

**CITY OF CEDARBURG
COMMON COUNCIL
April 30, 2012**

CC20120430-1

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, April 30, 2012 at City Hall, W63 N645 Washington Avenue, second floor, Council Chambers. Mayor Kinzel called the meeting to order at 7:12 p.m.

ROLL CALL: Present - Common Council: Mayor Kip Kinzel, Council Members Chris Reimer, Ron Reimer, Art Filter, Michael Maher, Mike O'Keefe

Excused - Council Members Paul Radtke and Doug Yip

Also Present - City Attorney Kaye Vance, City Administrator/Treasurer Christy Mertes, Director of Engineering and Public Works Tom Wiza, Director of Parks, Recreation and Forestry Mikko Hilvo, City Clerk Constance McHugh, Wastewater Superintendent Ron Clish, Fire Chief Rich Van Dinter, Library Board President Sue Karlman, Library Board Members Art Palleon, Liz Bryde, and Steve Ruggieri, George Beyer of Construction Management Group, Alexandra Ramsey of Engberg Anderson, interested citizens and news media

STATEMENT OF PUBLIC NOTICE

At 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.

APPROVAL OF MINUTES

Mayor Kinzel said the words "Mayor Myers" in the second to last paragraph on page 4 of the minutes of the April 17, 2012 Organizational meeting should be changed to "Mayor Kinzel".

Motion made by Council Member Maher, seconded by Council Member Filter, to approve the minutes of the April 17, 2012 Regular meeting as presented and the April 17, 2012 Organizational meeting with the correction mentioned above. Motion carried unanimously with Council Members Radtke and Yip excused.

2011 FIRE DEPARTMENT REPORT

Fire Chief Van Dinter thanked the Mayor and Common Council for the opportunity to talk about the accomplishments of the Cedarburg Volunteer Fire Department.

Chief Van Dinter said the primary objective of the Department is to deliver outstanding service to the community. The Department responded to a total of 971 calls in 2011, which was 72 calls less

than in 2010 and brought the Department back to a more normal response level. There were 734 rescue calls in 2011, a decrease of 57. The number of fire calls totaled 170, a decrease of 15. Fire and rescue calls in the City totaled 725 and calls in the Town totaled 170. There were 67 mutual aid calls to neighboring departments. Of the 67 calls, 17 of them used the MABAS system.

The Department responded to 7 structure fires in 2011. Fire losses reported to the Department totaled approximately \$100,000. There were no citizens injured in 2011. One firefighter was injured in the course of performing his duties.

Nine new members were added to the Department in 2011. Nine members retired or resigned from the Department.

Chief Van Dinter said training is always a priority for the Cedarburg Fire Department. Over 5,850 hours of training were logged in 2011. Sixteen firefighters attended State certification training. Twelve young people are enrolled in the Explorer Program and have dedicated over 600 hours in 2011.

The Fire Prevention Bureau continues to promote fire safety in the community. The Department partners with Beyer's Hardware to promote the "Change Your Clock, Change Your Battery" program. Beyer's donated batteries that the Fire Department gave away as part of the program.

Chief Van Dinter said a significant event the Department participates in annually is Safety Day, which promotes fire and EMS safety, drug awareness, water safety and displays to keep the community aware and educated.

Chief Van Dinter said fund raising remains a high priority. The Department is able to buy equipment that is not funded through tax dollars.

Chief Van Dinter concluded by saying that it was another successful year for the Cedarburg Fire Department. Goals were accomplished, personnel were trained, six individuals were promoted, and the Department was again a leader in the community. He said the Cedarburg Fire Department is committed to provide whatever is needed to keep the community safe.

Council Member Filter said the Fire Department does a great job and the City is proud of the Department.

Council Member C. Reimer said that it is incredible that the Fire Department does all it does with virtually no cost to the community.

Mayor Kinzel said the community is very fortunate to have this all volunteer organization.

REVIEW OF 2011 ANNUAL REPORT FOR NR 216 MUNICIPAL STORMWATER COMPLIANCE

Director Wiza said as part of the NR216 stormwater permit, the City must prepare an annual compliance report for submission to the DNR which documents stormwater program accomplishments and present it to the Council.

Director Wiza said there are a number of different permit conditions, including a requirement that the City implement a public education and outreach program. He said related literature is available in a rotating rack at City Hall, articles are published in the Cedar Post, and information is posted on the City's website. A rack of literature is also displayed at the County Fair.

Another requirement is that the City maintain a program to detect and eliminate illicit discharge. The City uses the firm of AECOM to assist with the testing. Director Wiza said fortunately the City does not see a lot of illicit discharge.

The City must enforce its erosion and sediment control ordinances. In 2011, two stormwater management permits were issued and 13 erosion control permits were issued. The City must also continue the regular review process of stormwater plans associated with site developments for compliance with the ordinance.

