

**CITY OF CEDARBURG
COMMON COUNCIL
August 12, 2019**

**CC20190812-1
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, August 12, 2019, at City Hall, W63 N645 Washington Avenue, second floor, Council Chambers. Mayor O'Keefe called the meeting to order at 7:00 p.m.

Roll Call: Present - Mayor Michael O'Keefe, Council Members Sherry Bublitz, Jack Arnett, Kristin Burkart, Rick Verhaalen, Garan Chivinski, Patricia Thome, Rod Galbraith

Also Present - City Administrator/Treasurer Christy Mertes, City Attorney Michael Herbrand, Deputy City Clerk Amy Kletzien, interested citizens and news media

STATEMENT OF PUBLIC NOTICE

At Mayor O'Keefe'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 Thome, seconded by Council Member Burkart, to approve the minutes of the July 15, 2019 meeting as presented. Motion carried without a negative vote.

COMMENTS AND SUGGESTIONS FROM CITIZENS - None

PUBLIC HEARING

CONSIDER RESOLUTION NO. 2019-12 AMENDING THE COMPREHENSIVE LAND USE PLAN – 2025 FOR THE PROPERTY AT N50 W7404 WESTERN ROAD FROM UNSEWERED LOW DENSITY RESIDENTIAL USE TO MEDIUM DENSITY RESIDENTIAL USE; AND ACTION THEREON

Mayor O'Keefe opened the public hearing at 7:01 p.m. to consider Resolution No. 2019-12 amending the Comprehensive Land Use Plan – 2025 for the property at N50 W7404 Western Road from Unsewered Low Density Residential use to Medium Density Residential use and Ordinance No. 2019-11 to rezone the above property from Temporary Rs-1 Single Family Residential District to Rs-3 Single Family Residential.

Planner Censky explained that the applicant's one-acre parcel of land located at the northeast corner of Webster Avenue and Western Road was annexed from the Town of Cedarburg into the City on September 24, 2018. Before a zoning change can take place the Council must first amend the Comprehensive Land Use Plan by adopting Resolution No. 2019-12 to change the use classification

for this parcel to reflect the proposed zoning change. More specifically, the Land Use Plan continues to classify this site as “Unsewered Low Density Residential” as it was classified when the site was in the Town of Cedarburg. Accordingly, to reflect the proposed Rs-3 Zoning District, this classification must now be changed to the “Medium Density Residential (8,400 sq. ft. to 12,000 sq. ft. lot sizes), which matches the classification on surrounding properties. These changes were reviewed by the Plan Commission on July 1 and they recommended approval by unanimous vote.

Motion made by Council Member Thome, seconded by Council Member Burkart, to close the public hearing at 7:06 p.m.

Motion made by Council Member Thome, seconded by Council Member Burkart, to approve Resolution No. 2019-12 amending the Comprehensive Land Use Plan – 2025 for the property at N50 W7404 Western Road from Unsewered Low Density Residential use to Medium Density Residential use. Motion carried without a negative vote.

CONSIDER ORDINANCE NO. 2019-11 TO REZONE THE ABOVE PROPERTY FROM TEMPORARY RS-1 SINGLE FAMILY RESIDENTIAL DISTRICT TO RS-3 SINGLE FAMILY RESIDENTIAL; AND ACTION THEREON

Planner Censky said that when the property was annexed, the parcel was placed in the Rs-1 Temporary Zoning District, as required by State law, until an ordinance is created to amend the zoning. Accordingly, the purpose of this request to adopt Ordinance No. 2019-11 is to rezone the property from the temporary zoning district to the permanent Rs-3 District. He added that the Rs-3 District is consistent with the zoning on the adjacent properties within the City.

Upon completion of the rezoning and Land Use Plan amendment process, the applicant will submit her application to divide this one-acre site into three separate code compliant parcels.

