

**CITY OF CEDARBURG
COMMON COUNCIL
June 29, 2009**

CC20090629-1

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, June 29, 2009 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 Myers, Council Members Chris Reimer, Ron Reimer, Michael Maher, Kip Kinzel, Robert Loomis

Excused - Council Members Art Filter and Paul Radtke

Also Present - City Attorney Kaye Vance, City Administrator/Treasurer Christy Mertes, Light and Water General Manager Dale Lythjohan, City Clerk Constance McHugh, Assistant City Engineer Roger Ahles, Public Works Superintendent Jeff Boerner, Lasata Care Center Director Ralph Luedtke, Steven Banas of the August Weber Haus, Todd Schneeberger of the Silver Creek BrewPub, 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 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, COMMITTEES, AND COMMISSIONS

No appointments were made at this time.

2008 LIGHT & WATER REPORT

Light and Water General Manager Dale Lythjohan presented a summary report of the Light and Water Utility for 2008. The following facts were presented:

Electric Highlights

- Electrical revenues in 2008 were \$10,756,127, an increase of \$680,188
- Purchased power was \$7,810,655, an increase of \$557,324
- The net change in revenues (revenue less purchased power) was \$122,864
- Operating expenses were \$1,185,176, a decrease of \$58,889
- Depreciation expenses were \$613,965, an increase of \$51,000
- Taxes were \$362,564, an increase of \$11,373
- Operating income was \$750,468, an increase of \$86,081
- The last electrical rate adjustment was effective February 2008

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- The amount of electric KWHs purchased in 2009 is projected to be less than that purchased in 1995, mainly due to the loss of Amcast and International Paper and overall conservation efforts

Water Highlights

- Water revenues in 2008 were \$1,541,329, an increase of \$35,486
- Operating expenses were \$770,172, an increase of \$88,821
- Depreciation expenses were \$195,114, an increase of \$9,503
- Taxes were \$251,418, an increase of \$19,408
- Operating income was \$324,625, a decrease of \$82,246
- Water rates became effective January 2009
- The amount of gallons of water pumped is expected to be less than pumped in 1995, again due to the loss of Amcast and International Paper and overall conservation efforts by customers

Additional Highlights

- Added infrastructure in 2008 was \$1,173,068 (electric) and \$503,740 (water)
- Total net plant value end of year 2008 was \$20,276,371 (electric) and \$15,411,572 (water)
- Phase II and Phase III of the Distribution Automation Project affecting areas in the northwest and southeast corners of the City were completed
- Over 7 miles of fiber optic cable was installed jointly with the School District, connecting all Light and Water facilities
- Over 50 poles and 5,000 feet of underground cable and 3,000 feet of watermain were replaced to maintain and enhance reliability
- The average customer paid 12% less for electricity in 2008 compared to other areas in Ozaukee County
- It is conservatively estimated that customers in Cedarburg saved in excess of \$2,000,000 in 2008 compared to communities elsewhere in Ozaukee County
- Water rates remain “middle of the pack” compared to water utilities throughout southeastern Wisconsin

2009 and Beyond

- A 7-year Electric Rebuild Plan for the southeast corner of the City is being planned
- A modest garage addition, covered storage and roof replacement is planned
- There is an ongoing commitment to proactively replace any aging infrastructure while managing declining sales and increasing costs
- Electrical wholesale increases of 5-9% per year are expected for the next four to five years
- The Commission has decided not to seek rate increases at this time but to consider this in June 2010
- The only effective way to address costs is to reduce consumption. Cedarburg Light and Water has a commitment to the community and now is a member of Focus on Energy. The Utility tries to lead by example and has an increased emphasis on conservation and renewable energy. The Commission will be pursuing a 0% loan for City/Light and Water energy efficient projects.
- A solar panel and wind turbine project will be examined with the Cedarburg School District

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Council Member Loomis said that although water and electrical consumption continues to decrease the Utility still must pay certain fixed costs. This is difficult to do without rate increases, but the right thing to do in difficult economic times.

