

**CITY OF CEDARBURG
COMMON COUNCIL
March 11, 2013**

**CC20130311-1
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, March 11, 2013 at City Hall, W63 N645 Washington Avenue, second floor, Council Chambers. Council President Paul Radtke called the meeting to order at 7:00 p.m. The meeting began with a moment of silence followed by the Pledge of Allegiance.

Roll Call: Present - Common Council – Council Members Chris Reimer, Ron Reimer, Art Filter, Paul Radtke, Michael Maher, Mike O’Keefe

Excused - Mayor Kip Kinzel, Douglas Yip

Also Present - City Attorney Kaye Vance, City Administrator/Treasurer Christy Mertes, Deputy City Clerk Amy Kletzien, Director of Engineering and Public Works Tom Wiza, City Planner Marty Marchek, Police Chief Thomas Frank, Senior Center Director Carol LaFontaine, Architect Alex Ramsey of Engberg Anderson, Library Director Mary Marquardt, Library Board Members Sue Karlman, Steve Ruggieri, Vonna Pitel interested citizens and news media

STATEMENT OF PUBLIC NOTICE

At Acting Mayor Radtke’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.

Council President Radtke stated that as Acting Mayor he will retain his right to vote as Council Member of the 4th Aldermanic District.

APPROVAL OF MINUTES

Motion made by Council Member Filter, seconded by Council Member O’Keefe, to approve the minutes of the February 25, 2013 meeting. Motion carried without a negative vote with Council Member Yip excused.

PRESENTATION OF KEY TO THE CITY: FREDERICK BEYER III

Council President Radtke thanked Former Mayor Frederick Beyer III for his service and dedication to the City of Cedarburg and expressed appreciation for the contributions he made towards the growth and development of the City and presented him with a Key to the City for Meritorious Civic Service.

PUBLIC HEARING – CONSIDER ORDINANCE NO. 2013-09 REZONING THE PARCEL AT W63 N589 HANOVER AVENUE FROM I-1 INSTITUTIONAL AND PUBLIC SERVICE DISTRICT TO THE PUBLIC LIBRARY DISTRICT

Acting Mayor Radtke declared the Public Hearing open at 7:08 p.m. on proposed Ordinance No. 2013-09 rezoning the parcel at W63 N589 Hanover Avenue from I-1 Institutional and Public Service District to the Public Library District. Deputy City Clerk Kletzien verified that proper legal notice had been given with publication in the *News Graphic* on February 21 and February 28, 2013.

Planner Marchek explained that the parcel on which the Emergency Management Center sits is 16,637 square feet in area, and is zoned I-1 Institutional and Public Service District. Locating the new library at the subject site required creating the PLD Public Library District which contains provisions specifically to accommodate the new library at the site. The new District was adopted by the Common Council after a public hearing was held on February 11, 2013.

There were no public comments.

Motion made by Council Member Filter, seconded by Council Member Maher, to close the public hearing at 7:12 p.m. Motion carried without a negative vote with Council Member Yip excused.

Motion made by Council Member C. Reimer, seconded by Council Member Maher, to adopt Ordinance No. 2013-09 rezoning the parcel at W63 N589 Hanover Avenue from I-1 Institutional and Public Service District to the Public Library District. Motion carried without a negative vote with Council Member Yip excused.

PUBLIC HEARING – CONSIDER ORDINANCE NO. 2013-10 REZONING A 10.6 ACRE PARCEL AT W60 N1052 SHEBOYGAN ROAD FROM TEMPORARY RS-1 SINGLE-FAMILY RESIDENTIAL DISTRICT TO PERMANENT RS-3 SINGLE FAMILY RESIDENTIAL DISTRICT

Acting Mayor Radtke declared the Public Hearing open at 7:13 p.m. on proposed Ordinance No. 2013-10 rezoning a 10.6 acre parcel at W60 N1052 Sheboygan Road from Temporary RS-1 Single-Family Residential District to Permanent RS-3 Single Family Residential District. Deputy City Clerk Kletzien verified that proper legal notice had been given with publication in the *News Graphic* on February 21 and February 28, 2013.

