

**CITY OF CEDARBURG
COMMON COUNCIL
April 12, 2010**

**CC20100412-1
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, April 12, 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, Robert Loomis

Also Present - City Attorney Kaye Vance, City Administrator/Treasurer Christy Mertes, Director of Engineering and Public Works Tom Wiza, Police Chief Tom Frank, City Planner Jon Censky, Wastewater Treatment Plant Superintendent Ron Clish, Light & Water General Manager Dale Lythjohan, Emergency Management Director Frank Even, Economic Development Coordinator Linda Skalecki, 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 March 29, 2010 meeting as amended by Council Member Radtke on page 3, paragraph 7 by adding the following sentence: He does not believe in putting stop signs at each uncontrolled intersection; however, it is okay in this circumstance. Motion carried without a negative vote.

COMMENTS & SUGGESTIONS FROM CITIZENS – None

CONSIDER RESOLUTION NO. 2010-08 COMMENDING FRANK EVEN FOR HIS YEARS OF SERVICE AS A CEDARBURG EMERGENCY MANAGEMENT VOLUNTEER

Motion made by Council Member Loomis, seconded by Council Member Kinzel, to approve Resolution No. 2010-08 commending Frank Even for his 44 years of service, the last eight years as Director, as an Emergency Management volunteer. Motion carried without a negative vote.

UPDATE ON THE WALK FRIENDLY COMMUNITY PROGRAM

Kit Keller reported to the Common Council that with the help of City Staff, the Association of Pedestrian and Bicycle Professionals (APBP) completed pilot testing the Walk Friendly Community (WFC) assessment tool in Cedarburg.

The purpose of the pilot was to test the draft WFC assessment tool in a real world environment before releasing it to the public. Three communities tested the tool: Davidson, NC, Orlando, FL and Cedarburg, WI.

When Kit Keller first approached the City of Cedarburg in 2009 to serve as a WFC pilot project, the Common Council graciously and enthusiastically agreed and she applauds the wonderful staff for their help. She stated she was pleased to provide a small reward for the City's participation with a \$1,000 service honorarium for the time and effort involved in participating in the pilot. She hopes that the City of Cedarburg will apply these surprise funds toward the City's admirable and continuing efforts to become more walkable.

The online WFC application will be released to the public later this month and any U.S. city may apply for the WFC status. She indicated that she would be happy to work with City staff in May to complete the online application. Given the fine work the Cedarburg team has already done, the City is well on its way to completing the application.

CONSIDER CONTRACT FROM EHLERS & ASSOCIATES, INC. FOR CONTINUED DISCLOSURE REPORTING SERVICES

City Administrator/Treasurer Mertes stated that the Securities and Exchange Commission (SEC) requires annual reporting by issuers of municipal bonds. Previously, Ehlers has done the reporting at no charge to the City but in recent years there have been changes that have increased the amount of time they spend on the reporting. The issues are increased complexity, multiple rating changes in insured bonds (bond insurance companies' ratings have been downgraded), anticipated additional regulation and new filing procedures in 2009. In the years the City issues debt, there will not be a charge for the reporting.

Motion made by Council Member R. Reimer, seconded by Council Member Loomis, to approve the contract from Ehlers & Associates, Inc. for continued disclosure reporting services at a cost of \$1,200.

In answer to Council Member Maher's question, City Administrator/Treasurer Mertes stated that the City has never done this reporting in the past.

Council Member Radtke expressed appreciation to Ehlers & Associates, Inc. for periodically attending meetings for informational purposes at no cost to the City.

CONSIDER RESOLUTION NO. 2010-07 OPPOSING RESTRICTIVE PHOSPHORUS LEVELS AS PROPOSED BY THE DNR

Superintendent Clish stated that the DNR has proposed making a Water Quality Based Effluent Limit for wastewater treatment plants to reduce the amount of phosphorus entering lakes and streams.

The current limit for the City of Cedarburg Plant is 1.0 mg/l; however, the DNR is proposing a limit at 0.075 – 10 mg/l. The estimates indicate that the cost to the City to meet these new limits would be approximately \$7.1 million for capital equipment.

Superintendent Clish explained that the DNR has identified that approximately 25% of the phosphorus is coming from point sources such as wastewater treatment plants, while approximately 75% is coming from non-point sources such as agricultural runoff.

In answer to Council Member C. Reimer's question, Superintendent Clish confirmed that fertilizer runoff is a source of phosphorus.

Superintendent Clish stated that without a sizable reduction in the non-point sources, it is not a viable regulation from a cost or environmental standpoint for point sources to spend millions of dollars and see very little improvement in water quality.

He stated that this Resolution would be valuable in that there is a Public Hearing scheduled for April 20, followed by a meeting of the DNR Board in June, and review by the Legislature in July.

