

**CITY OF CEDARBURG  
COMMON COUNCIL  
November 25, 2013**

**CC20131125-1**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, November 25, 2013 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 Chris Reimer, Ron Reimer (arrived at 7:03 p.m.), Art Filter, Paul Radtke, Michael Maher, Doug Yip, Mike O'Keefe

Also Present - City Attorney Kaye Vance, City Administrator/Treasurer Christy Mertes, Director of Engineering and Public Works Tom Wiza, City Clerk Constance McHugh, Police Chief Tom Frank, Wastewater Superintendent Ron Clish, 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**

Council Member Maher said that he would like to clarify the number of \$84,000 mentioned on page 11 of the November 11, 2013 minutes under the Library Fundraising Update and Library Building Update. He said the number City Administrator/Treasurer Mertes is tracking is not the Friends of the Library fundraising goal, merely the figure identified by the City as the budget shortfall. He referred Council Members to the thermometer outside the new Library for the latest information on fundraising.

Motion made by Council Member Maher, seconded by Council Member C. Reimer, to approve the minutes of the November 11, 2013 meeting with the above change. Motion carried unanimously.

**COMMENTS AND SUGGESTIONS FROM CITIZENS**

Brook Brown, N25 W5060 Hamilton Road, addressed the Council on the revised mission statement that is part of this agenda. He said the mission statement was originally decided upon in the mid-1990s by several focus and citizen groups over several months. He said he was surprised to see that staff has proposed a change to it. He asked why it is necessary to change the word "preserve" to "enhance". He said this change needs more consideration and urged the Council not to approve the change at this time. He said the community needs to weigh in on this.

Mr. Brown also said that from reading local newspapers it appears that there will be no tax levy increase in the City Mequon, the Village of Grafton, or the Village of Thiensville. The tax levy in the Town of Grafton is decreasing. He questioned why the City's levy is increasing when the tax levies of surrounding communities are staying flat or decreasing.

**FURTHER CONSIDERATION OF THE PROPOSED 2014 BUDGET**

City Administrator/Treasurer Mertes said changes to the budget were made since the last meeting. \$10,000 was added to the Forestry tree maintenance account and the salary for a police officer for eight months of the year was added. There is a \$10,000 use of fund balance towards the health insurance consultant cost in the General Fund. With these changes, the expenditure increase was kept below the 2.2% expenditure restraint cap and the tax rate is \$6.99/\$1,000 of assessed value, or a 2.3% increase from the 2012 tax rate.

Council Member Maher apologized for missing the last meeting when the budget was discussed. He commended staff for their fast responses to all his questions. He said the proposed budget includes funds for four months in the new Library. He said there is a real chance the new building will be ready earlier and the library will occupy it for six months. It is possible the Library budget will go over the amount planned to be used from the fund balance.

Council Member Radtke said the Council realizes the fund balance is being used in the short term to offset costs of the new library, and that the library budget will be increasing in future years because of the new building.

Mayor Kinzel said the City may be able to push up the closing of the existing library building with the purchaser. He said the Council will, at some point, be discussing how to use the proceeds from the sale.

Council Member Filter said that he is in favor of adding another police officer; however, suggested that the person be hired after July 1<sup>st</sup> to save money. He also said it is disheartening that only one person showed up to discuss the budget. He said it is not good to have no public input.

Mayor Kinzel addressed Mr. Brown's earlier comments. He said that for nearly 10 years the City has keep the tax levy flat. He said he would be curious to know what the increases were in the surrounding communities during that time period.

Council Member R. Reimer pointed out that the City has taken a loss since the Town of Cedarburg dropped out of the joint library.

**CONSIDER ORDINANCE NO. 2013-25 LEVYING PROPERTY TAXES ON THE GENERAL, DEBT SERVICE, SPECIAL REVENUE, AND CAPITAL IMPROVEMENT FUNDS FOR FISCAL YEAR 2014**

Motion made by Council Member Radtke, seconded by Council Member Maher, to adopt Ordinance No. 2013-25 levying property taxes on the general, debt service, special revenue, and capital improvement funds for fiscal year 2014.

Council Member Maher said he would vote against the motion because he disagrees with the amount given to the library.

Motion carried with Council Members C. Reimer, R. Reimer, Filter, Radtke, Yip, and O'Keefe voting aye, and Council Member Maher voting nay.

