

**CITY OF CEDARBURG  
COMMONCOUNCIL  
July 30, 2007**

**CC20070730-1**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, July 30, 2007 at City Hall, W63 N645 Washington Avenue, second floor, Council Chambers. Mayor Myers called the meeting to order at 7:00 p.m. The meeting began with a moment of silence followed by the Pledge of Allegiance.

Roll Call: Present - Common Council – Mayor Gregory P. Myers, Council Members Chris Reimer, Steven Glamm, Haly Besaw, Paul Radtke, Sandra Beck, Kip Kinzel

Excused - Council Member Robert Loomis

Also Present - City Attorney Kaye Vance, City Administrator/Treasurer Christy Mertes, Police Chief Tom Frank, Director of Engineering and Public Works Tom Wiza, City Clerk Constance McHugh, Leisure Services Committee appointee Raymond Ronchetti, William J. Kratz of Repairs By Bill, Cedarburg Town Chairman Dave Valentine, Town Supervisor David Salvaggio, interested citizens and news media

**STATEMENT OF PUBLIC NOTICE**

At Mayor Myers' request, City Clerk McHugh 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 had 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.

**MAYOR'S APPOINTMENTS**

Motion by Council Member Beck, seconded by Council Member Reimer, to appoint Raymond Ronchetti as an alternate member of the Leisure Services Committee, term to expire April 30, 2008. Motion carried without a negative vote with Council Member Loomis excused. The oath of office was given to Mr. Ronchetti by City Clerk McHugh.

**APPROVAL OF MINUTES**

Motion made by Council Member Radtke, seconded by Council Member Kinzel, to approve the minutes of the July 9, 2007 meeting. Motion carried without a negative vote with Council Member Loomis excused and Council Member Besaw abstaining.

**REPORTS OF BOARDS, COMMISSIONS & COMMITTEES** - None

**COMMENTS AND SUGGESTIONS FROM CITIZENS** - None

**CONSIDER BIDS RECEIVED FOR REPAIR OF THE STONE FACING ON THE COLUMBIA ROAD BRIDGE RAILING POSTS**

Director Wiza said that \$15,000 was included in the 2007 budget for the repair of the stone facing on the Columbia Road bridge railing posts. The original intent was to simply repair the stones; however, the three masonry firms that submitted proposals to repair the stones also submitted proposals for the complete replacement of the stone facing on the posts. Director Wiza said that the low proposal was from Repairs by Bill in the amount of \$23,800. The Public Works Commission recommended that the Council accept the proposal of Repairs from Bill in the amount of \$23,800 for the complete replacement of the stone facing. Director Wiza added that William Kratz, owner of Repairs by Bill, has done other work in the City and submitted a proposal that was considerably less than the other two proposals.

Mr. Kratz said that the stones on the existing posts were put up with cut ends and no corner stones were used. This allowed moisture to get in between the layers and the layers then began to separate. His recommendation is to remove all the stone, put up the proper stones to prevent moisture, and rebuild the columns.

Mr. Kratz said that he has 30 years of experience in the masonry business. He indicated his proposal is substantially less than the other proposals because he is an owner/operator and doesn't have the large overhead that bigger companies have. He said that he is insured. Mr. Kratz said the posts will look like they are made of real stone. The work should last between 5 and 10 years; however, it could last up to 20 years if properly maintained. The work is expected to take about one month.

Motion made by Council Member Beck, seconded by Council Member Kinzel, to accept the proposal of Repairs by Bill for the complete replacement of the stone facing on the Columbia Road bridge railing posts in an amount not to exceed \$23,800. Motion carried without a negative vote with Council Member Loomis excused.

**CONSIDER TOWN OF CEDARBURG RESOLUTION 2007-13 REQUESTING THAT THE CITY CHANGE THE NEGOTIATED SHARED SERVICES AGREEMENT FOR THE CEDARBURG SWIMMING POOL**

Mayor Myers said that Council Members received a copy of the Town of Cedarburg's Resolution 2007-13 asking that the Shared Services Agreement for the Cedarburg Swimming Pool be amended such that the Town reserves the right to terminate this agreement with 12 months notice if the total operating cost increase exceeds 10% as compared to the prior fiscal year.