Council Member R. Reimer stated that a number needs to be corrected in the Resolution.

City Attorney Vance stated that the City could send a letter rather than a Resolution to explain our position.

Council Member Loomis indicated that a letter from the City would be more appropriate.

Council Member R. Reimer questioned whether the technology is available yet to achieve the desired limit.

Council Member Clish explained that some plants have the technology, but they are unable to meet the limit consistently.

Council Member Loomis compared this instance to the recent water dam issues and opined that a letter from the Mayor would be more effective.

It was the consensus of the Common Council to draft a letter to the DNR with assistance from City Attorney Vance.

Council Member R. Reimer opined that a ¾ page letter stating key topics without argument would be most effective.

CONSIDER RESULTS FROM TESTING OF WELL #4

Light & Water General Manager Lythjohan explained that Well #4 is located at the corner of Sherman Road and Wauwatosa Road and is one of five wells in the City. The Well has been on-line for 30+ years with no previous detection of Vinyl Chloride (VC) until March 2010. He stated that VC is a known contaminate in the “plume” from Prochnow Landfill.

General Manager Lythjohan continued by saying that normal well testing is completed quarterly on all five municipal wells and that the first quarter test conducted in March 2010 indicated VC at 0.17 ppb. The DNR maximum contaminate limit is 0.2 ppb and Well #4 tested below this limit so it is not a health concern at this time. General Manager Lythjohan stated that Well #4 is safe until a test indicates a level at or above 0.2 ppb.

The Utility has made a conscious decision to not over or under react. The Utility will proactively take monthly samples for approximately six months, or longer if the data indicates a need. The City, Prochnow PRP's and the DNR have been informed of the test results. The contingency plan is to shut down Well #4 if the tests indicate a level of 0.2 ppb or above. If the Well is shut down, odd/even water restrictions during a dry summer would possibly be implemented and discussions of a long-term solution such as aeration would begin.

General Manager Lythjohan explained that the second sample was taken on April 5 and the results were similar at 0.15 ppb VC. The next sample date is scheduled for the week of May 3.

In answer to Council Member Loomis' questions, General Manager Lythjohan stated that November's test indicated 0 ppb. So something changed since November and it may be the plume moved from the Prochnow property, as Well #4 is in the direction of the movement in the East/Southeast direction. The cost to remediate the Well could be in the range of \$1 million in capital costs and would need to be recovered from the City, Town, Mercury Marine and Emerson.

In answer to Mayor Myers' question, General Manager Lythjohan stated that water for Well #4 is drawn at a beginning level of 600 feet and draws from thousands of feet away.

In answer to Council Member C. Reimer's question, City Attorney Vance stated that 22 or 23 Town properties were provided with City water in 1997-98 due to an order from the EPA because the same contamination (VC) was detected in private wells in the Town of Cedarburg.

In answer to Council Member Loomis' question, General Manger Lythjohan stated that no private drinking water wells have been tested lately in the Five Corners area.

In answer to Mayor Myers' question, General Manager Lythjohan stated that he does not have any recent results from the well monitoring on the Prochnow property. Mayor Myers asked that the City obtain the results.

Council Member Filter suggested that Ozaukee County may cooperate by allowing the City to test the water at the County garage in the Town, east of Five Corners, to determine if the water is contaminated.

Council Member C. Reimer stated that the City was alerted to water contamination in the early 1990s and as a result is concerned about development at the Five Corners area. The City does not want to expose the taxpayers to any further costs associated with mandatory water extensions to the Town of Cedarburg.

Council Member Radtke stated that the City has always been concerned about the direction of the plume.

In answer to Council Member Maher's question, General Manager Lythjohan stated that he has informed the DNR of the elevated level of VCs in Well #4 and they are satisfied with monthly testing.

City Attorney Vance stated that the Prochnow Responsible Parties have been notified also.

Council Member Kinzel applauded the Utility for doing monthly checks on the water.

Council Member C. Reimer confirmed that the five City wells go to one area and is mixed before the water is used.

General Manager Lythjohan said the VCs should go down and they will be sampling the water in the tower also for assurance.

Council Member R. Reimer asked General Manager Lythjohan to report back to the Council on the status of the Well after the May 3 sampling.

City Attorney Vance asked how the testing differs between public and private wells.

General Manager Lythjohan stated that private wells are tested for bacteria only and the DNR requires a reporting for the first time in service or during a real estate transaction.

In answer to Council Member Radtke's question, General Manager Lythjohan stated that a private well can be tested for VCs for approximately \$100 - \$150.

Council Member C. Reimer asked if contaminants can leach through PVC piping.

General Manager Lythjohan stated that there is PVC piping all over Cedarburg and there is no record of seepage.

General Manager Lythjohan confirmed that he will update the Common Council at the May 10 meeting.

