

**CITY OF CEDARBURG
COMMONCOUNCIL
September 24, 2007**

CC20070924-1

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, September 24, 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, Robert Loomis

Excused - Council Members Sandra Beck and Kip Kinzel

Also Present - City Attorney Kaye Vance, City Administrator/Treasurer Christy Mertes, Director of Engineering and Public Works Tom Wiza, Light and Water General Manager Dale Lythjohan, City Clerk Constance McHugh, Assistant City Engineer Roger Ahles, Fire Chief Rich Van Dinter, Fire Inspector Rodger Rahn, John Meland representing SEWRPC, Jon Koch from Generations Consignment Interiors, 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.

INTRODUCTION OF ASSISTANT CITY ENGINEER ROGER AHLES

Director Wiza introduced new Assistant City Engineer Roger Ahles. Mayor Myers and the Council welcomed Mr. Ahles.

MAYOR'S APPOINTMENTS – None

APPROVAL OF MINUTES

Motion made by Council Member Loomis, seconded by Council Member Besaw, to approve the minutes of the September 10, 2007 meeting. Council Member Radtke made the following correction: page 3, third paragraph from the bottom should read: "Council Member Radtke stated that an Economic Development Coordinator should not strictly work on the downtown area but should also focus on other parts of the City as well as the south end of Cedarburg." Motion carried without a negative vote with Council Members Beck and Kinzel excused.

REPORTS OF BOARDS, COMMISSIONS, AND COMMITTEES

Council Member Radtke said that the ad hoc Downtown Master Plan Committee will meet on Tuesday, September 25, 2007 to discuss the details of an Economic Development Coordinator position. He said that it is possible the Committee will have a recommendation for the Council to consider at its October 8, 2007 meeting.

Council Member Loomis said that at the next Council meeting the landowners abutting Cedar Creek will be present, along with Architect Paul Rushing, to discuss the Cedar Creek Walkway and move the Council towards the next step in the project.

COMMENTS AND SUGGESTIONS FROM CITIZENS - None

CONSIDER REVOLVING LOAN FUND (RLF) LOAN FOR GENERATIONS CONSIGNMENT INTERIORS, LLC, W61 N517 WASHINGTON AVENUE

John Meland, Chief Economic Development Planner with SEWRPC, said that the ad hoc Revolving Loan Fund Committee met last week and recommended Council approval of a revolving loan fund (RLF) loan for Generations Consignment Interiors, LLC. This is a new business located at W61 N517 Washington Avenue. The retail furniture store will sell new furniture and furnishings as well as consignment furniture. The business is owned by four former employees of the Armin Koch Furniture Company in Whitefish Bay. The Company is requesting that the City provide a \$40,000 loan to finance working capital expenses. The RLF loan would be matched with \$50,000 in financing from James and Diane Koch, owners of Armin Koch Furniture, and \$10,000 in financing from the four owners. Armin Koch Furniture is also gifting office supplies and computer equipment to the business.

Council Member Loomis said that the Revolving Loan Fund Committee voted unanimously to approve the loan because it is a good example of what the Committee should be approving. He said that the Committee is thrilled that this business located in Cedarburg.

Jon Koch, co-owner of the business, said that his family business in Whitefish Bay is closing. The four partners of this business are former employees of Armin Koch Furniture. He said that the owners' philosophy is to sell new and old furniture and furnishings under one roof. He said that 60% of the inventory will be consignment and 40% will be new and will include such items as upholstery, furnishings, window treatments, and rugs. Mr. Koch said that the store opened on September 16, 2007. He said the reception has been incredible and the support from the community has been tremendous.

Motion made by Council Member Loomis to approve the RLF loan for Generations Consignment Interiors, LLC subject to the following contingencies:

- That a \$40,000 RLF loan is provided to Generations Consignment Interiors, LLC. The Loan would be used to finance working capital expenses.
- That James and Diane Koch provide financing in the amount of at least \$50,000 for working capital expenses.