City Planner Marchek explained that this request comes from property owner Steve Riechers. The property in the City's Master Plan was anticipated to be a medium density single family subdivision with preservation of the upland wooded corridor along Cedar Creek. The property abuts Cedar Hedge subdivision to the south and is across from one of the additions to Fairfield Manor subdivision. Both subdivisions are in the same zoning (RS-3) as this proposed zoned subdivision. The zoning request is fully in accord with the City's Comprehensive Plan and is recommended by the Plan Commission. Mr. Riechers has submitted the preliminary plat, which is a layout of the property. The most controversial part of the subdivision will be the wooded

portion along Cedar Creek. There are two letters from neighbors in the packet that expressed conservation of the upland wooded area along Cedar Creek. In the preliminary plan, is a highlighted map showing the edge of the tree line. This was field verified by staff of the Southeast Wisconsin Regional Planning Commission and depicted on the preliminary plat by their surveyor. This is the limits of the Upland Environmental Corridor. The line is also co-terminus with the zoning to protect that upland wooded area, which is called C-4 Conservancy Overlay District. The underlying zoning is the RS-3 (Single Family) and the overlay district or the protection district (C-4) will protect the wooded resource. This lot will need to be a minimum of 5 acres in area and it will also need some consideration on the reduction of the existing wooded area. The C-4 District calls for a Conditional Use Permit for the home that would be built on that 5.9 acre wooded lot. There is an entitlement to build there, however, it does not have to be in any particular place until the Plan Commission conducts a specific Public Hearing on a specific site plan for that home location. At that time, the Commission will have to make a determination on how much of the wooded area would be removed. There are parameters in the C-4 District which stated that 10% can be removed per year. (This is not clear enough because in 10 years all the trees could be removed and that is not the intent of the C-4 District). Most people will not clear cut and care and caution will need to be exercised when the Conditional Use Permit is granted. The City has a track record of doing this on three or four homes in the Reserve on Cedar Creek subdivision. This zoning will set the permanent underlying zoning RS-3 and the C-4 zoning is already in place.

Council Member C. Reimer stated that the Plan Commission discussed easements. In answer to this, Planner Marchek stated that another consideration was: should the City take ownership of the wooded 5 acre area as part of the Park System? The Parks, Recreation and Forestry Board considered this item twice and decided both times that they do not want this land as part of the City's public park land.

City Attorney Vance stated that this decision is really up to the Council.

City Planner Marchek stated that they do want a 20 foot easement for the creek side pedestrian trail that will be developed in the platting stage.

Council Member C. Reimer stated that the Plan Commission had some legal questions that the members wanted addressed at the last meeting and he did not know if they needed to be answered at this point.

City Planner Marchek stated that tonight's action is only zoning the property and he does not recall any questions related to the zoning.

In answer to Council Member Maher's question, City Planner Marchek stated that a site specific Conditional Use permit is needed for the 5 acre wooded lot and this will go through the Plan Commission. The Common Council will be involved in the preliminary final plat and development agreement approval.

In answer to Council Member R. Reimer's question, City Planner Marchek stated that the C-4 zoning continues northward, however it gets closer to the creek. The C-4 zoning remains and

was determined in the environmental corridor by the Southeast Wisconsin Regional Planning Commission.

Joe Messinger, W51 N1013 Keup Road, distributed photos of his property along Cedar Creek. He sent a letter in regard to the Code allowing 10% of the vegetation in the C-4 zoning district to be removed in a calendar year. He asked if there was any way to limit the cutting to a more reasonable amount and restrict the area from being 100% cut over the years. He also stated that the RS-3 Zoning limits cutting to 30 feet out of 100 feet and is more restrictive.

City Attorney Vance stated that this would require an ordinance change.

Acting Mayor Radtke stated that tonight's action does not affect the C-4 zoning; however, the Council could address this change in the future.

Gary Osheim, N100 W5996 Oxford Drive, asked when the process will start to subdivide the property.

Planner Marchek stated that a preliminary plat has been submitted and will go to the Plan Commission on April 9. Then the developer will submit his final plat and the City will need to have a development agreement, which will be up to the subdivider.

The developer said that he will proceed as soon as he gets the permits.

Cecile Lanke, W60 N1030 Glenwood Drive, inquired how many houses will be in the subdivision and what will be done in the wooded area. She was shown the conceptual drawing.

