

**CITY OF CEDARBURG  
COMMON COUNCIL  
April 11, 2011**

**CC20110411-1  
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, April 11, 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. The meeting began with a moment of silence followed by the Pledge of Allegiance.

Roll Call: Present - Common Council – Council Members Ron Reimer, Art Filter, Michael Maher, Kip Kinzel, Bob Loomis

Excused - Mayor Gregory P. Myers, Council Members Chris Reimer, Paul Radtke

Also Present - City Attorney Kaye Vance, City Administrator/Treasurer Christy Mertes, Director of Engineering and Public Works Tom Wiza, Police Chief Thomas Frank, Council Member Elect Douglas Yip, Building Inspector Michael Baier, City Assessor Cathy Timm, Deputy City Clerk Amy Kletzien, interested citizens and news media

**STATEMENT OF PUBLIC NOTICE**

At Council President Kinzel's 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.

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

**APPROVAL OF MINUTES**

Motion made by Council Member Filter, seconded by Council Member Maher, to approve the minutes of the March 28, 2011 Council meeting. Motion carried without a negative vote with Council Members C. Reimer and Radtke excused.

**PRESENTATION – 2010 POLICE DEPARTMENT ANNUAL REPORT**

Police Chief Frank presented a summary report of the Police Department for 2010. He acknowledged the Police and Fire Commission and their contributions. The following facts were presented:

- Violent crimes consisted of one aggravated assault
- Property crimes increased to 163 in 2010 compared to 134 in 2009
- Stolen property increased from \$52,266 in 2009 to \$67,591 in 2010

- 26 felonies and 81 misdemeanors occurred in 2010 compared to 13 felonies and 81 misdemeanors in 2009
- 854 reports were investigated in 2010 compared to 998 in 2009
- Calls for service increased from 13,836 to 14,399
- 3,186 people were assisted in 2010 compared to 2,174 in 2009
- Citizens at the station increased from 8,017 in 2009 to 8,792 in 2010
- Telephone calls decreased from 15,375 in 2009 to 14,664 in 2010
- 911 calls decreased to 1,216 in 2010 compared to 1,238 in 2009
- 150 alarms were received in 2010 compared to 152 in 2009
- Department activities included 448 non-traffic arrests in 2010 compared to 480 in 2009; 1,561 traffic arrests compared to 1,603 in 2009
- Warnings for non-traffic offenses increased to 677 in 2010 from 675 in 2009
- Traffic warnings increased to 3,367 in 2010 from 3,168 in 2009
- 245 speeding tickets were issued in 2010 compared to 294 in 2009
- OWI offenses decreased to 35 in 2010 compared to 42 in 2009
- Arrests for adult alcohol offenses decreased to 77 in 2010 compared to 120 in 2009
- Juvenile arrests decreased from 29 in 2009 to 20 in 2010
- 20 tobacco violations occurred in 2010 compared to 14 in 2009
- Drug Offenses decreased to 28 in 2010 compared to 46 in 2009
- 104 bicycle/skateboard warnings were issued compared to 96 in 2009
- Worthless checks decreased from \$5,326 in 2009 to \$4,789 in 2010, with 69 investigations and \$2,736 recovered
- 152 accidents occurred in 2010 with 20 injuries compared to 175 accidents with 33 injuries in 2009
- Community policing included 103,283 checked doors with 137 open, 1,733 vacation checks, 176 vehicle lockouts, 798 rescue squad calls, 205 fire calls, D.A.R.E. program for 60 fifth grade students in the parochial schools, Safety Town and Safety Camp for 190 students, School Liaison Officer, child safety seat inspections (56), Safety Days, Website, Tele-care program, Hunter Safety program (55 participants), renting of the Community Room, DMV vehicle registration program resulted in 785 transactions totaling \$7,022 in profit to the City, and participating in Crime Reports.com

Chief Frank summarized the overtime and training hours, which dropped in 2010, adding that Emergency Management helps with traffic control and parades/runs/walks, which reduces overtime.