Another requirement is that of a pollution prevention program. The City does maintain and update storm sewer mapping. Catch basins are to be cleaned annually, but because of a retirement last year only about 65% of the catch basins were cleaned. Thirty new catch basins were installed in 2011. Approximately 22 tons of materials were removed from the catch basins. Trash collected in the river cleanup was disposed of as part of this program. Weekly street sweeping of the downtown occurs. Sweeping of other streets occurs on a monthly basis. Approximately 987 tons of brush, leaves, and yard waste was collected in 2011. Approximately 2,800 gallons of used motor oil was collected in 2011. Most of the oil collected was used to heat the Public Works garage.

The City also has a program in place to prevent, contain, and respond to spills that may discharge into the storm sewer system.

Director Wiza said staff continues to take training to increase knowledge of requirements. He attended the Clean River Clean Lakes Conference in 2011.

The Council thanked Director Wiza for his report.

CONSIDER ACCEPTANCE OF BID FOR THE WILLOWBROOKE PARK PATH PROJECT

Director Hilvo said five bids were received for the Willowbrooke Park Path project. The low bidder was Parking Lot Maintenance in the amount of \$11,250. He is requesting an additional \$1,250 for the project as \$10,000 was budgeted. He said that there was \$5,500 in savings from the bleachers replacement project. In addition, \$2,500 was received from the sale of the old bleachers.

Motion made by Council Member C. Reimer, seconded by Council Member O'Keefe, to accept the bid of Parking Lot Maintenance for the Willowbrooke Park Path project in the amount of \$11,250. Motion carried unanimously on a roll call vote with Council Members Radtke and Yip excused.

CONSIDER REQUEST TO FILL AN OPERATOR POSITION AT THE WASTEWATER TREATMENT PLANT

Superintendent Clish said that a few months ago he appeared before the Council to seek authorization to hire a part-time employee at the Wastewater Treatment Plant. The position was recently filled; however, since that time a 37 year employee decided to retire and another employee is out on medical leave. He said the Plant is down three people in the rotation for on-call emergencies. Six employees is the practice.

Superintendent Clish said that he is looking for a person to replace the retiring employee. He said it takes about 3 to 6 months of training before the person can respond to emergency calls.

Council Member Filter asked if the goal is to have the part-time position go to full-time in the future.

Superintendent Clish said that is a possibility.

Council Member C. Reimer asked if it would be a good idea to make the part-time employee full-time now and hire another part-time employee.

Superintendent Clish said someone with a lot of lab experience is needed for the full-time position. He said he would like to see the Council authorize replacement of the Operator position tonight. He will be back at a later date to discuss other positions with the Council.

Motion made by Council Member Filter, seconded by Council Member C. Reimer, to authorize the hiring of a full-time Operator at the Wastewater Treatment Plant. Motion carried unanimously with Council Members Radtke and Yip excused.

CONSIDER CONTRACT WITH ENGBERG ANDERSON FOR ARCHITECTURAL SERVICES RELATED TO THE NEW LIBRARY

Director Wiza said Engberg Anderson has presented a summary letter and proposal for architectural design services related to the design and construction of the new library. The proposal explains the estimated work to be done and includes a fee to complete the services of \$452,000.

Motion made by Council Member Maher, seconded by Council Member Filter, to authorize entering into a contract with Engberg Anderson for architectural design services related to the new library, subject to the City Attorney and staff's review of the contract.

Council Member R. Reimer asked if this contract fits in with the itemization detailed in the spreadsheet of the library project spending.

City Administrator/Treasurer Mertes said that this contract does fit in as the firm provided the City with the numbers.

Council Member R. Reimer said he would like to see the Sources and Uses of Funds spreadsheet updated.

Motion carried unanimously on a roll call vote, with Council Members Radtke and Yip excused.

CONSIDER CONTRACT WITH CONSTRUCTION MANAGEMENT GROUP, INC. FOR CONSTRUCTION MANAGEMENT SERVICES RELATED TO THE NEW LIBRARY

Director Wiza said Construction Management Group, Inc. has provided a proposal summary relating to construction management services for the new library. Construction Management Group, Inc. would provide the same services as a general contractor would, but would work directly for the City. The cost will likely be the same as using a general contractor but the City would have more control over the project.

The compensation for the Construction Manager's Preconstruction Phase Services and Construction Phase Services will be a lump sum fee of \$156,000. Director Wiza said this is only a part of the cost. Construction Manager's reimbursable staff will be billed at an hourly rate of \$85 for Senior Project Manager and \$80.00 for Project Superintendent. Other reimbursable expenses at the job site included in the project shall be billed at the actual cost.

