

**CITY OF CEDARBURG
COMMON COUNCIL
August 11, 2014**

**CC20140811-1
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, August 11, 2014, 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 John Czarnecki, Art Filter, Paul Radtke, Mitch Regenfuss, Mike O'Keefe

Excused - Council Members Ron Reimer and Patricia Thome

Also Present - City Administrator/Treasurer Christy Mertes, Director of Engineering and Public Works Tom Wiza, Deputy City Clerk Amy Kletzien, Police Chief Tom Frank, City Attorney Michael Herbrand, City Planner Jon Censky, Library Director Linda Pierschalla, Reference Librarian Gail Skiff, Library Board Member Liz Bryde, Children's Librarian Amanda Schmidt, Library Assistant Cathy Holnagel interested citizens and news media

STATEMENT OF PUBLIC NOTICE

At Mayor Kinzel'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.

APPROVAL OF MINUTES

Motion made by Council Member Filter, seconded by Council Member Czarnecki, to approve the Common Council minutes from the July 28, 2014 meeting. Motion carried without a negative vote with Council Members Reimer and Thome excused and Council Member Radtke abstaining.

COMMENTS AND SUGGESTIONS FROM CITIZENS - None

PRESENTATIONS/PUBLIC HEARINGS

CERTIFICATE OF APPRECIATION – GAIL SKIFF, RETIRING REFERENCE LIBRARIAN

Mayor Kinzel presented a Certificate of Appreciation to Reference Librarian Gail Skiff recognizing her for fourteen and one-half years of outstanding performance and lasting contribution to the Cedarburg Public Library.

PUBLIC HEARING – CONSIDER ORDINANCE NO. 2014-12 REZONING A 1.33 ACRE AND A 2.14 ACRE PARCEL OF LAND LOCATED ALONG THE WEST SIDE OF BOBOLINK AVENUE SOUTH OF THE INTERURBAN TRAIL FROM RS-2 SINGLE-FAMILY RESIDENTIAL DISTRICT TO THE RS-3 SINGLE-FAMILY RESIDENTIAL DISTRICT

Mayor Kinzel declared the public hearing open at 7:05 p.m. to consider Ordinance No. 2014-12 rezoning a 1.33 acre and 2.14 acre parcel of land located along the west side of Bobolink Avenue south of the Interurban Trail from RS-2 Single-Family Residential District to the RS-3 Single-Family Residential District.

Planner Censky explained that the Common Council initiated the change in zoning of this and adjacent property owned by the applicant from RS-4 to RS-2 in 2007. Currently, property owner Robert Tillmann is requesting a zoning change to RS-3 with a minimum lot size of 12,000 sq. ft. This will allow two additional lots on the property and is more consistent with the lots across the street.

Planner Censky stated that the Plan Commission unanimously recommended that the RS-3 Single-Family District be applied to this site, as it will provide lots similar in size to those across Bobolink Avenue in the Village of Grafton and this District is consistent with the Comprehensive Land Use Plan – 2025.

Motion made by Council Member Radtke, seconded by Council Member Filter, to close the public hearing at 7:07 p.m. to consider Ordinance No. 2014-12.

Motion made by Council Member Filter, seconded by Council Member O’Keefe, to adopt Ordinance No. 2014-12 rezoning a 1.33 acre and 2.14 acre parcel of land located along the west side of Bobolink Avenue south of the Interurban Trail from RS-2 Single-Family Residential District to the RS-3 Single-Family Residential District. Motion carried without a negative vote with Council Members Reimer and Thome excused.

NEW BUSINESS

CONSIDER EXTENSION OF CASH FARM LEASE WITH BOB RODEN FOR 2015

Director Wiza explained that Mr. Roden has had a cash farm lease with the City since 1999 for 47 acres at 6603 Hwy 60, (former Kohlwey Farm), that will expire on October 31, 2014. While the land is eventually intended to be used for business park development, there is little chance of development occurring in 2015. Director Wiza said that Mr. Roden has been an exceptional renter with his crop rotation, weed reduction and proper maintenance.

City Attorney Herbrand stated that he added a couple of clauses to the lease agreement pertaining to reporting the yield of crops and an environmental clause against release of improper pollutants.

In answer to Council Member Filter’s question, City Attorney Herbrand stated that the changes should not be offensive to Mr. Roden.

City Attorney Herbrand confirmed with Director Wiza that the lease will be for a one year term.

In answer to Mayor Kinzel's question, Director Wiza stated that the chances are very slim of moving forward with the business park in 2015 because the utilities need to be installed first.

In answer to Mayor Kinzel's question, City Attorney Herbrand stated that the lease will run through October 31, 2015 and he felt that something could be worked out if the City moves ahead with the business park.

Motion made by Council Member Radtke, seconded by Council Member Czarnecki, to approve an extension of the cash farm lease with Bob Roden for 2015 (one year term). Motion carried without a negative vote with Council Members Reimer and Thome excused.