The Cedarburg Police Department participates in Mutual Aid with two officers on the Ozaukee Special Response Team and one officer plus the K-9 on the Ozaukee Drug Enforcement Unit. Assists to other departments totaled 170 in 2010.

Equipment changes consisted of a \$4,000 Highway Safety Grant that was used for a speed laser and a laptop in the booking room and a \$1,500 award from the Wisconsin Department of Transportation for a speed sign.

Sergeant Richard Leach received a Lifetime Achievement Award from the Wisconsin Narcotic Officer's Association (WNOA), Officer Michael McNerney received the Officer of the Year Award

from the State American Legion Conference, and Detective/Juvenile Officer Scott Yanke received an award from Attorney General J.B. Van Hollen of the Wisconsin Department of Justice for his work on internet crimes against children. The Cedarburg Police Department received the Law Enforcement accreditation, making them 1 out of 20 departments in the State to achieve this award.

In answer to Council Member Filter's question, Police Chief Frank stated that two bicycle officers will be active in the community as manpower allows.

Council Member Filter stated that citizens like to see the officers in the community on bicycles. It provides a great image of the Police Department and offers a closer presence in the City.

It was the consensus of the Council Members to extend a thank you to the Department for doing a great job of keeping the community safe.

### **CONSIDER OPTIONS FOR THE COMMUNITY CENTER GYM ROOF REPLACEMENT**

Building Inspector Baier stated that the roof on the gym is scheduled to be replaced in 2011 with tear-off of the current shingles and replacement with similar asphalt shingles for approximately \$24,000. However, the current roof has no ventilation which would void any warranty for the shingles. In this case, he is recommending installation of a standing-seam metal roof for an additional cost of \$14,000. This would increase the life-span of the roof to 50 years, more than twice the life of shingles and ventilation is not required. Building Inspector Baier also stated that the current gutters will need to be replaced within five years and recommended that they should be replaced at the same time with color-matched metal for a cost of \$7,700.

In answer to Council Member Filter's question, City Administrator/Treasurer Mertes stated that the added costs of the project could be funded by the General Capital Improvement fund. There is a current balance of \$225,000, which has been used for parks and City complex projects.

In answer to Council Member Maher's question, Building Inspector Baier stated that the proposed roof and gutter system will be reviewed by the Landmarks Commission to include approval of material and color. He stated that the Lincoln Building will need a new roof in the near future and this may be a good option for that building also. The City Hall complex is expensive to maintain and the extended life of a metal roof will help.

Council Member Filter stated that he is in favor of metal roofing on the Lincoln Building if it is approved and works well on the Community Gym.

Motion made by Council Member Filter, seconded by Council Member Loomis, to approve the installation of a standing-seam metal roof with color-matched metal gutters for an additional cost of \$21,700 subject to the approval of the material and color from the Landmarks Commission.

In answer to Council Member R. Reimer's question, City Administrator/Treasurer Mertes stated that she would inquire as to whether a metal roof would result in a decrease in fire insurance costs.

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

**CONSIDER ORDINANCE NO. 2011-04 REPEALING SEC. 2-4-1(e)-2-4-1(g) OF THE MUNICIPAL CODE RELATING TO THE EXTENSION OF DEADLINES FOR FILING APPEALS WITH THE BOARD OF REVIEW AND THE PRESENTATION OF EVIDENCE AT BOARD OF REVIEW HEARINGS**

City Assessor Timm stated that on March 25, 2011 the Wisconsin Supreme Court ruled that the 2008 law that gave municipalities the option to limit property owners' rights to appeal assessments is unconstitutional. The conclusion was that the treatment taxpayers in opt out municipalities receive under Act 86 is significantly different than the treatment all other taxpayers receive, and that this difference in treatment lacks a rational basis.

Motion made by Council Member Kinzel, seconded by Council Member Maher, to adopt Ordinance No. 2011-04 repealing Sec. 2-4-1(e)-2-4-1(g) of the Municipal Code relating to the extension of deadlines for filing appeals with the Board of Review and the presentation of evidence at Board of Review hearings. Motion carried without a negative vote with Council Members C. Reimer and Radtke excused.

