

(Note: These minutes are the first draft and have not been approved by the Executive Council. Please see next months minutes for any corrections.)

CAPITOL NEIGHBORHOODS, INC

MINUTES of Executive Council Meeting held Tuesday January 26, 2010.

MEMBERS PRESENT: Plotkin (President), Mayer, Mohs, Steakley, Kaufman, Paulson, Wurl-Koth, Megan Christiansen, Yarborough, Stitt, Sheean, Broughman, Phelps, Cooper, McGrath, Skrentny, Fisher, Ostlind, Berger, Zellers, O'Brien and Verveer.

GUESTS PRESENT: Attorney Melissa Schultz; Madison Police Lt. David McCaw.

I. MINUTES of January EC Meeting, are AMENDED to reflect in "Action Items – Reimbursement of Phelps for New Software," that the correct name of the new software discussed is "In Deign." As so amended, the minutes are APPROVED, on MOTION by Mohs; SECOND by Christiansen.

II. TREASURER'S REPORT.

Christiansen reports a total bank balance of \$15,923.57; of which just over \$6,800 is in checking and the rest is in CDs.

III. REPORT ON SAFETY/CRIME DOWNTOWN.

Madison Police Lt. David McCaw is the new Downtown Field Lieutenant who specializes in special events and works on property crimes citywide. He discussed recent trends. Aggravated batteries are "way down" but this could be seasonal. Thefts and burglaries are up, with some occurring while students were away on holiday vacation. There were three recent arrests on State St. for burglaries. McCaw reports that laptop computers are targets; often stolen from unlocked cars and homes. "Smash and grabs" from cars continue to be a problem, often to steal GPS devices, purses and even coin cups out of cars. He urged everyone to report suspicious people trying car doors. Mohs asked whether we should call "911" or the non-emergency number. McCaw answered it was okay to call "911" but police would prefer using the non-emergency number for non-emergencies. Stitt urged McCaw to write this up for the newsletter. McCaw agreed to do so.

IV. ACTION ITEMS/NEW BUSINESS.

Review and Approval of CNI 2010 Budget.

Megan Christiansen presented a draft of the 2010 budget for discussion and approval. Items that were discontinued from last year's budget were the homeless initiative and the Mansion Hill Plan. The rent for the Bellevue office space has been moved to "Administration." Total projected revenues for 2010 = \$23,825. Total projected expenses = \$22,525, leaving a total projected income of \$1,300.

Ostlind suggested adding a budget item for out-of-pocket expenses by the Development Review Oversight Committee (DROC) for various activities, programs and events it supported over the year. Plotkin said this had been brought up in various 501(c)3 discussions. Zellers supports Ostlind's suggestion, noting that the DROC has supported a number of activities including the new library program, the design guidelines, neighborhood plans, etc. Ostlind suggested starting with a line of \$500-\$600 at first. Plotkin asked whether there should also be a cap on each payment. Ostlind responded that the amount for each should be left to the discretion of the DROC but within the limits of the total amount allotted. Plotkin queried whether it would be better to leave this item in the Finance Committee because of 501(c)3 issues. Christiansen said the Finance Committee will take up Ostlind's proposal for the DROC, noting that if there is a separate \$500 budget item, it will reduce our projected income from \$1,300 to \$800.

A MOTION by Ostlind that the budget include a separate \$500 line item for the DROC to support various activities within the districts, with a SECOND by Zellers, is APPROVED.

A MOTION by Christiansen, with a SECOND by Ostlind, to approve the CNI 2010 budget as proposed by the Finance Committee, is APPROVED. Stitt compliments Christiansen for hers and the committee's work on the budget.

Explanation of 501(c)3 Status.

