

**CITY OF CEDARBURG  
COMMON COUNCIL  
February 8, 2010**

**CC20100208-1  
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, February 8, 2010 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, Ron Reimer, Art Filter Paul Radtke, Michael Maher, Kip Kinzel

Excused - Council Member Robert Loomis

Also Present - City Attorney Kaye Vance, City Administrator/Treasurer Christy Mertes, Director of Engineering and Public Works Tom Wiza, Light & Water General Manager Dale Lythjohan, Police Chief Tom Frank, Library Director Mary Marquardt, Parks, Recreation and Forestry Director Mikko Hilvo, Deputy City Clerk Amy Kletzien, Town Management Assistant for Parks and Planning Eric Ryer, 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 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' APPOINTMENTS TO BOARDS, COMMITTEES, AND COMMISSIONS**

No appointments were made.

**APPROVAL OF MINUTES**

Motion made by Council Member Kinzel, seconded by Council Member Radtke, to approve the minutes of the January 25, 2010 meeting. Motion carried without a negative vote with Council Member Loomis excused.

**COMMENTS & SUGGESTIONS FROM CITIZENS** - None

**CONSIDER GRANTING RELEASE OF SEWER EASEMENT RIGHTS ALONG THE WEST SIDE OF WAUWATOSA ROAD IMMEDIATELY SOUTH OF BRIDGE ROAD**

Director Wiza stated that when the sanitary sewer for Topview Trails Subdivision was installed, the segment in front of Lasata was located in a strip easement granted without cost by Ozaukee County.

The State is now acquiring additional right-of-way for the roundabout project and the land the City's sanitary sewer easement resides in is part of that acquisition. At this point, the City's easement rights need to be relinquished; whereby, the State will pay to adjust the elevation of the four existing sanitary sewer manholes that currently reside in the easement.

Motion made by Council Member R. Reimer, seconded by Council Member Filter, to grant the release of sewer easement rights along the west side of Wauwatosa Road immediately south of Bridge Road. Motion carried without a negative vote with Council Member Loomis excused.

**CONSIDER RESOLUTION NO. 2010-03 SUPPORTING THE PLAN FOR COUNTY LIBRARY SERVICE IN OZAUKEE AND SHEBOYGAN COUNTY 2011-2015**

Mayor Myers stated that Resolution No. 2010-03 formalizes the Council's support in favor of the Plan for County Library Service in Ozaukee and Sheboygan County 2011-2015 presented at the January 25 Council meeting.

Motion made by Council Member Maher, seconded by Council Member C. Reimer, to adopt Resolution No. 2010-03 supporting the Plan for County Library Service in Ozaukee and Sheboygan County 2011-2015. Motion carried without a negative vote with Council Member Loomis excused.

**CONSIDER REQUEST OF THE POLICE CHIEF TO FILL THE SECRETARY II POSITION AT THE POLICE DEPARTMENT**

Police Chief Frank stated that Sandra Stern has announced her retirement, which is scheduled for the first week in March 2010. He is requesting to fill the Secretary II position at the same part-time status.

Motion made by Council Member Radtke, seconded by Council Member Maher, to approve the request of Chief Frank to fill the Secretary II position at the Police Department.

In answer to Council Member R. Reimer's question, Chief Frank stated that he will not fill the position until after Sandra Stern's retirement.

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

**CONSIDER LIGHT & WATER CONSERVATION PROGRAMS FOR 2010**

General Manager Lythjohan proposed a comprehensive review of energy efficiency at City facilities, along with grants, rebates and loans to pay for most, if not all the costs for identified energy conservation and renewable energy projects for 2010.

The program objective is to reduce use of natural gas and electricity at City facilities that would result in:

- Sustainable reductions in energy use at City facilities.
- Long term, measurable savings in operating expenses for the City.
- Reduced "Carbon Foot Print" and lower overall emissions from City facilities.

The program components consist of:

- Comprehensive energy audits of City facilities with documented recommendations using a third party consultant at an estimated cost of \$20,000.
- Grants and incentives from Cedarburg Light & Water (up to \$80,000 in first dollar grants), Focus on Energy (State Program) and WPPI (up to \$15,000 in matching dollars) if the City adopts an "Energy Use Policy".
- 0% loan funding from WPPI conservation for potential of no up front outlay for eligible projects. Up to \$500,000, 0% loan, 10-year note for projects with a demonstrated payback where the monthly energy savings exceeds the cost of the loan payment resulting in a net monthly savings to the City.
- Renewable energy project grant opportunity on City grounds. Up to \$50,000 for a solar, wind, or other renewable technology demonstration project built/sited at a City facility.