Motion made by Council Member Thome, seconded by Council Member Bublitz, to approve Ordinance No. 2019-11 to rezone the above property from Temporary Rs-1 Single Family Residential District to Rs-3 Single Family Residential. Motion carried without a negative vote.

NEW BUSINESS

CONSIDER ORDINANCE NO. 2019-12 TO AMEND ARTICLE B, SECTION 15-1-30 OF THE BUILDING CODE TO ADOPT WISCONSIN ADMINISTRATIVE CODE CHAPTERS SPS 324 AND SPS 314; AND ACTION THEREON

City Administrator/Treasurer Mertes explained that the Wisconsin Department of Safety and Professional Services require that the City adopt SPS 316 in its entirety in order to maintain jurisdiction over commercial electrical permitting and inspection. The current electrical code for Cedarburg references outdated State Code. This ordinance will bring the City’s Code up-to-date and reflect current inspection and permitting practices.

Motion made by Council Member Burkart, seconded by Council Member Bublitz, to approve Ordinance No. 2019-12 to amend Article B, Section 15-1-30 of the Building Code to adopt

Wisconsin Administrative Code Chapters SPS 324 and SPS 314. Motion carried without a negative vote.

CONSIDER AWARD OF CONTRACT FOR WETLAND DELINIATION OF POTENTIAL HIGHWAY 60 BUSINESS PARK LANDS; AND ACTION THEREON

Director Wiza explained that Ruekert & Mielke will be preparing a detailed cost estimate for the future Highway 60 Business Park, and they have recommended the City complete a wetland delineation of the land to identify net developable land area. The cost to delineate and survey wetland on a total of 116 acres is \$16,650. The City has discussed possible cost sharing with Baehmann's Golf Center and it makes sense to do this.

Kurt Baehmann, 1600 E. Bellvue Place, Milwaukee, spoke representing the Baehman Family and Golf Center at 1122 Washington Avenue. When the City purchased the Kohlwey farm with the intention of creating a second business park, his family always knew they would be part of this process. In 2006, the golf center was annexed into the City. At this point, the Baehmann family wants to include their land with City land to create a new TIF District making it more economical to gain services and provide a second access point for them. He concluded by saying that his family is willing to split the cost with the City for the wetland delineation.

In answer to Mayor O'Keefe's question, Kurt Baehmann said the City has 60 acres and the Baehmann's have 57 acres.

In answer to Council Member Thome's question, Director Wiza confirmed that it is fair to split the cost of the study by acreage. According to the DNR wetland viewer, there appears to be more wetlands on the Baehmann parcel than on the Kohlwey property and there may be more wetlands to delineate there. Because this will be a joint project it is important to know where the wetlands are located.

In answer to Council Member Arnett's question, Kurt Baehmann explained that he spoke with the engineer who will be doing the study and the process will not interfere with his business.

Council Member Arnett clarified that a TIF district does not necessarily have to include Mr. Baehmann's entire parcel. Possibly three, four or five parcels would be industrial and everything else would be developed outside of the TIF, which would allow money to immediately flow to the City and schools, etc.

Motion made by Council Member Arnett, seconded by Council Member Galbraith, to award the contract for wetland delineation of potential Highway 60 Business Park lands to Ruekert & Mielke in an amount not to exceed \$16,650 with the cost being split 50/50 with Baehmann's Golf Center. Motion carried without a negative vote.

CONSIDER INSTALLATION OF A "YIELD" SIGN FOR SOUTHBOUND HAWTHORNE LANE AT ALPINE DRIVE; AND ACTION THEREON

Director Wiza explained that the Police Department has requested the installation of a yield sign on Hawthorne Lane at the intersection with Alpine Drive. There have been a number of near miss

accidents at this uncontrolled intersection, primarily due to limited sight distance. The yield sign would establish basic control. More vehicles go through this area than anticipated because of the nearby school. The simplest way to resolve the problem is to add the yield sign on the leg of the T-intersection, which will assign responsibility to the driver to proceed with caution and be aware of other vehicles. The Public Works and Sewerage Commission unanimously recommended this item at the August 8 meeting.