Motion made by Council Member Maher, seconded by Council Member Filter, to authorize entering into a contract with Construction Management Group, Inc. for construction management services related to the new library, subject to the City Attorney and staff's review of the contract. Motion carried unanimously on a roll call vote, with Council Members Radtke and Yip excused.

CONSIDER TOTAL PROJECT COSTS FOR THE LIBRARY BUILDING PROJECT

City Administrator/Treasurer Mertes asked for clarification regarding the total amount that is to be spent on the new library. She said it has been established that the project cost not exceed \$6.3 million. She is looking for guidance as to whether this amount includes past expenditures or is the amount going forward. She said about \$540,000 has been spent on the project to date.

Council Member Maher said that much of what was spent thus far was because it was assumed the City would use the Mercury Marine site.

Council Member R. Reimer said that the following motion was approved at the April 10, 2006 Council Meeting: "that the Common Council support and move ahead to build a new library based on the referendum maximum commitment of \$6 million from the City".

Council Member Maher said that he believes the Council approved the project at a cost of \$6.3 million.

City Administrator/Treasurer Mertes said the \$6 million was approved to be borrowed for the library project. The remaining funds were to come from donations, pledges and impact fees. She said \$1,060,000 of the \$6 million was borrowed for in 2007.

Council Member Filter said he wants to make sure the new library costs no more than \$6 million.

Council Member C. Reimer asked if any money borrowed has been spent on the project.

City Administrator/Treasurer Mertes said that funds have been used to pay the interest and principal. She said she will talk to the City's Financial Advisor to obtain an opinion as to when the best time to borrow the remaining money would be. She again stated that the total amount to be borrowed is \$6 million.

Council Member Maher said the Friends of Library have committed \$219,000 to the project. He asked if any additional funds raised by the group would have to be used to pay down the borrowing or if the funds could be used towards additional costs.

Council Member C. Reimer asked who would be on the hook if fund raising efforts fall through.

City Attorney Vance said the City would be on the hook if funds were spent based on anticipated fund raising and the fund raising falls through.

Council Member Maher said the interior items would be purchased near the end of the project and funds from the Friends of the Library would go towards this. He again asked if additional fund raising would have to be used to pay down the borrowing or if it could be used for additional costs.

Council Member R. Reimer said that if the Friends of the Library donate funds to buy items for the interior of the library, it is the Library Board's business, not the Council's.

Council Member R. Reimer said that the citizens of the community were informed that the City would support and commit \$6 million. He said based on past minutes he doesn't agree that the total project cost is \$6.3 million.

Mayor Kinzel said the Council agreed that the City would commit \$6 million to a new library.

Council Member R. Reimer said that he believes the City committed \$6 million towards the library and the amount remaining to be borrowed is approximately \$5.5 million.

Council Member Filter made a motion that staff obtain final estimates on what the costs are to borrow the remaining money (the \$6 million minus the \$1,060,000 that was borrowed in 2007). The motion died due to a lack of a second.

Library Board President Sue Karlman said there seems to be confusion as to the terms being used. She said the issue is that of what is the amount of money out of the \$6.3 million that was agreed upon that is available for the library project. She said the cost of the project will be whatever the Council says is available.

Council Member R. Reimer asked for clarification in terms of the \$219,000 anticipated donation from the Friends of the Library.

Library Board Member and Friends of the Library Board Member Steve Ruggieri said that the Friends of the Library has set aside \$219,000 to be used to help with the new library. The funds are intended to be used for enhancements inside the building. He said the Friends are looking towards a campaign to raise more funds but is looking towards the City to actually build the new building.

Council Member Maher made a motion that the Council go ahead with City Administrator/Treasurer Mertes' recommendation to borrow up to a total of \$6 million for the construction of a new library going forward, of which \$1,060,000 has already been borrowed for. The motion was seconded by Council Member Filter.

Council Member Maher said what has been spent in the past is spent and does not count towards the future.

George Beyer of Construction Management Group, Inc. said all parties need to know going forward what the available amount of funds is. Is it \$5.8 million, \$6.3 million, or another number?

Mayor Kinzel suggested that the Council reaffirm the \$6 million in borrowing to construct the new library and go through the spreadsheets line by line to determine what should be applied towards the project. He said the Council needs to determine what was already spent on the library project.

Council Member Maher said that what is spent already should be considered the cost of doing business.

Council Member C. Reimer said that \$540,000 has already been spent; therefore, \$5,460,000 remains to be spent. The Council told citizens it would commit \$6 million towards the project.

With Council Member Maher voting aye and Council Members R. Reimer, C. Reimer, Filter, and O'Keefe voting nay, the motion failed.

Sue Karlman said there should be a discussion about the money that was spent for a site that will not be used. Something will be done with that site and there will be a benefit from the money that was spent. This is not lost money to the library.