Attorney Melissa Schultz, who works exclusively with non-profits, worked with the Development Committee and drafted the documents establishing CNI as a 501(c)3 corporation. She was present to answer questions about CNI's new status. Her remarks included the following:

- CNI cannot engage in "political" activities as an organization, although individuals within that organization can support candidates. CNI may, however, engage in "lobbying" within limits. If the organization takes in \$500,000 or less in annual receipts, it may spend up to 20% of its budget on lobbying. She also noted that volunteer time is not considered a budget expense. Schultz explained that talking to the school board would not be considered "lobbying," but talking to the zoning board is. But, if you appear as a volunteer speaking on behalf of CNI and you haven't spent any money to do so, there is no expense that would dent the 20% of the budget allowed for lobbying. She explained that lobbying cannot be our "primary" activity, urging us to stay within our budget and be careful. In response to another inquiry, Schultz believes that educating city staff about the impact of a project on traffic, etc., or providing technical expertise and advice when asked to contribute, would not be considered "lobbying." Berger asked whether our sponsorship of Candidate Forums would constitute lobbying. Schultz advised that, if the forum is similar to those sponsored by the League of Women Voters, where all candidates are invited to participate and there is no favoritism in the issues selected, there should not be a problem.

Paulson asked if CNI had paid staff, would those who are paid have to register as lobbyists. Schultz did not know. Mohs noted that Susan Schmitz from DMI is paid and regularly appears before the City Council. She may, however, already be registered with the city as a lobbyist.

Schultz counseled that there can be no "enrichment of insiders" (also known as "private enurement"). In other words, no "sweet deals" for officers and directors. CNI should also pay only "fair and reasonable" compensation to others for goods and services (again, no "sweet deals"). Pay no more than fair market value, document the transaction and show what the process was. Mayer asked how this might affect a policy that favors purchases from downtown businesses or those owned by CNI members. Schultz answered that such a policy is not inherently wrong so long as they pay close to what the public pays. If it is a charitable activity, we are allowed to favor such businesses even if we pay slightly more than we would a competitor.

The organization must engage in activities that have a "public purpose." The issue is whether the activity in question benefits only a small group, or covers a broad enough cross-section.

An "unrelated business activity" cannot exceed 15-20% of budget. Schultz explained that our geranium sale would not be considered "unrelated" because those flowers when sold are used to beautify our downtown neighborhoods. Yarborough asked whether we'll be required to pay a Wisconsin sales tax this year at the sale. Schultz said we would not because we have a "Certificate of Exemption" this year. Ostlind asked whether we must charge for a tax when we sell items. We do not, Schultz answered. Mayer asked about paying taxes for proceeds from the Downtown Living Tour. Cooper explained that it goes through DMI. Stitt pointed out that DMI keeps its 501(c)3 function separate from its non-501(c)3 function.

Schultz made the important point that contributions to CNI are now tax deductible. Also, if a donor has appreciated stock, they can transfer it to CNI and the donor gets a charitable deduction without a capital gains tax. CNI must provide a receipt for all donations over \$250, but Schultz suggested we provide receipts for donations of any amount. Plotkin asked whether membership dues are also deductible. Schultz said they are, so long as the dues are \$75 or less.

Ostlind expressed concern that the limits on lobbying legislation are broad, and would include anything the city council or a city commission votes on. Schultz agrees they are broad and suggested appearing in an individual capacity to avoid problems. Plotkin also observed that the extent of lobbying activity is determined by our budget. Schultz agreed with Zellers' observation that, if no money is spent by the organization, then its advocacy for specific legislation is proper. Plotkin referred to the "cheat sheet" prepared by Attorney Schultz which he attached to this meeting's agenda. Christiansen noted that the 2010 budget includes legal services provided by Atty. Schultz. Plotkin thanked the committee and Atty. Schultz. Stitt thanked everyone who worked on establishing the 501(c)3 status over the years and who worked on this year's budget.

Authorization to Take Action on Lakeshore Ordinance.