CONSIDER APPLICATION FROM CEDARBURG ART MUSEUM & SOCIETY, INC., JILL HEPBURN, AGENT, FOR A "CLASS B" LIQUOR AND CLASS "B" BEER LICENSE FOR CEDARBURG ART MUSUEM, W63 N675 WASHINGTON AVENUE, FOR THE PERIOD ENDING JUNE 30, 2015

Steve Cain spoke on behalf of the Cedarburg Art Museum & Society, Inc. to request a "Class B" liquor and Class "B" beer license. The Museum has come back with some different thoughts on why the license should be granted and to dispel some of the concerns that were expressed by the former City Attorney to the Council last year. He stated that they are concerned for their long term viability (alcohol for certain types of events can be important) and would operate similar to the Cedarburg Cultural Center and not as a full blown bar. The license would be used for special events such as weddings, birthday parties, artist socials, festivals, exhibit openings, high teas, and a beer garden at a later date. All of which, would enhance the museum. He noted that he heard 40% of the Cultural Center's income is related to alcohol sales, which helps the bottom line and the viability of the organization. Last year there were concerns about underage persons on premise and whether the Art Museum is even eligible for this license. In regard to the eligibility of having this license, it clearly falls within the club or society exception of the State Statutes. In regard to children and school groups going through the museum during the day, Chapter 125 states that if you are going to have something open to children, the local law enforcement agency can be notified and the alcohol can be stored away. They can comply with this. There was concern last year about the number of available licenses and he spoke with City Clerk McHugh. She advised that the last census was done in 2009 and as of then the City would need approximately 200 additional residents. He stated that 200 people are not many and there is development on the north end of the City that would bring more citizens. Another license may be available soon just by the population growth.

In answer to Council Member O'Keefe's question, Mr. Cain explained that a Special Class B license is limited to serving wine two times per calendar year. The Museum wants to be able to offer wine on a more regular basis. He said that Chapter 125 is a strange animal and some of it goes back to prohibition and it doesn't gel with modern times in his opinion. Only restaurants can serve wine. The Museum could sell beer; however, a glass of wine would be preferred in this setting.

Council Member Radtke stated that the restrictions on "Class B" licenses need to be reviewed. Having the number of licenses based on population is difficult. Establishments such as the Museum who want to have special events; it is difficult to provide the proper license because it will not be

available for a restaurant in the City. It is a tough decision because the City is limited. The City does not have a limit on beer and wine licenses.

Steve Cain stated that wine licenses are very restricted to food sales. As an example, he highlighted the "Class C" wine license that was issued to an entity that sells nacho's and does not do much else by way of food sales. They are not interested in playing those games.

In answer to Council Member Radtke's question, Deputy City Clerk Kletzien explained that the City's population only increased by 120 people in the last ten years. Two of those years, the population actually decreased.

Steve Cain stated that City Clerk McHugh indicated that the last formal calculation was done in 2009. With this information, the City is 204 persons short of an additional reserve license.

Council Member Filter questioned whether a motion needed to be made to entertain discussion on this item.

City Attorney Herbrand stated that questions can be directed to the applicant or a motion could be made to bring the matter to the floor and that would promote discussion among the Council. It is not improper to discuss the matter.

In answer to Council Member Radtke's question, City Attorney Herbrand stated that he does not have any information on clubs or society's; however, it is within the Council's purview or policy as to how the Council wants to handle the last license. This is a safety and general welfare decision for the community. City Attorney Herbrand stated that the decision could be tabled for more information.

Steve Cain spoke with Roger Johnson from the Department of Revenue stating that he is the person to talk to regarding liquor licensing. He walked through the issues that were raised last year with him and he represented to the Council that Mr. Johnson thought the Art Museum fit within the Society exception.

Council Member Filter expressed concern that the Council may want to hold this license for a restaurant that may want to serve food within the City. He was in favor of not granting the license except to a full service restaurant.

Council Member O'Keefe stated that if a restaurant is considering opening in Cedarburg, the first item on their checklist would be if there is a liquor license available. He would hate to see the City grant its last license.

Mayor Kinzel stated that he struggles with granting the last license.

City Administrator/Treasurer Mertes stated that the City needs an additional 176 residents as of today, for an additional reserve license.

Steve Cain and Jill Hepburn said that the Stilt House does not have a full liquor license and they are viable.

Steve Cain asked if the City had an ordinance if a business is not using a license for an extended period of time it would be canceled. The City does have an ordinance for this situation.

Steve Cain stated their concern, that unlike a restaurant that can sell food and hold a "Class C" Wine license, the Art Museum is limited because they are not going to serve food. This is what ties their hands and the reason for requesting the full license.

Mayor Kinzel said it would be helpful if the legislation that was introduced by Senator Grothman passed to allow communities who do not have any liquor licenses left to be able to offer one to a full service restaurant.

Council Member Radtke stated that a municipality should be allowed to police their own liquor licensing.

In answer to Council Member Czarnecki's question, Mayor Kinzel stated that if a restaurant were to open now in Cedarburg it would not be as marketable without a liquor license.

Mayor Kinzel stated that it is difficult to turn down a liquor license request to an established business.

In answer to Council Member Radtke's question, Deputy City Clerk Kletzien provided a list of licenses that are presently granted in the City.