**CONSIDER ORDINANCE NO. 2013-26 APPROPRIATING THE NECESSARY FUNDS FOR THE OPERATION OF THE GOVERNMENT AND ADMINISTRATION OF THE CITY OF CEDARBURG FOR FISCAL YEAR 2014; ORDINANCE NO. 2013-27 APPROPRIATING THE NECESSARY FUNDS FOR THE 2014 CAPITAL IMPROVEMENT BUDGET; ORDINANCE NO. 2013-28 ESTABLISHING THE USER CHARGE SCHEDULE AND APPROPRIATING THE NECESSARY FUNDS FOR THE SEWERAGE FUND FOR THE OPERATION OF THE WASTEWATER TREATMENT PLANT FOR FISCAL YEAR 2014; AND ORDINANCE NO. 2013-29 APPROPRIATING THE NECESSARY FUNDS FOR THE OPERATION OF THE SPECIAL REVENUE FUNDS AND ADOPTING THE INDICATED BUDGETS FOR FISCAL YEAR 2014**

Motion made by Council Member Maher, seconded by Council Member Yip, to adopt the following ordinances:

- Ordinance No. 2013-26 appropriating the necessary funds for the operation of the Government and Administration of the City of Cedarburg for fiscal year 2014;
- Ordinance No. 2013-27 appropriating the necessary funds for the 2014 Capital Improvement budget;
- Ordinance No. 2013-28 establishing the user charge schedule and appropriating the necessary funds for the Sewerage Fund for the operation of the Wastewater Treatment Plant for fiscal year 2014;
- Ordinance No. 2013-29 appropriating the necessary funds for the operation of the Special Revenue Funds and adopting the indicated budgets for fiscal year 2014.

Motion carried unanimously.

Council Member R. Reimer said the City will be borrowing for road projects. He said that this is pushing payments further and further down the road and the debt service will be growing and growing rather than shrinking.

**CONSIDER REVISED MISSION STATEMENT AND STRATEGIC PLAN**

City Administrator/Treasurer Mertes said that she met with representatives from the Economic Development Board, former ad hoc Downtown Master Plan Committee, the Chamber, the Festivals Committee, and a marketing representative this past summer and it was brought up that the mission statement does not talk about the future and has not been revised for several years. The mission statement was revised as such:

The City of Cedarburg seeks to enhance ~~preserve~~ its historic "small-town" atmosphere and quality of life by ~~while~~ balancing the desires of our community for ~~delivering~~ high-quality, new and

improved programs and services with our fiscal responsibility to today's citizens and future generations in a fiscally responsible manner.

Mayor Kinzel suggested that perhaps the statement include both the words "enhance" and "preserve".

Judy Jepson, W61 N358 Washington Avenue, agrees with Mr. Brown's comments regarding the revised mission statement and said she does not know what the intent is. She questioned if the City is giving up preservation. She suggested that the Council get feedback from the Plan Commission and Landmarks Commission.

Mr. Brown suggested that a group of citizens be formed to revisit this.

Council Member R. Reimer said the proposed use of the word "enhance" seems problematic to some but to him it seems more dynamic and superior.

Council Member Filter said he agrees with Mayor Kinzel's suggestion to use both "enhance" and "preserve". He said "enhance" is a bonus word.

Council Member C. Reimer said people in the community put a lot of work into developing the mission statement. He suggested it be discussed by the Plan Commission and Landmarks Commission in a public forum and come back to the Council.

Motion made by Council Member C. Reimer, seconded by Council Member Filter, that the current mission statement and the revised mission statement be forwarded to the Landmarks Commission and Plan Commission for discussion in a public forum and come back to the Council with a recommendation. Motion carried unanimously.

Motion made by Council Member O'Keefe, seconded by Council Member Radtke, to accept the changes proposed by City Administrator/Treasurer Mertes in Goals #5 and #8 of the Strategic Plan. Motion carried unanimously.

Goal #5 will now read: Preserve and enhance quality of life by providing cultural, educational, leisure, and recreational activities for all generations to enjoy.

Goal #8 will now read: Improve efficiency and productivity between City departments, residents and businesses through technology.

**CONSIDER APPLICATION FROM FRILL, INC., LYNN M. KNUTSON, AGENT, FOR A  
"CLASS A" LIQUOR LICENSE FOR FRILL, W63 N680 WASHINGTON AVENUE**

Bruce Knutson, co-owner of Frill, said for hospitality reasons and to enhance the experience of store shoppers, he and his wife would like to be able to serve samples of wine at events throughout the year. Wine would also possibly be sold in gift baskets.

Council Member Filter asked Chief Frank if he has any concerns with the issuance of this license.

