

**CITY OF CEDARBURG  
COMMON COUNCIL  
December 8, 2008**

**CC20081208-1**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, December 8, 2008 at City Hall, W63 N645 Washington Avenue, second floor, Council Chambers. Mayor Myers called the meeting to order at 7:00 p.m. The meeting began with a moment of silence (Mayor Myers asked Council Members to include thoughts of the late Council Member Noel Jepson) followed by the Pledge of Allegiance.

Roll Call: Present - Common Council – Mayor Gregory Myers, Council Members Chris Reimer, Steve Glamm, Paul Radtke, Michael Maher, Kip Kinzel

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, Library Board Members Sue Karlman and Steve Ruggieri, City Clerk Constance McHugh, Deputy City Clerk Amy Kletzien, interested citizens and news media

**STATEMENT OF PUBLIC NOTICE**

At Mayor Myers' 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.

**PUBLIC HEARING – CONSIDER RESOLUTION NO. 2008-25 AMENDING THE LAND USE PLAN FOR THE PROPERTY LOCATED AT N37 W5537 BURR LANE FROM MEDIUM-DENSITY, SINGLE-FAMILY TO INDUSTRIAL/MANUFACTURING AND CONSIDER ORDINANCE NO. 2008-28 REZONING THE SAME PROPERTY FROM RS-5 SINGLE-FAMILY RESIDENTIAL DISTRICT TO OSLM OFFICE, SERVICE AND LIMITED MANUFACTURING DISTRICT**

Mayor Myers declared the public hearing open at 7:03 p.m. to consider Resolution No. 2008-25 amending the Land Use Plan for the property located at N37 W5537 Burr Lane from Medium-Density, Single-Family to Industrial/Manufacturing and to consider Ordinance No. 2008-28 rezoning the same property from RS-5 Single-Family Residential District to OSLM Office, Service and Limited Manufacturing District. Deputy City Clerk Kletzien verified that proper legal notice had been given with publication in the *News Graphic* on November 18 and November 25, 2008.

City Planner Censky reminded the Common Council that this property was rezoned from M-1 Light Manufacturing to RS-5 Single-Family residential in 2007, where at 20,000sf in size, it could be divided into two residential parcels. This site was rezoned because the building, which formerly

housed the Tamms Lithography business, sat vacant for over a year and the neighbors were concerned that future use of the building under the M-1 District could be disruptive to the area. The result of that zoning action was to render the manufacturing building non-conforming and impractical to convert to a conforming residential use. Accordingly, since this building can no longer support a manufacturing use, the consequence of that action was to remove all value from the building and; in fact, places a negative value on it because of the need to have it razed before any conforming use can be applied to the site.

Planner Censky stated that the applicant's efforts to sell the property have been unsuccessful and he is requesting a rezoning that will allow reasonable use of the building and site. Mr. Tamms is asking for rezoning consideration to the OSLM Office, Service and Limited Manufacturing district which provides for such uses on infill sites near existing residential areas. The primary distinguishing features of this district are the emphasis on indoor services and manufacturing operations and a 50% open space requirement to buffer yards which would minimize the impacts on nearby residences. The OSLM District was created in 1998 for transitional infill sites near existing residential areas.

Planner Censky stated that the Plan Commission unanimously recommended denial of the requested rezoning at their November 3 meeting, as it is inconsistent with their action in 2007 and could lead to future disruptive uses to the surrounding area.

John Cerbins, N36 W5622 Hamilton Road, stated that he has lived behind the Burr Lane property for the last 12 years. He asked that the City move forward with their decision from 2006 and maintain their planned use for the property. He opined that it is not best for the City to flip-flop on their decisions and asked that the Burr Lane property remain zoned at RS-5 Single-Family according to the Comprehensive Land Use Plan. There is a park and a soccer field in close proximity to the property and it is time to move forward with the parcel.

