

**CITY OF CEDARBURG  
COMMON COUNCIL  
September 8, 2014**

**CC20140908-1  
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, September 8, 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 Ron Reimer, Art Filter, Paul Radtke, Mitch Regenfuss, Patricia Thome, Mike O'Keefe

Excused - Council Member John Czarnecki

Also Present - City Administrator/Treasurer Christy Mertes, Director of Engineering and Public Works Tom Wiza, Deputy City Clerk Amy Kletzien, City Attorney Michael Herbrand, City Clerk Constance McHugh, Planner Jon Censky, Police Chief Thomas Frank, Building Inspector Mike Baier, Economic Development Coordinator Mary Sheffield, Library Director Linda Pierschalla, Library Board President Sue Karlman, 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 Thome, to approve the Common Council minutes from the August 25, 2014 meeting. Council Member Radtke made a correction to page 2, fourth paragraph, second sentence: He said the Festivals Committee and bar and restaurant owners ~~have done~~ did a good job policing the consumption of alcohol at ~~these events~~ the last Strawberry Festival. Motion carried without a negative vote with Council Member Czarnecki excused.

**COMMENTS AND SUGGESTIONS FROM CITIZENS** - None

**PUBLIC HEARING: CONSIDER RESOLUTION NO. 2014-13 AMENDING THE COMPREHENSIVE LAND USE PLAN FOR THE 5.007 ACRE PARCEL ADJACENT TO AND NORTHWEST OF THE PRAIRIE VIEW SUBDIVISION FROM THE UNSEWERED LOW DENSITY RESIDENTIAL CLASSIFICATION TO THE MEDIUM-LOW DENSITY URBAN RESIDENTIAL CLASSIFICATION**

Mayor Kinzel declared the public hearing open at 7:02 p.m. to consider Ordinance No. 2014-13 amending the Comprehensive Land Use Plan for the 5.007 acre parcel adjacent to and northwest of

the Prairie View Subdivision from the unsewered Low Density Residential classification to the Medium-Low Density Urban Residential classification.

Planner Censky explained that a Land Use Plan change is being proposed because sanitary sewer is not available in the Town of Cedarburg and this property was placed in the "Unsewered Low Density Residential" category in the Comprehensive Land Use Plan – 2025 with lot sizes ranging from 20,000 sf to 40,000 sf. Since this property is now in the City, that classification must be changed before any development can be considered. After reviewing the proposed development plan submitted by the applicant and comparing the proposed lot sizes with those in the adjacent Prairie View Subdivision, the Plan Commission has recommended that the "Medium-Low Density Urban Residential" classification be applied to this site. This classification establishes lot sizes to range from 12,000 sf to 20,000 sf.

Jim Doering of Towne Realty explained they are the developer of the Prairie View Subdivision that is adjacent to this property. He is not opposed to the Medium-Low Density Urban Residential classification; however, when Towne Realty received approval for TopView Trails and Prairie View Subdivisions the Council was very adamant that there be one lot per acre for density. Obviously this development exceeds this amount at about two lots per acre. He stated that this appears to be the direction the City is going and he asked that if future developments come along that the same equitable position be offered to future developers also. They should not be held to the standard of one lot per acre as they have experienced twice.

Motion made by Council Member Radtke, seconded by Council Member O'Keefe, to close the public hearing at 7:07 p.m.

Motion made by Council Member Reimer, seconded by Council Member Thome, to adopt Resolution No. 2014-13 amending the Comprehensive Land Use Plan for the 5.007 acre parcel adjacent to and northwest of the Prairie View Subdivision from the Unsewered Low Density Residential classification to the Medium-Low Density Urban Residential classification. Motion carried without a negative vote with Council Member Czarniecki excused.

Council Member Filter stated that Towne Realty has been an asset to the City of Cedarburg in developing good quality subdivisions.

**PUBLIC HEARING: CONSIDER ORDINANCE NO. 2014-13 REZONING THE 5.007 ACRE PARCEL ADJACENT TO AND NORTHWEST OF THE PRAIRIE VIEW SUBDIVISION FROM TEMPORARY RS-1 SINGLE FAMILY DISTRICT TO RS-3 SINGLE FAMILY DISTRICT**

Mayor Kinzel declared the public hearing open at 7:09 p.m. to consider Ordinance No. 2014-13 rezoning the 5.007 acre parcel adjacent to and northwest of the Prairie View Subdivision from Temporary RS-1 Single Family District to RS-3 Single Family District.

