

**CITY OF CEDARBURG  
COMMON COUNCIL  
February 27, 2012**

**CC20120227-1**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, February 27, 2012 at City Hall, W63 N645 Washington Avenue, second floor, Council Chambers. Mayor Myers called the meeting to order at 7:00 p.m.

ROLL CALL: Present - Common Council: Mayor Gregory P. Myers, Council Members Art Filter, Paul Radtke, Michael Maher, Douglas Yip, Bob Loomis

Excused - Council Members Chris Reimer and Ron Reimer

Also Present - City Attorney Kaye Vance, City Administrator/Treasurer Christy Mertes, Director of Engineering and Public Works, City Clerk Constance McHugh, Director of Parks, Recreation and Forestry Mikko Hilvo, Light & Water General Manager Dale Lythjohan, City Planner Marty Marchek, Library Board Members Sue Karlman, Art Palleon, Steve Ruggieri, Vonna Pitel, Debra Goeks, Liz Bryde, Landmarks Commission Member Judy Jepson, Mayoral Candidate Kip Kinzel, 7<sup>th</sup> District Council Member Candidate Michael O'Keefe, Joe Huberty of Engberg Anderson, Kate Crowley and Vicki Hellenbrand of Baker Tilly Virchow Krause, LLP, interested citizens and news media

**STATEMENT OF PUBLIC NOTICE**

At Mayor Myers' 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 Filter, seconded by Council Member Yip, to approve the minutes of the February 13, 2012 meeting. Motion carried unanimously with Council Members C. Reimer and R. Reimer excused.

**PUBLIC HEARING: CONSIDER PUBLIC FACILITIES NEEDS ASSESSMENT AND ORDINANCE NO. 2012-03: AN ORDINANCE ESTABLISHING IMPACT FEES UPON LAND DEVELOPMENT; ORDINANCE NO. 2012-04: AN ORDINANCE UPDATING AND ADJUSTING THE AMOUNT OF THE SANITARY SEWER CONNECTION FEE IMPOSED ON NEW DEVELOPMENT; AND ORDINANCE NO. 2012-05: AN ORDINANCE DESIGNATING FEES IN LIEU OF PARKLAND; AND ACTION THEREON**

City Clerk McHugh verified that notice of this public hearing was given by publication in the *News Graphic* on January 26, 2012. The notice indicated that a copy of the Needs Assessment and ordinance would be available for inspection beginning on February 2, 2012.

Kate Crowley and Vicki Hellenbrand of Baker Tilly Virchow Krause, LLP, were present for this public hearing.

Mayor Myers declared the public hearing open at 7:02 p.m.

Ms. Crowley said she worked with staff to prepare a Public Needs Assessment and Development Fee Report, which has been on file with the City since January. Her firm reviewed current impact fees and account balances and prepared recommendations to the existing impact fees that are in compliance with changes in State law.

Council Member Maher said he noticed that some of the impact fee amounts have dropped. He asked how often a needs assessment should be done and the fees updated.

Ms. Crowley said that the impact fees for the swimming pool have been eliminated and the park fees have been reduced.

Ms. Hellenbrand said there is no formal amount of time specified in State Statutes as to when a needs assessment should be done or fees updated. She said the fees should be looked at whenever there is a significant change in State Statutes and reviewed when developments are completed.

Council Member Loomis asked how many years the City has to spend the impact fees.

Ms. Hellenbrand said that generally impact fees must be spent in 10 years; however, they can be extended up to 3 years if a municipality adopts a resolution explaining unforeseen circumstances, such as the bad economy.

In response to a question by Council Member Yip, Ms. Hellenbrand said that because of a change in State law, impact fees cannot be collected or used for swimming pool facilities.

Director Wiza said that the amount of the fee in (c) of Sec. 3-6-7 of Ordinance No. 2012-03 should be \$562.00, not \$373.29 and the fee per residential equivalent for commercial, industrial and institutional in Sec. 9-2-6 of Ordinance No. 2012-04 should be \$1,206.91, not \$801.60.

Motion made by Council Member Filter, seconded by Council Member Radtke, to close the public hearing at 7:16 p.m. Motion carried unanimously with Council Members C. Reimer and R. Reimer excused.

Motion made by Council Member Loomis, seconded by Council Member Yip, to adopt Ordinance No. 2012-03: An Ordinance establishing Impact Fees upon land development with the change noted above; Ordinance No. 2012-04: An Ordinance updating and adjusting the amount of the Sanitary Sewer Connection Fee imposed on new development with the change noted above; and Ordinance No. 2012-05: An Ordinance designating fees in lieu of parkland. Motion carried unanimously with Council Members C. Reimer and R. Reimer excused.

**CONSIDER THE RESULTS OF THE LIBRARY SITE COMPARISON STUDY AND CONSIDERATION OF THE LIBRARY BOARD RECOMMENDATION REGARDING THE SITING OF THE NEW LIBRARY**

Council Member Filter made a motion that the Council accept the Library Board's recommendation to proceed with the Hanover Avenue south replacement option and to proceed with architectural renderings and cost estimates. The motion was seconded by Council Member Yip.

