

**CITY OF CEDARBURG
COMMON COUNCIL
September 10, 2007**

CC20070910-1

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, September 10, 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 Steven Glamm, Haly Besaw, Paul Radtke, Kip Kinzel, Robert Loomis

Excused – Council Members Chris Reimer and Sandra Beck

Also Present - City Attorney Kaye Vance, City Administrator/Treasurer Christy Mertes, Deputy City Clerk Amy Kletzien, Director of Engineering and Public Works Tom Wiza, Parks & Recreation Director Mikko Hilvo, Police Chief Thomas Frank, Light & Water Utility General Manager Dale Lythjohan, Kenneth Horner and Mike DeMoss of CVMIC, ad hoc Downtown Master Plan Members Meg Galioto, Mike Ruzicka, Eric Stelter, Amy Palec, Liz Brown, Rebecca Zuba, Duey Stroebel and Jim Pape, Light & Water Commission Member Charles Bradburn, interested citizens and news media

STATEMENT OF PUBLIC NOTICE

At Mayor Myers' 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 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.

CONSIDER MAYOR MYERS' ANNUAL APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

Motion made by Council Member Kinzel, seconded by Council Member Radtke, to appoint Charles Bradburn and Allan Lorge as members of the Light & Water Commission, terms to expire September 30, 2010. Motion carried without a negative vote with Council Members Reimer and Beck excused. The oath of office was given to Charles Bradburn by Deputy City Clerk Kletzien.

Mayor Myers stated that Mr. Bradburn's record of public service to the Community is remarkable and his willingness to serve is greatly appreciated. His knowledge of the Light & Water operations is invaluable to the Board Members.

Council Member Loomis stated that the Light & Water Commission greatly values Mr. Bradburn's experience and judgment.

PRESENTATION BY REPRESENTATIVES OF CVMIC REGARDING THE CITY'S INSURANCE

Ken Horner and Mike DeMoss thanked the Common Council for giving them the opportunity to present CVMIC's ownership report at this meeting.

Mike DeMoss stated that the City of Cedarburg joined the Cities and Villages Mutual Insurance Company during its inception in 1987. Since CVMIC has grown to represent 42 communities and has adopted insurance strategies to achieve budget stability, insurance-rate predictability, stable premiums and a constant high level of insurance protection. CVMIC became Wisconsin's first municipal mutual insurance company providing all lines of liability coverage and the country's fourth fully capitalized municipal mutual insurance company.

Ken Horner stated that 2007 was the 15th consecutive year that Cities and Villages Mutual Insurance Company received the A.M. Best Rating of Excellent. This rating is assigned to companies whose operations have achieved excellent overall performance when compared to the standards established by A.M. Best. CVMIC has also received the coveted Recognition Award from the Association of Governmental Risk Pools and a rating of Aa2 from Moody's Investors Services. These ratings and the award are based on a comprehensive assessment that CVMIC's operating procedures and structure meet the highest standards of the industry.

Ken Horner reviewed the company structure and services for municipalities, which include providing over 623 training programs at no extra cost to their members in 2006.

Mike DeMoss thanked Cedarburg as pioneer members of CVMIC in making this program a success. In the past, dividends were used to pay off debt service and now that those debt services are paid off, the membership will start enjoying the dividends which will help reduce costs for risk management insurance programs.

Mayor Myers stated that the City of Cedarburg has been very pleased with CVMIC's services and looks forward to working with the company well into the future.

PRESENTATION RE: RECOMMENDATIONS FROM THE AD HOC DOWNTOWN MASTER PLAN COMMITTEE

Mayor Myers stated that several months ago he appointed the ad hoc Downtown Master Plan Committee to make recommendations to the Council to ensure the success of the downtown area into the future.

Council Member Radtke stated that the knowledge base of the ad hoc Downtown Master Plan Committee was very impressive and resulted in some terrific brainstorming when they met. The Committee decided to present some general ideas to the Common Council at this meeting, with the intention of meeting again in the future to explore some ideas that may be endorsed by the Council from their presentation. Council Member Radtke thanked the members of the ad hoc Downtown Master Plan Committee for their commitment and hard work and asked them to introduce

themselves to the Council. All members were in attendance, with the exception of Tammy Ahl and Greg Zimmerschied.

Mike Ruzicka presented the attached report of the ad hoc Downtown Master Plan Committee with a PowerPoint presentation.

In answer to Council Member Besaw's question, Mike Ruzicka stated that the Committee did not know if an Economic Development Coordinator position would be funded and they did not want this to prohibit them from developing their recommendations.

Mayor Myers stated it will be up to the Common Council whether or not to implement the committee's recommendations and to discuss funding.

Mayor Myers thanked the Committee for their time and effort and added that their presentation was very impressive.

Council Member Loomis expressed his appreciation to the Committee for their time and ideas. He stated that an Economic Development Coordinator position needs to be investigated along with possible joint funding with another entity such as the Chamber of Commerce. Council Member Loomis recommended that the Council consider this position during the 2008 budget process.

Council Member Radtke stated that the Council needs to define whether they want the position to be full-time, part-time or contracted.

