

**CITY OF CEDARBURG
COMMON COUNCIL
August 24, 2009**

CC20090824-1

A special meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, August 24, 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, Art Filter, Paul Radtke (arrived at 7:46 p.m.), Michael Maher, Kip Kinzel, Robert Loomis

Also Present - City Attorney Kaye Vance, City Administrator/Treasurer Christy Mertes, Director of Engineering and Public Works Tom Wiza, City Planner Jon Censky, Light & Water General Manager Dale Lythjohan, Library Director Mary Marquardt, Parks and Recreation Director Mikko Hilvo, Senior Center Director Carol LaFontaine, City Clerk Constance McHugh, Library Board President Sue Karlman, Town Management Assistant for Parks and Planning Eric Ryer, 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.

ADJOURNMENT – CLOSED SESSION

Motion by Council Member C. Reimer, seconded by Council Member R. Reimer, to adjourn to closed session at 7:02 p.m. pursuant to State Statutes 19.85(1)(g) to confer with legal counsel for the governmental body 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. Motion carried without a negative vote with Council Member Radtke excused. The meeting reconvened into open session at 8:15 p.m.

ISSUES RELATED TO THE TOWN OF CEDARBURG AND RESPONSE TO TOWN LETTER DATED AUGUST 20, 2009

City Administrator/Treasurer Mertes said the current formula for the shared service agreement is based on use, equalized value, and population. In the City's counter proposal to the Town, the City suggested the formula be based on use only. Using a use only formula, the City would lose \$35,378 in revenue in 2010. This would apply to recreation, senior center, and library services. The shared services agreement for these services expires on December 31, 2009. The total cost to the City without a shared services agreement would be \$179,859.

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City Administrator/Treasurer Mertes said doubling or tripling non-resident fees would increase revenue but would result in a loss in participation, which in turn would result in a loss in overall revenue.

Director Hilvo said the Recreation Department will lose money if fees are raised. Some people will not pay the higher fees. In addition, the City of Cedarburg already has higher fees than surrounding communities. He said there would be a decrease in participation if there is an increase in fees. He anticipates a 50% decrease in participation if fees are doubled and a 75% decrease in participation if fees are tripled.

In terms of the Senior Center, City Administrator/Treasurer Mertes said increasing the fee of \$5 per year for newsletters to \$8 per year would generate \$375 yearly. Charging for the Foot Clinic would generate revenue of \$500 annually. She stated that if the City raises Senior Center fees, seniors will go elsewhere.

Director LaFontaine said Cedarburg has the lowest budget of all senior centers in Ozaukee County and returns 95% of the non-personnel budget. Unlike Cedarburg, most senior centers are not required to make a profit. If programs are priced above those at other senior centers, either seniors will not participate or will go elsewhere.

Council Member Loomis said he would like to discuss the impact on the City if the Council decides not to make up for the loss of the Town's contributions. Under the use only formula, the City would receive approximately \$206,000 from the Town in 2010 for the library. If the Town elects to pay the County library tax to Ozaukee County rather than to the City, the City would lose an additional \$82,000. He asked Library Director Marquardt how she would handle a \$82,000 cut.

Director Marquardt said the Library Board has not discussed this; however, other libraries in the area have cut publication budgets, cut hours, not replaced employees, and furloughed staff.

Council Member Loomis asked Director Hilvo how he would make up for a \$58,000 loss in the Parks and Recreation budget.

Director Hilvo said it would be difficult to make up this loss by increasing revenues. He said there would have to be cuts in programming and personnel.

Director LaFontaine said there would be no way to offer the current programs at the Senior Center if there is a loss of \$12,000 in the budget. She said hours and programs would have to be cut.

Council Member Radtke said it only makes sense for the Town to pay the library tax to the City, not the County. He said the cost will be the same to Town residents.

Council Member C. Reimer said he does not have an inherent problem with agreeing to a permanent boundary agreement with the Town and adopting a resolution to this effect; however, he does not want to do this without a guarantee that the Town will agree to the other issues in the City's counter proposal of June 8, 2009.

