

**CITY OF CEDARBURG
COMMON COUNCIL
October 25, 2010**

CC20101025-1

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, October 25, 2010 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 - Mayor Gregory P. Myers, Council Members Chris Reimer, Ron Reimer, Art Filter, Paul Radtke, Michael Maher, Kip Kinzel, Bob Loomis

Also Present - City Attorney Kaye Vance, City Administrator/Treasurer Christy Mertes, Director of Engineering and Public Works Tom Wiza, City Planner Jon Censky, Library Director Mary Marquardt, Director of Parks, Recreation and Forestry Mikko Hilvo, Police Captain Glenn Lindberg, Senior Center Director Carol LaFontaine, Wastewater Superintendent Ron Clish, Public Works Superintendent Jeff Boerner, Emergency Management Director Kevin Runkel, Assistant Emergency Management Director Frank Even, City Clerk Constance McHugh, Library Board President Sue Karlman, Plan Commissioner Brook Brown, Downtown Master Plan Committee Member Liz Brown, 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.

PUBLIC HEARING: CONSIDER ORDINANCE NO. 2010-16 AMENDING SECTION 13-1-55(b) OF THE ZONING CODE TO ALLOW RESIDENTIAL USES WITHIN EXISTING SINGLE-FAMILY HOMES AS A PERMITTED USE IN THE B-3 CENTRAL BUSINESS DISTRICT

Mayor Myers declared the public hearing open at 7:01 p.m. on proposed Ordinance No. 2010-16 amending Section 13-1-55(b) of the Zoning Code to allow residential uses within existing single-family homes as a permitted use in the B-3 Central Business District. City Clerk McHugh verified that proper legal notice had been given with publication in the *News Graphic* on October 7, 2010 and October 14, 2010.

Planner Censky said the proposed ordinance is at the request of homeowner Kelly Randall. Mr. Randall's home is zoned as B-3 Central Business District. His home is one of several homes in the downtown area that is designated as legal non-conforming because the B-3 Central Business District does not list single family homes as a permitted use. Mr. Randall is having trouble

refinancing his home because of the non-conforming status and is requesting a zoning text change to add residential uses within single-family homes as permitted uses in that District to render his home conforming.

Planner Censky said the Downtown Master Plan Committee has in the past urged that residential development be allowed in and/or near the downtown area to create a customer base for Cedarburg's business community. This change also fits in with the Smart Growth Comprehensive Land Use Plan – 2025 policy to promote residential development in and near downtown. The Plan Commission reviewed this request and voted unanimously to support the change.

Council Member Loomis asked Council Member Radtke if the Downtown Master Plan Committee made a recommendation regarding the proposed ordinance.

Council Member Radtke said the Committee has discussed sites in the south part of downtown becoming residential, but has not considered commercial properties changing to single family. The Committee has not reviewed the proposed ordinance.

Council Member C. Reimer asked if the proposed ordinance would allow existing businesses or commercial properties that were once homes to convert back to residential use.

Planner Censky said the ordinance would allow this; although, there does not seem to be a desire to convert commercial properties to residential properties. In order to do this the property would need to meet the definition of a single family home. A single family home is defined as a detached building designed for or occupied by one family.

Council Member Filter asked how many homes in the downtown are zoned B-3 Central Business District.

Planner Censky said that there are two homes on Washington Avenue and a few homes on both Cleveland Street and Center Street that fall into this category.

Council Member Radtke asked how long the B-3 Central Business District has existed, and if it is known whether any other homeowners are having refinancing problems.

City Attorney Vance said that the B-3 District has existed for decades and she is not aware of other loan issues.

Council Member Radtke asked if there is a way to make a special exception for this property or to spot zone it.

City Attorney Vance said spot zoning is not something that should be used frequently but can be used if there is a public policy purpose for it and not for the benefit of a property owner.

Council Member Loomis said that he has a concern about businesses in buildings that look like a home that may want to convert to a home in the future. He said it does make some sense to have a provision for current single family homeowners who have their homes rendered legal non-conforming to be able to make repairs in excess of 50% of the assessed value of their home.

Plan Commissioner Brook Brown, N25 W5060 Hamilton Road, suggested the proposed ordinance be sent back to the Plan Commission for reconsideration. He said the B-3 Central Business District is intended to provide for the orderly appropriate regulations to ensure the compatibility of the diverse uses typical of the downtown area without inhibiting the potential for maximum development of commercial, cultural, entertainment, and other urban activities which contribute to its role as the heart of the City. He said he is concerned with residential uses replacing commercial uses downtown. He said he voted in favor of the ordinance at the Plan Commission meeting but since has had some questions and feels a second look at the ordinance by the Plan Commission and Downtown Master Plan Committee would be appropriate as this could have more of an impact on the historic downtown than meets the eye.