Council Member Loomis stated the Council is very cognizant of the upcoming budget restraints; therefore, he asked that the ad hoc Downtown Master Plan Committee present some options to the Common Council for consideration during the 2008 budget process.

Council Member Radtke agreed that the Committee could meet one more time before the upcoming budget meeting on October 22 to provide some options for the Common Council to consider in regard to an Economic Development Coordinator position.

Council Member Kinzel stated it was important to take the next step forward to keep Downtown Cedarburg vibrant.

Council Member Radtke stated that an Economic Development Coordinator should not strictly work on the downtown area but should also focus on the south end of Cedarburg.

In response to Council Member Glamm's suggestions, Amy Palec stated that the ad hoc Downtown Master Plan Committee would meet again to compile a job description, a menu of responsibilities for either a full-time or part-time position, and a list of salary ranges for the Common Council to consider.

Mayor Myers stated that the ad hoc Downtown Master Plan Committee presentation exceeded his expectations and he thanked them again for their hard work.

APPROVAL OF MINUTES

Motion made by Council Member Besaw, seconded by Council Member Loomis, to approve the minutes from the August 27, 2007 meeting. Motion carried without a negative vote with Council Members Reimer and Beck excused.

REPORTS OF BOARDS, COMMISSIONS & COMMITTEES

Council Member Besaw challenged each Council Member to recognize someone in their district for improvements to their home or business by nominating them for the Mayor's Community Enhancement Award before the September 14 deadline.

COMMENTS & SUGGESTIONS FROM CITIZENS

Ellen Kellen, N46 W5581 Spring Street, read an excerpt from the *Milwaukee Journal Sentinel* referring to a heroin ring case involving a Cedarburg man. She asked that the City move ahead with the K-9 unit to deal with any drugs in Cedarburg before it becomes a bigger problem.

CONSIDER PURCHASE OF K-9 DOG FOR POLICE DEPARTMENT

Police Chief Tom Frank provided an update on the K-9 unit, stating that a draft policy is in place to address the concerns of the Common Council and the officer compensation package is ready to be submitted to the union.

Council Member Loomis requested that the union be in agreement with the conditions of a K-9 unit before the Common Council takes a vote. He also expressed concern in regard to a current Supreme Court Case involving a K-9 and he asked that the policy include specific times and cases when the dog will be used and in what situations.

Police Chief Frank stated that the current policy is not that specific and he would need to meet with Attorney Stadler to refine the policy.

In answer to Council Member Besaw's question, Police Chief Frank stated the officers will use both written policy and training when introducing the K-9 during traffic stops.

Council Member Loomis requested that the policy include the times when it is acceptable to use the K-9, in an effort to protect the City.

Police Chief Frank stated that the Police Department has raised \$70,000 to-date to support the K-9 unit.

Council Member Loomis stated that Sheriff Maury Straub indicated to him that \$70,000 in community support was tremendous. Council Member Loomis stated that the Common Council may be ready to vote on the K-9 unit at the next Common Council meeting if the all the criteria is met beforehand.

CONSIDER PAINTING OF THE CEDARBURG COMMUNITY POOL

Director Hilvo stated that the pool was last painted three years ago and the paint has deteriorated in various spots around the Community Pool. If these areas are not painted, it can cause the concrete to decay and cause severe damage to the lining of the pool. He recommended that the painting take place this fall instead of spring at the advice of several pool companies that stated the paint will adhere better to the pool surface in the fall. In order to receive the best results, the paint requires at least seven days of close to 70 degree temperatures and sun. It is also recommended that the paint dry for at least two weeks prior to filling the pool with water and chemicals. Director Hilvo stated that these kinds of conditions are easier to get in September than in early May before the pool is filled.

Director Hilvo stated that the Town of Cedarburg denied a request to provide two Public Works Crewmembers to help with the project. As a result, Director Hilvo, Recreation Supervisor Friess, Superintendent Westphal and a DPW person will devote two full days to the project. The project will cost \$5,000 (\$3,600 or 72% to be paid by the City and \$1,400 or 28% to be paid by the Town of Cedarburg). The project would cost the City and Town approximately \$15,000 to have an outside company paint the pool.

Mayor Myers stated that it was irresponsible for the Town to take the position to not help with the upkeep of the Cedarburg Community Pool.

In response to Mayor Myers' inquiry, Director Hilvo stated that the Leisure Services Commission, which includes two Town members, unanimously recommended approval of the painting project at their August 9 meeting.

Council Member Loomis recommended that the pool be painted this fall.

Council Member Radtke commended Director Hilvo for doing the work and saving the City a considerable sum of money.

Motion made by Council Member Kinzel, seconded by Council Member Loomis, to paint the Cedarburg Community Pool and to include this cost in the final figures for the 2007 pool season; whereas, the Town is responsible for 28% of these costs per the Pool Agreement. Motion carried without a negative vote with Council Members Reimer and Beck excused.

