

**CITY OF CEDARBURG
COMMON COUNCIL
March 14, 2011**

**CC20110314-1
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, March 14, 2011 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, Art Filter, Paul Radtke, Michael Maher, Kip Kinzel

Excused - Council Members Ron Reimer, Bob Loomis

Also Present - City Attorney Kaye Vance, City Administrator/Treasurer Christy Mertes, Director of Engineering and Public Works Tom Wiza, Police Chief Thomas Frank, Deputy City Clerk Amy Kletzien, 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.

APPROVAL OF MINUTES

Motion made by Council Member C. Reimer, seconded by Council Member Kinzel, to approve the minutes of the February 28, 2011 Council meeting. Motion carried without a negative vote with Council Members R. Reimer and Loomis excused.

PUBLIC HEARING: CONSIDER ORDINANCE NO. 2011-03 AMENDING SEC. 13-1-75(d) OF THE ZONING CODE TO ALLOW AIRPORTS, AIRSTRIPS, LANDING FIELDS, AND PUBLIC OR PRIVATE RECREATIONAL SPORTS FIELDS AS CONDITIONAL USES IN THE A-1 AGRICULTURAL DISTRICT

Mayor Myers declared the public hearing open to consider Ordinance No. 2011-03 at 7:03 p.m. Deputy City Clerk Kletzien verified that proper legal notice had been given with publication in the *News Graphic* on February 24 and March 3, 2011.

Director Wiza stated that proposed Ordinance No. 2011-03 is a text amendment that adds as conditional uses airports, airstrips, and landing fields provided the site area is not less than 20 acres in the A-1 Agricultural District and it also adds public or private recreational sports fields. This is

intended to address lands that would be outside of the City at this point. The Plan Commission voted to recommend the zoning text change at their January 4, 2011 meeting.

There were no questions or comments from the public.

Motion made by Council Member Radtke, seconded by Council Member Maher, to close the public hearing to consider Ordinance No. 2011-03 amending Sec. 13-1-75(d) of the Zoning Code to allow airports, airstrips, landing fields, and public or private recreational sports fields as conditional uses in the A-1 Agricultural District. Motion carried without a negative vote with Council Members R. Reimer and Loomis excused.

Council Member C. Reimer stated that he asked for this item to be addressed because the last annexation process was delayed on Sheboygan Road because of improper zoning. He asked staff to look at areas on our border, and as a result, the airports, airstrips, landing fields and public and private recreational sports fields fell into this category of concern. His thought process is that if these landowners want to annex into the City, it could be done through a conditional use. The City does not have to let the property owners into the City; however, it would make it easier if the Council is in favor.

In answer to Council Member C. Reimer's question, City Attorney Vance stated that the uses on the airport property may be restricted; however, it is likely that they presently meet FAA guidelines.

Motion made by Council Member Kinzel, seconded by Council Member Filter, to approve Ordinance No. 2011-03.

In answer to Council Member Radtke's question, City Attorney Vance stated that annexed property usually comes in as residential and within a year the property is zoned accordingly. This action would provide an easy conditional use for the airfields and eliminate this step. They would only lose their conditional use if they violate the terms.

Motion carried without a negative vote with Council Members R. Reimer and Loomis excused.

COMMENTS & SUGGESTIONS FROM CITIZENS – None

CONSIDER REQUEST OF THE CEDARBURG JUNIOR WOMAN'S CLUB TO CLOSE WASHINGTON AVENUE FROM COLUMBIA ROAD TO LINCOLN BLVD. ON SATURDAY, MARCH 26, 2011 FROM 8:00 A.M. TO 10:00 A.M. FOR THE BOSOM BUDDY RUN/WALK

Police Chief Tom Frank spoke with the Cedarburg Junior Woman's Club and Fire Chief Van Dinter and determined that the road would not have to be closed for two hours. The Parade Permit will be in effect for two hours based on road crossings and getting the participants back to the central location. It will be sufficient to close the block of Washington Avenue between Mill Street and Columbia Road for approximately 15 – 20 minutes to start the race. Approximately 150 participants will head south on Washington Avenue and the runners will be funneled into one lane of traffic going southbound. The road will be closed shortly ahead of the run getting to that point.

Once the run reaches Lincoln Blvd; most of the runners will be on the sidewalks. The run will end in the parking lot behind the Cedarburg Cultural Center. There will be a number of road crossings, but the actual road closure will be from Columbia Road to Mill Street for 20 minutes.

In answer to Council Member Maher's question, Amy McConeghy of the Junior Woman's Club stated the race is scheduled to start at 9:00 a.m. Typically, many registrations and walk-ups come right before the race starts because participants want to judge the weather prior to making the commitment. The Junior Woman's Club tries hard to adhere to the time schedule and have made some changes to accommodate this. The walkers will start five minutes after the run begins and those people will participate on the sidewalk only.