Downtown Master Plan Committee Member Liz Brown, N25 W5060 Hamilton Road, said she reviewed Committee minutes for the last 4-5 years and found no discussion of this type of zoning change. She said the Downtown Master Plan Committee would welcome the opportunity to review the proposed change as it could negatively impact the downtown in the future.

Motion made by Council Member C. Reimer, seconded by Council Member Radtke, to close the public hearing at 7:20 p.m. Motion carried unanimously.

Council Member Radtke said he spoke with Planner Censky earlier about his concern with commercial properties in the downtown possibly turning into residential properties. He also has concerns about the reason the Council may be doing this.

Council Member C. Reimer said he agrees with Commissioner Brown that this matter should be sent back to the Plan Commission and to the Downtown Master Plan Committee.

Council Member Filter questioned why the matter should return to the Plan Commission when the vote was unanimous.

Council Member C. Reimer said the matter seems a bit rushed and more time is needed to review it.

Attorney Vance said there are a lot of good concerns that would warrant the matter going back to the Plan Commission. She said the proposed ordinance could be rewritten so those properties that are not residential today cannot convert to residential in the future.

Motion made by Council Member C. Reimer to send the proposed ordinance to the Downtown Master Plan Committee for review and recommendation and then to the Plan Commission for review and recommendation. The motion was seconded by Council Member Kinzel and carried unanimously.

Mayor Myers said the message is clear that input from the Downtown Master Plan Committee is desired.

APPROVAL OF MINUTES

City Administrator/Treasurer Mertes said that on the bottom of page 4 of the October 11, 2010 minutes the amount to replace three squad cars is listed as \$159,720; however, this amount should be \$108,000.

Motion made by Council Member C. Reimer, seconded by Council Member Kinzel, to approve the minutes of the October 11, 2010 meeting with the above change. Motion carried unanimously.

UPDATE ON OZAUKEE ICE CENTER – CARLSON TOOL PROPERTY

Attorney Vance said it has come to the City's attention that Ozaukee County transferred ownership of the Ozaukee Ice Center property and surrounding property to the Ozaukee Youth Hockey Association (OYHA). This was done without the County informing the OYHA that an Intergovernmental Agreement between the City of Mequon, County of Ozaukee, and City of Cedarburg exists that deals with the extension of utilities to this property, which is located in the City of Mequon. Attorney Vance said the City of Cedarburg has established a precedent of not extending utilities beyond its borders. The 1995 Intergovernmental Agreement treats the property that is in Mequon as if it were in the City of Cedarburg.

Attorney Vance said the ideal solution would be for the City of Mequon to detach this parcel. She said that a new agreement with the OYHA and a new Intergovernmental Agreement will need to be drafted.

Mayor Myers said he would discuss the possibility of detachment with the Mayor of Mequon.

RESOLUTION 2010-17 DESIGNATING LIGHT AND WATER CHECKING AND SAVINGS ACCOUNTS FOR ENSUING YEAR

Motion made by Council Member Loomis, seconded by Council Member C. Reimer, to adopt Resolution 2010-17 designating Light and Water checking and savings accounts for the ensuing year. Motion carried unanimously.

FURTHER CONSIDERATION OF THE PROPOSED 2011 BUDGET

City Administrator/Treasurer Mertes distributed a revised Sewerage budget based on the recommendation of the Sewerage Commission that the amount allocated to the Sewer Main Reconstruction Fund be increased to \$400,000. This would result in a 3.2% increase in the flow rate and a 3.2% increase in the holding tank fee.

Mayor Myers said he understands the Sewerage Commission's reasoning; however, people in the City are on fixed incomes and Social Security will not be increased for the second year in a row. He said he would like to see fees stay the same and the City not tap into people's budgets.

Director Wiza said if rates do not increase, the amount allocated to the Sewer Main Reconstruction Fund needs to be reduced. \$400,000 has been the annual allocation to this fund. It was first thought to lower this amount to \$300,000, but the Sewerage Commission felt it needs to appropriate the

necessary money to this fund. He said \$350,000 can be budgeted and the rates could remain the same.

It was the consensus of the Council to allocate \$350,000 to the Sewer Main Reconstruction Fund and keep the sewer rates the same as 2010.

Council Member Maher said he read all 260+ pages of the budget and has several questions. He will meet with City Administrator/Treasurer Mertes to ask his questions and discuss the budget. He asked the Council not to take any action on the proposed budget tonight.

City Administrator/Treasurer Mertes said the Council is scheduled to take formal action on the budget on November 8.

Council Member Loomis asked if there are any ways to finance the items on the unfunded list.

