions, to comply with all City Ordinances, and to be contingent upon a final franchise agreement indemnifying the City. Motion carried without a negative vote.

REVIEW OF 2015 ANNUAL REPORT FOR NR216 MUNICIPAL STORM WATER COMPLIANCE; AND ACTION THEREON

Director of Engineering and Public Works Wiza explained that as part of the City's NR216 storm water permit, the City must prepare an annual compliance report for submission to the DNR which documents our storm water program accomplishments. As in previous years, AECOM has been retained to assist in compiling the necessary information and performing the required water quality testing.

Director Wiza stated that the DNR requires that the report be reviewed with the governing body. Because the document is very lengthy, Director Wiza passed around the bound report copies at the meeting and provided the following review:

Permit Conditions Imposed on the City:

- Implement a storm water public education and outreach program – accomplished with Cedar Post articles.
- Must inform the public of activities required under the permit – accomplished through the City website and Engineering Department brochures.
- Maintain a program to detect and remove illicit discharges – AECOM assists with dry weather sampling at outfalls.
- Enforce erosion and sediment control for construction sites.
- Monitor post construction water quality controls – best management practices checked/ponds.
- Continue a pollution prevention program.
- Achieve compliance with target of 40% suspended solids reduction.
- Maintain and update the City storm sewer mapping – the GIS mapping is current.

Annual Accomplishments:

- Cleaned virtually all catch basin sumps as well as six hydrodynamic separators (approximately 105 tons were removed that would have gone into Cedar Creek).
- Issued twenty-four erosion control permits and four storm water management permits.
- Provided a full display rack of storm water related information brochures at City Hall.
- Published storm water articles in the Spring and Fall Cedar Post issues.
- Maintained and updated a storm water webpage.

- Provided the rotating display rack with storm water literature to the County Fair.
- Assisted AECOM with illicit discharge investigations.
- Swept downtown streets weekly and residential streets monthly.
- Collected and disposed of approximately 94 tons of street sweepings that is landfilled.
- Collected and composted approximately 1,153 tons of leaves, brush and yard waste.
- Collected and recycled (or burned) 1,390 gallons of used motor oil.
- Installed 26 new catch basins with two foot sumps which incorporate the “Dump to Waste Drains to Stream” logo on the cast iron curb head.
- Updated storm sewer mapping on GIS.
- Participated in the Sweetwater “Respect Our Waters” program for metropolitan Milwaukee.

Director Wiza stated that a copy of the report is available in the Engineering Office for further review.

In answer to Council Member O’Keefe’s question, Director Wiza stated that the City has been working with Kemp’s Dairy in tracking down a higher level of ammonia in the storm sewer and they believe they have found the source. The Dairy has an extensive amount of plumbing and they have been very cooperative. A pump suspected of the seepage has been lined and reconstructed. If the higher levels continue, the City will proceed with smoke or dye testing in the future.

It was the consensus of the Common Council to accept the 2015 Annual Report for NR216 Municipal Storm water Compliance.

CONSIDER ACCEPTANCE OF DONATION OF TWO SCULPTURES TO BE PLACED IN CITY PARKS; AND ACTION THEREON

Director Hilvo explained that a local donor has offered to donate two sculptures to the City to be placed in the parks. The first sculpture is called “Family” and is being proposed for placement in Centennial Park. This sculpture is approximately six feet high and ten feet wide. It is believed that this is a perfect site due to the use of the Community Pool, All Children’s Playground and the Gazebo by families. It will be placed near the first pond and the gazebo at an angle, so when the sun rises or sets, it will shine through the heart opening causing a heart shadow to be present. It will be installed on concrete pillars in the ground and be covered by grass growing around the sculpture.

In answer to Council Member Verhaalen’s question, Director Hilvo stated that it will cost the City approximately \$200 to install the \$20,000 sculpture.

Council Member O’Keefe spoke in favor of the sculpture and mounting it in the grass as proposed.

Council Member Thome explained that the placement of this sculpture was her favorite option as presented at the Public Art Commission meeting.

Council Member Czarnecki explained that he liked the proposed placement of the family oriented sculpture in the open area, which will create a nice visual impact.

Council Member Thome stated that Cedarburg is an arts community and the sculptures will be a nice addition without any significant expense to the City.

Motion made by Council Member Thome, seconded by Council Member Arnett, to accept the “Family” sculpture donation. Motion carried without a negative vote.

Director Hilvo explained that the second sculpture is called “Joy” and is being proposed for placement in the Russ Dimick Park next to City Hall. Both pieces are done by sculptor Dale Rogers. It is believed that the “Joy” sculpture, made of stainless steel, will be a showpiece and be an attraction for the businesses located downtown. A recent article in the *Municipality* reinforced the idea that art helps local economies. Various locations were considered for the sculpture and the Russ Dimick Park was chosen as the first temporary or permanent location because it will be visible from Washington Avenue. The sculpture will be moveable and it will be possible to rotate the sculptures.

In answer to Mayor Kinzel’s question, Director Hilvo stated the donor has agreed to the City rotating the sculptures. Sculptor Dale Rogers will be in Milwaukee on June 17 for a show and will deliver the original sculptures to Cedarburg.