Planner Censky stated the purpose of this zoning is to establish permanent zoning on this site. The Plan Commission recommended that RS-3 Single Family District be applied to this site, which requires a minimum lot size of 12,000 sf and is consistent with the Land Use change that was approved.

Jim Doering of Towne Realty explained that he wants to reiterate his previous comment. He added that as time moves forward and faces change and attitudes change, that Towne Realty is given a fair opportunity on a future development if one arises. He asked if the Council had any questions for Towne Realty as an adjacent neighbor to the proposed subdivision.

Mayor Kinzel stated that the proposed lot sizes are smaller; however as a whole, the Prairie View Subdivision is close to one acre each because designated parkland was included.

Jim Doering said that there was a different philosophy at the time and the TopView Trails subdivision included 30% open space. Going forward, Towne Realty would like the same consideration that is being given to this new subdivision.

Motion made by Council Member Radtke, seconded by Council Member O'Keefe, to close the public hearing at 7:13 p.m. Motion carried without a negative vote with Council Member Czarniecki excused.

Motion made by Council Member Radtke, seconded by Council Member Reimer, to adopt Ordinance No. 2014-13 rezoning the 5.007 acre parcel adjacent to and northwest of the Prairie View Subdivision from temporary RS-1 Single Family District to RS-3 Single Family District. Motion carried without a negative vote with Council Member Czarniecki excused.

### **PRESENTATION BY EHLERS – REVIEW PROCESS AND CALENDAR FOR THE CREATION OF THE TID NO. 3**

Todd Taves of Ehlers reviewed the proposed timetable for the Tax Incremental District No. 3 Blight creation as of September 8, 2014. The primary action items are as follows:

- September 15 – Plan Commission review of draft Project Plan.
- October 6 – Joint Review Board meets to review plan, appoint chairperson and public member and set next meeting date. The Plan Commission meets after for a public hearing on the Project Plan and approval of the TID boundary. The Plan Commission also reviews plan and approval of District Project Plan and boundaries.
- October 27 – The Common Council reviews the Plan and adopts a resolution approving the District Project Plan and boundaries.
- November 11 – 26 – Joint Review Board consideration.

### **NEW BUSINESS**

### **CONSIDER POTENTIAL CHANGE ORDERS TO THE INLAID GUTTER PROJECT AT CITY HALL**

Building Inspector Baier explained that the Common Council awarded a bid to Paul Crandall & Associates of Grafton for the removal and replacement of the entire inlaid gutter system on the City Hall building, including dormers. Upon beginning the work, the following was found: 1) the existing 3" round corrugated galvanized downspouts from the dormer area have deteriorated beyond repair; 2) replacement was needed for the defective existing heat trace assembly; and 3) replacement of the lead sanitary flashing is needed along with re-flash vent assembly on the dormers. These items were discovered only after work had begun. The Capital Improvement

budgeted amount for this project was \$80,000. With these proposed change orders, the total project cost would be \$60,706, well under the budgeted amount of \$80,000.

Motion made by Council Member Radtke, seconded by Council Member O'Keefe, to approve the change orders to the inlaid gutter project at City Hall. Motion carried without a negative vote with Council Member Czarnecki excused.

### **UPDATE ON REGULATORY ISSUES IMPACTING THE CEDARBURG DAMS**

Director Wiza explained that the City has been working with Graef to complete DNR required technical studies and inspections on the Woolen Mills and Columbia Mills dams. The inspections generate a list of repairs which must be completed for the City to continue to operate the dams.

In the fall of 2013, the City completed the grouting of a series of seepage locations on the Woolen Mills dam adjacent to the Cedar Creek Settlement. Presently, the City is out to bid for additional concrete, masonry and scour related repairs on both the Woolen Mills and Columbia Mills dams.

Director Wiza notified the Common Council that the City received a letter from the DNR on August 18 assigning a hazard rating to the Columbia Mills dam, and also giving the City ten years to bring the dam into full compliance with Chapter NR 333 regulations. The DNR letter has huge implications, which will force the City into discussions about removing one or more of the dams, or spending potentially millions of dollars for major reconstruction.

Currently, the City owns two dams; the Woolen Mills dam and the Columbia Mills dam. The Ruck dam, which is just upstream of the Columbia Road/Cedar Creek crossing, is owned by the Landmark Preservation Society. They have made several requests for the City to take ownership of that dam as well.