CONSIDER REQUEST FROM TOWNE REALTY TO VACATE AND RELOCATE CERTAIN UTILITY EASEMENTS IN THE TOPVIEW TRAILS SUBDIVISION

Director Wiza stated that a request was made by Jim Doering of Towne Realty to vacate certain backyard utility easements shown on the TopView Trails Subdivision plat and relocate those easements to the front yards. This change has been discussed and approved by Cedarburg Light and Water. Director Wiza stated that the Engineering Department does not object to the easement revision as it will not impact yard drainage. The change affects a total of 11 lots in phase 2 of the subdivision.

In answer to Council Member Radtke's question, Director Wiza stated that the changes strictly involved cable moves and no sewer or water changes.

Motion made by Council Member Glamm, seconded by Council Member Kinzel, to approve a request from Towne Realty to vacate and relocate certain utility easements in the TopView Trails Subdivision as shown on Exhibits A and B. Motion carried without a negative vote with Council Members Reimer and Beck excused.

CONSIDER ENGINEERING PROPOSAL RECEIVED FROM AYRES ASSOCIATES TO EVALUATE REPAIR/REPLACEMENT OF CEDARBURG DAMS

Director Wiza stated that this item is being discussed in response to the recent DNR position that all dams must be brought into full compliance with NR 333 requirements, and staff's request for proposals to evaluate available options and potential costs associated with upgrades to the dams. Ayres Associates submitted a thorough proposal which addresses the issues raised by the DNR. Director Wiza stated that the proposal is very well done and is responsive to the City's request; however, the estimated \$66,000 cost to complete the study is not budgeted at this time. He stated that Council may want to include funding in the upcoming budget, or perhaps further challenge the DNR position on the dams.

Council Member Loomis stated that there is a fund balance of \$449,000 in the environmental reserve account that is intended for the Prochnow Landfill or other environmental issues.

Mayor Myers suggested talking to the DNR in 2008 and waiting to make a decision.

Director Wiza stated that updating the dams would not be a simple issue and it would change the historic appearance of the dams.

Council Member Glamm suggested adding the Ayres proposal to the unfunded list.

City Attorney Vance stated that it may be best to wait because the dam reconstruction may be part of the remediation efforts.

Director Wiza stated that the current dams would only meet a 10 year storm. The dams could not simply be widened or lowered to solve this problem. The dams would need to be rebuilt to withstand anything beyond a 10 year storm. The fact that no records are available on the building of the dams makes the situation more difficult because the City is unable to provide proof that the dams are structurally sound.

Mayor Myers objected to moving forward with any decisions regarding the dams at this point because the City has 10 years to comply with the DNR request.

It was the consensus of the Common Council to add this item to the unfunded list and to increase the amount allocated to the environmental fund for 2008.

CONSIDER BIDS RECEIVED FOR THE ANNUAL ASPHALT PAVEMENT MAINTENANCE PROGRAM

Director Wiza stated that staff advertised and received bids for the annual asphalt pavement maintenance contract to include parts or all of Portland Road, Hickory Street, Madison Avenue, Tower Avenue, the Hanover & Western Parking lot, and a salt shed pad. Only two bids were received for the work, with the low bid coming from Dodge Construction Company of Ixonia, WI in the amount of \$103,406.40. While Dodge Construction has not completed any recent projects for Cedarburg, their prequalification form shows that they have completed many similar projects for other municipalities. The project cost is within budget and staff recommends awarding the 2007 asphalt pavement repair contract to Dodge Construction Company, Inc. based on their low bid.

Motion made by Council Member Glamm, seconded by Council Member Besaw, to award the 2007 asphalt pavement repair contract to Dodge Construction Company, Inc. based on their low bid of \$103,406.40. Motion carried unanimously on a roll call vote with Council Members Reimer and Beck excused.

CONSIDER CLAIM AGAINST CITY BY CYNTHIA K. MUZZY

Motion made by Council Member Glamm, seconded by Council Member Loomis, to deny the claim against the City of Cedarburg by Cynthia K. Muzzy. Motion carried unanimously on a roll call vote with Council Members Reimer and Beck excused.

CONSIDER DESIGNATING SUNDAY, OCTOBER 28, 2007 FROM 4:00 P.M. TO 7:00 P.M. AS THE DATE AND TIME FOR TRICK-OR-TREAT

Motion made by Council Member Besaw, seconded by Council Member Kinzel, to designate Sunday, October 28, 2007 from 4:00 p.m. to 7:00 p.m. as the date and time for Trick-or-Treat. Motion carried without a negative vote with Council Members Reimer and Beck excused.

CITY ADMINISTRATOR'S REPORT

City Administrator/Treasurer Mertes stated the Council will receive the draft budget for 2008 on September 20, 2007.

COMMENTS & SUGGESTIONS BY CITIZENS - None

REPORTS & COMMENTS BY COUNCIL MEMBERS

Council Member Besaw commended and thanked the Council Members and individuals who had the foresight to plan the Interurban Trail because it is very enjoyable.

MAYOR'S REPORT - None

ADJOURNMENT – CLOSED SESSION

Motion made by Council Member Loomis, seconded by Council Member Glamm, to adjourn to closed session at 8:35 p.m., pursuant to Wisconsin State Statutes 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. Approval of closed session minutes of 8/27/07. Meeting did not reconvene into open session.

Amy D. Kletzien, CMC
Deputy City Clerk