In answer to Council Member Radtke's question, City Attorney Herbrand stated that a business could lose their license for nonuse or revocation for illegal activity. In the case of revocation the owner would have the right to have a hearing. Reasons for non-renewal are in State Statutes.

Steve Cain suggested before the Council took action, to consider that licenses come and go. It would be sad for the Museum to sit on the sidelines when they can be doing good things with the license.

Council Member Radtke stated that if the license is granted to the Museum, he hopes that they utilize it as much as possible and bring people into the City.

Motion made by Council Member Radtke, seconded by Council Member Regenfuss, to approve the application from the Cedarburg Art Museum & Society, Inc., Jill Hepburn, Agent, for a "Class B" liquor and Class "B" beer license for the Cedarburg Art Museum, W63 N675 Washington Avenue, for the period ending June 30, 2015. Motion carried with Council Members Radtke, Czarnecki, and Regenfuss in favor, Council Members Filter and O'Keefe opposed, and Council Members Reimer and Thome excused.

UPDATE ON THE STATUS OF THE WINDOW REPLACEMENTS AT N58 W6194 COLUMBIA ROAD

City Administrator/Treasurer Mertes stated that Attorney Stadler reviewed the file and sent a letter last week Thursday. On Friday morning, Mayor Kinzel received an email from Mr. Hepburn stating that he has ordered the windows and he will be complying with the request to replace nine windows.

Mayor Kinzel stated to the Common Council that Mr. Hepburn has ordered the windows for N58 W6194 Columbia Road and is very satisfied that Mr. Hepburn will comply with the City's requirements. Mr. Hepburn did not agree to the letter or sign it; however, Mr. Hepburn is an upstanding person and the Mayor will take his word.

CONSIDER 2ND QUARTER FINANCIAL REPORT

City Administrator/Treasurer Mertes reviewed the 2nd Quarter Financial Report and urged the Council Members to contact her with any questions.

CONSIDER ESTABLISHING A DATE AND TIME FOR TRICK OR TREAT

Motion made by Council Member Radtke, seconded by Council Member O'Keefe, to establish Saturday, October 25, 2014 from 5 p.m. – 8 p.m., as the date and time for Trick or Treat in Cedarburg. Motion carried without a negative vote with Council Members Reimer and Thome excused.

CONSIDER PAYMENT OF BILLS FOR THE PERIOD 7/24/14 THROUGH 7/30/14, ACH TRANSFERS FOR THE PERIOD 7/26/14 THROUGH 8/8/14, AND PAYROLL FOR THE PERIOD 7/20/14 THROUGH 8/2/14

Motion made by Council Member Filter, seconded by Council Member Radtke, to approve the payment of bills for the period 7/24/14 through 7/30/14, ACH Transfers for the period 7/26/14 through 8/8/14, and payroll for the period 7/20/14 through 8/2/14. Motion carried without a negative vote with Council Members Reimer and Thome excused.

LICENSE APPLICATIONS

Motion made by Council Member O'Keefe, seconded by Council Member Radtke, to approve new Operator's License applications for the period ending June 30, 2014 for Sarah L. Hepburn, Luther R. Zuberbier and Meredith E. Kuhn, and a renewal Operator's License application for the period ending June 30, 2014 for Kristine R. Wuenne. Motion carried without a negative vote with Council Members Reimer and Thome excused.

CITY ADMINISTRATOR'S REPORT - None

COMMENTS AND ANNOUNCEMENTS FROM COUNCIL MEMBERS - None

MAYOR'S REPORT

Mayor Kinzel reported that Machine Concepts had indicated in an exit interview that they would have stayed in Cedarburg, if there had been land available for them to build on. He stated that he wants to actively work on developing the Hwy. 60 Business Park.

ADJOURNMENT - CLOSED SESSION

Motion made by Council Member Radtke, seconded by Council Member O'Keefe, to adjourn to closed session at 7:57 p.m. pursuant to State Statutes 19.85(1)(e) to deliberate or negotiate the purchase of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session, more specifically, to discuss the proposed TID #3 developer's agreement and to discuss the sale of the former library building located at W63 N583 Hanover Avenue. Approval of closed session minutes of July 28, 2014. Motion carried without a negative vote with Council Members Reimer and Thome excused.

RECONVENE TO OPEN SESSION

Motion made by Council Member Radtke, seconded by Council Member O'Keefe, to reconvene to open session at 8:45 p.m. Motion carried without a negative vote with Council Members Reimer and Thome excused.

CONSIDER APPROVAL OF AMENDMENT TO OFFER TO PURCHASE FORMER LIBRARY BUILDING LOCATED AT W63 N583 HANOVER AVENUE

Motion made by Council Member Radtke, seconded by Council Member O'Keefe, to approve the amendment to the offer to purchase the former Library building located at W63 N583 Hanover Avenue by moving the closing date to September 29, 2014. Motion carried without a negative vote with Council Members Reimer and Thome excused.

ADJOURNMENT

Motion made by Council Member Filter, seconded by Council Member Radtke, to adjourn the meeting at 8:46 p.m. Motion carried without a negative vote with Council Members Reimer and Thome excused.

Amy D. Kletzien, MMC/WCPC
Deputy City Clerk