Keith Kaiman, N36 W5558 Hamilton Road, echoed John Cerbins remarks and added that the Plan Commission has looked at this property on several occasions. The property is now zoned RS-5 Single-Family on the Comprehensive Land Use Plan because the City has a vision for the neighborhood. By changing the property back to light manufacturing it would create an island and would not be congruent with the surrounding property. He stated that neighbors in the area (Duckert and Woyach families) do not support a change.

Motion made by Council Member Glamm, seconded by Council Member Reimer, to close the public hearing. Motion carried without a negative vote.

Council Member Maher stated the neighbors that he spoke with want the property to remain at RS-5 zoning. The Amcast building will most likely be razed in the future and the OSLM zoning will not be appropriate for the area. He stated that he was opposed to changing the zoning on the Burr Lane property.

Council Member Radtke stated that it was a difficult decision to change the zoning in 2006 because it is not easy to make a change to someone's property. He opined that the area is changing and does not support industrial zoning. He stated that he was opposed to the proposed change in zoning.

Council Member Glamm stated that he rejects rezoning the Burr Lane property. He agreed that the City has decided on a plan for the area and it should be adhered to.

City Planner Censky asked the Common Council to make a motion on their decision.

City Attorney Vance stated that negative motions are not necessary.

Council Member Glamm stated that it is in the best interest of the City not to make a motion because it could be determined to be a new action and could start a new time limit. He opined that it is best to leave it at the action taken in 2007.

**PUBLIC HEARING – CONSIDER ORDINANCE NO. 2008-29 AMENDING SEC. 13-1-230(b) OF THE ZONING CODE PERTAINING TO ZONING CODE APPLICATION FEES**

Mayor Myers declared the public hearing open at 7:03 p.m. to consider Ordinance No. 2008-29 amending Sec. 13-1-230(b) of the Zoning Code pertaining to Zoning Code application fees. Deputy City Clerk Kletzien verified that proper legal notice had been given with publication in the *News Graphic* on November 18 and November 25, 2008.

City Planner Censky stated that as part of the 2009 budget approval process, certain planning related application fees were increased and because these are changes to the Zoning Code a public hearing is necessary before official adoption.

There were no public comments.

Motion made by Council Member Kinzel, seconded by Council Member Radtke, to close the public hearing. Motion carried without a negative vote.

Council Member Kinzel stated that he is not a proponent of new fees and questioned whether or not the proposed Land Use Plan amendment fee would double up on any other fees.

City Planner Censky explained that City staff time is put into both the Land Use Plan and the Zoning Plan, which are two different documents. He opined that it was appropriate to introduce this new fee, similar to other communities' procedures.

In answer to Council Member Reimer's question, City Planner Censky stated that the rezoning fee was increased from \$250 to \$350.

In answer to Council Member Kinzel's question, City Planner Censky stated that changes to the Land Use Plan and the Zoning Plan go hand-in-hand because consistency is needed in both plans. He stated that any future changes will put the burden on the owner because they need to be willing to go through both actions.

In answer to Council Member Reimer's question, City Planner Censky stated that the Village of Grafton has the same fee structure. The City of Mequon charges differently but many of their fees are higher than Cedarburg.

Motion made by Council Member Glamm to adopt Ordinance No. 2008-29 amending Section 13-1-230(b) of the Zoning code pertaining to Zoning Code application fees. There was no second to the motion.

Council Member Glamm stated that the 2009 budget was created with these fee increases. These fees are legitimate and are not for the purpose of making a significant profit. If this motion does not carry, it will not complete the budget process and it will be out of sync.

Motion renewed by Council Member Glamm, seconded by Council Member Radtke, to adopt Ordinance No. 2008-29 amending Section 13-1-230(b) of the Zoning code pertaining to Zoning Code application fees. Motion carried without a negative vote.

City Planner Censky stated that this motion will not discourage anyone from going through the process in the future.

### **APPROVAL OF MINUTES**

Motion made by Council Member Radtke, seconded by Council Member Kinzel, to approve the minutes of the November 24, 2008 meeting. Motion carried without a negative vote.