City Administrator/Treasurer Mertes said a new quote for computer equipment and a dispatch console at the Police Department has been received and is \$9,300 less than the original quote. She also proposes to have Ozaukee County host the City's email as many other communities do, saving \$6,300 from the anticipated purchase of new file servers. This leaves \$15,600 to fund other items.

Re-roofing the Cedar Creek Park Pavilion, the Centennial Park restroom building, and Willowbrooke restroom building are items on the unfunded list at \$8,900, \$4,200, and \$4,200 respectively.

Council Member R. Reimer asked about the proposed boardwalk in Cedar Pointe Park. He asked who he should address his concerns to about this.

Director Hilvo said that this project has been pushed back to 2012 to coincide with the roundabout project on Wauwatosa Road. He suggested Council Member R. Reimer address the Parks, Recreation, and Forestry Board about the boardwalk.

Council Member Filter said the budget includes the assumption that the unions will settle for a 0% wage increase. He asked how good this assumption is.

City Administrator/Treasurer Mertes said it is too early to tell as negotiations with only one union have begun.

Council Member Filter suggested it may be possible to cut the dispatch console from the budget.

Captain Lindberg said Chief Frank is willing to forgo the new furniture in 2011.

Council Member Filter said that cuts have been in staffing. He said he would like to see other items cut rather than staff.

Council Member C. Reimer said he would like to see the re-roofing of the three park buildings funded and something else removed from the budget. Council Member Radtke agreed the roofs should be replaced.

The Council directed City Administrator/Treasurer Mertes to figure out a way to fund the re-roofing of the three park buildings.

Council Member Loomis asked Director Hilvo which of the following two items is of higher priority: updating the street tree inventory or putting more money into tree pruning.

Director Hilvo said updating the tree inventory is of a higher priority.

Council Member Radtke said the Council decided not to fund the vacant police officer position. He said he discussed this with Chief Frank and would like to further discuss this with the Council.

Captain Lindberg said that 30 of the mutual aid calls last year requested the assistance of the Police Canine or were calls within the City. He said not all mutual aid calls are outside the City. He said the Department has 19 sworn officers with 15 officers in patrol. This includes 11 patrol officers and 4 sergeants. He said the Police Department is a very senior department. Most officers have 20 to 25 days of vacation. Vacation days, along with sick days, in-service days, and training hours must be covered. He said the Department will feel the impact of losing an officer, especially at County Fair and festival times. He said since a patrol officer retired in June, 57 hours of overtime had to be covered in a 2½ month period at a cost of \$3,600.

Council Member R. Reimer asked how much the City pays the County for mutual aid.

City Administrator/Treasurer Mertes said the costs for mutual aid are included in the levy paid to the County.

Council Member Loomis said that excluding the jail, the City paid \$588,577 for the levy to support the Sheriff's Department. The County assisted in five mutual aid calls. The City assisted the County 75 times.

Council Member R. Reimer said the City paid over one-half million dollars to have the County assist the City five times. He asked why the City does not ask for more mutual aid from the County.

Captain Lindberg said the County doesn't have the resources to devote to the City.

Council Member Loomis said he met with the County Sheriff and discussed the concern of spending \$588,577 for the assistance in five calls. He said the City expects more return on its investment. Council Member Loomis said the Sheriff said he understands the City's concern and is willing to station a deputy near the City.

Mayor Myers said paying taxes to the County for police services is a raw deal for cities and villages because cities and villages get very little in return. Towns are the ones that benefit. Unfortunately, there is very little that the City can do about this.

Council Member Radtke said that he finds it hard to believe the Sheriff's Department would station a deputy near the Cedarburg border on a regular basis. If this were the case, all communities would ask for it.

Council Member R. Reimer said that this is a concept that should be pursued more.

Council Member Loomis said the Council sets the Police Department budget and the number of officers assigned to the Department will have to make due. He said it may mean the City uses more mutual aid from the County Sheriff's Department and other departments.

Council Member Radtke said he would like to see or hear more information from the Police Chief about this.

Council Member Radtke said the City's impact fees are low and there isn't much development; therefore, he is concerned there will not be much in the park fund after funds are used for the Creek Walk project and other minor projects.

City Administrator/Treasurer Mertes said she has talked to Director Hilvo about setting up a replacement fund to support park projects. At the end of 2011 there will be approximately \$84,000 for development of parks in the Topview Trails and Prairie View Subdivisions.

Director Wiza said there are two different types of park fees. One is a park fee in lieu of dedication and the other is a park facilities fee, which is a per lot fee. The Topview Trails Subdivision generated \$100,000 in impact fees. Money from impact fees is not segregated and can be used for any park.

Council Member C. Reimer said it seems like there is enough money for the one acre park in Topview Trails, but the Council should start saving money for the five acre park in the Prairie View Subdivision.