Council Member C. Reimer said that he had the opportunity to serve on the Light and Water Commission and is impressed with the Utility and what it does. He said the Utility is a good steward of the taxpayer's money.

APPROVAL OF MINUTES

Motion made by Council Member R. Reimer, seconded by Council Member Kinzel, to approve the minutes of the June 8, 2009 meeting. Motion carried without a negative vote with Council Members Filter and Radtke excused.

REPORTS OF BOARDS, COMMISSIONS, AND COMMITTEES - None

COMMENTS AND SUGGESTIONS FROM CITIZENS - None

CONSIDER APPROVAL OF DEVELOPER'S AGREEMENT FOR THE LASATA CROSSINGS RCAC FACILITY

Motion made by Council Member Loomis, seconded by Council Member C. Reimer, to approve the Developer's Agreement for the Lasata Crossings RCAC facility. Motion carried without a negative vote with Council Members Filter and Radtke excused.

CONSIDER BIDS RECEIVED FOR THE 2009 ASPHALT PAVEMENT REPAIR PROJECT

Motion made by Council Member R. Reimer, seconded by Council Member Loomis, to award the contract for 2009 Asphalt Pavement Repair project to Payne and Dolan, Inc. in the amount of \$79,714. Motion carried on a roll call vote with Council Members Filter and Radtke excused.

CONSIDER ORDINANCE 2009-07 AMENDING SECTION 10-1-30 OF THE CODE OF ORDINANCES TO ADDRESS PARKING OF UTILITY TRAILERS ON CITY STREETS

Motion made by Council Member R. Reimer, seconded by Council Member C. Reimer, to adopt Ordinance 2009-07 amending section 10-1-30 of the Code of Ordinances to address parking of utility trailers and vehicles on City streets. Motion carried without a negative vote with Council Members Filter and Radtke excused.

CONSIDER CREATING POLICY PW-10 REGARDING FLOOD RESPONSE AND SANDBAGGING

Motion made by Council Member R. Reimer, seconded by Council Member Loomis, to adopt Policy PW-10 regarding flood response and sandbagging. Motion carried without a negative vote with Council Members Filter and Radtke excused.

CONSIDER REQUEST OF SILVER CREEK BREWING COMPANY TO AMEND THE PREMISE DESCRIPTION OF ITS ALCOHOL LICENSE TO SERVE ALCOHOL UNDER A TENT ON EITHER SIDE OF THE DRIVEWAY/PARKING AREA OR ON THE FLAT AREA BY THE SIDEWALK TOWARDS THE PARK FOR AN EVENT TO BE HELD ON AUGUST 7, 2009

The owners of Silver Creek BrewPub are seeking permission to amend the premise description of their alcohol license to serve and sell beverages outside for an event to be held on August 7, 2009.

Council Member Kinzel asked if music would be played outside.

Todd Schneeberger of Silver Creek Brewing said that no music will be played outdoors. This is a request to be able to serve beverages outdoors for a rehearsal dinner.

Motion made by Council Member Kinzel, seconded by Council Member C. Reimer, to approve the request to amend the premise description of the Silver Creek BrewPub to serve alcohol outside on either side of the driveway/parking lot or on the flat area by the sidewalk towards the park for a rehearsal dinner to be held on August 7, 2009. Motion carried without a negative vote with Council Members Filter and Radtke excused.

CONSIDER RESOLUTION 2009-09 CREATING A COMPLETE COUNT COMMITTEE FOR THE 2010 CENSUS

Motion made by Council Member Loomis, seconded by Council Member R. Reimer, to adopt Resolution 2009-09 creating a Complete Count Committee for the 2010 Census. Motion carried without a negative vote with Council Members Filter and Radtke excused.

DISCUSS AND APPROVE PRELIMINARY BUDGET PARAMETERS, INCLUDING OPERATING EXPENDITURES AND/OR TAX LEVY, GROWTH TARGETS FOR DEVELOPMENT OF THE PROPOSED 2010 BUDGET

City Administrator/Treasurer Mertes said that typically the Council establishes budget parameters every year. The goal for the past several years has been no increase in the assessed tax rate.