The Hanover Avenue south replacement option involves demolishing the existing library building and building a new two-story library at that location on the south end.

Council Member Filter asked how confident staff and the Council is that the costs will come in within the budgeted amount.

Council Member Loomis said further investigation of costs and borrowing will need to be done and the Council will need to vote on it. He said that he is in support of this option. He was originally in favor of the Mill Street site; however, he was impressed with the results of the Site Comparison Study done by Engberg Anderson.

Council Member Radtke said that in the end the Council had many sites to consider, and each site had its plusses and minuses.

Council Member Yip said the Hanover Avenue south replacement option was one of the top sites when he did an informal survey with his constituents.

Council Member Maher questioned where this option has been during the last 5 to 6 years. He said he has concerns about whether the project will come in at the budgeted amount of \$6.3 million. He also has concerns about the process of setting up a temporary library and whether the full cost of this has been taken into consideration. He said he thinks there will be a lot more costs in finding a temporary site and lot of staff time involved.

Council Member Maher further stated he wants to see the new library built as soon as possible and hopes the project gains momentum. He said he was not in favor of doing the site analysis.

Mayor Myers thanked the Library Board and Engberg Anderson for doing the site analysis. He said that in the end the Council did have a number of sites to consider and was able to make an informed decision that the community will appreciate for many years to come.

Library Member Vonna Pitel said she learned a lot during this process and was impressed by the analysis done by Engberg Anderson. She said she hopes the community will have a new library on Hanover Avenue.

Library Member Art Palleon said the Site Comparison Study is the kind of thing that should be used as an example for other major projects in the City.

Council Member Yip asked if the estimated \$75,000 cost to set up a temporary library is similar to the costs other communities in similar situations have experienced.

Mr. Huberty said that the estimated cost is comparable to other communities. He said that three components went into this estimate: 1) renting of space; 2) setting up of the space; and 3) moving to the temporary site then moving to the permanent site.

Council Member Loomis asked how soon Engberg Anderson can develop detail cost estimates and projections so that the Council can make a decision on bonding. He said the Council wants to make a decision on bonding as soon as possible while the interest rates are favorable.

Mr. Huberty said that a fair amount of work regarding the Hanover site has been done. He said he will work with Beyer Construction on the schematic and anticipates it will take about a month or so for cost estimates and about 4 to 5 months to bid the project. It is possible construction could begin in the fall.

Mayor Myers said the public will need to be reminded that the City is part of a Federated Library System and residents are able to use the Grafton and Mequon libraries during construction.

Council Member Maher asked when a construction committee can be formed.

Mayor Myers said that he can appoint an ad hoc Construction Committee in the next few weeks.

With Council Members Filter, Radtke, Maher, Yip, and Loomis voting aye, the motion to accept the Library Board's recommendation to proceed with the Hanover Avenue south replacement option and to proceed with architectural renderings and cost estimates carried unanimously with Council Members C. Reimer and R. Reimer excused.

**CONSIDER REQUESTS FROM THE CEDARBURG SCHOOL DISTRICT FOR FUNDING FOR THE REPAIR OF THE TENNIS COURTS**

Director Hilvo said he was approached by concerned parents in January about the plans of the Cedarburg School District to demolish the JV tennis courts because of their poor condition. The School District has allocated \$75,000 towards demolishing these courts in June. The parents asked what the City could do to help with funding to replace the courts instead of demolishing them. He met with School District representatives and it was determined there is a potential for obtaining a grant of up to \$50,000 from the USTA and the rest could be fundraised through various organizations. The issue is whether the City wants to continue the 50/50 partnership with the School District. A 1990 document cites a history of a 50/50 split that exists between the School District and the City for replacement, repair and maintenance of tennis courts. The JV courts are not usable now and have not been for several years.

Director Hilvo said it is possible to get by without the JV courts, but there is the potential for expanding City tennis programs if the courts are rebuilt. The School District could also offer more programs. The parents group is looking to fundraise, obtain a grant, and obtain funding from the City to rebuild the courts. School District Superintendent Daryl Herrick has indicated that if the City will not help to rebuild the JV courts, the School District will take over the funding and obtaining the grants. Superintendent Herrick did not speculate on future use by the City if this were to happen, but indicated that the City would lose priority status on the JV courts.

Director Hilvo said the next issue is that of the varsity courts. These courts need to be replaced in three years at a cost of approximately \$410,000. Since the City uses these courts 46% of the time the School District is requesting funding from the City for the repair of these courts as well.

Council Member Loomis said the problem is that the Town of Cedarburg has opted out of the Shared Services program. He said Town residents are able to use the courts, just as they are able to use the Library, and not pay. A more equitable arrangement would be to pay based on users or tax base. He said the most unfair option is for the City to pay 50%, the School District to pay 50%, and the Town to pay nothing.

Mayor Myers said he agrees that the Town should pitch in and that it is a shame they will not contribute to the quality of life. He said the Council should not deny City residents this. He said he would like to see the Council work out some reasonable accommodation with the School District.