Zellers explained that there is a proposal before the city to exempt commercial properties along the city's lake shores from the setback requirements now applicable to all lakefront properties. This is being done solely to protect the Edgewater project from having to go through the Zoning Board of Appeals to obtain a

variance. She notes there are a number of objections to this specific protection for the Edgewater, but also to the broader environmental “slippery slope” it will bring about. As it stands now, the Edgewater is zoned “residential” but they want to make it a PUD. If permitted, this could pressure other lake shore properties zoned “residential” to become “commercial.” Zellers reports that she, Ostlind, Mohs, and John Martens all spoke at last night’s (1/25) meeting of the Committee on the Environment, which voted unanimously against the proposed amendment to exempt commercial properties from the setback requirements. She pointed out, however, that this will still go before the Plan Commission. She added that Marquette Neighborhood Association voted to oppose the amendment and authorized their president to speak in opposition to it. In response to a question by Berger, Zellers reports the sponsor of this change claimed the Zoning Code Re-Write Committee had “blessed this.” This is not true, she said. The re-write committee never discussed this. They only discussed residential issues; not commercial.

Zellers explained the county and the state both require a 75 ft. setback for unincorporated areas and for properties annexed to a city since 1982. The intent was to protect water quality, along with shoreline preservation and beauty. She believes that no longer maintaining this protection would be environmentally backwards. Cooper explained that the Edgewater property is not subject to state and county protections because it precedes 1982. Zellers said zoning code re-write committee members are upset about this but the change is not inevitable; people need to be heard. Mohs commented that the excuses being offered are “pathetic,” this is all about the Edgewater, and the water quality experts on the commission are upset by this.

A MOTION by Mohs, with a SECOND by Zellers, that Plotkin send a letter on behalf of CNI (subject to EC approval) commending the Committee on the Environment for its thoughtful vote against exempting commercial properties from the lake shore setback requirements, is APPROVED.

Wurl-Koth believes the setback exemption for commercial property could set bad precedent statewide, citing the example of property owners in northern Wisconsin who are fighting setback requirements. Mohs agreed this is a good point to make, and added that most lakefront property is zoned “residential” but if the building next door is zoned “commercial,” the residential owner could be looking at a parking lot or a large building. Ostlind added that this could allow for “clear-cutting” trees within 35 ft. of the shoreline. Cooper said we need to emphasize the broader implications beyond the Edgewater.

A MOTION by Zellers, with a SECOND by Ostlind, that the CNI EC strongly oppose exempting non-residential properties from the waterfront setback requirements, and authorizing the CNI President or his designee to speak to this issue [the Motion included a friendly amendment by Ostlind to add the term “strongly” oppose; and another friendly amendment by Stitt to add the term “non-residential” rather than “commercial” properties as originally stated] is APPROVED.

Stitt noted that the DROC had talked about holding a public meeting to discuss this. Atty. Melissa Schultz agreed it is good to bring up the broader land use issues that go well beyond the Edgewater.

V. DISTRICT REPORTS.

James Madison Park.

Steakley reports the steering committee met recently to discuss the APEX project for the 200 block of E. Mifflin. There is a new proposal for a building that would wrap behind the Lamp House. The focus of the next meeting will be the proposed demolition of houses along Mifflin and Webster Sts. According to Paulson, the committee discussed a number of topics. There is concern about building atop the parking ramp that would eliminate the ability to expand parking in the ramp. He said the committee is opposed to the idea of a single building wall taking up an entire block face. They wish to preserve the Lamp House and its surroundings. Paulson noted that the new design presented by APEX was prepared by a student of Frank Lloyd Wright drawings. The committee hopes to be able to post copies of those drawings on the blog. The committee will meet again in the next few weeks. Zellers asked whether Frank Lloyd Wright experts have been brought into the process. Paulson responded that he has encouraged them to engage themselves in the process separately from the neighborhood and speak on their own behalf. Paulson would like to see the Madison Trust do likewise.

Wurl-Koth reports that Ald. Maniaci met with her at Wurl-Koth’s home recently to discuss a number of topics. She also reports there was a recent robbery at the Market Basket on Mifflin St. and there is some drug activity in the neighborhood, of which the neighborhood officer has been made aware.

Mansion Hill.