CONSIDER VACANCY IN THE ECONOMIC DEVELOPMENT COORDINATOR POSITION

Mayor Myers announced that Economic Development Coordinator Linda Skalecki has submitted her letter of resignation effective April 30, 2010 at the end of her contract. He asked the Council to consider filling the vacant position as soon as possible.

Council Member C. Reimer asked if Coordinator Skalecki had Smart Goals or any metrics to measure her work.

Council Member Radtke stated that it is difficult to quantify the position; however, he asked people in the community for their feedback and the consensus was that she did a phenomenal job. He opined that the City needs this position in this tough economic time.

At Mayor Myers' request, Coordinator Skalecki addressed the questions of the Common Council. She thanked Mayor Myers and the Common Council for their support the last two years. She explained that she enjoyed the position very much and it benefited the City; however, she is resigning for personal reasons.

Coordinator Skalecki displayed a large folder of potential and incoming businesses that she established relationships with over the past two years. She explained that she developed a 10-11 page report that was updated monthly on space available in Cedarburg for new business. Coordinator Skalecki explained that she built relationships with current businesses also to help them enhance or make use of their current space and retain business in Cedarburg.

Coordinator Skalecki encouraged the Common Council to see the value in the Economic Coordinator position. She would like to see the person remain at City Hall to enable them to meet new business people who come in for signs and permits and to establish relationships with business people.

Council Member Loomis expressed appreciation to Coordinator Skalecki and commended her on doing a great job in this position.

Motion made by Council Member Radtke, seconded by Council Member Loomis, to fill the vacancy in the Economic Development Coordinator position.

Council Member Maher stated that he spoke with area businesses and some recommended that the Coordinator should also work with other organizations such as the Cedarburg Merchants and the Cedar Creek Settlement Merchants Associations besides working with the City Administrator and Chamber of Commerce.

Council Member Radtke and City Administrator/Treasurer Mertes confirmed that the position is paid \$20,000 from the City and \$5,000 from the Chamber of Commerce. The other organizations do not help fund the position.

Mayor Myers stated that the Economic Development Coordinator should not be involved with too many other organizations.

Council Member C. Reimer questioned whether the position could be combined with another position at City Hall to make it full time.

Council Member Radtke stated that the ad hoc Downtown Master Plan Committee does not want the Economic Development Coordinator a shared position because the duties may get skewed.

In answer to Council Member C. Reimer's question, Mayor Myers stated that Cedarburg Festivals is mostly a volunteer organization and they are not City employees so the position could not be combined with festivals.

Council Member Radtke indicated that the Chamber of Commerce is in favor of the position being re-staffed.

City Administrator/Treasurer Mertes stated that business owner Liz Brown, City Planner Censky and Council Member Radtke would work together to hire a new coordinator if the Council votes in favor.

Mayor Myers stated that the same process that was used to hire Coordinator Skalecki should be followed when filling the position.

City Administrator/Treasurer Mertes stated that there has already been interest in the position.

Council Member Radtke stated that Coordinator Skalecki has developed the position to its current level and the position will start off in a better position for the next coordinator.

Motion carried unanimously without a negative vote.

CONSIDER REQUEST OF POLICE CHIEF TO BEGIN PROCESS TO REPLACE A PATROL OFFICER

Police Chief Frank stated that Officer Robert Van Dinter is retiring after 30 years with the City. His last day with department will be June 10, 2010. Chief Frank requested permission to start the hiring process to replace him. The hiring process for a police officer takes approximately six months or more to complete. Chief Frank explained that the department will save approximately \$30,000 during these six months without an officer. Once the officer is hired, an additional \$15,000 will be saved in the first year due to entry level salary.

In answer to Council Member C. Reimer's question, Chief Frank explained that the position should be filled to meet the contractual agreement with the police union to staff a minimum of seven officers each day and it would reduce the amount of overtime needed to meet this demand. Other things to consider are vacation, comp time, training and being able to answer calls as they come in. If the department is not fully staffed, calls will back up and the response time will increase, routine patrol will fall, less traffic tickets will be issued, and less time will be available for routine checks.

Mayor Myers recommended that the Police & Fire Commission start the process to create an eligibility list and the possibility of filling the position will be reevaluated at budget time.

Chief Frank explained that the process will take approximately six months to create an eligibility list. The opening will generate 200 applicants for the one position. Eligible applicants will go through written and fitness tests. The Police and Fire Commission will do oral interviews to cut the list and the final group will be given polygraph and psychological tests to narrow the list to few candidates. He will go as far as the background checks which can take another month. Chief Frank stated that it will cost approximately \$4,000 to go through this process.

Council Member Loomis asked for the following information at budget time: the amount of overtime that was paid to officers the year that Officer McNearny was overseas, the population in all past years with the number of corresponding officers that year, the number of calls for service within the City and the number of calls to other communities where numbers are missing in the information provided to the Council. The Common Council will examine the effects of an officer reduction versus furlough days in the future.

