

**CITY OF CEDARBURG
COMMON COUNCIL
March 28, 2011**

CC20110328-1

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, March 28, 2011 at City Hall, W63 N645 Washington Avenue, second floor, Council Chambers. Council President Kip Kinzel called the meeting to order at 7:00 p.m.

ROLL CALL: Present - Council Members Chris Reimer, Ron Reimer, Art Filter, Paul Radtke, Michael Maher, Kip Kinzel

Excused - Mayor Gregory P. Myers, Council Member Bob Loomis

Also Present - City Attorney Kaye Vance, City Administrator/Treasurer Christy Mertes, Director of Engineering and Public Works Tom Wiza, Police Chief Tom Frank, Wastewater Superintendent Ron Clish, City Clerk Constance McHugh, Economic Development Coordinator Mary Sheffield, ad hoc Downtown Master Plan Committee Members Mike Ruzicka, Pat Thome, Rebecca Zuba, Heather Cain, 6th Aldermanic District candidate Douglas Yip, interested citizens and news media

STATEMENT OF PUBLIC NOTICE

At Acting Mayor Kinzel's 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.

Council President Kinzel stated that as Acting Mayor he will retain his right to vote as Council Member of the 6th Aldermanic District.

APPROVAL OF MINUTES

Motion made by Council Member C. Reimer, seconded by Council Member Radtke, to approve the minutes of the March 14, 2011 meeting. Motion carried unanimously with Council Member Loomis excused.

PRESENTATION ON THE RECOMMENDATIONS OF THE AD HOC DOWNTOWN MASTER PLAN COMMITTEE FOR DOWNTOWN CEDARBURG

Mike Ruzicka, member of the ad hoc Downtown Master Plan Committee, said the Committee was created in 2006 based on concerns that area businesses may be leaving the City. He said that Cedarburg's downtown has done very well despite the recent recession. The Committee recommended in 2007 that the Common Council create the position of a part-time Economic

Development Coordinator. This position was created and has been funded since mid-2008 and has resulted in an improvement in the way Economic Development matters are administered in the City.

Mr. Ruzicka said the Committee has focused on keeping Cedarburg vibrant and is recommending small incremental steps and decisions to make the community attractive and appealing.

The Committee made the following four recommendations:

1. Encourage and support focused downtown redevelopment
 - This can be done using spot TIFs and by providing retail space of a size and configuration not currently available.
2. Support focused downtown residential development
 - Having more people living downtown.
 - Working to ensure that the historical development is supported by the City's Master Plan and zoning ordinances.
3. Establish a long-term parking plan
 - Perceived lack of parking has been an issue that has prevented businesses from locating in the downtown. A vital downtown requires adequate parking.
4. Fund improvements to the downtown Historic District
 - The City is urged to continue to budget an appropriate annual amount and to be partner with the Cedarburg Chamber of Commerce, the Tourism, Promotion and Development Committee, Cedarburg Foundation, Cedarburg Festivals and other groups.

The Council thanked Mr. Ruzicka for his presentation.

ADJOURNMENT – CLOSED SESSION

Motion made by Council Member Filter, seconded by Council Member C. Reimer, to adjourn to closed session at 7:14 p.m. pursuant to Wis. Stat. 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 the annual Sidewalk Replacement contract. Approval of closed session minutes of 03/14/11. Motion carried unanimously with Council Member Loomis excused.

RECONVENE TO OPEN SESSION

Motion made by Council Member Filter, seconded by Council Member C. Reimer, to reconvene to open session at 7:26 p.m. Motion carried unanimously with Council Member Loomis excused.

CONSIDER RESCINDING MOTION TO AWARD THE 2011 ANNUAL SIDEWALK REPLACEMENT CONTRACT TO T.P. CONCRETE

Motion made by Council Member Kinzel, seconded by Council Member C. Reimer, to rescind the motion made at the March 14, 2011 Council meeting to award the 2011 annual Sidewalk Replacement Contract to T.P. Concrete.

Director Wiza said that at the last Council meeting there was a motion to award the annual Sidewalk Replacement Contract to T.P. Concrete. That action has been vetoed by the Mayor.

Director Wiza said clarifications and revisions have been made to the project specifications and, in all fairness to the bidders and in the best interest of the City, the project should be re-bid.

Motion to rescind the motion to award the 2011 annual Sidewalk Replacement Contract to T.P. Concrete carried unanimously with Council Member Loomis excused.