Director Wiza explained that NR 333 requirements state that dams need to pass a 100 year storm event. The current dams will only pass a 10 year storm event. The dams are constructed in such a way that there is no simple way to upgrade the dams by making them twice as wide or lowering the crest elevation by several feet. These dams do not lend to those types of modifications.

Director Wiza stated that while the dams are a part of Cedarburg's history and ambience, the City can only assume that the DNR will ultimately require all three dams to be brought into compliance with NR 333. He does not envision an economical way to accomplish this. He recommended that the City obtain an engineering proposal to evaluate conceptual alternatives and costs.

Director Wiza advised the Common Council that the City has 10 days left to appeal the DNR letter; however, an appeal would mainly look at the rating which is low and is not in question at this time. Another reason for starting this discussion is the timing of the bid process for repairs at the next Council meeting.

Mayor Kinzel said that Director Wiza provided good information and the dams need to be on the City's radar. He also stated that the public needs to be involved in the decision making process.

Director Wiza asked if the City wants to appeal the letter from the DNR.

City Attorney Herbrand explained that the appeal usually centers on the hazard rating and the good news is that the City received the best possible rating.

In answer to Council Member Reimer's question, City Attorney Herbrand said that there may be grants available. Also, the City could talk to the DNR about scheduled repairs and discuss a timeline. The City could compare the NR 333 compliance vs. small repairs and seek an extension.

Director Wiza stated the challenge will be that the City has received extensions already. He suggested initiating a study to evaluate the City's options. Graef is familiar with the City's dams and could provide a proposal to fix the dams.

Mayor Kinzel suggested working towards understanding how the dams were built and how they are different. They do not have the standard spillway.

Council Member Radtke stated that he is in favor of gathering as much information as possible. It will take time to make a decision and community involvement is important.

It was the consensus of the Common Council to approach the DNR and to seek bids for proposals for what is needed to repair the dams.

**CONSIDER REQUEST OF THE POLICE CHIEF TO EXTEND THE FESTIVALS FOOTPRINT TO INCLUDE THE BLOCK ON WASHINGTON AVENUE BETWEEN BRIDGE ROAD AND SHEBOYGAN ROAD**

Police Chief Frank stated that this request comes from the supervisors at the Police Department. Vehicle and pedestrian traffic at the intersection of Washington Avenue and Bridge Road requires four officers or auxiliary officers to control the movement of traffic. The best situation would be to extend the footprint to include the block on Washington Avenue between Bridge Road and Sheboygan Road. No vendors will be allowed in this section and Bridge Road will still need to remain open; however, this will relieve traffic and enable better management of the pedestrian traffic. Chief Frank said with closing that section of Washington Avenue they will be able to drop down to two officers in this area and provide more resources within the Festival footprint.

In answer to the Council Member's inquiries, Chief Frank stated the alternate routes have not been determined. However, it is likely that signage will be placed at Evergreen Blvd. and Washington Avenue to divert some traffic onto Evergreen Blvd. Also that Mequon Road and St. John Avenue will be used only for southbound or northbound traffic. The Fire Department is also on board with the plan.

Executive Director Homayouni of Cedarburg Festivals, Inc. explained that this is a difficult intersection because people do not pay attention. This will eliminate traffic going north of Bridge Road on Washington Avenue and provide better control over the intersection.

Council Members Reimer and Radtke were in favor of extending the footprint in this section for the Wine & Harvest Festival and evaluating its effectiveness afterwards.

Motion made by Council Member Filter, seconded by Council Member Thome, to extend the festivals footprint to include the block on Washington Avenue between Bridge Road and Sheboygan Road.

Council Member Radtke asked for an amendment to have the Common Council review the extension of the footprint after the Wine & Harvest Festival. Council Member Filter and Thome accepted the amendment. Motion carried as amended without a negative vote with Council Member Czarnecki excused.

**CONSIDER NEW RECOMMENDATION REGARDING EMERGENCY MANAGEMENT/AUXILIARY POLICE SIREN REPLACEMENT**

Police Chief Frank explained that the City's siren vendor, American Signal Corporation, has approached him with new information on the latest technology and equipment. He asked the Council to consider a change to the siren replacement program which would upgrade the Departments software, and provide one new siren this year at no additional cost to the budget. Future replacements would be less costly; however, more sirens would be needed. Instead of three large sirens with rotating heads at a cost of \$36,000 the City may need six of the smaller stationary head sirens at a cost of \$20,000. The life expectancy of a siren is approximately 20 years.