### **CONSIDER ACCEPTANCE OF AN ART SCULPTURE TO BE PLACED ON THE SITE OF THE NEW CEDARBURG PUBLIC LIBRARY**

Motion made by Council Member Kinzel, seconded by Council Member Radtke, to accept an art sculpture to be placed on the site of the new Cedarburg Public Library from former Mayor Merlin Rostad.

Council Member Maher stated that he is in favor of the sculpture; however, he was concerned about keeping the expense to a minimum because of the potential for change orders on the placement.

Director Marquardt advised the Common Council that the sculpture has been approved by the architect.

Council Member Kinzel requested that the Public Art Committee is invited to the Common Council meeting when the landscaping for the library is discussed.

City Planner Censky stated that there will be a joint meeting of the Common Council, Plan Commission, and Public Art Committee when the sculpture placement is discussed.

Motion carried without a negative vote.

**COMMENTS & SUGGESTIONS FROM CITIZENS**

Bob Loomis, W75 N729 Tower Avenue, stated that in light of the recent news regarding an upcoming trillion dollar stimulus package to be initiated by President Elect Obama in the form of a massive public works spending bill, he encouraged the Common Council to gather a list of projects to present to the State Government Officials for consideration. These projects might include the differential in the Creek Walk and the Library projects, which may be eligible for funding if the City is ready with the needed information.

**UNFINISHED BUSINESS** - None

**CONSIDER ORDINANCE NO. 2008-30 AMENDING SEC. 3-6-3 TO 3-6-9 OF THE MUNICIPAL CODE ADJUSTING THE IMPACT FEES FOR SWIMMING POOL FACILITIES, RESERVE CAPACITY AT THE WASTEWATER TREATMENT PLANT, BIOSOLIDS, MANAGEMENT FACILITY, LIBRARY FACILITY, POLICE DEPARTMENT FACILITY, PARK FACILITIES, AND WATER SUPPLY FACILITIES; AND ORDINANCE NO. 2008-31 AMENDING SEC. 9-2-6(c) UPDATING AND ADJUSTING THE SANITARY SEWER CONNECTION FEE BASED ON THE CONSTRUCTION COST INDEX PUBLISHED IN THE ENGINEERING NEWS RECORD AND CALCULATED BASED ON THE ANNUAL INCREASE IN THE CCI INDICES**

Motion made by Council Member Kinzel, seconded by Council Member Reimer, to adopt Ordinance No. 2008-30 amending Sec. 3-6-3 to 3-6-9 of the Municipal Code adjusting the impact fees for swimming pool facilities, reserve capacity at the wastewater treatment plant, biosolids, management facility, library facility, police department facility, park facilities, and water supply facilities; and Ordinance No. 2008-31 amending Sec. 9-2-6(c) updating and adjusting the sanitary sewer connection fee based on the construction cost index published in the engineering news record and calculated based on the annual increase in the CCI Indices. Motion carried without a negative vote.

**CONSIDER CERTIFIED SURVEY MAP (CSM) COMBINING FIVE EXISTING NON-CONFORMING LOTS INTO TWO BUILDABLE LOTS AT SOUTHEAST CORNER OF WASHINGTON AVENUE AND ZEUNERT STREET AND DEDICATION OF PUBLIC RIGHT-OF-WAY FOR ZEUNERT STREET**

Motion made by Council Member Kinzel, seconded by Council Member Glamm, to approve the Certified Survey map (CSM) combining five existing non-conforming lots into two buildable lots at southeast corner of Washington Avenue and Zeunert Street and dedication of public right-of-way for Zeunert Street.

In answer to Council Member Glamm's question, City Planner Censky stated that a couple of errors, including the intersection of roads on the CSM, will be corrected before it is recorded.

Motion carried unanimously with necessary corrections.