**REVIEW OF 2010 ANNUAL REPORT FOR NR216 MUNICIPAL STORMWATER COMPLIANCE**

Director Wiza provided a brief overview of the City's accomplishments, which are required by the DNR, to comply with the NR216 storm water permit issued to the City of Cedarburg and must be reviewed by the governing body. All aspects of the annual compliance report were met, with the assistance of AECOM, who has been retained to assist in compiling the necessary information. Some of the highlights include the following:

- Installed 25 new catch basins with two foot sumps
- Cleaned over 2,000 catch basins
- Collected 51 tons of sediment from the catch basins and six hydrodynamic separators
- Issued 13 erosion control permits and one stormwater permit
- Provided education through various venues throughout the year
- Collected 166 tons of material from street sweeping weekly downtown and monthly throughout the City
- Collected 993 tons of composted material through leaf and brush removal
- Collected 3,000 gallons of motor oil

Motion made by Council Member Loomis, seconded by Council Member Kinzel, to accept the 2010 annual report for NR216 municipal stormwater compliance. An amendment was added by Council Member Filter to recognize and thank the wastewater treatment personnel for their hard work and dedication. Motion carried without a negative vote with Council Members C. Reimer and Radtke excused.

**CONSIDER APPLICATIONS FROM MICHAEL ORTIZ, dba DON BENITO'S, W61 N497 WASHINGTON AVENUE, OZAUKEE CENTER BUILDING, LLC, dba THE MILL RACE INN, N58 W6194 COLUMBIA ROAD, AND P.J. PIPER, LLC, dba P.J. PIPER PANCAKE HOUSE, FOR AN AVAILABLE "CLASS B" LIQUOR LICENSE**

City Attorney Vance stated that a "Class B" liquor license is available for the Council to consider the applications from Don Benito's LLC, dba Don Benito's, W61 N497 Washington Avenue and P.J. Piper, LLC, dba P.J. Piper Pancake House, (Ozaukee Center Building, LLC, dba The Mill Race Inn, N58 W6194 Columbia Road withdrew their request for consideration). She stated that the license does not have to be issued and the City has the right to hold on to the license.

Council Member Loomis expressed concern for issuing the available license because the last available "Class B" liquor license may have been issued prematurely. He requested an analysis of the benefits and consequences of issuing the license.

Motion made by Council Member Maher, seconded by Council Member R. Reimer, to issue the available "Class B" liquor license to Don Benito's LLC, dba Don Benito's, W61 N497 Washington Avenue.

Council Member Filter stated that the P.J. Piper Pancake House should be considered because the premise used to have this license and they are doing extensive remodeling to the restaurant.

Council Member Maher stated that the P.J. Piper Pancake House is only planning to be open for breakfast and lunch and he questioned how much the license would be used.

Council Member Filter stated that he understood that Don Benito's is a full service restaurant; however, he asked to postpone the decision for 30 days to talk to the owners of the P.J. Pancake House to discuss their plans for the restaurant.

Miko Ortiz of Don Benito's stated that a "Class B" liquor license would be an asset to his Latin food menu because they have had to alter their sangrias to meet the requirements of their present licenses.

In answer to Council Member R. Reimer's question, Miko Ortiz stated that Don Benito's is open Tuesday – Friday (10 a.m. – 10 p.m.), Saturday (8 a.m. – 10 p.m.), and Sunday (8 a.m. – 4 p.m.).

Council Member Maher stated that he thought the license would benefit Don Benito's the most. In answer to his question, City Attorney Vance stated that the license goes to the person and not the business; however, a bankruptcy or receivership can delay the transfer of the license.

Council Member Filter requested that the license be held until the beginning of May before a decision is made.

Council Member Kinzel opined that he wants P.J. Piper Pancake House and Don Benito's to be successful. Don Benito's, being a full service restaurant, should be given the chance to have the license.