Acting Mayor Radtke reiterated that tonight's action is only zoning.

Motion made by Council Member C. Reimer, seconded by Council Member O'Keefe, to close the public hearing at 7:25 p.m.

Council Member Maher expressed concern for the 5 acre wooded lot on the property.

In answer to Gary Osheim's question, City Planner Marchek stated that the intent of the plan is to preserve the existing home on the lot and leave the garage until the developer decides to sell these two lots with the building and then the accessory building will be removed.

In answer to Council Member R. Reimer's concern, City Attorney Vance stated that the Council can express their intent to address the 10% per year cutting of vegetation without a finite number of years in the C-4 zoning district on a subsequent agenda.

Council Member R. Reimer asked if Ordinance No. 2013-10 should be postponed.

City Planner Marchek stated that to change the C-4 zoning district would require a minimum of 60 - 90 days.

City Attorney Vance indicated that a 2 week public hearing notice is required before addressing the C-4 zoning change.

In answer to Council Member Filter's question, City Planner Marchek stated that the Code is worded so that 10%, of the vegetation, per year can be cleared with no finite number of years. It should be proportionate to the linear foot or width of the lot or water's edge. There will be options to choose from.

In answer to Council Member C. Reimer's question, City Attorney Vance stated that the Plan Commission recommendation can be during the hearing at the Common Council, to speed up the process.

In answer to Acting Mayor Radtke's question, the developer stated that he wanted to start development as soon as possible, there have been continuous roadblocks.

In answer to Council Member C. Reimer's question, City Attorney Vance stated that a decision can be made at the Common Council because they are the supervisors of the Plan Commission.

In answer to Council Member R. Reimer's question, City Attorney Vance stated that there has to be a public hearing and it can be at the Plan Commission or the Common Council.

Planner Marchek stated it is unknown what is being recommended for the public hearing notice, at this time.

City Attorney Vance stated it is possible to notice it for the options that are viable and would be placed before the Plan Commission. It would give the option of picking between three potential ordinances on April 9. Then the Common Council could meet on April 10.

Acting Mayor Radtke stated that if the Council is concerned about the parameters of the C-4 zoning it is their responsibility to address it as soon as possible.

Motion made by Council Member C. Reimer, seconded by Council Member O'Keefe, to adopt Ordinance No. 2013-10 rezoning a 10.6 acre parcel at W60 N1052 Sheboygan Road from temporary RS-1 Single-Family Residential District to permanent RS-3 Single-family Residential District, however, the City is going to look at the C-4 zoning and the most easterly portion of the property that abuts the creek and address at a forthcoming public hearing the amount and ability of tree removal in the C-4 zoning district. Motion carried with Council Members C. Reimer, R. Reimer, Filter, Radtke, and O'Keefe in favor, Council Member Maher opposed, and Council Member Yip excused.

LIBRARY FUNDRAISING UPDATE AND LIBRARY BUILDING UPDATE

City Administrator/Treasurer Mertes updated the Common Council with an email from Director Marquardt and a spreadsheet showing the Sources and Uses of Funds – Yearly Cash Flow for the New Public Library Project.

Council Member Maher stated that the figures are based on estimates and it will be easier to monitor the fundraising when the bids are received.

It was determined that \$406,000 is needed for the project, as of this meeting.

CONSIDER DESIGN OF THE NEW LIBRARY

Architect Alex Ramsey of Engberg Anderson, stated that the plans for the new Library have been reviewed and approved by the Plan Commission with minor modifications. The plans are being presented to the Common Council for authorization to go out for bids. The approved site plan will become the exhibit for the shared parking and access agreement with the Ozaukee County Historical Society. She distributed color photos of the building, floor plans, and displayed a board of the materials and colors being used.

Council Member R. Reimer confirmed that the entry to the Library will be on the south side of the building and not on Hanover Avenue.

In answer to Council Member C. Reimer's question, Architect Ramsey stated that the contrasting steel beam has been changed from the original beige color to a charcoal color for contrast.

Motion made by Council Member Maher, seconded by Council Member Filter, to approve the design of the new library as presented. Motion carried without a negative vote with Council Member Yip excused.