**CONSIDER RESOLUTION NO. 2008-26 HONORING THE LATE COUNCIL MEMBER NOEL JEPSON FOR HIS YEARS OF SERVICE TO THE CITY**

Motion made by Council Member Reimer, seconded by Council Member Glamm, to adopt Resolution No. 2008-26 honoring the late Council Member Noel Jepson for his years of service to the City. Motion carried without a negative vote.

**CONSIDER PROCEDURE AND POLICY FOR FILLING THE COUNCIL MEMBER VACANCIES IN THE 3<sup>RD</sup> AND 7<sup>TH</sup> ALDERMANIC DISTRICTS**

Mayor Myers stated that the guidelines for the 7<sup>th</sup> Aldermanic District vacancy were determined at the November 10, 2008 meeting. The Council is now faced with an unexpected opening in the 3<sup>rd</sup> District and the Council needs to determine the process to be followed in this case.

Council Member Reimer inquired if the 3<sup>rd</sup> District opening could be handled in the same manner as the opening in the 7<sup>th</sup> District, by advertising for resumes from interested individuals to be reviewed at the January 12 Common Council meeting.

Council Member Radtke stated that interviews and possible selection of a candidate for the 7<sup>th</sup> District are planned for January 12.

Council Member Glamm suggested that the deadline for resumes for the 3<sup>rd</sup> District opening be set for Monday, January 5 at 5:00 p.m.

City Attorney Vance stated that the questions could be given at the same time for both candidates.

In answer to Council Member Radtke's question, City Clerk McHugh stated that a Type A notice will need to be sent to the *News Graphic* tomorrow advertising for the 3<sup>rd</sup> District opening for the April election.

Council Member Reimer asked if the City could appeal to the *News Graphic* for an article to inform the citizens of the 3<sup>rd</sup> District opening.

Mayor Myers stated that it is the consensus of the Common Council to follow the current policy and the dates that have been identified.

City Attorney Vance stated that Policy CC-20A regarding filling Council vacancies should be changed to be consistent with the State Statutes that have changed since 2004. This will allow the Common Council to determine whether they want to fill, appoint or hold a special election in November if there is a vacancy between January 1 and May 31 of the second year.

Motion made by Council Member Kinzel, seconded by Council Member Reimer, to update Policy CC-20A to be consistent with the Wisconsin State Statutes. Motion carried without a negative vote.

Mayor Myers suggested that Council Member Glamm draft three or four questions for the open Council positions and forward them to City Clerk McHugh to be distributed to the Common Council for review prior to the January 12 meeting.

In answer to City Attorney Vance's question, it was the consensus of the Common Council to have Council Member Glamm forward the questions for appointment of Council Members to City Clerk McHugh, who in-turn will send them to the applicants prior to the January 12 Council meeting to prepare for the questions that will be asked that evening.

City Attorney Vance stated that the Council needs to be consistent with the questions to all candidates.

The Common Council Members discussed possible questions for the candidates.

**CONSIDER LICENSE APPLICATIONS**

Motion made by Council Member Glamm, seconded by Council Member Maher, to authorize issuance of new Operator's Licenses for the period ending June 30, 2009 to Therese A Dowe, Brian C. Wirth, and Ryan C. Kruse. Motion carried without a negative vote.

**CITY ADMINISTRATOR'S REPORT**

City Administrator/Treasurer Mertes said that seven resumes have been received for the Council Member vacancy in the 7<sup>th</sup> District and asked the Common Council Members to save the resumes for the January 12 meeting.

**COMMENTS & SUGGESTIONS BY CITIZENS** - None

**REPORT & COMMENTS BY COUNCIL MEMBERS** - None

**MAYOR'S REPORT**

Mayor Myers extended wishes for a Merry Christmas and a Happy New Year.

**ADJOURNMENT**

Motion made by Council Member Reimer, seconded by Council Member Radtke, to adjourn the meeting at 7:45 p.m. Motion carried without a negative vote.

Amy D. Kletzien, CMC  
Deputy City Clerk