In answer to Council Member Radtke's question, Chief Frank stated that all of the sirens will need to be replaced in the near future.

Scott King of American Signal Corporation presented a folder of information to the Common Council explaining the differences in the two sirens and their coverage. The advantages of smaller sirens include no rotating head failure, if one siren fails less area is affected and finally, there will be no volume change during alerts. The company will be evaluating the current system and providing a plan for a staged replacement over the next couple of years.

Chief Frank explained that the new software is the next generation and will provide NOAA (National Oceanic Atmospheric Administration) alerts and allow the Department to launch sirens in the affected areas.

Chief Frank stated that the budgetary impact would be an additional \$12,000 spread out over future years if all six sirens are replaced.

Scott King suggested that grants may be available for the remainder of the system.

In answer to Council Member Reimer's question, Mr. King explained that there is a five year warranty on the siren head and a two year warranty on the electrical side. A maintenance agreement will be built into the first installation.

In answer to Council Member Regenfuss' question, Mr. King confirmed that the software includes a maintenance agreement.

Mr. King explained that the software will provide the health of the system and signal when batteries need to be replaced.

Chief Frank added that the current sirens do not have a battery backup and this will be an upgrade to the system.

Motion made by Council Member Reimer, seconded by Council Member Radtke, to approve the Emergency Management/Auxiliary Police siren replacement including software and a maintenance check. Motion carried without a negative vote with Council Member Czarnecki excused.

**CONSIDER PAYMENT OF BILLS FOR PERIOD 8/19/14 THROUGH 8/28/14, ACH TRANSFERS FOR THE PERIOD 8/23/14 THROUGH 9/5/14, AND PAYROLL FOR THE PERIOD 8/17/14 THROUGH 8/30/14**

Motion made by Council Member Radtke, seconded by Council Member O'Keefe, to approve the payment of bills for the period 8/19/14 through 8/28/14, ACH Transfers for the period 8/23/14 through 9/5/14, and payroll for the period 8/17/14 through 8/20/14. Motion carried without a negative vote with Council Member Czarnecki excused.

The Common Council took a break from 8:25 – 8:29 p.m.

**DISCUSS THE USE OF THE PROCEEDS FROM THE SALE OF THE FORMER LIBRARY BUILDING**

Mayor Kinzel explained there are different avenues to consider for using the proceeds from the sale of the former library building. He stated that the new Library was completed sooner than expected and the Library used most of their fund balance in the process.

Council Member Reimer proposed that the proceeds go to reduce the \$6 million loan.

City Administrator/Treasurer Mertes stated there are certain call dates and the City could annually use the proceeds to offset the annual payments.

In answer to Council Member O'Keefe's question, City Administrator/Treasurer Mertes explained the City annually allocates funds to the Library through the tax levy and appropriates a certain amount for the Library to operate. If the Library did not spend all of the money that was appropriated to them, those funds stayed with Library and created a fund balance. When the new Library was being built the City asked the Library Board to spend some of these funds for operations this year because the cost to operate the new Library was unknown. These funds were depleted over the last five years when trying to determine a location and for architectural fees. It is a fund balance and it stays with the Library and is usually used for Capital expenditures. She stated that she increased the levy for the library by \$110,000 in the preliminary budget and there is still a deficit.

Council Member O'Keefe stated that the majority of the proceeds should be used to pay the debt; however, he thought it would be fair to partially replenish the fund balance.

In answer to Council Member Reimer's question, City Administrator/Treasurer Mertes said the City asked them to use the fund balance because the City did not appropriate enough funds to balance the budget. It was difficult when the Town ended the shared services agreement with the Library.

In answer to Council Member Radtke's question, City Administrator/Treasurer Mertes stated the fund balance was \$228,000 in 2010.

In answer to Council Member Reimer's question, City Administrator/Treasurer Mertes stated the 2014 budget allocated \$490,000 to the Library. There is \$600,000 allocated to the Library in the proposed budget for 2015.

Council Member Radtke stated that the fund balance should be used for Capital expenses and questioned what those expenses might be in the near future. He expressed concern for how this money would be spent.

Mayor Kinzel stated that fund balance does not necessarily need to be used for Capital expenses but rather one-time expenses.

