

**CITY OF CEDARBURG
COMMON COUNCIL
February 23, 2015**

**CC20150223-1
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, February 23, 2015, 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, Ron Reimer (arrived 7:03 p.m.), Art Filter, Paul Radtke, Mitch Regenfuss, Patricia Thome, Mike O'Keefe

Also Present - City Administrator/Treasurer Christy Mertes, City Clerk Constance McHugh, Director of Engineer and Public Works Tom Wiza, Public Works Secretary Judy Guse, Administrative Secretary Darla Drumel, City Attorney Michael Herbrand, Economic Development Coordinator Mary Sheffield, Landmarks Commission Member Judy Jepson, Mayoral Candidate John Kuerschner, 4th District Aldermanic candidates Brook Brown and Rick Verhaalen, 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 Czarnecki, to approve the minutes of the January 26, 2015 meeting as presented. Motion carried unanimously with Council Member Reimer not in attendance.

COMMENTS FROM CITIZENS

Matt Rose, W61 N815 Sheboygan Road, thanked the Council for previous actions regarding the vacation rental properties on his block. He encouraged the Council to take this matter to the Supreme Court. He said he and his neighbors live in a residential district, not a commercial district.

Kit Keller, W62 N799 Sheboygan Road, said she seconds what Mr. Rose said. She said there is no reason for two hotels on Sheboygan Road without the proper approval process.

Paul Rushing, W62 N799 Sheboygan Road, said that he lives across the street from the vacation rental properties. He said they are a thriving business. He said this is a use not normally accepted in a neighborhood. He urged the Council to carry this matter as far as it can.

Council Member Reimer arrived at this time (7:03 p.m.)

Brian Nuelk, W61 N819 Sheboygan Road, said all the neighbors have similar concerns and he is backing what others have said tonight. A motorhome was recently parked in front of the properties.

Jackie Voigt, W61 N810 Sheboygan Road, said she lives between the two vacation rental properties. She asked the Council to do whatever it can to help her and her neighbors. She said people coming and going on both sides of her makes her feel uncomfortable.

CONSIDER RESOLUTION NO. 2015-03 COMMENDING RETIRING BUILDING INSPECTION AND PUBLIC WORKS SECRETARY JUDY GUSE FOR YEARS OF SERVICE TO THE CITY

Motion made by Council Member Filter, seconded by Council Member O'Keefe, to adopt Resolution No. 2015-03 commending retiring Building Inspection and Public Works Secretary Judy Guse for her years of service to the City. Motion carried unanimously.

The Mayor and Council Members thanked Ms. Guse for her years of service to the City.

Ms. Guse said she has had a wonderful ride with the City and appreciates all the support she has received over the last 30 years.

CONSIDER ENGAGEMENT AGREEMENT FOR LEGAL SERVICES WITH AXLEY BRYNELSON, LLP REGARDING THE AMCAST SITE

Attorney Herbrand said the Amcast property on Hamilton Road entered into a remediation investigation order with the EPA in 2003 but went bankrupt in 2004. Since then the property has fallen into a state of disrepair. The City has since been approached by individuals who are interested in redeveloping the property. He suggests entering into an engagement agreement with Environmental Attorney Charles Sweeney of Axley Brynelson, LLP to assist the City. Attorney Sweeney would primarily provide consulting services to the City in regards to securing the site and the possible redevelopment of the site.

Council Member Reimer questioned whether Attorney Sweeney could be used for other environmental issues.

City Administrator/Treasurer Mertes confirmed that the proposed agreement does allow for Attorney Sweeney to assist with other environmental issues in the City as they may arise.

Motion made by Council Member Radtke, seconded by Council Member Reimer, to enter into an engagement agreement for Legal Services with Attorney Charles Sweeney of Axley Brynelson, LLP for legal services related to the Amcast site and other environmental issues as they arise. Motion carried unanimously.

