

**CITY OF CEDARBURG
COMMON COUNCIL
August 29, 2016**

**CC20160829-1
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, August 29, 2016, at City Hall, W63 N645 Washington Avenue, second floor, Council Chambers. Mayor Kinzel called the meeting to order at 7:12 p.m.

ROLL CALL: Present - Common Council: Mayor Kip Kinzel, Council Members John Czarniecki, Jack Arnett, Dick Dieffenbach, Rick Verhaalen, Mitch Regenfuss, Mike O'Keefe

Excused - Council Member Patricia Thome

Also Present - City Administrator/Treasurer Christy Mertes, Director Public Works and Engineering Tom Wiza, Police Chief Thomas Frank, City Clerk Constance McHugh, Planner Jon Censky, Assistant City Attorney Tim Schoonenberg, Economic Development Coordinator Mary Sheffield; interested citizens and news media

STATEMENT OF PUBLIC NOTICE

At Mayor Kinzel 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 Arnett, seconded by Council Member O'Keefe, to approve the minutes of the August 8, 2016 meeting. Motion carried unanimously with Council Member Regenfuss abstaining and Council Member Thome excused.

CONSIDER RESOLUTION NO. 2016-15 COMMENDING RETIRING PATROL SERGEANT SCOTT YANKE FOR HIS YEARS OF SERVICE

Sergeant Yanke could not attend this meeting. This item will be placed on the agenda of the September 12, 2016 Council meeting.

PUBLIC HEARING: CONSIDER ORDINANCE NO. 2016-09 AMENDING SECTIONS 13-1-240 AND 13-1-63 OF ZONING CODE REGARDING THE ESTABLISHMENT OF COLUMBARIA IN THE I-1 INSTITUTIONAL AND PUBLIC SERVICE DISTRICT

Mayor Kinzel declared the public hearing to consider Ordinance No. 2016-09 amending Sections 13-1-240 and 13-1-63 of the Zoning Code regarding the establishment of columbaria in the I-1 Institutional and Public Service District open at 7:14 p.m.

Planner Censky said that on November 3, 2015, Governor Scott Walker signed Act 95 into law which allows religious associations to locate columbaria on their property as long as certain requirements such as property ownership, record keeping, by-laws and funding are met. The law established that communities in Wisconsin have one year to pass appropriate ordinances relating to the location, size, height, type of material, lighting, etc. and those communities that fail to act by November 3, 2016 will be unable to stop the construction of columbarium.

City Attorney Mike Herbrand and Assistant City Attorney Tim Schoonenberg have drafted an ordinance to address the new law by providing a definition of columbaria and establishing an approval process for local churches wishing to construct a columbarium on their property. The approval process is defined by listing them as conditional uses in the Institutional and Public Service District. The intent of the approval process is have the Plan Commission establish the maximum height, size and location on a case-by-case basis and to require that the appearance be consistent in design and use of material of the primary structure and signage limited to inscriptions on the niches and commemorative plaques on the columbarium structure. Procedurally, all future requests for a columbarium will require a public hearing be held at the Plan Commission to solicit comments before a decision on the request is made. Planner Censky said the Plan Commission reviewed the proposed ordinance and unanimously recommended the Council approve it.

Council Member O'Keefe asked what the setbacks are for the I-1 Institutional and Public Service District.

Planner Censky said this District has a 6' rear and side yard setback and 25' front yard setback.

Council Member Arnett said there is one church in his district. Some constituents have expressed concern about placing a columbarium in a small area and feel the 6' setback may be too close.

Planner Censky said this ordinance would allow the Plan Commission to review applications on a case by case basis and place conditions on the columbarium to alleviate the impact on the neighbors.

Council Member Arnett said this ordinance seems like a common sense approach and will allow for the Plan Commission to make a common sense decision.

Council Member Czarnecki said the Plan Commission will have the ability to look at the location that will have the least impact on the neighborhood.

Council Member Dieffenbach asked if ordinances in other communities are comparable to this ordinance.

Assistant City Attorney Schoonenberg said his firm looked at the ordinances in other communities, such as Brookfield and DePere. None are as comprehensive as this ordinance.

Carol Miracle, W69 N533 Margie Lane, asked if there could be neighbor notification of proposed columbaria, whether there could be landscape screening to shield the view and noise, and whether they could be placed as far away from backyards as possible.

Mayor Kinzel said neighbor notification will take place as part of the conditional use process. Screening and location will also be addressed as part of the approval process.

