

**TOWN OF CEDARBURG
MEETING OF THE BOARD OF SUPERVISORS
January 4, 2012**

Present:

David Valentine, Chairman

Joe Rintelman, Supervisor, Dist. 4

David Salvaggio, Supervisor, Dist. 2

Wayne Pipkorn, Supervisor, Dist. 1

James Culotta, Administrator

Eric Ryer, Director of Rec. & Planning

Brad Hoefl, Town Attorney

Charles Pretty, Treasurer

Excused:

Gary Wickert, Supervisor Dist. 3

1. CALL TO ORDER/ROLL CALL/PLEDGE OF ALLEGIANCE

Chairman Valentine called the meeting to order at 7:00 pm. The meeting began with the pledge of allegiance.

- 2. HEARING OF THE PEOPLE:** *If you wish to address the Town Board on subjects pertaining to today's meeting agenda, please wait until that item on the agenda is reached. If you wish to address the Board on an item not on the agenda, please do it during the Hearing of the People. Please note whenever you speak on any issue, the person chairing the meeting must recognize you, and then you may approach the microphone and give your name and address for the public record. Please note you will be limited to three (3) minutes*

David Barrow of 1894 Elm Drive stepped down from the Community Pool Commission. The Town Board thanked Mr. Barrow for his service.

3. COMMUNICATIONS AND REQUESTS FOR HOLDING TANK AGREEMENTS AND OPERATOR LICENSES:

- a. None

- 4. CONSENT AGENDA:** *The Consent Agenda contains routine items and will be enacted by one motion without separate discussion unless someone requests an item to be removed for separate consideration and vote.*

- a. Approving December 7, 2011 Regular Town Board Meeting Minutes
b. Approving December 7, 2011 Special Town Board: Budget Public Hearing Meeting Minutes
c. Accepting November 1, 2011 Park & Recreation Committee Meeting Minutes
d. Accepting November 16, 2011 Plan Commission Meeting Minutes

Supervisor Salvaggio made a motion to accept the consent agenda. Supervisor Pipkorn seconded, and the motion passed unanimously.

5. TREASURER'S REPORT

- a. **Motion Accepting the December 2011 Treasurer's Report**

Supervisor Salvaggio made a motion to accept the Treasurer's Report for December 2011. Supervisor Rintelman seconded. The motion was then unanimously approved.

6. PRESENTATION OF BILLS/PURCHASE ORDER/PAYROLL/AWARDS

- a. **Presentation of Bills/Purchase Orders/Payroll/Awards for December 1, 2011 to December 31, 2011 (Check #'s 9978-10119) & Manual Checks (2011-64 through 2011-68)* Note: check #9994 was reversed due to wrong vendor.**

Supervisor Pipkorn verified with Administrator Culotta that check #10048 for Baker Tilly was for preliminary audit work for 2011. Chairman Valentine verified with Administrator Culotta that check # 10063 was for Time Warner Cable related to Cedarburg TV.

Supervisor Salvaggio made a motion to accept all bills, purchase orders, payroll and awards as presented for review. Supervisor Rintelman seconded, and the motion was approved 4-0.

7. REPORTS TO BE RECEIVED/FILED (Non-action items)

a. Possible report regarding local nuisance/law enforcement issues (Constable Ryan Fitting)

Chairman Valentine explained Constable Fitting is not present, but that Constable Fitting spoke with staff and indicated the past month was quiet.

b. Report on recreation program revenues and expenditures (Dir. Rec. & Planning Eric Ryer)

Dir. of Rec & Planning Eric Ryer addressed the Board on the revenues & expenditures to date for the recreation program. The 2011 financial year was now finished, with recreation programming completely self-supporting ending 2011 with a positive balance of \$336.

8. PUBLIC HEARINGS

a. Public hearing to take comment on proposed Ordinance 2012-2 regarding text amendments to § 320-137 Definitions and word usage, particularly with respect to allowing dog day care and in-home boarding centers operated as a home occupation in residential districts with a kennel conditional use permit, and § 95-3 Dog and kennel licenses, regarding licensing and rabies vaccinations for dogs at dog daycare*

Debra and Carl Ward of 1558 Fielding Road have been operating a dog daycare and in-home boarding business out of their home, which was brought to the attention of Town staff by a neighbor via a barking complaint. This type of home occupation is not Code compliant for three separate reasons. First, the Town Code would need to be amended to allow for the operation of a dog daycare and in-home boarding as a home occupation in residential districts. Secondly, two conditional use permits would need to be obtained: one to operate a kennel, and a second to operate the home occupation out of her residence.