Library Board President Karlman explained that the fund balance has a purpose. The Library's fund balance was run down in an unusual manner. The Board hoped that the accumulated fund balance would be used in some way on the new Library. The end of the shared services agreement with the Town created a hole in the budget. As the fund balance was depleted, the Friends of the Library stepped in and helped with fundraising.

President Karlman said that another suggestion was made that a portion of the proceeds be given to the Friends to get started again. She summarized the contributions that were made to build the former Library in 1971. This created a seed for the Friends of the Library to donate funds for the summer reading program and other special events. The Friends made a generous donation to the new Library and their balance is low. It would be beneficial to give them a portion of the proceeds to honor the original seed.

President Karlman explained that these ideas are food for thought as to where the proceeds of the sale would be beneficial. She said that the Library Board will need a bigger budget for the new Library and they will not have any funds to fall back on.

Director Pierschalla explained that the fund balance is a contingency for the Library in the event that something needs to be repaired.

Council Member Reimer stated that the Library is not an autonomous agency, they are part of the City, and if additional funds are needed for repairs they would request them from the Common Council.

Mayor Kinzel agreed with Council Member O'Keefe that it would be appropriate to give some of the proceeds back to the Library; however, when money is given as a donation there should not be any expectation to get that money back.

Council Member Thome stated that if the City is paying back debt on the new Library that would be an equivalent due back. We are paying their money forward for the new building.

Council Member Reimer did not agree with giving a portion of the proceeds from the sale to the Friends of the Library. He would be more in favor of a portion going to the fund balance. He stated

that some of his constituents are sensitive to stop spending money on the Library for a while and he agrees.

Council Members Filter, Radtke and O'Keefe stated they were in favor of a portion of the proceeds going to the fund balance.

Council Member Regenfuss stated that it is good to have some contingency funds; however, paying the debt is prudent.

Mayor Kinzel said that an amount can be discussed after the sale.

City Administrator/Treasurer Mertes said that the division of the proceeds could be discussed during the budget meetings.

**CONSIDER ORDINANCE NO. 2014-14 AMENDING SECTION 7-2-24(c) OF THE MUNICIPAL CODE REGARDING OPERATOR'S LICENSES**

City Attorney Herbrand explained that his office drafted an ordinance modifying the City Code regarding the denial of new operator's licenses. In an effort to promote efficiency the revision to the Code will eliminate the reconsideration option for new operator license applicants that have been denied. Those applications that the Police Chief recommends for denial of a new license will be notified their license will be considered and will have an opportunity to speak on the same night. The proposed ordinance also includes revisions to the section relating to the denial of renewal applications. The changes are in accordance with State Statutes.

Motion made by Council Member Filter, seconded by Council Member Radtke, to adopt Ordinance No. 2014-14 amending Section 7-2-24(c) of the Municipal Code regarding Operator's Licenses. Motion carried without a negative vote with Council Member Czarnecki excused.

**LICENSE APPLICATIONS**

Motion made by Council Member Radtke, seconded by Council Member Thome, to approve new Operator's License applications for the period ending June 30, 2015 for Diane M. Banas, Annette Chiddister-Woods, Adam D. Engstrom, H. Michael Hagerman, Matthew ML Harrison, Leslie E. Heppe, Emmett D. Polston and Troy A. White. Motion carried without a negative vote with Council Member Czarnecki excused.

**CITY ADMINISTRATOR'S REPORT**

City Administrator/Treasurer Mertes stated that she and City Attorney Herbrand want to schedule a special Council meeting for September 22, 2014 concerning the sale of the former library building prior to the closing. It was the consensus of the Common Council to schedule the meeting for 7:00 p.m.

**COMMENTS AND ANNOUNCEMENTS FROM COUNCIL MEMBERS**

Council Member Filter expressed concern for the City entrance sign that was approved by the Parks, Recreation & Forestry Board on August 6. There is concern about replacing the discs with only a list of community groups.

Council Member Radtke asked the Common Council Members to read a letter he received from a citizen regarding storm damage. He asked them to talk to City Administrator/Treasurer Mertes or Director Hilvo with any questions they have regarding the situation.

**MAYOR'S REPORT** - None

**ADJOURNMENT**

Motion made by Council Member Filter, seconded by Council Member Thome, to adjourn the meeting at 9:09 p.m. Motion carried without a negative vote with Council Member Czarnecki excused.

Amy D. Kletzien, MMC/WCPC  
Deputy City Clerk