Chief Frank said he does not have any concerns.

Council Member C. Reimer asked Chief Frank if he would have concerns if several merchants along Washington Avenue would have similar licenses and give out wine samples.

Chief Frank said that while there is always the risk of things getting out of hand, typically wine sampling has not been a problem.

Council Member Radtke asked if the wine would be served outside. He said he has a concern during festivals with alcohol being sold up and down the street.

Attorney Vance pointed out that there could be some issues with minors on the premise. This would also set a precedent for other businesses that would want to do the same.

City Clerk McHugh said "Class A" liquor licenses generally are for liquor stores, grocery stores, drug stores, and gas stations. The licensee is allowed to sell liquor for off-premise consumption only. A recent change in the law a few years ago allows these licensees to provide, free of charge, two 3 ounce samples of wine to customers and visitors who have attained the legal drinking age between the hours of 11:00 a.m. and 7:00 p.m.

Mr. Knutson said serving of alcohol does go on downtown and he and his wife are just trying to obtain the proper license to provide samples of wine.

Council Member Yip asked if the wine tasting would occur during all hours the store is open.

Mr. Knutson said that wine tasting will not be offered at all times. Samples will be poured during events six to seven times a year, such as an artist showing.

Council Member C. Reimer pointed out that with this type of license you could do wine sampling on a frequent basis. This could open up similar arrangements for every business on Washington Avenue.

Mr. Knutson said serving wine samples does not benefit them, it is to enhance the shopping experience of the customers. Wine sampling will not be an everyday occurrence.

Council Member Yip asked if this license would be renewed on an annual basis.

Attorney Vance said all liquor licenses are renewed annually; however, she cautioned that once a license is issued it becomes a property right and can be difficult to take away. Prior to being granted, a license is a privilege. Once issued, it is a right and it becomes the burden of the City to revoke a license if problems exist.

Council Member C. Reimer said the Council does not necessarily have a problem with the granting of this license, but needs to think about the hair salons, pet grooming salons, and other stores that may want the same license and whether this is what the Council wants for Cedarburg. He said if this license is granted, there will need to be good reasons not to issue licenses to other businesses.

Mayor Kinzel said he understands the concerns, but said he doesn't think other businesses up and down Washington Avenue will be applying for Class A licenses.

Council Member Radtke said that sampling is not a concern to him. It is the possible selling of alcohol up and down the street that could be problematic.

Motion made by Council Member Maher, seconded by Council Member Yip, to approve a "Class A" liquor license for Frill, Inc., Lynn M. Knutson, agent, W63 N680 Washington Avenue. Motion carried unanimously.

**CONSIDER ORDINANCE NO. 2013-30 PROHIBITING PARKING FOR MORE THAN TWO HOURS ON EVERGREEN BOULEVARD FROM CENTER STREET SOUTH TO THE SOUTHERN PROPERTY LINE OF FOUNDERS PARK BETWEEN 7:00 A.M. AND 3:00 P.M.**

Motion made by Council Member R. Reimer, seconded by Council Member Filter, to adopt Ordinance No. 2013-30 prohibiting parking for more than two hours on Evergreen Blvd. from Center Street south to the southern property line of Founders Park between 7:00 a.m. and 3:00 p.m.

Mayor Kinzel said this matter has been discussed a few times at the Public Works & Sewerage Commission. It came about when a resident indicated he or she could not make a u-turn at the curb cut and that it is difficult to see around cars when backing out of driveways.

Chief Frank said residents in the area have also indicated they do not have the ability to park on the street in front of their house during school hours because students park there.

Council Member Radtke said he is concerned that this may push parking from Evergreen Blvd. to other streets. He also said a lot of people in the community would like the ability to park in front of their house.

Council Member R. Reimer said students like to park on the street rather in the lot because they can come and go as they please. He said that rather than get a parking permit for the school lot, students who can no longer park on Evergreen Blvd. will park farther out.

Council Member Filter said part of this area is in his district. He received no calls about this.

Motion made by Council Member Filter, seconded by Council Member C. Reimer, to call the question. Motion carried unanimously.

Motion to adopt Ordinance No. 2013-30 carried unanimously.

**CONSIDER ORDINANCE NO. 2013-31 CHANGING THE TERM OF THE MUNICIPAL JUDGE AND ADOPTING THE MID-MORAINÉ MUNICIPAL BOND SCHEDULE EFFECTIVE JANUARY 1, 2014**

Motion made by Council Member Filter, seconded by Council Member O'Keefe, to adopt Ordinance No. 2013-31 changing the term of the municipal judge from two years to four years per State Statute and adopting the Mid-Moraine Municipal Court bond schedule, effective January 1, 2014. Motion carried unanimously.