Council Member Loomis said that this is a reasonable goal in these difficult economic times, realizing that difficult decisions will need to be made.

Motion made by Council Member Loomis, seconded by Council Member C. Reimer, to set the budget parameters to be a zero percent increase in the assessed tax rate as a target, and that staff develop cost savings options for the Council to consider and possibly for the Personnel Committee to consider as well. Motion carried without a negative vote with Council Members Filter and Radtke excused.

PRESENT STRATEGIC PLAN

City Administrator/Treasurer Mertes said that no action is required on the Strategic Work Plan at this time. The plan is currently being revised to add project status and cost projections. She

suggested that Council Members review the work plan and provide comments or suggestions to her. She said that the plan will be distributed with the budget in September and will be addressed during the department presentations in October.

UPDATE ON PREVAILING WAGE ISSUE AND PROPOSED LEGISLATION

Attorney Vance said that action was filed against Cedarburg and several other communities for failure to pay the prevailing wage for private construction projects. The lawsuit was held in suspension pending legislation that was signed today by the Governor. The lawsuit will likely be dismissed because of the legislation.

Attorney Vance stated that when the City enters into a developer's agreement in the future with a private developer the prevailing wage must be paid for any roads, streets, sanitary sewers, bridges, or water main projects \$25,000 or more in total cost. This does not include maintenance work. Storm sewer facilities, bike and pedestrian paths, and park facilities projects are exempt. Attorney Vance said that it is the responsibility of the developer to keep records, not the City. She said that she doesn't think the new legislation, which becomes effective January 2010, will have a significant impact on the City.

LICENSE APPLICATIONS

Motion made by Council Member Kinzel, seconded by Council Member Loomis, to authorize issuance of the following renewal Operator's licenses for the period ending June 30, 2010:

Joseph P. Willbrandt	James M. Salp
Patrick D. Yunke	Sara M. Hanschke
John A. Lutz	Matt R. Stein
Diane M. Schneeberger	Todd R. Schneeberger
Darcie R. Stib	Brett T. Schemenauer
Michelle L. Taylor	William R. Poull
Daniel W. Kropidlowski	Nathan E. Ford
Jason U. Collins	Bryan E. Taylor
Joel D. Telschow	Stephan L. Venturini
Marcene L. Jacobs	Jeanne M. Venturini
John B. Mollan	Bradley F. Diamond
Shar M. Pokora	Robert J. Nieman
Shelby J. Gerth	Bethany S. Dykstra
James A. Lee	Robert J. Flom
Jacqueline A. Jones	Mark Roberts
Paul D. Jones	Suzanne V. Ernst
Judi K. Even	Caryl Giuliani
Charles Kison	Thomas E. Frank
Dennis R. Kison	Terry Kison
Lisa Kison	William Gertsch
Steven K. Stauske	Jeff M. Theisen
Pamela M. Leppla	Courtney M. Wendorf
Roy C. Oberheu	David B. Myers

Gerald J. Henning
Richard L. Carlson
Patrick R. Riley
Deborah R. Segebrecht
Kenneth P. Albinger

Bonnie C. Prah
Frieda C. Carlson
Gerald E. Walker
Claudia A. Conner

and to authorize issuance of the following new Operator's License for period ending June 30, 2010:

Adam M. Heitzkey

Motion carried without a negative vote with Council Members Filter and Radtke excused.

APPLICATIONS FROM SILVER CREEK BREWPUB LLC AND STEVEN BANAS OF THE AUGUST WEBER HAUS FOR "CLASS B" (ON-PREMISE) LIQUOR LICENSE

City Clerk McHugh said she received a letter from the owners of Roux Brothers stating that the restaurant was closing at the end of March and the owners would not be renewing the Class "B" beer and "Class B" liquor licenses, which expires on June 30, 2009. Two applicants have applied for the "Class B" liquor license: Steven Banas of the August Weber Haus and Silver Creek BrewPub. Silver Creek has been on a waiting list for several years should a license of this type become available. This is the first year the August Weber Haus has made application.