In answer to Council Member Filter’s question, Director Hilvo said there is no writing on the “Joy” sculpture in the center square.

Council Member Arnett stated that he liked the location for the sculpture and that it shows commitment to the art world.

Council Member Verhaalen expressed that the sculpture is too modern to be so close to City Hall and the historic buildings.

Council Member Czarnecki stated that the sculpture is artistic and unique.

Council Member O’Keefe stated that he was not against the sculpture; however, he would like to see it in a different place (possibly near the Cultural Center).

In answer to Council Member Regenfuss’ question, Director Hilvo stated that the sculpture will be secured onto a concrete pillar with bolts and would have the ability to be moved.

Council Member Regenfuss stated that he voted against the sculpture in this area at the Parks, Recreation & Forestry Board meeting. He thought it should be located behind the Cedarburg Public Library near the book drop.

Motion made by Council Member Arnett, seconded by Council Member Thome, to accept the “Joy” sculpture donation to be temporarily placed in Russ Dimick Park until another site is chosen.

Council Member Thome stated that the City will have the flexibility to shift art around, as it is added to the City.

Motion carried with Council Members Czarnecki, Arnett, Regenfuss, Thome and O’Keefe in favor and Council Members Verhaalen and Filter opposed.

Mayor Kinzel thanked the art donor and stated that the sculptures will be great for the City.

CONSIDER ORDINANCE NO. 2016-05 AMENDING THE 2016 BUDGET TO QUALIFY FOR THE EXPENDITURE RESTRAINT PROGRAM; AND ACTION THEREON

City Administrator/Treasurer Mertes explained that in order for the City to qualify for the 2017 expenditure restraint revenues, the 2016 budget increase from 2015 must be less than 0.90%. When she completed the worksheet online, the number was rounded up to two decimal points from 0.8963%, which makes the City unqualified for the program because the increase is equal to 0.90%. She further explained that the 2016 Budget needs to be amended by \$150 (taken from the computer budget) to qualify for the Expenditure Restraint program.

Motion made by Council Member Czarnecki, seconded by Council Member O'Keefe, to adopt Ordinance No. 2016-05 amending the 2016 Budget to qualify for the expenditure restraint program. Motion carried without a negative vote.

CONSIDER APPOINTMENT OF BRETT ZINGSHEIM AS AGENT FOR WALGREENS #13620 AT W62 N190 WASHINGTON AVENUE; AND ACTION THEREON

Motion made by Council Member Czarnecki, seconded by Council Member O'Keefe, to approve the appointment of Brett Zingsheim as agent for Walgreens #13620 at W62 N190 Washington Avenue. Motion carried without a negative vote.

CONSIDER PAYMENT OF BILLS FOR THE PERIOD 03/24/16 THROUGH 04/07/16, ACH TRANSFERS FOR THE PERIOD 03/24/16 THROUGH 04/04/16, AND PAYROLL FOR THE PERIOD 03/13/16 THROUGH 03/26/16; AND ACTION THEREON

Motion made by Council Member Filter, seconded by Council Member O'Keefe, to approve the payment of bills for the period 03/24/16 through 04/07/16, ACH transfers for the period 03/24/16 through 04/04/16, and payroll for the period 03/13/16 through 03/26/16. Motion carried without a negative vote with Council Members Czarnecki abstaining.

LICENSE APPLICATIONS

CONSIDER APPROVAL OF NEW OPERATORS LICENSE APPLICATIONS FOR THE PERIOD ENDING JUNE 30, 2016 FOR THE FOLLOWING; AND ACTION THEREON

Motion made by Council Member O'Keefe, seconded by Council Member Thome, to approve new operator's license applications for the period ending June 30, 2016 for Kathleen A. Crowe and Ryan L. Elinoff. Motion carried without a negative vote.

CITY ADMINISTRATOR'S REPORT

City Administrator/Treasurer Mertes congratulated Senior Center Director LaFontaine for receiving her certification as a Park and Recreation Professional.

COMMENTS AND SUGGESTIONS FROM CITIZENS - None

COMMENTS & ANNOUNCEMENTS BY COUNCIL MEMBERS

Council Member Filter complimented this Council for being one of the best well-run Councils over his 17 year career. He has enjoyed serving on the Common Council and thanked them for working with him.

Mayor Kinzel thanked Council Member Filter for his contributions to the Common Council.

Council Member Thome stated that she worked with Council Member Filter for many years going back to when she was on the Forward Cedarburg Board and it has been a pleasure. She thanked him for giving back to the Community.

Council Member Verhaalen had an inquiry from a constituent asking why the Saturday hours were reduced by one hour at the recycling center. City Administrator/Treasurer Mertes stated that Wednesday hours were added for convenience and she will review the Saturday hours with Public Works.

MAYOR'S REPORT - None

ADJOURNMENT

Motion made by Council Member Filter, seconded by Council Member O'Keefe, to adjourn the meeting at 7:59 p.m. Motion carried without a negative vote.

Amy D. Kletzien, MMC/WCPC
Deputy City Clerk