Town Chairman Valentine said that the Town is concerned that the management and control over the costs of the pool lies with the City. He said that the Town has no control. He said that, for example, the pay for part-time employees was way over budget in 2006. He said that the Town has no control over this and the Town does not feel it should pay for things it has no control over.

City Administrator/Treasurer Mertes said that revenues in 2006 were lower than expected because of the weather. She also said that there are fixed costs regardless of the weather. She said that there is certain number of employees that must staff the pool at all times.

Mayor Myers said that there is a Leisure Services Commission with Town representation that oversees the pool. This Commission receives reports on a regular basis.

City Administrator/Treasurer Mertes said that members of the Leisure Services Commission receive monthly financial reports and other information regarding the pool.

Council Member Beck said that oversight is the reason that the Leisure Services Commission has Town representation.

Mayor Myers said that the City did agree to a provision in some other Shared Services Agreements whereby the Town would have the option to terminate the agreement(s), with 12 months notice, should its portion of the total shared services cost exceed 10% compared to the prior fiscal year. This was to protect the Town from uncontrolled spending by the Council, which is unlikely to happen. Mayor Myers said that the provision was never considered when the Shared Services agreement for the pool was agreed upon because the Common Council and the Town Board recognized that the pool was a community endeavor and not meant to be a profit making operation, although there would be an attempt to maximize revenues and manage expenses. He said that nobody wants the taxpayers to subsidize the costs of the swimming pool. It was recognized that this might occur at times because of the weather. This provision was not meant for situations that were out of control by both the City Council and the Town Board. He reminded the Council that this agreement was signed in January of 2006.

Council Member Beck said that she agrees with Mayor Myers. She said that there is Town Representation on the Leisure Services Commission. Because Town Board members are not informed is not reason to change the agreement. She said that both communities need to pay their share. Council Member Beck said that if lack of information is a problem, then the Town Board needs to change its way of getting information.

City Attorney Vance stated that according to the agreement, the Town's share of operating cost deficits shall be based on actual usage of the pool by Town residents.

Mayor Myers said that he believes that the current agreement is an equitable arrangement.

Council Member Kinzel said that he sits on the Leisure Services Commission. The Commission did discuss staffing at the pool. He said that there must be a minimum amount of staffing at the pool regardless if there are a few people at the pool or many people. He said that it was unfortunate that there was bad weather last summer. Council Member Kinzel stressed that the pool was not mismanaged. In fact, the Committee looked at several ways to enhance revenues and took over the concession sales as a way to generate more revenues. He said that this pool did not do any worse than surrounding pools did last summer.

Town Chairman Valentine said that weather had nothing to do with the situation. He questioned why the part-time salaries account was over budget. He said that this is under the City's control and the Town has no input.

Council Member Beck said that the Town does indeed have representation and Town Board members are welcome to attend Leisure Services Commission meetings.

Mayor Myers said that the Town is requesting a change to the agreement and it is up to the Council to determine if the agreement should be changed.

Council Member Glamm suggested that the Council take no action on this matter and move on to the next agenda item. He said that the Town made a bad bargain and now must live with it. He said that the Town negotiated this agreement and now does not like it and wants to walk away.

Council Member Beck said that she does not agree that the agreement is a bad bargain. She said that a bargain was made based on population. Some years the pool makes money and some years it does not. This happens to all pools.

City Administrator/Treasurer Mertes said that the problem is on the revenue side, not the expenditure side. In 2006 the pool expenses were a total of \$67 under budget. She agreed that the salaries account was overspent but other accounts were under spent. On the revenue side, pool fees were budgeted at \$110,000 but came in at just under \$93,000. Pool passes were budgeted at \$90,000 in 2006 but came in at \$82,500. The City's General Fund contributed \$20,000 to make up for the deficit. The Town's share toward the deficit was \$7,900.

In response to a question by Council Member Radtke, Council Member Kinzel said that the Leisure Services Commission sets the budget for the pool.

Motion made by Council Member Beck, seconded by Council Member Glamm, not to change the Shared Services Agreement for the Cedarburg Swimming Pool between the City and the Town of Cedarburg. Motion carried without a negative vote with Council Member Loomis excused.