Carol Boettcher of 7881 Kaehlers Mill Road was against such amendments to the Town Code as she felt having dog daycare and in-home boarding in residential districts would cause problems. Debra Ward of 1558 Fielding Road explained that the operation should not be considered as a "kennel" as there are no cages involved in the operation. With no other comment from the public, Supervisor Salvaggio moved to close the public hearing. Joe Rintelman seconded, and the motion carried unanimously.

b. Public hearing to take comment on proposed Ordinance 2012-1 updating Chapter 320: Zoning, regarding conservation subdivision design*

The Plan Commission discussed conservation subdivision design (CSD) ordinances and their applicability to the Town at their September and October meetings, directing staff to draft a CSD ordinance for the Commission to review at the November meeting. The Commission reviewed and discussed a draft ordinance at their November meeting, ultimately deciding against a new CSD zoning district, and instead was in favor of referencing CSD guidelines for new major land divisions. The Commission directed staff to update the CR-A and CR-B districts to reference the most current SEWRPC guidance documents as a tool to aid developers in the design of conservation subdivisions; these

updates are provided for the Board through Ordinance 2012-1, as well as language clarifying the intent of the CR-A and CR-B districts.

With no comment from the public, Supervisor Rintelman moved to close the public hearing. Supervisor Salvaggio seconded, and the motion carried unanimously

9. OLD BUSINESS

a. Discussion and possible motion on proposed Ordinance 2012-4 regarding a speed limit change to Cedar Sauk Road between CTH I and Covered Bridge Road*

A Town resident that lives on Cedar Sauk Road requested a reduction in the speed limit from 55 mph to 45 mph on Cedar Sauk Road between CTH I & Covered Bridge Road. This is one of the more densely populated parts of Cedar Sauk Road. This road is jointly owned; the Town of Saukville owns the north half and the Town of Cedarburg owns the south half. The entire length of Cedar Sauk Road is a designated heavy traffic route. The Town Board discussed this at the November 2nd meeting and asked staff to have the Sheriff's Department do a speed study. The results of the speed study were presented at the December Board meeting when the Board again discussed this item. Following discussion at the December meeting, the Board unanimously directed staff to draft an ordinance to reduce the speed limit on Cedar Sauk Road between CTH I & Covered Bridge Road from 55mph to 45mph. This likely change was communicated to the Town of Saukville.

Administrator Culotta noted the Town of Saukville supports this speed limits change and would be making a corresponding speed limit change at their next monthly meeting in anticipation of the Town of Cedarburg making the proposed change.

Supervisor Rintelman made a motion to adopt proposed Ordinance 21012-4 reducing the speed limit on Cedar Sauk Road between CTH I and Covered Bridge Road to 45mph. Supervisor Pipkorn seconded, and the motion passed unanimously.

b. Discussion and possible motion regarding the appointment of election officials for a two-year term ending December 31, 2013*

December 31, 2011 marks the end of the current term of election inspectors (poll workers). Per Wis. State Statutes, Sec.7.30, at a meeting in December, but not later than December 31, 2011, the municipal governing body shall appoint election inspectors for a two-year term which begins January 1, 2012 and ends December 31, 2013. The Board approved a list of poll workers at their December meeting, but staff is requesting the Board consider appointing one more official to the list.

Supervisor Salvaggio made a motion to approve Anne Salvaggio to the list of elections officials for a two-year term. Supervisor Rintelman seconded, and the motion passed unanimously.

10. NEW BUSINESS

a. Discussion and possible motion on proposed Ordinance 2012-2 regarding text amendments to § 320-137 Definitions and word usage, particularly with respect to allowing dog day care and in-home boarding centers operated as a home occupation in residential districts with a kennel conditional use permit, and § 95-3 Dog and kennel licenses, regarding licensing and rabies vaccinations for dogs at dog daycare*

This item continues from item #8a. Chairman Valentine explained this item has been ongoing for several months, and that the Town could closely regulate kennel and in-home boarding activity with conditional use permits should the proposed Code amendments be

approved. If permit conditions would not be adhered to, permits could be revoked. Attorney Hoeft explained the applicant would need two conditional use permits to operate a dog daycare and in-home boarding of dogs: 1) to possess more than three dogs on the residential property, 2) to operate the daycare and in-home boarding as a home occupation.