In answer to Council Member Filter's question, Ms. McConeghy stated that the registration will be located on the vacant lot on the northwest corner of Mill Street and Washington Avenue.

Council Member Filter expressed concern for the residents and business owners along this portion of Washington Avenue that may not be aware of the event.

Ms. McConeghy stated that the Junior Woman's Club respects the community and they want to bring people into downtown Cedarburg to visit the businesses. Some businesses have purchased pink bows to show their support for Breast Cancer Awareness in hopes that people will recognize this and visit their business.

In answer to Council Member Filter's question, Police Chief Frank stated that the Emergency Government will be handling most of the traffic direction.

Ms. McConeghy stated that the route will be clearly marked and additional volunteers will be available along the route.

Motion made by Council Member Filter, seconded by Council Member Radtke, to accept the street closure on Washington Avenue from Columbia Road to Lincoln Blvd. as recommended by Police Chief Frank.

Council Member C. Reimer expressed appreciation to the Junior Woman's Club for their support to the community and beyond.

In answer to Council Member Maher's question, Ms. McConeghy stated that the affected businesses along Washington Avenue have been notified and support the event.

Motion carried without a negative vote with Council Members R. Reimer and Loomis excused.

ADJOURNMENT – CLOSED SESSION

Motion made by Council Member Filter, seconded by Council Member Kinzel, to adjourn to closed session at 7:15 p.m. pursuant to Wis. Stat. 19.85(1)(f) to consider financial and personal histories of specific persons, if discussed in public, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such histories, and 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 likely to become involved, more specifically, to discuss a bidder on the annual Sidewalk Replacement contract. Approval of closed session minutes of February 28, 2011. Motion carried without a negative vote with Council Members R. Reimer and Loomis excused.

RECONVENE TO OPEN SESSION

Motion made by Council Member Filter, seconded by Council Member C. Reimer, to reconvene to open session at 7:35 p.m. Motion carried without a negative vote with Council Members R. Reimer and Loomis excused.

CONSIDER AWARD OF 2011 ANNUAL SIDEWALK REPLACEMENT CONTRACT

Motion made by Council Member Kinzel, seconded by Council Member Radtke, to award the 2011 annual sidewalk replacement contract to T.P. Concrete in the amount of \$66,725, due to the discrepancies and quality of the work performed by LaLonde Contractors in 2008, the low bidder.

Council Member Maher stated that he understands the reason for the motion to award the contract to T.P. Concrete; however, LaLonde Contractor personally contacted him and is a local contractor who stated he is an expert in the concrete business. He would like to give this contractor the benefit of the doubt that he could complete the project as bid and will vote against awarding the bid to T.P. Concrete.

Motion carried with Council Members C. Reimer, Radtke, and Kinzel in favor, Council Members Filter and Maher opposed, and Council Members R. Reimer and Loomis excused.

Mayor Myers said he will exercise his right to veto the motion because he cannot justify spending an additional \$10,000 on the project when employees have been laid off, hours have been cut back, and furlough days have been implemented. The budget process was too difficult to pay an added 20% on a very basic contract.

City Attorney Vance also advised the Council that she would look into whether or not this matter is within veto authority.

Council Member C. Reimer stated that he understood Mayor Myers' intention to veto; however, monies were spent in excess on a previous contract with LaLonde Contractors over discrepancies and quality of work done.

CONSIDER ENTERING INTO AN AGREEMENT WITH THE WISCONSIN DEPARTMENT OF REVENUE FOR PARTICIPATION IN THE TAX REFUND INTERCEPTION PROGRAM (TRIP)

City Administrator/Treasurer Mertes stated that this program is available through the Department of Revenue to intercept, or set off, taxpayer refunds and other refundable credits against certain county or municipal debt. This would be most helpful with Police Department fees and would provide the City with another tool for collecting outstanding billings. There is no cost to participate in this program.

Motion made by Council Member Filter, seconded by Council Member Kinzel, to enter into an agreement with the Wisconsin Department of Revenue for participation in the Tax Refund Interception Program (TRIP). Motion carried without a negative vote with Council Members R. Reimer and Loomis excused.

CONSIDER RESOLUTION NO. 2011-01 TRANSFERRING FUNDS FROM PUBLIC WORKS TO PARKS, RECREATION AND FORESTRY

City Administrator/Treasurer Mertes stated that this is a budget appropriation change for the 2010 budget. The Department of Parks, Recreation and Forestry and the Public Works Department budgets are based on the FTEs per department and is estimated at budget time. During the year, the budget is affected by weather conditions, projects, and a change in priorities that affect these allocated hours. In 2010, the crews were able to do more forestry projects than usual and this caused the Parks, Recreation & Forestry budget to go over by \$31,000.