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

**CONSIDER POSSIBLE MUNICIPAL RECOMMENDATIONS ON THE STATE BUDGET BILL**

City Attorney Vance stated that this item is providing a chance for the Common Council to comment or talk about the State budget bill.

Council Member Filter suggested tabling the subject because it is too ambiguous.

In answer to Council Member Loomis' question, City Administrator/Treasurer Mertes stated that in terms of property tax levy limits the proposal currently removes all carry-over provisions. It is also dropping the CPI and only allowing growth as a part of the equation.

In answer to Council Member Loomis' question, City Administrator/Treasurer Mertes stated that in the case of a large unforeseen environmental expenditure, the City would need to borrow money or use the Fund Balance.

Council Member Loomis stated that if the City borrows money, the City's Debt Service costs will increase. If the City is already at the limit, he questioned whether the City has any other alternatives besides letting employees go to cover the costs.

City Administrator/Treasurer Mertes stated that as the debt service increases, the City can increase the levy to allow for it; however, if the debt service decreases next year then the levy has to decrease by that same amount in the proposed budget bill.

Council Member Loomis stated that the possible changes to the levy limit are still unclear to him. The City has some potential environmental obligations that the Council hopes the City is sufficiently funded for; however, it is unclear at this point.

Council Member Kinzel suggested that Council Members respond individually to the League of Municipalities on their Municipal recommendations on the State budget bill.

Council Member Loomis stated that he agrees with the League's recommendation to require all municipal employees to make the same mandatory pension and health insurance contributions that Act 10 requires of general municipal employees. He has a problem with different classes of employees and it is his opinion that this needs to be added to the budget bill.

Council Member Filter stated that there are many unknowns about the budget.

City Attorney Vance stated that it is known that the municipalities will get large cuts.

In answer to Council Member Loomis' question, City Administrator/Treasurer Mertes stated that for 2012 the City is looking at a \$263,000 cut in aid. For 2011, there may be a 40% cut in recycling grants which amounts to \$20,000 - \$25,000.

Council Member Loomis confirmed that if the budget passes, it will allow for some benefit reductions that would offset part of the shortfall.

City Administrator/Treasurer Mertes stated that the WRS contribution from non-union employees will help. If the March date stands, the City will receive \$61,000 for 2011 and approximately \$80,000 for next year.

In answer to Council Member Loomis' question in regard to non-police contributions, City Attorney Vance stated that the City has two-year contracts with the Public Works/Wastewater, Clerical and Library unions.

Council Member Loomis stated with the \$80,000 WRS contribution, the City will still be short \$182,000 in next year's budget. The City cannot make this amount up with the levy; therefore, the City will be left with the question of where we cut and who do we cut next year.

Council Member Kinzel stated that even though we have contracts, we may have to ask for concessions in lieu of losing people.

In answer to Council Member Loomis' question, City Attorney Vance stated that surrounding communities have not expressed any opinions on the budget bill.

Council Member Loomis requested that this item be on the next Council agenda for further discussion.

In answer to Council Member R. Reimer's question, Council Member Loomis stated that it is possible that the City may talk about the City's budget and/or taking a position on the State's budget. Council Member Loomis opined that other communities may be taking some action in the next two weeks, which may provide more clarity for the City.

**CONSIDER PAYMENT OF BILLS FOR THE PERIOD 3/25/11 THROUGH 3/31/11, ACH TRANSFERS FOR THE PERIOD 4/4/11 THROUGH 4/11/11, AND PAYROLL FOR THE PERIOD 4/1/11 THROUGH 4/13/11**

Motion made by Council Member Filter, seconded by Council Member Maher, to approve the payment of bills for the period 3/25/11 through 3/31/11, ACH transfers for the period 4/4/11 through 4/11/11, and payroll for the period 4/1/11 through 4/13/11. Motion carried unanimously on a roll call vote with Council Members C. Reimer and Radtke excused.