**CONSIDER PAYEE AGREEMENT BETWEEN THE CITY OF CEDARBURG, WPPI BENEFIT PLAN TRUST AND WISCONSIN COUNTIES ASSOCIATION GROUP HEALTH TRUST FOR DISTRIBUTION OF EXCESS WPPI TRUST FUNDS**

In order to receive excess funds from the WPPI Trust at termination, the City needs to have this agreement in place with the new health insurance provider. Any remaining funds for the City will be paid directly to the new health insurance provider.

Motion made by Council Member Filter, seconded by Council Member C. Reimer, to approve the agreement between the City of Cedarburg, WPPI Benefit Plan Trust and the Wisconsin Counties Association (WCA) Group Health Trust for distribution of excess WPPI Trust funds. Motion carried unanimously.

**REVIEW OF PROPOSED TID #3 CALENDAR**

Council Member C. Reimer recused himself from this discussion because of his position on the Cedarburg School Board.

City Administrator/Treasurer Mertes said a revised proposed calendar regarding TID #3 has been prepared by Ehlers and distributed to the Council for informational purposes.

Council Member Filter said that the calendar looks good.

Attorney Vance said the question is how much information regarding the plan does the Council want in advance of approving the developer's agreement.

Mayor Kinzel said the Council should see elevations, what the buildings will look like, the layout of the buildings, and know the square footage of the buildings.

City Administrator/Treasurer Mertes said Planner Marchek asked developer Greg Zimmerschied to put something together in writing that defines the development.

Council Member R. Reimer reminded the Council that the Plan Commission must prepare and adopt the proposed Project Plan. The calendar that was distributed does not indicate on which date this will be done.

Council Member Maher said he does not want to ask the developer for detailed architectural plans until the TID is approved. He said that he has enough information at this point on the plan to make a decision.

Council Member R. Reimer said the process in law requires that the Plan Commission prepare a Project Plan. This should be done before it goes to the Joint Review Board and a public hearing. He said the Plan Commission must approve it and say it is adequate before it goes out as a draft.

Attorney Vance said there needs to be an attachment to the developer's agreement that describes what the TID is funding. The question is how much of the plan does the Council want at this time. She suggested the information provided to the Council be a conceptual plan and simple description. She reminded the Council that the developer's agreement will state that all plans must go through the City's approval process.

Council Member R. Reimer asked that the date the Plan Commission should review and adopt the draft Project Plan be included in the calendar.

#### **PAYMENT OF BILLS**

Motion made by Council Member Filter, seconded by Council Member Radtke, to approve payment of bills for the period 11/08/13 through 11/14/13, ACH transfers for the period 11/08/13 through 11/18/13, and payroll for the period 10/27/13 through 11/09/13. Motion carried unanimously.

#### **LICENSE APPLICATIONS**

Motion made by Council Member Radtke, seconded by Council Member C. Reimer, to authorize the issuance of a new Operator's license for the period ending June 30, 2014 to: Alan M. Schroeder. Motion carried unanimously.

#### **LIBRARY FUNDRAISING UPDATE AND LIBRARY BUILDING UPDATE**

Council Member Maher said the Friends of the Library made a \$100,000 donation to the new Library. He encouraged Council Members to attend the Friends fundraising meetings to hear about the complexities and progress of the fundraising.

Mayor Kinzel suggested that a report be provided detailing where the City is at in terms of library spending compared to the budget and details the library fundraising.

#### **BUILDING INSPECTOR'S REPORT – STATUS OF THE WINDOWS ISSUE AT N58 W6194 COLUMBIA ROAD**

Attorney Vance reminded the Council that the owner of the former Partnership Bank building on Columbia Road, Mal Hepburn, entered into an agreement with the City stating that the City did not change the requirements regarding the window replacement, and that he would comply with the City Code. There were a total of 15 windows that were replaced that did not comply with the Code. Six of those windows have since been replaced with windows that do comply. Mr. Hepburn is

being treated like anyone else who violates the City Code and has been issued citations starting last Friday.

**ADJOURNMENT**

Motion made by Council Member Radtke, seconded by Council Member Yip, to adjourn the meeting at 8:45 p.m. Motion carried unanimously.

Constance K. McHugh, MMC/WCPC  
City Clerk