**DISCUSSION OF THE TOWN OF CEDARBURG'S JULY 18<sup>TH</sup> RESPONSE TO THE MAYOR'S REQUEST THAT THE PARTIES ENTER INTO MEDIATION AND DISCUSSION OF THE MEDIATION PROCESS**

Mayor Myers said that he sent a letter to Town Chairman Valentine suggesting that the City and Town begin discussions with a mediator. Chairman Valentine responded by saying that the Town Board would be interested in meeting with the Council under the direction of a mediator that is mutually agreed upon by both parties.

Motion made by Council Member Radtke, seconded by Council Member Reimer, that the City move forward on working with the Town to select a mediator. Motion carried without a negative vote with Council Member Loomis excused.

**DISCUSSION OF THE TOWN OF CEDARBURG'S MAY 30<sup>TH</sup> AND JULY 17<sup>TH</sup> ALLEGATIONS REGARDING INFRASTRUCTURE SERVICE TO A PRIVATELY DEVELOPED SUBDIVISION**

Mayor Myers said that he received a letter from Town Chairman Valentine expressing concerns over the Seven Gables Subdivision on the north side of the City which is expected to be served by City sewer and water. The letter stated that the extension of sewer and water into or through the Town must be approved by the Town and any roads that need to be laid out on or across the Town/City boundaries have to be initiated by both the Town and City who must work together to plan, approve, and pay for such roads. Mayor Myers said that he responded in a letter to Chairman

Valentine that the City does not anticipate that any sewer installations will take place in Town roads and that the City will comply with any and all applicable state statutes during construction of infrastructure that will serve City property. Mayor Myers said that this project has been in the works for years and the Town has been notified of it. The Town was apprised of the plan and how services would be provided.

City Attorney Vance said that the City intends to comply with all laws. She said that based on what is known now and the research she has done she doesn't believe that Town approval is needed for the infrastructure.

Council Member Besaw asked what is meant by the term infrastructure.

Director Wiza said that the most critical infrastructure would be the sanitary sewer main which would cross Cedar Creek and serve the lands on the north side of the city.

City Attorney Vance said that the City does not intend to serve any Town residents or impact upon any Town residents.

Director Wiza said that the plat as proposed does not involve any crossing of Town roads. He said that nothing on the surface will be disturbed.

City Attorney Vance said that it is the City's intent to comply with all laws and not impact, charge, or provide service to any Town residents.

### **LICENSE APPLICATIONS**

Motion made by Council Member Glamm, seconded by Council Member Kinzel, to authorize issuance of renewal Operator's Licenses for the period ending June 30, 2008 to: Eric L. Hofhine, Kristin A. Phelps, Adam M. Heitzkey, and Kelly A. Schopp and to authorize issuance of new Operator's Licenses for the period ending June 30, 2008 to: Caryl A. Giuliani, Sharleen M. Pokora, Kelly E. Schneider, Ellen M. Schlabach, Emily J. Crass, Cynthia J. Zipter. Motion carried without a negative vote with Council Member Loomis excused.

### **CONSIDERATION OF DENIAL OF OPERATORS' LICENSE FOR SHERI KOROLEWSKI**

Police Chief Frank said that he recommended that the Council deny the renewal Operator's License for Sheri Korolewski based on two arrests and convictions for operation of an automobile while intoxicated in January 2003 and April 2007. Chief Frank said that he believes that these offenses are substantially related to the licensing activity and further believes it shows a pattern of poor decision making regarding the consumption of alcohol and driving that could carry over to the serving of alcohol as well.

Ms. Korolewski said that her convictions were four years apart. She said that her offenses did not occur while she was at work and that she is not a felon. She said that this job is her livelihood. She said she has done everything required by the judge in this case. She said that she does not drink while she is bartending and works at a supper club, not a bar. She said that she needs the income to pay her fines.

In response to a question by Council Member Reimer, Chief Frank said that the first arrest was in October of 2002 with the conviction in January 2003 and the second arrest was in August of 2006 with a conviction in April of 2007.

Council Member Glamm asked Chief Frank if he knows what Ms. Korolewski's blood alcohol count (BAC) was each time she was arrested.

Chief Frank said that he did not have this information. Ms. Korolewski said that the first time she was arrested she had a BAC of .09. The second time she was arrested her BAC was over .2.

Council Member Glamm said that he did notice a citation for driving on the wrong side of the highway when he looked up Ms. Korolewski's records on CCAP. He asked Ms. Korolewski to explain this offense.