Motion made by Council Member Filter, seconded by Council Member Maher, authorizing the process for creating an eligibility list for a possible opening at the Police Department.

In answer to Council Member's questions, Chief Frank stated that a starting officer could start at a higher salary based on the officer's experience and at the discretion of the Police Chief. As a reference, he stated that a deputy with five years of experience from the Ozaukee County Sheriff's Department was hired and began at the two-year pay grade.

In answer to Council Member R. Reimer's questions, Chief Frank stated that grant money for an additional officer was denied to other Ozaukee County communities and is probably not available. The grant money was also only for a newly created position, not a replacement. In regard to mutual aid responses from the City, it is a possibility that the City was unable to respond to a request in the past because there were only two officers available and they were needed in the City.

Council Member C. Reimer requested that Chief Frank track future mutual aid requests.

Motion carried unanimously on a roll call vote.

CONSIDER ISSUES RELATING TO MEDIATION

City Attorney Vance stated that mediation with the Town is scheduled for May 26. The Town is required to send a list of issues first, followed by a list from the City. The City needs to identify their issues to be discussed. The meeting is scheduled to begin at either 6:00 or 7:00 p.m. and will only be allowed to run for three hours.

Council Member Radtke stated that all the shared services agreements need to be discussed.

Council Member Loomis suggested the following items be submitted for discussion:

- Eminent domain
- Concern for waivers to stop annexations
- Prevent movement of plume
- All shared services agreements (expired and upcoming)

Council Member Kinzel stated that both communities should be interested in saving money and everything has to be on the table including mutual aid for police protection.

Council Member Radtke stated that the priority should be to keep Cedarburg as one community and not to divide it.

Council Member Loomis questioned why two separate governmental bodies are needed. The City and Town should discuss ways to merge and save money.

Mayor Myers stated that the Town is duplicating services and not saving money by operating alone.

In answer to Council Member Maher's question, City Attorney Vance stated that the City will respond with a list of topics for discussion after the Town submits their list.

Mayor Myers stated that a special Council meeting can be scheduled if necessary to develop the final list of issues to be discussed during mediation.

Concerns about the water supply in the Town were discussed. City Attorney Vance stated that the current water capacity to the land slated for a large funeral home and crematorium is only sized for a home at this time.

Council Member R. Reimer asked if the zoning was changed on this property.

City Attorney Vance stated that the zoning has already been changed.

Mayor Myers determined that some of the discussion was going beyond the scope of the agenda and ended the discussion.

Council Member R. Reimer disagreed and asked that it be noted in the minutes.

Mayor Myers stated that this agenda item is for general discussion and it is not prudent to discuss specific properties.

LICENSE APPLICATIONS

Motion made by Council Member Radtke, seconded by Council Member Maher, to authorize issuance of a new Operator's License for the period ending June 30, 2010 to Rubicelia Hernandez. Motion carried without a negative vote.

CITY ADMINISTRATOR'S REPORT

Secretary II Pam Holloway began employment at the Police Department today.

COMMENTS & SUGGESTIONS BY CITIZENS - None

COMMENTS AND ANNOUNCEMENTS BY COUNCIL MEMBERS

Council Member Filter opined that all City vehicles should be identified with the City logo, specifically the Building Inspector's vehicle. He stated that there should be a policy from a previous Administrator.

Council Member Maher stated that this week is Library Week and he encouraged everyone to visit the Public Library and to get a card if needed.

Council Member Radtke would like the City to make a concerted effort to obtain software that allows electronic communication with citizens. It is nice software at a low cost and should be considered now rather than waiting until budget time for discussion as suggested by Council Member Loomis.

MAYOR'S REPORT - None

ADJOURNMENT – CLOSED SESSION

Motion made by Council Member C. Reimer , seconded by Council Member Kinzel, to adjourn to closed session at 8:42 p.m. pursuant to Wisconsin State Statutes 19.85(1)(e) to deliberate or negotiate the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session regarding land acquisition, sale, and a shared services/boundary agreement with the Town of Cedarburg and 19.85(1)(g) to confer with legal counsel who is rendering oral or written advice concerning strategy to be adopted with respect to litigation in which it is or is likely to be involved regarding groundwater contamination and pending Town litigation regarding JETZCO.

RECONVENE TO OPEN SESSION AND POSSIBLE ACTION ON CLOSED SESSION ITEMS

The meeting did not reconvene to open session.

ADJOURNMENT

Motion made by Council Member Filter, seconded by Council Member Kinzel, to adjourn the meeting at 9:55 p.m. Motion carried without a negative vote.

Amy D. Kletzien, MMC/WCPC
Deputy City Clerk