Zellers reports issues related to the Edgewater have consumed much of the district's energy with many proceedings upcoming in the next few weeks, to February 23rd and beyond. She reports the Landmarks Commission did not provide a certificate of appropriateness and the counsel did not overrule it. The developers are now going through Urban Design and the Plan Commissions. They went before Urban Design last week and the developers did not provide the information in advance; dropping off a 45-page document at the meeting instead, without any advance review by anyone. They want an amendment to the 1965 Ordinance relating to setbacks from Wisconsin Ave. to preserve the lake view, and relief from the lakefront setback requirements, discussed above. Zellers described the process as "just horrendous," adding that she is sickened that Madison has devolved to this.

Zellers reports the Holy Redeemer proposal will be delayed for a year.

An owner-occupant has purchased a Cream City brick home at 218 N. Pinckney St.. The owner has plans to add onto the rear of the house.

Stitt suggests that CNI, through its DROC, host a meeting and invite representatives of all the city's neighborhoods to discuss the various issues that have come out of the Edgewater saga, including efforts to do away with the "super-majority" requirement for a city council override of a Landmarks Commission ruling, the lakefront setback ordinance, the 1965 ordinance, etc. Mohs noted the 1965 ordinance was enacted to provide "permanent" benefits for all of the general public. He asked, if the ordinance is now amended, why anyone would ever want to deal with the city in the future if "permanent" does not mean "permanent." Stitt believes that public conversations and opportunities to speak so far about these topics have not been adequate. He notes this meeting would have to occur almost immediately – sometime before Feb. 23rd. It would give the constituents of all of the city's alders an opportunity to speak and to let their representatives know where they stand. He would like to have the Mayor and Ald. Clear present and available for questions. Zellers commented that this is "so big" and very challenging. There is so much misinformation and polarization out there. Stitt offered to facilitate a session to get out the important issues. Zellers and Mohs offered to help. Ostlind asked whether the focus will be on the Edgewater or more broadly on the issues raised by the process. Zellers likes the idea of focusing on the process.

Bassett.

Ostlind reports things are quiet in the district. The Hyatt Hotel on W. Wash. should be done by mid-April.

There have been alterations to the project on Bedford and W. Wash., with solar water heating panels to be installed on the rooftop.

Mifflin West.

Broughman reports that work began last month for the geranium sale, scheduled for Saturday May 8th, right before Mother's Day. It will again be held at the Senior Center. The next meeting will be in early Feb.

Ruth Yarborough is working to put together a Garden Committee. Mifflin West district expressed support for what they are trying to do in Bassett to put in a prairie garden at Broom St. and John Nolen Dr. near the Bassett district sign. Broughman would like to see more support for this from the Bassett district. He notes there had been a prairie garden at this location in the past. This will require a city grant. Perhaps proceeds from the geranium sale could also be used to help offset the costs, he suggested. The project will require more people and more money, he added.

First Settlement.

Skrentny reports things are quiet in the district. Regular monthly meetings are being held.

VI. COMMITTEE REPORTS.

Garden.

Yarborough reports the committee is working on a mission statement and authorization approval. They hope to have it finalized by the Feb. EC meeting.

Membership/Media.

Kaufman reports the focus is on the new website. He notes the first version of the website design has been generated by Monica Harkey and circulated to the EC. It is the same as the old website; Monica is just updating it technologically. Plotkin notes there were a few comments on the first draft. Kaufman said he received those.

Program.

Wurl-Koth comments that she has a “steep learning curve” as the new chair. She has lots of questions and has received lots of documents from Zellers, the previous chair. Stitt offered to arrange an orientation meeting for the committee and invite former members to attend. Zellers will attend. Stitt will schedule it. Wurl-Koth would like to schedule events out for a year. She is mulling over program ideas such as: presentations by alders, social gatherings, “hot topics,” neighborhood “celebrities,” “how to” programs, among others.

DROC.

Ostlind notes that at the last meeting they discussed the DMI documents addressing the Downtown Plan, in which the neighborhood review process was described by DMI as a “threat.” The DROC would like to discuss this with DMI at a future meeting.

Development.