Motion made by Council Member Thome, seconded by Council Member Bublitz, to adopt Ordinance No. 2019-13 amending Section 10-1-16(b) of the Code of Ordinances to authorize the placement of a yield sign for southbound Hawthorne Lane at Alpine Drive. Motion carried without a negative vote.

CONSIDER CITY COST PARTICIPATION IN OZAUKEE COUNTY TRAFFIC ENGINEERING STUDY TO EVALUATE PIONEER ROAD/INTERURBAN TRAIL CROSSING SAFETY IMPROVEMENTS; AND ACTION THEREON

Director Wiza explained that Ozaukee County has obtained a proposal from Traffic Analysis and Design, Inc. to complete a traffic study of the Pioneer Road/Interurban Trail crossing. This crossing was the site of a recent fatality, and the study would evaluate potential crossing improvements to enhance pedestrian and bicycle safety. He further explained that Pioneer Road is a County Highway and the Interurban trail is a County trail. The City has responsibility over the trail within the City, as far as maintaining it. The City reached out to the County and petitioned them to do some type of engineering study to evaluate possible safety improvements that could be made at the trail. As a result, the County is asking the City of Cedarburg to cost participate in the study, in an amount not-to-exceed \$3,396.50. This request was discussed at the Public Works and Sewerage Commission and they did not have a positive recommendation.

Mayor O'Keefe said that the Public Works and Sewerage Commission wanted to stress that they were not against a traffic safety study at this crossing. Because the roadway and trail are County owned and in their jurisdiction, the Commission was concerned that participating in a 50/50 cost sharing of the study would probably result in a request for 50/50 cost sharing in the solution. The Commission did not want to set that precedent.

Council Member Galbraith stated that he worked for 36 years in law enforcement investigating these types of incidents. He knows the area well and said that visibility is wide open; therefore, he questioned the value of a traffic study. He has observed in the City when yield cones are present that it makes the area more hazardous rather than less hazardous. Although automobiles have the obligation to yield to someone in a crosswalk, the people standing and waiting to cross have to yield for traffic because the automobile has the right-of-way. If the pedestrian does not have time to cross, they should be yielding to traffic. In this case when there are four lanes it makes it more complicated. He questioned what would be learned from a traffic study that they don't already know. Adding a traffic light in mid-block would cause other types of accidents. He would like to see the money spent on educating the community about the responsibilities of the pedestrians and drivers.

Council Member Arnett said the Interurban trail is 30 miles long from Sheboygan to Milwaukee. Within the City limits, the trail crosses 12 different intersections and he opined that the signs may be inadequate at those crossings.

Mayor O’Keefe and Director Wiza explained that the City put up two advanced warning signs and two signs at the crossing in each direction with supplemental plaques with arrows at Pioneer Road. The City donated those signs to the County and it is signed correctly.

Council Member Arnett said that the City has their own signage responsibilities and the County should handle their trail and their road.

In answer to Council Member Verhaalen’s question, Director Wiza agreed with the complexity of the road, as pointed out by Council Member Galbraith, making it difficult for bikes to cross Pioneer Road. The road is signed well with multiple 36” fluorescent yellow/green highway reflective signs. He heard from citizens that people don’t see the signage and maybe more could be done. Some solutions may be to paint the trail crossing the road, installing a raised hump at this location, or because of the width of the road, possibly installing trombone arms extending with trail markings, etc. There is new technology available known as rapid flashing beacons, which has become very popular. When a button is pushed, lights flash amber and draw attention to the signs which increases the compliance of drivers recognizing that there is a crossing. This may cause another problem giving the person a false sense of crossing, if the button is pushed and then they decide to text or something before entering the roadway. Director Wiza said there may be value in the study to find the best solution for this area, as it would evaluate the area objectively under different scenarios.