Ms. Korolewski said that this occurred on August 1, 2006, the same night she was arrested for driving under the influence.

Council Member Glamm said that he believes that the granting of licenses is one of the most important things the Council does. He said that driving under the influence shows poor judgment and poor judgment can be dangerous. Furthermore, poor judgment in serving alcoholic beverages can have devastating outcomes. He said that he cannot support renewal of this license.

Motion made by Council Member Glamm, seconded by Council Member Beck, to deny an Operator's License to Sheri Korolewski.

Chris Klug, owner of Klug's Creekside Inn and Ms. Korolewski's employer, said that in the letter Ms. Korolewski received it stated that no license shall be issued to any person who has habitually been a law offender. She said that Ms. Korolewski has been through training regarding the serving of liquor and is aware of what could occur when someone drinks too much. She asked Council Members to think about this because she believes the League of Municipalities defines a habitual criminal as someone with two offenses close together. There were four years in between these offenses and Ms. Korolewski has done her time and is working on paying her fines. Ms. Klug said that she has such a small pool of people to pick from and Ms. Korolewski is a good employee. This is Ms. Korolewski's livelihood.

Council Member Beck said that this is not the first time that the Council has denied an Operator's license to someone. She said that the Council relies on the Chief Frank's judgment and recommendation.

City Attorney Vance said that the Council needs to make a finding based on these offenses and the relationship between the DUI convictions and Ms. Korolewski's judgment that the Council believes the non-renewal of the license is in order. The Council needs to make a finding of fact based on what Chief Frank said and then make a conclusion.

Council Member Glamm said that the two offenses Chief Frank has brought to the Council's attention are related to the nature of the license and is the basis upon which he made the motion to deny the license.

Motion carried without a negative vote with Council Member Loomis excused.

**CITY ADMINISTRATOR'S REPORT**

City Administrator/Treasurer Mertes said that on Tuesday morning the first educational meeting for employees will be held regarding Health Savings Accounts (HSAs). Additional educational meetings with smaller groups will be held in the upcoming months.

City Administrator/Treasurer Mertes asked the Mayor and Council Members if they are interested in having a representative of CVMIC, the City's insurance carrier, make a presentation at an upcoming meeting.

Mayor Myers said that a presentation by a CVMIC representative would be a good idea.

City Administrator/Treasurer Mertes said that she placed the Light and Water financial statements on the Council Members desks.

**COMMENTS AND SUGGESTIONS FROM CITIZENS** - None

Director Wiza said that the work on dredging the Centennial Park Ponds has been going well. He said that the site has stayed clean and the contractor is pumping water around the ponds. Work on the first pond is about 75% complete. There was a slight odor at first but nothing repulsive.

**REPORTS & COMMENTS BY COUNCIL MEMBERS**

Council Member Reimer said that he has not received any complaints regarding the pond dredging project other than a comment about a generator. This problem was corrected.

Council Member Besaw said that she had a compliment from a neighbor about how smooth the pond dredging project is going.

Director Wiza said that trucks from this project will travel on Harrison Avenue to Washington Avenue during the Ozaukee County Fair.

Council Member Kinzel said that he received three heated complaints regarding the closing of the streets for the bike race last week. He said that the Council may need to look at how residents and businesses are notified and if the notice could be made clearer.

City Administrator/Treasurer Mertes said that the Festivals Committee notifies residents and businesses either through the mail or by hand delivery.

Mayor Myers asked City Administrator/Treasurer Mertes to talk to the Festivals Committee about the notice that is given.

Council Member Reimer suggested that information regarding the street closures could be put on the City's website.

**MAYOR'S REPORT**

Mayor Myers reminded the Council that the August 13, 2007 Common Council meeting has been cancelled. The next Council meeting will be August 27, 2007.

**ADJOURNMENT- CLOSED SESSION**

Motion made by Council Member Beck, seconded by Council Member Radtke, to adjourn into closed session at 7:55 p.m. pursuant to Wis. Stats. 19.85(1)(g) to confer with legal counsel who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved concerning the Town of Cedarburg. Closed session minutes of 7/9/07. Motion carried without a negative vote with Council Member Loomis excused. Meeting did not reconvene into open session.

Constance K. McHugh, CMC  
City Clerk