Chairman Valentine felt this business is one that is needed within the community and one that can be adequately controlled. Supervisor Salvaggio then made a motion to approve proposed Ordinance 2012-2 regarding text amendments to § 320-137 Definitions and word usage, particularly with respect to allowing dog day care and in-home boarding centers operated as a home occupation in residential districts with a kennel conditional use permit, and § 95-3 Dog and kennel licenses, regarding licensing and rabies vaccinations for dogs at dog daycare (with the below holding true). Supervisor Pipkorn seconded, and the motion passed unanimously.

(1) Welfare. The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.

(2) Compatible with adjacent land. The uses, values and enjoyment of other Town property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use.

(3) Not impede surrounding property development and improvement. The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding Town property for uses permitted in the district.

(4) Adequate infrastructure. Adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.

(5) Ingress and egress. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

(6) Conform to zoning district regulations. The conditional use application shall conform to all applicable regulations of the district in which it is located.

b. Discussion and possible motion on proposed Ordinance 2012-1 updating Chapter 320: Zoning, regarding conservation subdivision design*

This item continues from item #8b. Chairman Valentine and Director of Recreation and Planning Ryer explained the changes within the ordinance would update and clarify existing Code language, while not making any changes in district requirements. Supervisor Salvaggio had concerns about placing new requirements on developers. Chairman Valentine explained this ordinance would not do so as it would not change requirements for any zoning districts.

Supervisor Rintelman then made a motion to approve Ordinance 2012-1 updating Chapter 320: Zoning, regarding conservation subdivision design. Supervisor Pipkorn seconded, and the motion passed 3-1, with Supervisor Salvaggio voting nay.

At this point Chairman Valentine reopened item #2 Hearing of the People to take a comment from a member of the public. Ray Pecor of 199 Green Bay Road presented a certified survey map showing a gap in a piece of land adjacent to property he owns. Mr. Pecor asked if the Town could assist him in determining how the gap in property ownership occurred. The Board then continued on with item #10c.

c. Discussion and possible motion on proposed Ordinance 2012-3 requiring grading and seeding of the disturbed area surrounding home construction/renovation activities*

The Plan Commission first discussed this item at their November meeting at the request of Supervisor Rintelman. Town staff received a complaint from a resident whose neighbor constructed a new home and was issued occupancy on 4/30/2010 but has yet to perform the final grading and seeding of the lawn surrounding the home; erosion control measures are in place. Town Code does not currently require grading and seeding of the lawn before occupancy is issued so long as erosion control measures are in place (1 acre of disturbed area triggers the storm water ordinance). This is not a common problem with new construction or large renovation projects as the vast majority of homeowners seed the lawn within the first year after construction is complete. At the November Plan Commission meeting, the Commission discussed various choices for regulating lawn seeding/sodding, considering how other area communities regulate seeding and how homeowner's associations typically handle this issue, including how any such ordinance could have retroactive properties. The Commission considered an ordinance requiring vegetative cover for the disturbed area surrounding home construction/renovation activities at their December meeting, recommending the Board approve the ordinance at their January meeting.

Chairman Valentine explained the proposed ordinance would address a current problem (as the ordinance has a retroactive application) and would head off this problem in the future, taking care to note the vegetative cover is required over disturbed area, not the entire lot. Supervisor Rintelman moved the Board approve Ordinance 2012-3 requiring grading and seeding of the disturbed area surrounding home construction/renovation activities. Supervisor Pipkorn seconded, and the motion passed unanimously.

d. Discussion and possible motion on proposed Resolution 2012-1, "Approving the Town of Cedarburg Fiscal Year 2012 Annual Fee Schedule"*

Each year the Town Board must approve the Town of Cedarburg's fee schedule. The fee schedule designates fees, per Town Ordinances, for various duties performed by Town staff or boards/commissions. Chairman Valentine noted the deep water toning fee is a formula, not a set dollar amount.

Supervisor Rintelman moved the Board approve the proposed 2012 Annual Fee Schedule via Resolution 2012-1. Supervisor Pipkorn seconded. Administrator Culotta noted the farmer's market vendor fee is listed on the fee schedule in 2012. The motion passed unanimously.

e. Discussion and possible motion on proposed Resolution 2012-2, "Approving the 2012 Town of Cedarburg Building Permit Fee Schedule"*