In answer to Council Member Filter's questions, City Administrator/Treasurer Mertes stated that the budget is still within its parameters, this is only an adjustment to the allocated personnel hours between the two departments.

Director Wiza stated that the crews were able to work on the backlog of tree pruning last year when there was no snow. This year will likely be a different situation with the added snowplowing that was required.

Motion made by Council Member C. Reimer, seconded by Council Member Radtke, to adopt Resolution No. 2011-01 transferring funds from Public Works to Parks, Recreation and Forestry. Motion carried without a negative vote with Council Members R. Reimer and Loomis excused.

DISCUSS TOWN OF CEDARBURG MINUTES FROM THE SEPTEMBER 28, 2010 MEDIATION SESSION

Mayor Myers and City Administrator/Treasurer Mertes stated that there is an error in the Cedarburg Town Board minutes from September 28, 2010 involving mediation with the City of Cedarburg. Their minutes state that "It was agreed if all boundary issues were agreed upon the City would be willing to run sewer at the Town's expense, the Town would pay just like a developer would pay." This is an error because the City only agreed to water and did not offer to extend sewer service to the Town.

It was the consensus of the Common Council to send a letter to the Town of Cedarburg clarifying that the City only agreed to extending water at the Town's expense.

CONSIDER THE IMPACT OF GOVERNOR WALKER'S PROPOSED BUDGET ON THE CITY OF CEDARBURG

City Administrator/Treasurer Mertes distributed a list of Budget Repair Bill Impacts on Municipalities prepared by the League of Wisconsin Municipalities and a memo on the Budget Bill Impact on the City, based on her understanding of the bill. Once the bill is passed, there will be

estimates available to municipalities on the actual cuts. It appears that there will not be any impact on 2011 budget at this point except for a recycling grant. This year the City will see an approximate savings from the Wisconsin Retirement System contributions from the non-union employees and the dispatchers in the amount of \$61,741, if it is effective March 20, 2011.

City Administrator/Treasurer Mertes explained that possible changes with amounts unknown to the 2012 budget may include:

- Maintenance of effort eliminated for library services.
- Increase in State funding of computer aids 4.7% for 2011 and 4.2% for 2012.
- Expenditure restraint limit floor being reduced from 3% to 0%.
- Levy limit currently includes a percentage as set by law or net new construction, whichever is greater. New law will only allow for an increase in the levy due to net new construction. For 2011, net new construction was \$9.1 million, which allowed for an increase of \$32,259 in the City's levy.

Possible changes with estimated amounts:

- Shared revenue reduced \$120,700
- Transportation aids reduced 1% (\$5,711)
- Recycling grant eliminated, \$60,000
- WRS employee contribution, \$81,500

The Net budget reduction for 2012 of estimated amounts is \$104,918.

In answer to Council Member Filter's question, City Administrator/Treasurer Mertes stated that the City has not received recycling grant money for 2011 to-date. The City may not get the full amount that was budgeted for 2011.

Mayor Myers stated that the budget can be revisited when numbers are concrete.

City Administrator/Treasurer Mertes is hopeful that the figures will be available in July or August when the City begins working on the 2012 budget.

LICENSE APPLICATIONS

Motion made by Council Member Filter, seconded by Council Member Kinzel, to approve the new and renewal Operator's License applications for the period ending June 30, 2011 for: Timothy J. Olson, Amy Ford, Cassandra Hogan, Kathryn E. Peterson, and Tammy A. Faanes. Motion carried without a negative vote with Council Members R. Reimer and Loomis excused.

CITY ADMINISTRATOR'S REPORT

In answer to Council Member Maher's question, City Administrator/Treasurer Mertes stated that the check issued to the Board of Comm of Public as shown on the voucher list is the loan payment to the State Trust Fund (Public Commissioners of Public Lands).

City Administrator/Treasurer Mertes stated that the auditors will be requesting that the Common Council formally approve the voucher list at each meeting; therefore, she will be adding this as an action item on the next agenda.

Council Member C. Reimer suggested that the voucher list is reviewed at the same time as the minutes from the previous meeting on the agenda as a consent item.

COMMENTS & SUGGESTIONS BY CITIZENS – None

COMMENTS AND ANNOUNCEMENTS BY COUNCIL MEMBERS - None

MAYOR'S REPORT

Mayor Myers issued a Proclamation in celebration of Arbor Day on April 29, 2011.

ADJOURNMENT

Motion made by Council Member C. Reimer, seconded by Council Member Kinzel, to adjourn the meeting at 8:03 p.m. Motion carried without a negative vote with Council Members R. Reimer and Loomis excused.

Amy D. Kletzien, MMC/WCPC
Deputy City Clerk