- That Jonathan Koch, Theodore Meils, Laurie Nitz, and Jennifer Siefert provide financing in the amount of at least \$10,000 for working capital expenses.
- That the RLF loan is provided with a term of seven years and an interest rate of 4%. Payments would be amortized over a 78-month period. Principal payments would be deferred for six months, with interest-only payments during the deferral period.
- That employee compensation, owners' compensation, and distributions to the owners shall be limited to \$35,000 annually unless the Company delivers evidence satisfactory to the City that cash flow from operations, after deducting all expenses and obligations including compensation or distributions to be paid, is positive.
- That the RLF loan is secured with a first lien on the Company's inventory and equipment; a second mortgage on rental property owned by Jonathan Koch at 2773 S. 43rd Street, Milwaukee; and the unlimited personal guarantees of Jonathan Koch, Theodore Meils, Laurie Nitz, and Jennifer Siefert.
- That the Company creates a minimum of two full-time equivalent jobs within the first 24 months of the loan term that are recruited through the Ozaukee County Workforce Development Center.
- That the Company obtains an occupancy permit from the City prior to initiating operations.
- That the Company provides to the City, or its designee, quarterly financial statements that are certified by the borrower, annual financial statements that are compiled by a certified public account, and signed copies of the Company's Federal income tax return.

The motion was seconded by Council Member Radtke.

Council Member Radtke said that approval of this loan is great for the RLF program.

Council Member Besaw said that she has received calls regarding this store and people are very excited about it.

In response to a question from Council Member Besaw regarding the interest rate of the loan, Mr. Meland said that the interest rate is 4%.

Motion carried unanimously on a roll call vote with Council Members Beck and Kinzel excused.

Mr. Koch thanked the Council for their support.

Mayor Myers and the Council extended best wishes to Mr. Koch.

CONSIDER QUOTE FROM NORTHERN METAL & ROOFING COMPANY, INC. FOR ROOF REPAIRS AT THE FIRE STATION

Fire Chief Van Dinter said that roof repairs are needed at the Fire Station based on a recent inspection. The estimated cost to do the repairs is \$4,780.

Motion made by Council Member Loomis, seconded by Council Member Glamm, to accept the quote of Northern Metal & Roofing Company, Inc. in the amount of \$4,780 for roof repairs at the Fire Station. Motion carried unanimously on a roll call vote with Council Members Beck and Kinzel excused.

CONSIDER RESOLUTION 2007-32 TRANSFERRING FUNDS FROM THE GENERAL FUND – FUND BALANCE TO THE FIRE DEPARTMENT CAPITAL OUTLAY ACCOUNT FOR ROOF REPAIRS AT THE FIRE STATION

Motion made by Council Member Glamm, seconded by Council Member Besaw, to adopt Resolution 2007-32 transferring funds from the General Fund – Fund Balance to the Fire Department Capital Outlay account for roof repairs at the Fire Station. Motion carried unanimously on a roll call vote with Council Members Beck and Kinzel excused.

CONSIDER CHANGE IN POSTED SPEED LIMIT ON WASHINGTON AVENUE TO 35 MPH FROM POPLAR AVENUE TO NORTH CITY LIMITS

Director Wiza said that per the City Code, the speed limit on N. Washington Avenue to the north city limits is set at 35 mph; however, when the Baehmann property was annexed several years ago the municipal boundary moved but the posted speed limit was not changed. The present posted speed limit is 45 mph. The State Department of Transportation (DOT) is recommending that the speed limit on Washington Avenue from Poplar Avenue to Hwy 60 be set at 35 mph. Staff recommends that the ordinance be followed and the City coordinate with the DOT to reduce the speed limit on N. Washington Avenue to 35 mph from Poplar Avenue to Hwy 60.

Motion made by Council Member Loomis, seconded by Council Member Reimer, that the speed limit on N. Washington Avenue from Poplar Avenue to the north City limits be set and posted at 35 mph. Motion carried without a negative vote with Council Members Beck and Kinzel excused.

CONSIDER AMENDING POLICY CC-4 RE: WORKERS' COMPENSATION

Motion made by Council Member Glamm, seconded by Council Member Besaw, to approve the amended Policy CC-4 re: Workers' Compensation. The amended policy changes the title City Administrator to City Administrator/Treasurer and includes an updated form to report an injury or disease. Motion carried without a negative vote with Council Members Beck and Kinzel excused.