Each year, the Town Board must approve the Town of Cedarburg's Building Permit Fee Schedule. The fee schedule designates fees for various permits, inspections and plan reviews by Building Inspector Roger Kison. Chairman Valentine noted there are a few minor increases and decreases in 2012 at the recommendation of Building Inspector Kison. Fees proposed to increase \$0.02 per square foot included new construction review fees for 1) residential including attached garages & any finished areas; 2) business, institutional,

office; 3) agricultural building, riding arena & additions to those types of buildings; 4) additions/alterations residential. Other increases would include an increase of \$2/\$1,000 valuation with a \$50 minimum for all other projects, repairs, window replacements, siding alterations for which square footage cannot be determined; by \$5 for a basement remodeling minimum permit; and establish a \$15 review fee for new signs. Fees were proposed to decrease as follows: by \$25 for a minimum permit for business, institutional, office and manufacturing, warehousing, industrial reviews, by \$25 for an occupancy permit (industrial & commercial), and by \$25 for a minimum permit for manufacturing, warehousing and industrial.

Supervisor Salvaggio moved the Board approve the proposed 2012 Building Inspector Permit Fee Schedule via Resolution 2012-2. Supervisor Rintelman seconded, and the motion passed unanimously.

f. Discussion & Update on the DPW Director Position *

This item was placed on the agenda at the request of Supervisor Rintelman. Administrator Culotta summarized that since direction was given in early December, staff has placed an advertisement for the position in the American Public Works Association – Wisconsin Chapter online, the League of Wisconsin Municipalities – online, the Wisconsin Town’s Association – online, the Wisconsin City/County Management Association – online, and Town of Cedarburg – online and e-Notify.

Administrator Culotta also explained he recently received an application for the position he would like to review with the Board in closed session. Supervisor Pipkorn questioned how many applications have been received recently, and how long the job has been posted. Administrator Culotta answered the Town has received one application in about the last month since the job posting had been re-posted. Chairman Valentine requested this item be placed on the February agenda for the Board to discuss filling the position, reassigning duties among existing staff or defer filling the position for a period of time. The Board would also discuss the one application in closed session.

g. Discussion on 2012 employee evaluations*

Supervisor Rintelman explained he asked for this item to be placed on the agenda following a discussion with Supervisor Wickert on the topic. However, since Supervisor Wickert was not present at the meeting, he moved that the Board table the item until February. Supervisor Pipkorn seconded, and the motion passed unanimously.

h. Discussion and possible motion on establishing a wage range for the Town Clerk position*

Staff is seeking direction from the Board on the salary range to be offered to our new Town Clerk. The previous clerk made \$37,700/year. A salary survey of local clerks showed the average town clerk makes \$40,183, the average nearby village clerk makes \$57,014, and the average nearby city clerk makes \$63,072. Administrator Culotta recommended a salary range of at least \$38,000 - \$42,000. The consensus of the Board was that this range was fair.

Supervisor Rintelman moved the Board set a salary range for the clerk position at \$38,000-\$42,000. Supervisor Pipkorn seconded, and the motion passed unanimously.

11. CLOSED SESSION

a. **The Town Board may go to closed session pursuant to:**

- i. **Wisconsin Statutes Sec. 19.85 (1)(c) to “Consider employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility,” regarding annual performance evaluations and filling the Director of Public Works position;**
- ii. **Pursuant to Sec. 19.85(1)(g) conferring with legal counsel for the Town Board who is rendering oral or written advice concerning strategy to be adopted by the Town Board with respect to litigation in which it is or is likely to become involved regarding an agreement with M & D of Wisconsin, LLC for its failure to timely pay 2010 real estate tax bill for parcel 03-021-01-006.00;**

At 7:44 P.M. Supervisor Salvaggio made a motion that was seconded by Supervisor Pipkorn for the Town Board to go to closed session pursuant to the noticed Wisconsin Statutes.

Roll Call: Joe Rintelman – Aye, David Salvaggio – Aye, David Valentine – Aye, and Wayne Pipkorn – Aye.

b. **Reconvene to open session and the regular order of business**

At 8:13 pm, Supervisor Rintelman made a motion that was seconded by Supervisor Salvaggio to reconvene to open session. The motion was unanimously approved.

12. Discussion and possible motion on Resolution 2012-3, “Approving Wages Effective January 1, 2012”*

Supervisor Rintelman moved to approve Resolution 2012-3 approving wages effective January 1, 2012 noting a wage for Town Administrator Jim Culotta at \$85,224.67. The motion, which was seconded by Supervisor Pipkorn, passed 3-1, with Supervisor Salvaggio voting nay.

13. ADJORNMENT

At 8:15 pm, Supervisor Salvaggio made a motion to adjourn that was seconded by Supervisor Rintelman. The motion was unanimously approved.

Respectfully Submitted,

Eric Ryer
Director of Recreation & Planning