Paul Rushing, W62 N799 Sheboygan Road, said the proposed ordinance is a good one and is consistent with State Statutes. He urged the Council to vote in favor of the ordinance.

Susan Baumann, N76 W7925 Topview Trail and a member of Advent Lutheran Church said the Church pursued a columbarium long ago and hit many detours along the way. In 2010 the City was supportive of the concept but in 2013 recognized there was a conflict. State Statutes have changed and columbaria are now permitted on the property of religious associations. She thanked everyone involved.

Dale Waldo, 1938 Wildwood Drive, said residents in Cedarburg live in a community that reveres its past. He said the community must celebrate the people who live here and the people who die here. He encouraged the Council to adopt the ordinance.

Ruth Cook, W64 N649 Hanover Avenue, said there are three churches in a ½ block distance from her home. She said she is not against columbaria, but they should be designed so that people who live in the area of a columbarium have a sense of their community. She said such things as lighting and music should be taken into consideration.

Catherine Pullar, W62 N658 Riveredge Drive, said Advent Church has a limited amount of space to install a columbarium and questioned whether this is the best use of the space. She said a church is a friendly place; however, she does not consider a columbarium as a friendly space. She said a columbarium does not encourage entry to a church. She reminded the Council that a columbarium is a forever thing.

Council Member Czarnecki reminded the audience that this discussion should focus on the proposed ordinance and is not a discussion on Advent Lutheran Church.

Ms. Miracle suggested churches consider placing columbarium inside the building.

Attorney Schoonenberg said the ordinance provides for two options: 1) indoor columbaria; and 2) outdoor columbaria, which are subject to the rules and regulations in the ordinance and would be approved through the conditional use process.

Council Member Dieffenbach said the proposed ordinance uses the term religious association rather than church.

Attorney Schoonenberg said religious association is the term that is used in State Statutes.

Motion made by Council Member Dieffenbach, seconded by Council Member O'Keefe, to close the public hearing at 7:40 p.m. Motion carried unanimously with Council Member Thome excused.

Mayor Kinzel reminded the audience that the Council needs to adopt an ordinance otherwise risks losing control.

Attorney Schoonenberg agreed and said the ordinance will allow for some local control. Not adopting an ordinance will result in no control.

Council Member Arnett said the proposed ordinance recognizes the different approaches to columbaria and provides for a good way to look at proposed columbaria on a case-by-case basis that will allow for a common sense decision.

Council Member O'Keefe said he agrees with Council Member Arnett. If the Council does nothing it will have little or no control.

Motion made by Council Member Dieffenbach, seconded by Council Member O'Keefe, to adopt Ordinance No. 2016-09 amending Sections 13-1-240 and 13-1-63 of the Zoning Code regarding the establishment of columbaria in the I-1 Institutional and Public Service District. Motion carried unanimously with Council Member Thome excused.

CONSIDER REQUEST FOR AUTHORIZATION TO HIRE A POLICE OFFICER DUE TO A RETIREMENT

Chief Frank said Patrol Sergeant Scott Yanke will retire on September 6. He is seeking authorization to hire a police officer to fill the vacancy. The Council approved the establishment of an eligibility list. This list is near completion and the officer will be selected from this list.

Motion made by Council Member Verhaalen, seconded by Council Member O'Keefe, to authorize Chief Frank to hire a police officer after Sergeant Yanke's retirement. Motion carried unanimously with Council Member Thome excused.

PRESENTATION BY MICHAEL LINDNER OF HOTEL R&D OF THE FINAL HOTEL FEASIBILITY STUDY

Michael Lindner of Hotel R&D said that he completed the hotel feasibility study. The study concluded there is a demand for a 50-60 room upper mid-scale franchise hotel in the City. Cedarburg is a good market for a hotel and the ideal location of a hotel would be on Pioneer Road as it is a gateway entrance to the community. He said he would meet with Economic Development Coordinator Mary Sheffield to discuss how to proceed. He suggested a small committee be formed to determine what the City is looking for in a hotel. Inquiries from franchises and a developer have already been received. Mr. Lindner said most franchises and developers will fit the product to the market.

Council Member Arnett asked Mr. Lindner to discuss the impact on the existing inns in the City.