City Clerk McHugh said that after she did extensive research on how the City's quota of liquor licenses was established and how the number of "Class B" liquor licenses available and issued relates to the 1997 change in the quota system, she determined that the City was able to grant an additional "Reserve" "Class B" liquor license in 2001 when the City's population increased by a full 500 persons. This was confirmed by Roger Johnson at the State Department of Revenue and City Attorney Vance.

This means that the Council, if it chooses, has two "Class B" liquor licenses available that can be issued; however, one of two licenses is a "Reserve" license subject to the \$10,000 issuance fee established by the State. Per the City Code, the Council may issue a grant for some or all of the \$10,000 if certain conditions are met. The \$10,000 issuance fee is in addition to the \$500 annual fee for a "Class B" liquor license.

Mayors Myers said he thinks the available licenses should be issued to the two applicants. Both businesses have served the community well.

Council Member R. Reimer suggested the regular license be issued to Silver Creek BrewPub because they were the first to apply for the license and have been on the waiting list the longest.

Motion made by Council Member Loomis, seconded by Council Member C. Reimer, to grant a "Class B" liquor license to Silver Creek BrewPub LLC and to grant the "Reserve" "Class B" liquor license to Steven Banas of the August Weber Haus, refunding all of the \$10,000 issuance fee per Sec. 7-2-5 (b)(9) of the City Code. Motion carried without a negative vote with Council Members Filter and Radtke excused.

CITY ADMINISTRATOR'S REPORT

City Administrator/Treasurer Mertes said that she will be absent from the July 27 Council meeting because she will be in Green Bay attending the Administrator's Academy.

COMMENTS AND SUGGESTIONS BY CITIZENS - None

REPORTS AND COMMENTS BY COUNCIL MEMBERS

Council Member C. Reimer said the Council approved a change in the premise description of the Cedarburg Family Restaurant to be able to sell and serve alcohol outside under a tent during festivals. He had the opportunity to view the tent at Strawberry Festival on Saturday and found no adverse effects from allowing this.

Council Member Loomis reminded the Council of a presentation by Ozaukee County that will be held on June 30 at 6:00 p.m. regarding the new multi-use building that is being planned at the Fairgrounds. He encouraged Council Members to attend if they are interested. A similar session was held on June 27.

Council Member R. Reimer said that he would like to see more toilet facilities for women at Summer Sounds and the Festivals.

Mayor Myers said that Summer Sounds has a difficult time raising funds for the concerts and anything that has to be spent on toilet facilities would take away from other things.

MAYOR'S REPORT

Mayor Myers said he received a letter from the owners of Landmark Supply Company who have asked to be included in the footprint of the Festivals and were told by the Festival Committee that they could not be in the footprint and could not do a dog food demo or anything to promote bringing pets to the festivals. He asked Attorney Vance to check the City's ordinance regarding the festival permits.

Mayor Myers said that a bank robbery occurred in Cedarburg today. A suspicious device turned out not to be a bomb. The Police Department is looking for a person of interest.

Mayor Myers said that the City has not heard back from the Town of Cedarburg regarding the City's proposal for a boundary agreement.

Mayor Myers issued proclamations recognizing July 2009 as Myasthenia Gravis Awareness Month and recognizing Kelsey Hughes as the winner of the City budget cover design contest for 2009 and 2010.

ADJOURNMENT- CLOSED SESSION

Motion made by Council Member Loomis, seconded by Council Member Kinzel, to adjourn to closed session at 8:05 p.m. pursuant to Wisconsin 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, specifically the Walnut Street property. Approval of closed session minutes of 06/08/09. Motion carried without a negative vote with Council Members Filter and Radtke excused.

ADJOURNMENT

Motion made by Council Member C. Reimer, seconded by Council Member Loomis, to adjourn at 8:20 p.m. Motion carried without a negative vote with Council Members Filter and Radtke excused. The meeting did not reconvene to open session.

Constance K. McHugh, MMC
City Clerk