Council Member Galbraith was in favor of doing something to make the bikes and pedestrians stop and understand that they need to yield to traffic, not the opposite.

Council Member Verhaalen said that if the City pays half of the study, citizens are also paying again through County taxes.

Council Member Bublitz said paying a portion of the study sets a dangerous precedent for having to also pay for the solution to the study.

The Common Council discussed additional signage. Director Wiza said that the trail is adequately signed on Pioneer Rd.

In answer to Mayor O’Keefe’s question, Director Wiza explained that Hwy C is a County Highway and any changes that would be made by the City would require a permit which would include an indemnification clause that would enter the City into some additional liability.

In answer to Council Member Verhaalen’s question, Director Wiza stated that the City has no jurisdiction on Pioneer Road to reduce the speed limit.

In answer to Council Member Chivinski’s question, Director Wiza stated that the County asked for the City’s participation in the study because the City maintains the portion of the trail in the City.

Further discussion resulted in the Common Council expressing opposition to participating in the study.

Council Member Arnett urged the Council Members to contact their County representatives.

Council Member Chivinski did not want to close down any avenue for further investigation of the crossing.

Mayor O'Keefe asked for a motion and none was offered.

CONSIDER MAYOR O'KEEFE'S APPOINTMENT OF BRETT KRZYKOWSKI TO THE ECONOMIC DEVELOPMENT BOARD; AND ACTION THEREON

Motion made by Council Member Burkart, seconded by Council Member Thome, to confirm Mayor O'Keefe's appointment of Brett Krzykowski to the Economic Development Board. Motion carried without a negative vote.

CONSIDER LICENSE/PERMIT APPLICATIONS; AND ACTION THEREON

Motion made by Council Member Verhaalen, seconded by Council Member Galbraith, to approve new and renewal Operator License applications for the period ending June 30, 2020 for: Lawson G. Herrin, Tracey M. Jackson, John S. Lavelle, Debra A. McQuaid, Lisa A. Tank, Gina R. Boppre, Gia M. Bazal, Jack P. Goggin, Mark J. Hilgendorf, Andrew J. Kirk, Elisa P. Mieloch, Robert J. Roden, John P. Stolte, and David L. Vahsholtz. Motion carried without a negative vote.

Motion made by Council Member Verhaalen, seconded by Council Member Burkart, to authorize issuance of a Festival Celebration Permit to Festivals of Cedarburg, Inc., for Oktoberfest to be held on Saturday, October 5, 2019 from 11:00 a.m. to 8:00 p.m. and Sunday, October 6, 2019 from 10:00 a.m. to 5:00 p.m. Motion carried without a negative vote.

CONSIDER PAYMENT OF BILLS DATED 07/05/19 THROUGH 08/02/19, TRANSFERS FOR THE PERIOD 07/05/19 THROUGH 08/05/19; AND PAYROLL FOR THE PERIOD 06/30/19 THROUGH 07/27/19; AND ACTION THEREON

Motion made by Council Member Burkart, seconded by Council Member Thome, to approve payment of bills dated 07/05/19 through 08/02/19, transfers for the period 07/05/19 through 08/05/19; and payroll for the period 06/30/19 through 07/27/19. Motion carried without a negative vote.

ADMINISTRATOR'S REPORT

City Administrator/Treasurer Mertes shared a letter from Festivals of Cedarburg outlining parking restrictions and set-up for Oktoberfest.

COMMENTS AND SUGGESTIONS FROM CITIZENS - None

COMMENTS & ANNOUNCEMENTS BY COUNCIL MEMBERS - None

MAYOR'S REPORT – None

ADJOURNMENT

Motion made by Council Member Arnett, seconded by Council Member Burkart, to adjourn the meeting at 7:53 p.m. Motion carried without a negative vote.

Amy D. Kletzien, MMC/WCPC
Deputy City Clerk