Mr. Lindner said that he knew there was concern about the existing inns when the study was done. He said the community invites people to town, but tells them they must stay elsewhere. The luxury end is covered by the inns but there is a demand for lodging for families and corporate travelers. He agreed there could be an impact on the inns if a franchise hotel would locate in Cedarburg, but he said it will not be a major impact. It could also have a positive impact of sending people to the inns for lodging.

Mayor Kinzel said that a franchise hotel is a completely different animal from the inns. Mr. Lindner agreed.

Council Member Dieffenbach said the report did not address the impact on the room tax. He also said he does not like sites that were looked at in the report. He said he cannot see a hotel being successful on Pioneer Road. A hotel would have to locate closer to the I-43 corridor.

Mr. Lindner said he can provide information about the economics of the room tax. He said the closer the hotel is to the downtown area the more successful it will be. He said walkability is a key factor.

Ann Conley, owner of Stagecoach Inn, said that no locations on Pioneer Road will provide walkability to downtown. She warned that if a hotel is located on Pioneer Road other franchises or large chains will pop up soon after. She urged the Council to keep Cedarburg as a destination and not gut the downtown by bad development on the outskirts.

Mr. Lindner said he knew going into the study that the potential impact on the inns would be an issue; however, there is a demand for housing in the area.

Cathy Radmann, owner of a vacation rental house, said there are ebbs and flows in the hotel business and there will come a time when there is a surplus of hotels in the area. She urged the Council to protect the unique image of Cedarburg.

Council Member Czarnecki said the City makes an effort to bring people to town, but tells them they must stay elsewhere. He said from his perspective he cannot envision a hotel impacting the inns.

Council Member O'Keefe said his family recently had a reunion in the City. He said some family members stayed at the inns, but those with children stayed at hotels in Grafton. He said this option is needed in Cedarburg.

Jim Pape, owner of the Washington House, said there are positive aspects of supporting downtown businesses.

Mayor Kinzel thanked Mr. Lindner for his report, and said it is up to the Council to determine how it will be utilized.

APPOINTMENT OF SUSIE BRILL AS AN ALTERNATE MEMBER OF THE COMMUNITY POOL COMMISSION

Motion made by Council Member O'Keefe, seconded by Council Member Arnett, to approve Mayor Kinzel's appointment of Susie Brill as an alternate member of the Community Pool Commission (term expires 04/30/18). Motion carried unanimously with Council Member Thome excused.

CONSIDER RESOLUTION NO. 2016-16 ACCEPTING AN EXISTING ROAD RESERVATION ON CARDINAL AVENUE ADJACENT TO THE ROADWAY FRONTAGE OF THE REAL PROPERTY LOCATED AT W60 N171 CARDINAL AVENUE

Director Wiza said a local land surveyor who did a property survey for ATI on Cardinal Avenue noted the west half of the road right-of-way for Cardinal Avenue is “reserved for road purposes”, but was never technically dedicated. The simplest way to resolve this is for the City to pass a resolution accepting the road reservation.

Motion made by Council Member Czarnecki, seconded by Council Member Arnett, to adopt Resolution No. 2016-16 accepting an existing road reservation on Cardinal Avenue adjacent to the roadway frontage of the real property located at W60 N171 Cardinal Avenue. Motion carried unanimously with Council Member Thome excused.

CONSIDER ORDINANCE NO. 2016-10 AMENDING SECTION 10-1-16(b) OF THE CODE OF ORDINANCES TO AUTHORIZE THE PLACEMENT OF YIELD SIGNS FOR EAST AND WEST BOUND APPLETREE LANE AT HAWTHORNE AVENUE

Area residents have requested stop or yield signs at the uncontrolled intersection for Appletree Lane and Hawthorne Avenue. During the reconstruction of Bridge Road, yield signs were added for east and west bound Appletree Lane as a temporary traffic control measure. Stop signs would not meet the necessary warrants for this intersection, but staff is proposing the temporary yield signs be made permanent.

Motion made by Council Member Czarnecki, seconded by Council Member Arnett, to adopt Ordinance No. 2016-10 amending Sec. 10-1-16(b) of the Code of Ordinances to authorize the placement of yield signs for east and west bound Appletree Lane at Hawthorne Avenue. Motion carried unanimously with Council Member Thome excused.

CONSIDER AGREEMENT WITH WILCOX ENVIRONMENTAL ENGINEERING FOR CONSULTING SERVICES FOR REMEDIATION OF THE AMCAST SITE

City Administrator/Treasurer Mertes said the remediation of the Amcast site will require oversight by the City if a developer’s agreement and TID is put in place to help fund the project. The CDA recommends a firm be selected to work with the City in reviewing the project plan, schedule and costs. The CDA voted unanimously to consult with Wilcox Environmental Engineering on this project.