CONSIDER ACCEPTANCE OF THE LIBRARY SHARED PARKING AND ACCESS EASEMENT FROM THE OZAUKEE COUNTY HISTORICAL SOCIETY

Director Wiza distributed an updated version of the agreement from the Ozaukee County Historical Society. The present site of the Emergency Management building provides only enough land for the new Library building footprint with 5 foot setbacks. The shared parking and access easement from the Ozaukee County Historical Society is essential to construct the rear parking lot, book drop off, and provide for traffic circulation. As a condition of granting the easement, the Historical Society is requesting that the City accept ongoing maintenance responsibility for all shared use areas, and accept liability for same. Director Wiza stated that staff recommends acceptance of the shared parking and access easement with the conditions noted.

In answer to Council Member C. Reimer's question, City Attorney Vance stated that the City is bound to the footprint that was approved.

Motion made by Council Member C. Reimer, seconded by Council Member Maher, to approve the Library shared parking and access easement from the Ozaukee County Historical Society. Motion carried without a negative vote with Council Member Yip excused.

CONSIDER REQUEST OF THE CHAMBER OF COMMERCE TO BE GRANTED THE RIGHT TO CONTROL SALES ACTIVITY ON THE GROUNDS OF CEDAR CREEK PARK ON THE 4TH OF JULY IN SUBSEQUENT YEARS

Executive Director Kristine Hage explained that the Chamber of Commerce orchestrates the Fourth of July Parade and Celebration and allows several vendors to pay the Chamber of Commerce to be in the park; however, more and more vendors are obtaining Direct Sellers licenses from the Clerk's Office and also selling in the park. She would like the City to consider not allowing Direct Sellers to vend on the Fourth of July, similar to Festivals.

City Attorney Vance stated that there is a commerce clause that needs to be followed and the City does background checks on the Direct Sellers applicants. The park is open to the public and constitutionally, the City is unable to leave people out. Cedarburg Festivals has a specific ordinance allowing them to conduct the festivals and the City does not turn the entire park over to Festivals.

In answer to Council Member C. Reimer's questions, City Attorney Vance said that the park is public land and is different than the City streets. In order to provide a footprint for the Fourth of July Celebration, the Council would need to develop an ordinance.

Council Member Maher stated that he inquired about exclusive sales/vendors for Summer Sounds and was told that it was not allowed.

Council Members Maher, Radtke, and C. Reimer want to include Summer Sounds along with the Chamber of Commerce in possibly renting out a specific strip in the park or allowing vendors in specific areas for these groups.

It was the consensus of the Common Council to have staff and City Attorney Vance consider a way for the Chamber of Commerce and Summer Sounds to control the vendors in the park for their events.

DISCUSS INCIDENTS RELATED TO SETTING UP CHAIRS ALONG THE SIDEWALKS OF WASHINGTON AVENUE FOR THE 4TH OF JULY PARADE VIEW AND POSSIBLE SOLUTIONS

Executive Director Kristine Hage stated that the Fourth of July Parade is becoming more popular every year. This is causing a problem with people setting out chairs earlier every year. The City's policy is that chairs cannot be left out unattended prior to 7:00 p.m. the night before the parade. Now people are setting their chairs out earlier and staying with their chairs until 7:00 p.m. to get a better spot. There have been some disputes with business owners and the sidewalk area in front of their business. She said that the Chamber is looking for direction from the City and Chief Frank.

Executive Director Hage suggested not allowing chairs along the curb until 7:00 a.m. the day of the parade.

Council Member R. Reimer confirmed with Chief Frank that the chairs and people cannot obstruct the sidewalk.

Chief Frank stated that the problem started when chairs were being left early along the curb and sidewalk and people who parked could not exit their cars and get onto the sidewalk. Therefore, the 7:00 p.m. time was chosen when business slowed down. The Department is starting to see activity around 3:00 p.m. on the day before the parade. He has started to devote more officers to patrolling the sidewalks and allowing people to stay by their chair as long as individuals can pass on the sidewalk. He expressed concern for changing the time to 7:00 a.m. the morning of the parade, because people may want to stay with their chairs through the night and make it a fun event.

Executive Director Hage suggested sending letters to business owners reminding them the sidewalk is public domain.

Council Member C. Reimer asked if auxiliary police could be used to patrol the sidewalks downtown from 4:00 p.m. – 7:00 p.m. and remind people to keep the sidewalks clear. If there is an issue they could radio for a squad.