CONSIDER PINE RIDGE SUBDIVISION DEVELOPMENT AGREEMENT AND FINAL PLAT APPROVAL

The applicant, Robert Tillman, is requesting final plat approval of the Pine Ridge Subdivision located along the west side of Bobolink Avenue. The plat consists of 10 lots ranging in size from 12,758 square feet to 15,306 square feet and includes a 19,542 square foot outlot for storm water management purposes. The Plan Commission unanimously recommended approval of the final plat.

Director Wiza said revisions to the plat were made as recommended by the Plan Commission and the Development Agreement has been revised. A minor technical correction to the plat will be made to reflect the drainage easement detail for lot 10 to read 20' drainage and access easement to the City of Cedarburg. A minor change to the Development Agreement will be made in Section 7.01 on page 11 to revise the language to refer to the date specified in Section 4.09.

Director Wiza said the Declaration of Covenants and Pond Maintenance Agreement have not yet been received by the City. He said as a condition of approval these documents should be reviewed and approved by the City Attorney, and the documents, including the Development Agreement, should be recorded.

Motion made by Council Member Reimer, seconded by Council Member Thome, to approve the final plat and Development Agreement for the Pine Ridge Subdivision, subject to the revisions described above by Director Wiza being made and subject to review and approval of the Declaration of Covenants and Pond Maintenance Agreement by City Attorney Herbrand and the recording of the Development Agreement, Pond Maintenance Agreement, and Declaration of Covenants. Motion carried unanimously.

PAYMENT OF BILLS

Motion made by Council Member Filter, seconded by Council Member Czarnecki, to approve payment of bills for the period 01/23/15 through 02/16/15, ACH transfers for the period 01/15/15 through 02/20/15, and payroll for the period 01/18/15 through 02/14/15. Motion carried unanimously.

LICENSE APPLICATIONS

Motion made by Council Member Radtke, seconded by Council Member O'Keefe, to authorize the issuance of new Operators licenses for the period ending June 30, 2015 to: Allison C. Peters, Frank N. Vroman, Keegan J. Wenzler, and Kathleen J. Yindra. Motion carried unanimously.

MAYOR'S REPORT

Mayor Kinzel reminded the Council that the annual awards banquet and recognition party for Emergency Government/Auxiliary Police is Saturday, March 28.

ADJOURNMENT - CLOSED SESSION

Motion made by Council Member Radtke, seconded by Council Member Thome, to adjourn to closed session at 7:24 p.m. pursuant to State Statutes 19.85(1)(g) to confer with legal counsel who is rendering oral or written advice concerning strategy to be adopted by the Council with respect to litigation in which it is or is likely to become involved, more specifically, to discuss the decision of the Court of Appeals District II in Appeal No. 2014AP62, Heef Realty and Investments, LLP, and Sandra Desjardin v. City of Cedarburg Board of Appeals. Approval of closed session minutes of 11/10/14. Motion carried unanimously on a roll call vote with Council Members Czarnecki, Reimer, Filter, Radtke, Regenfuss, Thome, and O'Keefe voting aye.

RECONVENE TO OPEN SESSION

Motion made by Council Member Radtke, seconded by Council Member Thome, to reconvene to open session at 7:46 p.m. Motion carried unanimously.

DISCUSSION AND POSSIBLE ACTION TO AUTHORIZE PETITION FOR SUPREME COURT REVIEW OF COURT OF APPEALS DECISION IN HEEF REALTY AND INVESTMENTS, LLP AND SANDRA DESJARDIN V. CITY OF CEDARBURG BOARD OF APPEALS

Motion made by Council Member Czarnecki, seconded by Council Member Radtke, to authorize a petition for Supreme Court review of the Court of Appeals decision in HEEF Realty and Investments, LLP and Sandra Desjardin v. City of Cedarburg Board of Appeals. Motion carried unanimously.

ADJOURNMENT

Motion made by Council Member Radtke, seconded by Council Member O'Keefe, to adjourn the meeting at 7:48 p.m. Motion carried unanimously.

Constance K. McHugh, MMC/WCPC
City Clerk