CONSIDER REJECTING BIDS FOR THE 2011 ANNUAL SIDEWALK REPLACEMENT PROGRAM AND AUTHORIZING THE RE-BIDDING OF THE PROJECT

Motion made by Council Member C. Reimer, seconded by Council Member Radtke, to reject all bids received for the 2011 annual Sidewalk Replacement program and to authorize the re-bidding of the project. Motion carried with Council Members C. Reimer, R. Reimer, Radtke, Maher, and Kinzel voting aye and Council Member Filter voting nay with Council Member Loomis excused.

CONSIDER AWARD OF THE 2011 STREET AND UTILITY PROJECT CONTRACT

Motion made by Council Member R. Reimer, seconded by Council Member Radtke, to award the 2011 Street and Utility Construction contract to Dorner, Inc. in the amount of \$1,099,563.80. Motion carried unanimously on a roll call vote with Council Member Loomis excused.

CONSIDER GARFIELD LIFT STATION FORCE MAIN BYPASS ENGINEERING PROPOSALS

Motion made by Council Member Filter, seconded by Council Member R. Reimer, to award the Garfield force main bypass design contract to Ruekert and Mielke in the amount of \$15,390, with funds to come from the Sanitary Sewer Collection System Reconstruction Fund. Motion carried unanimously on a roll call vote with Council Member Loomis excused.

RECONSIDERATION OF THE APPLICATION OF MATT C. MOGA FOR AN OPERATOR'S LICENSE THAT WAS DENIED BY THE COUNCIL ON FEBRUARY 28, 2011

Based on the recommendation of Chief Frank and a review of Matt C. Moga's background, which includes a felony arrest and conviction for manufacture/deliver of THC, the Council did not approve Mr. Moga's application for an operator's (bartender) license at the February 28, 2011 Council meeting.

Mr. Moga said that he has been out of work for two years and recently got a job. His felony conviction was 15 years ago and he has since stayed out of trouble. He asked the Council to reconsider its decision not to grant him an operator's license.

Attorney Vance said that according to State Statutes 125.04(5)(b), "No licenses or permit related to alcohol beverages may, subject to ss. 111.321, 111.322 and 111.335, be issued under this chapter to any person who has habitually been a law offender or has been convicted of a felony unless the person has been duly pardoned."

Linda Moga, mother of the applicant, asked if the Council ever makes exceptions.

Council Member Filter pointed out that Mr. Moga can still bartend as long as a person with a license is on the premises.

Chris Morton, Mr. Moga's employer, said that Mr. Moga has been working with another licensed operator; however, he would be given more responsibility if he held an operator's license.

Council Member Maher asked Attorney Vance if the Council can issue a license to Mr. Moga.

Attorney Vance said the Council would need to make a finding that the felony conviction is not related to the selling of alcohol.

Council Member Radtke asked Chief Frank if there were any other convictions or issues that came up in Mr. Moga's background.

Chief Frank said the felony conviction was Mr. Moga's only significant entry.

Mr. Moga said he recently witnessed a fight in an alley and cooperated with the police in this matter. He said he cares about this community and is a good person. He acknowledged that he made a mistake 15 years ago when he was 18 years old.

Council Member R. Reimer said it doesn't seem like this Council has the purview to side step State Statutes.

Council Member Maher asked if the license could be granted on a probationary basis.

Attorney Vance said an operator's license is privilege, not a right. Once such a license is granted it becomes a property right and is difficult to take away.

It was the consensus of the Council that it cannot supersede State Statutes and issue an operator's license to Mr. Moga.

CONSIDER DATES OF THE APRIL 2011 COMMON COUNCIL MEETINGS AND POSSIBLE RESCHEDULING OF MEETINGS

It was the consensus of the Council that the regular meeting schedule be adhered to in the month of April (April 11th and April 25th) and that the organizational meeting of the Council be held on April 25th.

PAYMENT OF BILLS

Motion made by Council Member Filter, seconded by Council Member Kinzel, to approve the payment of the bills for the period 3/7/11 through 3/18/11, ACH transfers for the period 3/14/11 through 3/22/11, and payroll for the period 3/1/11 through 3/25/11. Motion carried unanimously on a roll call vote, with Council Member Loomis excused.

LICENSE APPLICATIONS

Motion made by Council Member Filter, seconded by Council Member Radtke, to authorize issuance of new Operator's Licenses for the period ending June 30, 2011 to Eva M. Danner, Ashly J. Kammerer and to authorize issuance of a renewal Operator's License to Gail A. Johnson. Motion carried unanimously with Council Member Loomis excused.

MAYOR'S REPORT

Mayor Myers issued a proclamation honoring Bob Batty for his commitment and dedication to the American Legion.

ADJOURNMENT

Motion made by Council Member C. Reimer, seconded by Council Member Filter, to adjourn the meeting at 8:00 p.m. Motion carried unanimously with Council Member Loomis excused.

Constance K. McHugh, MMC/WCPC
City Clerk