CONSIDER RESOLUTION 2007-33 SUPPORTING AB 506 RELATING TO STATE SCHOOL AIDS AND SHARED REVENUE

Motion made by Council Member Loomis, seconded by Council Member Glamm, to adopt Resolution 2007-33 supporting Assembly Bill 506 Relating to State School Aids and Shared Revenue, with the date as to when similar legislation should be passed by the Senate changed from September 30, 2007 to September 28, 2007. Motion carried without a negative vote with Council Members Beck and Kinzel excused.

DISCUSSION OF RMT REPORT REGARDING THE PROCHNOW LANDFILL

Director Wiza said that a test well was drilled on June 18, 2007 at the south end of Montgomery Avenue for the purpose of testing for vinyl chloride. At that time no vinyl chloride was found. A proper sampling of the well was again done on July 18, 2007. Results indicated there is vinyl chloride in the well. Not expecting that result, the well was tested again on September 4, 2007. At that time the measurements were slightly above the DNR action limits. The action levels are very low at .2 micrograms per liter. The results of the sampling indicated a level of .21 micrograms per

liter. Director Wiza said that this indicates that there is vinyl chloride in the groundwater and the source is coming from the Prochnow Landfill. He said that it is a concern that the contamination has moved this far. He said that is not good news for any of the responsible parties. It means the plume has spread out more than anticipated. He said the City will have to look to the consultant, RMT, and the DNR as to where to go from here. He said that it is good thing that people in this area are on municipal water.

Council Member Loomis asked what the implications are for the City and Well #4 because of this.

Director Wiza said that residents get blended water from all the wells in the City. He said that Well #4 is tested quarterly and there has never been any trace of vinyl chloride. He said that this is something that will continue to be monitored. If any kind of a trace amount would show up in Well #4, Light and Water would probably consider more frequent testing of the well. He said that traces of vinyl chloride at the Montgomery Well leaves less certainty as to what is happening in this area. If this well were reduced in capacity or shut down, it would be a big loss to the City.

Council Member Loomis asked what the implications of drilling more wells at the 5 Corners area may be on the plume.

Director Wiza said that there are no absolute certainties with groundwater. The directional flow in the area has always been assumed to be to the south and to the east. However, if a well or series of wells were created on the north side of the Prochnow Landfill, it is certainly plausible that the flow of groundwater could be reversed or contamination could be drawn into the corner depression. No one can say for certain that this would or would not happen.

Council Member Loomis said that it is ironic that drilling of wells in the 5 Corners area by the Town may in fact improve the situation in the City but the Town may end up with the pollution.

Director Wiza said that there is no DNR requirement that the wells in the 5 Corners area continue to be tested. He said that this is a significant issue because the level of vinyl chloride that was found was above the DNR action level.

Council Member Reimer asked if the City can operate without Well #4.

Director Wiza said that this well is not a large producer but this is something that Light and Water General Manager Lythjohan would have to comment on. During high demand times the City can use all the water it can get.

Director Wiza said that he will find out what RMT recommends as the next step.

OVERVIEW OF THE 2008 BUDGET

A draft of the proposed 2008 budget was distributed to Council Members on September 20, 2007.

City Administrator/Treasurer Mertes said that the proposed budget includes a 0% increase in the assessed tax rate, as directed by the Council. A few unknown factors in the budget include:

- Salaries and benefits may change due to union negotiations;

- A change to the Light & Water health insurance plan with a health savings account could result in a 23.78% decrease in health insurance premiums;
- The Transportation Aids estimate will not be received until September 30, 2007; it is currently estimated to decrease by \$6,590 or 1.2%;
- Cable franchise fees are uncertain due to pending legislation; the proposed budget includes the same amount as 2007; and
- There could be possible additional revenue from new antennas on the water tower.

City Administrator/Treasurer Mertes said that there is an additional \$134,091 in the levy available to stay within the proposed State levy limit. For every \$11,281 added to the levy, the tax rate increases .01/\$1,000 of assessed value.