General Manager Lythjohan explained that if the Council agrees to have the City participate, then the City should formally approve participation and consider appointing a person to oversee the project. In the future, the Council should consider passing an Energy Use Policy to allow for annual incentives from WPPI, and to provide a more formal framework for staff on energy-related issues.

In answer to Council Member Radtke's question, General Manager Lythjohan stated that the future site of the Wastewater Treatment Plant on Pioneer Road property is as viable as any other spot for renewable energy; however, there is no electricity available at that location.

City Attorney Vance stated that any other use besides a Wastewater Treatment Plant on Pioneer Road would require Town of Grafton approval.

In answer to Council Member R. Reimer's questions, General Manager Lythjohan stated that rebates are simple and it is not necessary to take action on a resolution this evening.

Director Wiza stated that the current Wastewater Treatment Plant site would support a renewable energy solar project because there would be a constant use of energy.

In answer to Council Member C. Reimer's questions, General Manager Lythjohan stated that payback on a solar project would reach far out into the future. In regard to the audit, an electric and gas audit will be done at the Wastewater Treatment Plant, Fire Department, and all City buildings.

In answer to Council Member R. Reimer's questions, General Manager Lythjohan stated that the City will see a savings the first month of implementing cost-effective measures. As far as a starting date for the project, it can be underway in a month.

Motion made by Council Member Maher, seconded by Council Member Radtke, to endorse the Cedarburg Light & Water conservation program for 2010 as proposed. Motion carried without a negative vote with Council Member Loomis excused.

In answer to Council Member C. Reimer's question, General Manager Lythjohan stated that the Cedarburg Light & Water Commission has approved the project.

**CONSIDER BANNER ADVERTISING PROGRAM AT COMMUNITY POOL**

Director Hilvo stated that the Park & Recreation Department is always looking for ways to lessen the taxpayer's burden. He is proposing a Pool Banner Advertising contract that would allow local businesses to place banner advertising at the Cedarburg Community Pool. Funds collected through this program would help pay for pool equipment and improvements.

In answer to Council Member Radtke's question, Director Hilvo stated that the banners will face inward and this program is modeled after the Slinger and Hartford athletics banner program.

Council Member C. Reimer questioned whether the banners would hinder police protection by not allowing them to see through the fence.

In answer to Council Member R. Reimer's question, City Attorney Vance stated that the following guidelines need to be followed when implementing the program:

- The City is creating a public forum which means that it has very limited ability to monitor content. The City will not be able to pick and choose which banners it will permit based on content. It can set policy regarding content neutral criteria (size, time, appearance) and consider what is appropriate for the pool area (although, this is subject to challenge).
- A City employee cannot solicit for donations, but the City can accept donations.
- A City can raise funds by taxes and that is how the budget is set by Statute. Donations or ad revenue may legally need to be applied to reduce taxes generally (for all departments). The City does designate donations for particular department use.

City Attorney Vance opined that licenses should be issued for the banners and a policy should be in place, to limit the banners as much as possible.

Council Member Kinzel stated that the banners need to be appropriate for children and they should be reviewed.

Motion made by Council Member Radtke, seconded by Council Member C. Reimer, to approve a banner advertising program at the Community Pool subject to not hindering police protection and working with the City Attorney to establish a policy and guidelines.

In answer to Council Member Maher's question, Director Hilvo stated that the banners will be taken down at the end of the season.

Council Member Maher asked Director Hilvo to survey surrounding communities to determine how they control banners that are used for advertising.

Council Member Radtke amended his motion, and Council Member C. Reimer agreed, to have the program come back to the Common Council for final approval and to allow Director Hilvo to accept funds in the meantime, so not to slow down the program.

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

**CONSIDER ORDINANCE NO. 2010-04 AMENDING SEC. 2-4-6 OF THE MUNICIPAL CODE PERTAINING TO THE PARK AND FORESTRY BOARD TO CREATE A PARKS, RECREATION AND FORESTRY BOARD**

Director Hilvo explained that with the Town of Cedarburg not renewing the Recreation or Senior Center Shared Services Agreements, the City needs to move these departments to a different board or committee. The most logical board to place these under is the current Park and Forestry Board.

Motion made by Council Member R. Reimer, seconded by Council Member Kinzel, to approve Ordinance No. 2010-04 amending Sec. 2-4-6 of the Municipal Code pertaining to the Park and Forestry Board to create a Parks, Recreation and Forestry Board.

Council Member R. Reimer questioned what the function of a Tree Board means in Sec. 2-4-6(d)(5) and stated that he would like to see it identified.