City Administrator/Treasurer Mertes said a park in the Prairie View Subdivision is in the Capital Improvements Plan and will be funded through the tax levy and capital budget, if impact fees are not available.

Director Hilvo said it will cost \$200,000 to fully develop the park in the Prairie View Subdivision.

Council Member Loomis said Council Member C. Reimer asked at the last meeting about the possibility of pushing back capital items in the same fashion that was done this year. He said he has heard it is not wise to push back replacement of squad cars and has heard in the past it is best to trade-in the vehicles when they have between 100,000 and 110,000 miles to get any value out of them.

Captain Lindberg said the three squad cars proposed to be replaced are the ones that are most used. The cars have 116,000, 106,000, and 102,000 miles on them. Last year the Police Chief asked for two cars to be replaced; however, none were. Generally the issue with police vehicles is not the mileage but the large amount of idling time.

Council Member C. Reimer asked about the maintenance costs for these vehicles.

Captain Lindberg said one Crown Victoria has had costs of \$9,560 over its life, another Crown Victoria has had costs of \$10,000, and the Expedition has had costs of \$15,000.

Council Member Loomis asked Superintendent Boerner if an analysis has been done of replacement versus refurbishing vehicles.

Superintendent Boerner said some DPW vehicles are refurbished because it can help in the long run in terms of resale value; however, sometimes a lot of money is put into vehicles just to keep them running. He said that often times the mileage on the vehicles is not the issue – it is idling time.

Senior Center Director LaFontaine said she is seeking Council approval to fundraise and obtain grants to install an elevated chair lift at the Senior Center. The approximate cost is \$64,000.

City Attorney Vance said employees are not supposed to fundraise on employee time. She said it may be wise to set up a committee or a group like the Friends of the Library to do this.

Director LaFontaine said she is hoping to obtain grants from groups such as the Cedarburg Foundation and the Woman's Club.

Council Member Loomis asked if there is still value in holding onto the property purchased for a future wastewater treatment plant.

Wastewater Superintendent Clish said he believes it is worthwhile to hold onto this property because the current infrastructure is 50-60 years old and it is not always a good idea to put money into old infrastructure.

Director Wiza said he feels this is a valuable piece of property to hold on to and is a great location for a wastewater treatment plant where other partners may join in.

Discussion regarding the proposed 2011 budget will continue at the next Council meeting, with action to formally adopt the budget possible.

TASK DESCRIPTION AND LANGUAGE FOR CITY PLANNING CONTRACT

City Administrator/Treasurer said the City Planner position will revert back to an independent contractor position in 2011. The City currently has a contract with Planner Marty Marchek for specific services that expires December 31, 2010. A new general planning services contract has been drafted for next year's services based on the existing contract with Mr. Marchek; however, the description of services has been broadened. A search for a contract planner will begin after the budget is adopted.

Several Council Members expressed a desire for the future contract planner to have specific days and times he/she will be available at City Hall with the flexibility to answer questions and address matters when not at City Hall.

Council Member R. Reimer said that this position should not assume an advocacy role.

Motion made by Council Member Filter, seconded by Council Member Kinzel, to approve the general services planning contract as presented. Motion carried unanimously.

LICENSE APPLICATIONS

Motion made by Council Member Filter, seconded by Council Member Kinzel, to authorize issuance of a Class "A" beer and "Class A" liquor license for the period ending June 30, 2011 for Walgreens #13620, W62 N190 Washington Avenue, Michael Rohlinger, agent. Motion carried unanimously.

Motion made by Council Member Filter, seconded by Council Member Kinzel, to authorize issuance of new Operator's License applications for the period ending June 30, 2011 for: Erin A. Robinson, Lynda K. Wachter, Krystal E. Hasseldeck, Vincent M. Lenarduzzi. Motion carried unanimously.

CITY ADMINISTRATOR'S REPORT

City Administrator/Treasurer Mertes said she and staff member Kathy Huebl attended training last week at the County Treasurer's Office on the new tax collection software. Eventually all information will be on-line.

COMMENTS AND ANNOUNCEMENTS BY COUNCIL MEMBERS

Council Member Radtke said that the Festivals Committee will be addressing the matter of too much drinking at the festivals and who can and cannot sell alcohol. He said the Committee would like to see the Council involved in these issues.

MAYOR'S REPORT

Mayor Myers issued proclamations honoring resident Rita Bert and designating November 7, 2010 as Change Your Clock, Change Your Battery Day.

ADJOURNMENT

Motion made by Council Member Filter, seconded by Council Member Kinzel, to adjourn the meeting at 9:14 p.m. Motion carried unanimously.

Constance K. McHugh, MMC/WCPC
City Clerk