Paulson needs committee members. The focus can now move away from establishing 501(c)3 status and toward development. The immediate goals are capital fundraising, identifying a near-term project and making contacts with the community; then, develop a five-year plan. The committee needs to establish goals (such as setting up an endowment, full-time staff, etc.). Plotkin added the committee needs members.

Physical Linkages.

Mayer discussed the recent *State Journal* article about the UW Charter St. heating/cooling plant’s conversion from coal to biomass, involving the burning of wood waste and switch grass. Mayer notes this will require two train deliveries with 16-18 cars each per day. This could impact Bassett as it seems to be a significant increase in train traffic through the neighborhood. He will forward the information about this.

Downtown Plan.

Berger reports the Downtown Plan “listening sessions” with the Plan Commission will take place Feb. 1st and 15th. There has been on-line dialogue about resubmitting CNI’s recommendations to the Plan Commission. Cooper suggested that one or more of us be present at those sessions to speak.

Zoning Code Re-Write Advisory.

Zellers reports the committee has not met recently and there is dissatisfaction over the lack of meetings. Zoning downtown has not even been considered because they have been waiting until the Downtown Plan is complete, and that has been put on a slow track due to the Edgewater. There is not enough planning staff to address all of this, especially in the absence of a Preservation Planning Director.

VII. TIME AND DATE OF NEXT EC MEETING

Plotkin notes the next EC meeting is Feb. 23rd, the same night that the Edgewater goes before the City Council. He suggests that we change the date. He will circulate several possible date changes

[NOTE: the date was subsequently changed to Tuesday March 2, 2010.]

VIII. REPORT OF THE ALDERPERSONS.

Verveer announced that, according to Brad Murphy, the city has received an accepted offer for an historic preservation planner who will begin work no later than March 1st.

Alds. Verveer and Maniaci have scheduled a community meeting to discuss the Edgewater Hotel March 4, 2010, at the MATC downtown campus. The format has not been established yet, but there will be a city facilitator. Verveer added that the 1965 Wisconsin Ave. Ordinance will be taken up February 15th, the same night that the Board of Estimates will consider the TIF resolution for the Edgewater.

The downtown plan has been stalled due to the Edgewater. It is critical, Verveer stated, that people attend the February 1st and 15th listening sessions. After those meetings, city staff will make their recommendations to the general public at a meeting to be held in late March or early April at the Overture Center.

A bit of good news: Verveer announced that the TIF Review Board approved, by a 4-1 vote, \$2 million for the Capitol Square rehabilitation project. This will conclude work on the Square, plus one block

in each direction off the Square. The hope is that ground will be broken some time in April. Plotkin thanked Verveer for his efforts to see this through.

MEETING ADJOURNED

NEXT EC MEETING: Tuesday March 2, 2010, 5:15 p.m., State Capitol Rm. 415 NW.

AGENDA*

- I. CALL TO ORDER AND DETERMINATION OF A QUORUM.
- II. REVIEW AND APPROVAL OF JANUARY EC MINUTES.
- III. TREASURER'S REPORT.
- IV. REPORT ON SAFETY/CRIME DOWNTOWN.
- V. ACTION ITEMS/NEW BUSINESS
Comments on Website Draft.
Garden Committee Mission Statement/Resolution.
Threats to Historic Districts from the Edgewater Process.
Other.
- VI. OLD BUSINESS
Housing Inventory – Candidates for Owner-Occupancy.
Other.
- VII. DISTRICT REPORTS
Bassett, Mifflin West, Mansion Hill, James Madison Park, First Settlement.
- VIII. REPORT OF THE ALDERPERSONS.
- IX. COMMITTEE REPORTS
Education and City Issues Monitoring (Patterson), Garden (Yarborough), Program (Wurl-Koth), Downtown Living Tour (Cooper), Membership/Media (Kaufman), DROC (Ostlind), Development (Paulson), Finance (Christiansen), President's Report (Plotkin), Physical Linkages (Mayer), Downtown Plan (Berger), Zoning Code Re-Write (Zellers).
- X. ADJOURNMENT.

***Agenda subject to change by Plotkin**