In order to achieve the 0% increase in the assessed tax rate the proposed budget includes the following:

- \$50,000 use of the General Fund – fund balance to fund the Contingency Reserve Account;
- \$3,580 use of the General Fund – fund balance for one time County charges for SVRS and poll lists;
- 11.42% increase in electric rates;
- 8.43% increase in water rates;
- 3% salary increase included;
- Health insurance 14.1% increase budgeted; with \$25 increase in employee family and \$10 increase in employee single health insurance premium monthly contribution;
- Workers' compensation modification factor improved from 1.32 in 2007 to 1.19 in 2008;
- Unfunded list totals \$188,132; net of proposed revenue changes and expenditure reductions;
- Debt Service - \$107,172 use of the fund balance; impact fees and interest earnings, to fund 2008 debt payments;
- Capital Improvement – Transfer to Debt Service \$112,800 from Library Impact Fees (reserved fund balance) to fund Library debt service payments in 2008. Library debt service in 2008 is \$184,892. Not including interest or impact fees received in 2008, the reserved fund balance from library impact fees will be approximately \$66,600 at the end of 2008;
- Borrowing - \$300,000 for street projects and \$4,950,000 for Library building project; and
- Sewer – proposing no increase in rates for 2008.

The tax rate in the proposed budget is \$6.34 per \$1,000 assessed value, the same rate as last year.

Council Member Loomis said that City Administrator/Treasurer Mertes did a great job at putting the budget together. He said that a lot depends on labor negotiations.

City Administrator/Treasurer Mertes said that a special meeting will be held on October 22, 2007 for budget presentations by Department Heads.

CONTINUED DISCUSSION OF RMT REPORT REGARDING THE PROCHNOW LANDFILL

Light and Water General Manager Lythjohan arrived at this time to further update the Council on the RMT report regarding the Prochnow Landfill.

General Manager Lythjohan said that the well testing results are relatively significant, especially from the standpoint that no vinyl chloride was expected to be found. He said that Well #4 is immediately adjacent to the well south of Montgomery Avenue. He said that Well #4 is tested quarterly. No vinyl chloride has been found. The well will continue to be tested quarterly and if there is evidence of vinyl chloride, he will communicate this to the Council immediately. He said that what concerns him the most is whether the contamination has spread in other directions and what happens next.

General Manager Lythjohan said that he will continue to monitor the situation, and, although it is not an immediate threat to the water system, it is still a concern.

Council Member Loomis asked what the impact of drilling wells in the 5 Corners area will have on this and whether the plume could be drawn north.

General Manager Lythjohan said that this is conceivable. Additional pumping on the north end could draw chemicals in that direction. He said that no one knows the extent the plume travels except to the southeast. He said that it may be necessary to more definitely determine the extent of the plume.

LICENSE APPLICATIONS

Motion made by Council Member Glamm, seconded by Council Member Besaw, to authorize issuance of a renewal Operator's License for the period ending June 30, 2008 to: David B. Meyers. Motion carried without a negative vote with Council Members Beck and Kinzel excused.

CITY ADMINISTRATOR'S REPORT

City Administrator/Treasurer Mertes said that the pool will be painted on Wednesday. Volunteers from the City and Town will assist staff with the painting.

Council Member Loomis said that he had a good time at Wine and Harvest Festival.

Council Member Reimer said that Wine and Harvest Festival was a good experience and he had a great time.

Council Member Besaw said that she received a lot of positive feedback from residents regarding Wine and Harvest Festival, including feedback from some residents who were originally opposed to closing off streets.

COMMENTS AND SUGGESTIONS FROM CITIZENS - None

REPORTS & COMMENTS BY COUNCIL MEMBERS - None

MAYOR'S REPORT

Mayor Myers asked City Administrator/Treasurer Mertes to outline the Council meetings in October.

City Administrator/Treasurer Mertes said that the regular Council meetings will be held on October 8, 2007 and October 29, 2007. A special Council meeting will be held on October 22, 2007 for the purpose of budget discussions and Department Head budget presentations.

ADJOURNMENT- CLOSED SESSION

Motion made by Council Member Besaw, seconded by Council Member Radtke, to adjourn into closed session at 7:47 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 9/10/07. Motion carried without a negative vote with Council Members Beck and Kinzel excused. Meeting did not reconvene into open session.

Constance K. McHugh, CMC
City Clerk