Motion made by Council Member Arnett, seconded by Council Member Czarnecki, to approve the agreement with Wilcox Environmental Engineering for consulting services for remediation of the Amcast site. Motion carried unanimously with Council Member Thome excused.

CONSIDER THIRTEENTH-AMENDED AGREEMENT FOR THE OPERATION OF THE MID-MORAINÉ MUNICIPAL COURT

The agreement for the operation of the Mid-Moraine Municipal court is being amended to add term limits for the officers of the Municipal Court and to define the duties of the officers.

Motion made by Council Member O’Keefe, seconded by Council Member Czarnecki, to approve the thirteenth-amended agreement for the operation of the Mid-Moraine Municipal Court. Motion carried unanimously with Council Member Thome excused.

CONSIDER RESOLUTION NO. 2016-17 AUTHORIZING THE SUPERINTENDENT OF PARKS AND FORESTRY TO ACT ON BEHALF OF THE CITY TO APPLY FOR AN EMERALD ASH BORER (EAB) MITIGATION GRANT

The Wisconsin regional planning commissions (RPCs) and DNR EAB Impact Mitigation Grants will fund projects within the Wisconsin Great Lakes Basin that focus on mitigating the impacts of Emerald Ash Borer (EAB) and preparing communities for EAB invasion by diversifying their urban and community forests. Awards will range from \$1,000 to \$20,000 and will require a 25% match in cash or in-kind.

Motion made by Council Member Czarnecki, seconded by Council Member O’Keefe, to adopt Resolution No. 2016-17 authorizing the Superintendent of Parks and Forestry to act on behalf of the City to apply for an Emerald Ash Borer (EAB) mitigation grant. Motion carried unanimously with Council Member Thome excused.

PAYMENT OF BILLS

Motion made by Council Member Dieffenbach, seconded by Council Member Czarnecki, to approve the payment of the bills for the period 08/05/16 through 08/19/16, ACH transfers for the period 08/05/16 through 08/24/16, and payroll for the period 07/31/16 through 08/13/16. The motion carried unanimously with Council Member Thome excused.

LICENSE APPLICATIONS

Motion made by Council Member O’Keefe, seconded by Council Member Arnett, to authorize the issuance of new Operator licenses for the period ending June 30, 2017 to:

Matthew A. Nickel	Nicole S. Przbyla
Kyle J. Smith	Laura M. Struebing

Motion carried unanimously with Council Member Thome excused.

Motion made by Council Member O’Keefe, seconded by Council Member Arnett, to authorize the issuance of renewal Operator licenses for the period ending June 30, 2017 to:

John O. Baker	James D. Hintz
Courtney C. Owrey	

Motion carried unanimously with Council Member Thome excused.

CITY ADMINISTRATOR’S REPORT

City Administrator/Treasurer Mertes said the City today again received the Distinguished Budget Presentation Award from the Government Finance Officers Association (GFOA).

She said she will be meeting with representatives of Baker Tilly, the City's new auditing firm, on Tuesday.

The City is preparing for an audit on the CDBG/Revolving Loan Fund program.

City Administrator/Treasurer Mertes said Director Hilvo received notification from the School District of the amount of fees to be charged by the School District for recreation programs. The fees for next year are over \$40,000, up from \$2,500.

COMMENTS AND ANNOUNCEMENTS BY COUNCIL MEMBERS

Council Member Verhaalen said the fees charged by the School District underscore the importance of community funded and run athletic programs rather than separate programs by the Town, City and School District.

Council Member Arnett said the City has eight programs that use School District facilities. Six of the programs have user fees of less than \$2,000 per program. The largest increase was in the basketball and tennis court fees. These two programs account for 61% of all fees. The charges for outdoor facilities increased anywhere from 40% to 200%. The JV tennis court fees increased 498% while the high school tennis court fees increased 700%.

Council Member Dieffenbach said the Community Pool will hold a dog swim day on Wednesday, August 31, which is the close of the season.

ADJOURNMENT

Motion made by Council Member Regenfuss, seconded by Council Member O'Keefe, to adjourn the meeting at 8:475 p.m. Motion carried unanimously with Council Member Thome excused.

Constance K. McHugh, MMC/WCPC
City Clerk