Council Member Loomis said he would like to see an analysis of the usage between City and Town residents to determine what portion the City should fund.

Council Member Maher said this is hard to do when people can walk on to the tennis courts without signing up.

Council Member Filter said there doesn't seem to be a need to rebuild the JV courts since they have not been used for several years. The City has not budgeted money for this.

Council Member Radtke said there are two issues here. One is the demolition of the JV courts, which the School District has allocated \$75,000 to do so. The other issue is the rebuilding of the varsity courts.

Nancy Wilkinson, President of the Booster Club, said the JV courts are necessary for school programs. She said the Booster Club is considering a sizable donation and will take up a motion regarding this at the next meeting. There is a good chance of obtaining grant money, but this may not come until after the courts are reconstructed. The Booster Club will try to get this project done with or without the help of the City, but the School District would be more supportive if the City provides some funding towards the varsity courts.

Council Member Loomis said he would like to see more data on the usage of the courts, including the distribution of City and Town residents in the City's tennis program and the School's programs.

Council Member Maher said that it seems there has always been a 50/50 arrangement with the School District. The tennis courts benefit the residents of the City and he hope the Council can find a means to support this relationship.

Council Member Radtke said that it is always better when the City works in cooperation with other groups. He said a sharing arrangement is worth exploring.

Mayor Myers said he agrees the City should try to cooperate. He asked Director Hilvo what kind of commitment he is looking for tonight.

Director Hilvo said he is looking for a decision from the Council as to whether this relationship with the School District should be continued. He said even a small amount of \$5,000 towards the JV courts would show a commitment on the part of the City.

Council Member Loomis made a motion that the City contribute up to \$10,000 for the reconstruction of the JV tennis courts. The motion was seconded by Council Member Radtke and carried unanimously on a roll call vote with Council Members C. Reimer and R. Reimer excused.

Council Member Loomis said that he is in favor of continuing the relationship with the School District for the replacement of the varsity courts, but the Council needs to evaluate the level of the contribution.

Council Member Loomis made a motion that there is a desire on the part of the Council to assist the School District with the reconstruction and maintenance of the varsity courts, but further evaluation of the level of the contribution by the Council is necessary. The motion was seconded by Council Member Filter and carried unanimously with Council Members C. Reimer and R. Reimer excused.

**CONSIDER RESOLUTION NO. 2012-05 TRANSFERRING FUNDS FROM GENERAL GOVERNMENT TO PARKS, RECREATION AND FORESTRY**

Motion made by Council Member Filter, seconded by Council Member Loomis, to adopt Resolution No. 2012-05 transferring funds from General Government to Parks, Recreation and Forestry. Motion carried unanimously with Council Members C. Reimer and R. Reimer excused.

Council Member Filter asked that Forester Westphal provide an update on the tree inventory program at a future meeting.

**CONSIDER ORDINANCE NO. 2012-06 REPEALING FIRE INSPECTION FEES**

Motion made by Council Member Radtke, seconded by Council Member Loomis, to adopt Ordinance No. 2012-06 repealing fire inspection fees.

Mayor Myers said he understood the letter received by the Department of Revenue to read that the City can no longer place fire inspection fees on the tax bill as a special assessment or special charge, but could still assess the cost of the inspections to commercial businesses as a fee.

The Council postponed action on this ordinance until further investigation by the City Attorney as to whether the City can charge a fee for fire inspections.

**PAYMENT OF BILLS**

Motion made by Council Member Filter, seconded by Council Member Yip, to approve the payment of the bills for the period 2/10/12 through 2/17/12, ACH transfers for the period 2/13/12 through 2/24/12, and payroll for the period 2/5/12 through 2/18/12. Motion carried unanimously with Council Members C. Reimer and R. Reimer excused.

**LICENSE APPLICATIONS**

Motion made by Council Member Radtke, seconded by Council Member Yip, to approve new Operator's License applications for the period ending June 30, 2012 for Hannah C. Aronson, Marie L. Glander, and Megan T. Czisny. Motion carried unanimously with Council Members C. Reimer and R. Reimer excused.

**CITY ADMINISTRATOR'S REPORT**

City Administrator/Treasurer Mertes said that Economic Development Coordinator Mary Sheffield has been attending ad hoc Creek Walk Committee meetings. One initiative is the possibility of the Riveredge Nature Center sponsoring a nature walk on the Creek Walk to promote it.

City Administrator/Treasurer Mertes said that Ozaukee County Economic Development Coordinator Kathleen Cady Shilling has drafted a letter to send to the State requesting that CDBG funds and the Revolving Loan Fund Program remain at the local level.

**MAYOR'S REPORT**

Mayor Myers said he will not be able to attend the March 12, 2012 Council meeting.

**ADJOURNMENT**

Motion made by Council Member Filter, seconded by Council Member Radtke, to adjourn the meeting at 8:15 p.m. Motion carried unanimously with Council Members C. Reimer and R. Reimer and excused.

Constance K. McHugh, MMC/WCPC  
City Clerk