Council Member C. Reimer suggested and it was the consensus of the Common Council to allow Chief Frank to decide if there is a better way of handling the people and chairs prior to the parade. If he wants to make any changes, he should bring them back to the Common Council.

CONSIDER HIRING OF HEALTH INSURANCE CONSULTANT TO ASSIST IN SECURING HEALTH INSURANCE COVERAGE FOR 2014

City Administrator/Treasurer Mertes stated that due to the dissolution of the WPPI Benefit Trust, the City needs to shop for a health insurance provider for January 1, 2014 through December 31, 2014. A group of City and Light & Water employees met with four different insurance companies and have two proposals for the Council to review.

The two groups are Associated Financial Group and Benefit Resources Group, either company is capable of meeting the City's needs.

Matthew Katz from Associated Financial Group explained that it would cost \$12,000 in 2013 and \$25,000 in 2014 for their services. They are part of Associated Bank and represent 70 School Districts. Their headquarters are in Appleton, WI and they have an office in Waukesha, WI. They have an HR Solutions Team that is dedicated to the health care reform. The Associated Financial Group also has wellness coordinators on staff to provide incentives and wellness programs to their customers. The group believes in developing a long term strategy partnership with a 3 – 5 year plan.

In answer to Council Member C. Reimer's question, City Administrator/Treasurer Mertes stated that there are a few differences between the two companies. The Benefit Resources Group has a Government representative and they have more ala carte services. Their proposal was for \$3,000

per month, or \$24,000 for the remainder of this year and \$36,000 for 2014. The Benefit Resources Group was invited to attend this Common Council meeting.

In response, Matthew Katz of Associated Financial Group stated that most companies are invited to join similar groups and they are involved with the Wisconsin Association of School Boards.

City Administrator/Treasurer Mertes stated that Cedarburg Light & Water has agreed to split (50/50) the expense of a consultant for the first year.

Motion made by Council Member R. Reimer, seconded by Council Member Filter to hire Associated Financial Group as a health insurance consultant to assist in securing health insurance coverage for 2014. Motion carried without a negative vote with Council Member Yip excused.

CONSIDER PAYMENT OF BILLS FOR THE PERIOD 2/22/13 THROUGH 3/1/13, ACH TRANSFERS FOR THE PERIOD 2/22/13 THROUGH 3/8/13, AND PAYROLL FOR THE PERIOD 2/17/13 THROUGH 3/2/13

Motion made by Council Member O'Keefe, seconded by Council Member R. Reimer, to authorize payment of bills for the period 2/22/13 through 3/1/13, ACH transfers for the period 2/22/13 through 3/8/13, and payroll for the period 2/17/13 through 3/2/13. Motion carried without a negative vote with Council Member Yip excused.

CONSIDER LICENSE APPLICATIONS

Motion made by Council Member C. Reimer, seconded by Council Member R. Reimer, to approve the appointment of Emily Leix as agent for Walgreens #13620 at W62 N190 Washington Avenue and new Operator's License applications for the period ending June 30, 2013 for: Michael Brehm, Lindsey Duba, Julie A. Schlabach and Michael C. Styles. Motion carried without a negative vote with Council Member Yip excused.

CITY ADMINISTRATOR/TREASURER'S REPORT

City Administrator/Treasurer Mertes stated that the City received the check for the Forestry Grant used for the tree inventory. The audit by Reilly, Penner & Benton was conducted last week. The Annual Financial Report will be distributed in the next Council packet and the Audit Report will be presented in May.

City Administrator/Treasurer Mertes informed the Common Council that Officer Joseph V. Biliskov, Officer David L. Dudash, and Dispatcher Amy Kell all received commendation awards for outstanding service to the community

COMMENTS & ANNOUNCEMENTS BY COUNCIL MEMBERS

Council Member Filter encouraged the Parks, Recreation & Forestry Board to reconsider their decision to remove the metal slide at Cedar Creek Park.

ADJOURNMENT

Motion made by Council Member C. Reimer, seconded by Council Member Filter, to adjourn the meeting at 8:45 p.m. Motion carried without a negative vote.

Amy D. Kletzien, MMC/WCPC
Deputy City Clerk