**LICENSE APPLICATIONS**

Motion made by Council Member Filter, seconded by Council Member Loomis, to approve new Operator's License applications for the period ending June 30, 2011 for: David L. Krupa, Therese F. Kirchner, Ellen T. De Lia, Tracy L. Samuel, Christopher J. Connors, and Kristine R. Nourse. Motion carried without a negative vote with Council Members R. Reimer and Radtke excused.

Motion made by Council Member Maher, seconded by Council Member Kinzel, to approve issuance of a Festival Celebration Permit to Festivals of Cedarburg, Inc. for Strawberry Festival to

be held on June 25, 2011 from 10:00 a.m. until 6:00 p.m. and on June 26, 2011 from 10:00 a.m. until 5:00 p.m. Motion carried without a negative vote with Council Members C. Reimer and Radtke excused.

Motion made by Council Member Maher, seconded by Council Member Kinzel, to approve the application of P.J. Piper, LLC, Judith Fergadakis, for a Class “B” beer and “Class C” wine license at P.J. Piper Pancake House at W61 N514 Washington Avenue. Motion carried without a negative vote with Council Members R. Reimer and Radtke excused.

**CONSIDER ORDINANCE NO. 2011-05 PROHIBITING SYNTHETIC CANNABINOID**

Police Chief Frank stated that over the past couple of years, smokeable herbal products marketed as being “legal” and as providing a marijuana-like high, have become increasingly popular, particularly among teens and young adults. Presently, police officers cannot take the product away; however, this ordinance will provide additional enforcement options when coming in contact with individuals in possession of a synthetic cannabinoid.

Motion made by Council Member R. Reimer, seconded by Council Member Filter, to adopt Ordinance No. 2011-05 prohibiting Synthetic Cannabinoid with the understanding that paragraph one is correct. City Attorney Vance stated that the language is from the United States Drug Enforcement Administration.

In answer to Council Member Maher’s question, Police Chief Frank stated that he has not seen any of these products on the internet to-date. If the product is advertised as legal, it cannot be used as a defense. Once this Ordinance is in place, it becomes illegal to possess it or sell it in the City of Cedarburg.

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

**CONSIDER RESOLUTION NO. 2011-02 RECOGNIZING COUNCIL MEMBER KIP KINZEL**

Motion made by Council Member Filter, seconded by Council Member Loomis, to adopt Resolution No. 2011-02 recognizing Council Member Kip Kinzel for conscientiously completing nine years of service to the City of Cedarburg as 6<sup>th</sup> District Council Member from 2002-2011 and two years at Council President from 2009-2011. Motion carried without a negative vote with Council Members C. Reimer and Radtke excused.

Council Member Kinzel stated that it was a great experience and he was happy to serve as Council Member for the 6<sup>th</sup> District. He complimented and thanked everyone involved for serving with professionalism. Council Member Kinzel thanked City staff for making his job easier.

**CITY ADMINISTRATOR’S REPORT**

City Administrator/Treasurer Mertes stated that she received a retirement notice today from Administrative Assistant Cathie Anschuetz, effective June 3, 2011.

Council Member Filter requested that a resolution be presented to Administrative Assistant Cathie Anschuetz.

The 2010 Annual Report was distributed to the Council to review prior to the Audit presentation. The ad hoc Debt Investment Committee was unable to meet in April and will meet in May.

**COMMENTS AND ANNOUNCEMENTS BY COUNCIL MEMBERS**

Council Member Loomis stated that the citizens of District 6 have been served well by Council Member Kinzel and they owe him debt for his service. He stated that it has been an honor to serve with Council Member Kinzel.

**MAYOR'S REPORT**

As Acting Mayor, Council Member Kinzel issued Proclamations for Mayor Myers in honor of:

- National Volunteer Week, April 10-16
- National Library Week, April 10-16
- Public Service Recognition Week, May 1-7

**ADJOURNMENT**

Motion made by Council Member Filter, seconded by Council Member Loomis, to adjourn the meeting sine die at 8:15 p.m. Motion carried without a negative vote with Council Members C. Reimer and Radtke excused.

Amy D. Kletzien, MMC/WCPC  
Deputy City Clerk