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Mayor Myers said the last letter from the City to the Town dated August 11, 2009 stated the City would consider a permanent boundary agreement with the Town but the City would like the Town's responses to the other items in the counter proposal dated June 8, 2009. What the City got instead was a letter asking the Council to agree to a permanent boundary agreement and to formally adopt a resolution and then the Town would talk to the City. He said the Council must decide whether it will accept that proposal or if the Council should reply in some other manner.

Council Member Loomis said that he has a problem doing this independent of the other issues. He is in favor of offering a permanent boundary agreement and suggested the City should respond to the Town stating that it is in agreement with adopting a resolution as set forth in Section 66.0307 of State Statutes, and as part of this, the City would attach conditions. The conditions would be many of same provisions as stated in the City's counter proposal dated June 8, without the shared services provisions, which could be handled separately.

Mayor Myers said he does not want to see the shared services aspect separated out. The Council just received a report as to how significant the loss would be if the Town does not participate in shared services.

Council Member Loomis said shared services stands on its own. Perhaps the terms should be reduced to one year to get an agreement.

Mayor Myers said he cannot agree to a permanent boundary agreement with a year to year shared services agreement. He said that shared services are very important to the community.

Council Member Filter said that a year to year agreement means negotiations must take place every year, and this generally doesn't work.

Council Member Loomis said that it may make sense to put forth a shared services agreement now.

Council Member Kinzel said he is not in favor of a permanent boundary agreement because it takes away the rights of property owners. He said he never likes to see restricting someone's ability to do what they want with their property.

Council Member R. Reimer said that if something cannot be done, the Council must continue by thinking of the services as "City" services rather than "Cedarburg" services. They must be reconsidered budgetarily.

Council Member Radtke said he thought the Council made it very clear at the last meeting that the Council wants the whole package, wants to know the response to all other issues, and would like to know what the City will get as a complete deal, rather than just vote on one item.

Mayor Myers said the Council made a concession at the last meeting by offering a permanent boundary agreement; however, this was mischaracterized in the press by a Town representative.

Motion made by Council Member Loomis that the Council agrees to a resolution for the preparation of a Cooperative Plan with the Town of Cedarburg under Section 66.0307 of Wisconsin Statutes

and that the resolution includes the contingency of reaching agreement in the areas addressed in the City's counter proposal of June 8, 2009. The motion was seconded by Council Member C. Reimer.

Council Member Radtke said he wants to make sure the Council looks at this as a whole again to make sure it is in the best interest of all Cedarburg because the language has changed and originally a permanent boundary agreement was not part of the deal.

Council Member Filter said the City will get nothing back from this, not even a counter proposal. This is foolishness.

Council Member Radtke said he wants to make it very clear that the Council is saying it is in favor of permanent boundary agreement only if all other issues are agreed to by the Town, but this is not a done deal. The last counter proposal did not include a permanent boundary agreement.

Council Member Maher asked if the Council has the opportunity to back out at some point in the process.

Attorney Vance confirmed that the Council can back out prior to the plan being finalized.

Council Member Maher said knowing this the Council should start the process of a permanent boundary agreement. He said that this will bring negotiations back and keep the negotiation process moving.

Council Member Radtke said it may not look good to back out at a later point.

Council Member R. Reimer asked if the Council can pull out unilaterally without challenge.

Attorney Vance said that the Council can back out up until the point the cooperative plan is before the Department of Administration for approval.

Council Member Radtke said he wants to make sure the Council does not have to start the permanent boundary agreement process until everything else is worked out and agreed upon.

Attorney Vance said that a resolution would basically be an agreement to agree to a permanent boundary agreement if all other issues are agreed upon.

The motion carried with Council Members C. Reimer, R. Reimer, Radtke, Maher, and Loomis voting aye and Council Members Filter and Kinzel voting nay.

Council Member Loomis suggested that negotiations begin on a shared services agreement.

Mayor Myers said that the Town must respond to the City's counter proposal, which shared services is a part of. He said that either the Town is interested in discussing this or it is not. He said it will be a hardship to the Cedarburg community if the Town does not participate in a shared services agreement.

ADJOURNMENT

Motion made by Council Member Filter, seconded by Council Member Radtke, to adjourn at 9:15 p.m. Motion carried without a negative vote.

Constance K. McHugh, MMC
City Clerk