City Administrator/Treasurer Mertes stated that it most likely coincides with the Tree City designation.

Mayor Myers stated Parks & Forestry Superintendent Westphal manages the City trees.

City Attorney Vance stated that the Tree Board should be discussed at a future meeting because tonight's agenda does not allow this discussion to go any further.

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

**CONSIDER ORDINANCE NO. 2010-03 AMENDING SEC. 2-4-17 OF THE MUNICIPAL CODE PERTAINING TO THE LEISURE SERVICES COMMISSION TO CREATE A COMMUNITY POOL COMMISSION**

Director Hilvo explained that with the Town of Cedarburg not renewing the Recreation Shared Service Agreement but still being part of the Community Pool Shared Service Agreement, Ordinance No. 2010-03 amending Sec. 2-4-17 of the Municipal Code would create a Community Pool Commission comprised of the current Leisure Services Committee.

Motion made by Council Member Kinzel, seconded by Council Member C. Reimer, to adopt Ordinance No. 2010-03 amending Sec. 2-4-17 of the Municipal Code pertaining to the Leisure Services Commission to create a Community Pool Commission.

Council Member Maher asked if the Council wants to consider adding a Town Board Supervisor to the Commission because they have expressed concern in the past that the joint boards lacked Town representation.

Council Member R. Reimer opined that representation on boards and committees should be a mediation issue.

Council Member Kinzel stated that Mayor Myers is always looking for people to serve on committees and people need to come forward.

Mayor Myers stated that Town representation is based on proportion of population and reflects the level of participation.

Council Member Maher stated that he wants the Town to know that they can participate.

Director Hilvo stated that Town Management Assistant for Parks and Planning Eric Ryer could sit on the Commission.

Mayor Myers stated that any Town Board Member can attend any meeting to ask questions or discuss concerns.

Director Hilvo stated that he makes an annual report to the Town Board.

Council Member R. Reimer asked to change the second and Town Board in the last sentence to: or Town Board in Sec. 2-4-17(e). The Common Council agreed.

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

### **REVIEW THE TOWN OF CEDARBURG'S ACTIONS REGARDING ADDITIONAL TESTING OF THE PROCHNOW LANDFILL**

City Attorney Vance stated that the Common Council authorized independent testing on the Prochnow Landfill site on January 11, 2010, after the Town indicated that they did not want to share their test results with the City.

On January 21, City Administrator/Treasurer Mertes received an email from the Town offering to share the cost of the monitoring and testing on the Prochnow land.

In answer to Council Member Maher's question, General Manager Lythjohan stated that the City had already contracted for the testing and it was complete by January 21.

Council Member Kinzel stated that it was not possible to save money on the testing at this point.

### **CONSIDER LICENSE APPLICATIONS**

Motion made by Council Member Kinzel, seconded by Council Member Radtke, to authorize issuance of new Operator's Licenses for the period ending June 30, 2010 to Tammy A. Faanes and Annie L. Rauchenstein. Motion carried without a negative vote with Council Member Loomis excused.

### **CITY ADMINISTRATOR'S REPORT**

City Administrator/Treasurer Mertes stated that Director Wiza has been notified that completion of the planned roundabout project for Wauwatosa Road has been pushed back to 2012 or 2013.

**COMMENTS & SUGGESTIONS BY CITIZENS** - None

**REPORTS & COMMENTS BY COUNCIL MEMBERS**

Council Member C. Reimer stated that he will not be able to attend the Plan Commission meeting on March 1, 2010. There is a public hearing scheduled for a Conditional Use Permit for Grapes and Tastes, a tavern requesting to be able to offer on-site consumption of alcohol at W63 N140 Washington Avenue, and encouraged other Council Members to attend.

In answer to Council Member R. Reimer's question, Mayor Myers stated that the Class B liquor license needed to be issued before the Conditional Use could be considered based on the Municipal Code.

Council Member Filter inquired about who will be enforcing the smoking ban effective in July 2010.

**MAYOR'S REPORT** - None

**ADJOURNMENT- CLOSED SESSION**

Motion made by Council Member Filter, seconded by Council Member Kinzel, to adjourn to closed session at 8:00 p.m. pursuant to 19.85(1)(e) to deliberate and conduct specified public business, due to competitive or bargaining reasons that require a closed session, specifically to discuss police, police dispatchers and clerical union pending grievances regarding furloughs and staffing reduction issues and to discuss issues related to the Prochnow property. Approval of closed session minutes of 1/25/10. Motion carried without a negative vote with Council Member Loomis excused. Meeting did not reconvene to open session.

Amy D. Kletzien, MMC/WCPC  
Deputy City Clerk