Council Member R. Reimer said that one could say that expenditures made before the referendum in 2006 were contemplated in the \$6 million, but then there was a lot of money spent afterwards.

Council Member R. Reimer said that out of the total source of funds an amount of \$500,000 approximately pays for past activities. That would then leave an amount of \$6 million.

Council Member C. Reimer said it all goes back to 2006 when the Council said it would commit \$6 million. Now \$540,000 has been spent. That leaves \$5.46 to go towards the library.

Council Member R. Reimer said that is not true because of the \$6 million the City committed to in 2006. In addition to that there have been impact fees collected in the amount of \$267,380 and donations of \$280,000. If the Friends of Library amount (\$219,000) is backed out of \$6,970,000 total source of funds, that leaves a total of \$6,751,000. Out of that \$500,000 was spent so that leaves \$6.2 million in the source of funds that is not consumed.

Council Member Maher said that the funds expended to get to the point of the referendum in 2006 should not be counted.

Council Member R. Reimer said there is logic in backing out everything spent prior to 2007.

Attorney Vance suggested subtracting legal fees in the amount of \$21,411 that were related to the Mercury Marine agreements.

Council Member Maher added up the amounts prior to 2007 that the Council agreed to be subtracted in the “history section” only portion of the Sources and Uses of Funds spreadsheet and came up with a total of \$113,071 plus \$21,411 in legal fees, which equals \$134,482.

Council Member Maher then added up the expenditures since 2007 in the same section of the spreadsheet (without legal fees) and came up with a total of \$396,957.

Council Member R. Reimer said that if that amount is applied to the 2006 \$6 million commitment, \$6.2 remains for the project (\$6.8 million in the total source of funds minus the Friends of the Library contribution of \$219,000 minus \$396,957 equals \$6.2 million). This is the number left to build the library with from this point forward.

Motion made by Council Member R. Reimer that the City realizes there is \$6 million in total indebtedness and the project has going forward \$6.2 million, which does not include any money from the Friends of the Library. The motion was seconded by Council Member Maher and carried unanimously, with Council Members Radtke and Yip excused.

CONSIDER REQUEST FROM THE CEDARBURG SCHOOL DISTRICT FOR FUNDING FOR THE REPAIR OF THE TENNIS COURTS

This matter was postponed until the May 14, 2012 Common Council meeting as Council Member C. Reimer recused himself from the matter; therefore, there was no quorum of Council Members present.

CONSIDER REQUEST OF BRENDA SCHILKE OF PIGMENTS ARTS STUDIO, LLC TO AMEND THE PREMISE DESCRIPTION OF PIGMENTS ART STUDIO AT N61 W6321 TURNER STREET TO SELL/SERVE BEER AND WINE OUTSIDE IN FRONT OF THE PROPERTY DURING FESTIVALS

The owner of Pigments Art Studio is seeking permission to amend the premise description of their beer and wine licenses to sell and serve beer and wine in front of their property during Festivals.

Mayor Kinzel said that he spoke to someone from Festivals of Cedarburg, Inc., who indicated they will work with the owner of Pigments to find a suitable location for this. Director Wiza indicated the owners of the Art Studio would not be able to block the sidewalk.

Motion made by Council Member C. Reimer, seconded by Council Member Filter, to approve the request of Brenda Schilke of Pigments Art Studio, LLC to amend the premise description of Pigments Art Studio at N61 N6321 Turner Street to sell/serve beer and wine outside in front of the property during Festivals, subject to the owner complying with all regulations of the Police Department and Festivals of Cedarburg, Inc. Motion carried unanimously with Council Members Radtke and Yip excused.

CONSIDER REQUEST OF DEBRA MCQUAID MORALES OF VINTAGE CAFÉ & CITY DELI TO AMEND THE PREMISE DESCRIPTION OF VINTAGE CAFÉ & CITY DELI AT W63 N674 WASHINGTON AVENUE TO SELL/SERVE BEER AND WINE OUTSIDE IN THE DRIVEWAY DURING FESTIVALS

Debra McQuaid Morales of the Vintage Café & City Deli said she is seeking permission to amend the premise description of her business to sell and serve beer and wine outside her building in the driveway only during Festivals. She said the service would exclusively be limited to the driveway and would accommodate patrons using the outdoor patio dining area. She indicated that she has spoken to Festivals of Cedarburg about this and has worked out an arrangement.

Motion made by Council Member R. Reimer, seconded by Council Member Filter, to approve the request of Debra McQuaid Morales of the Vintage Café & City Deli to amend the premise description of Vintage Café & City Deli at W63 N674 Washington Avenue to sell and serve beer and wine outside in the driveway during Festivals, subject to the owner complying with all regulations of the Police Department and Festivals of Cedarburg, Inc. Motion carried unanimously with Council Members Radtke and Yip excused.

CONSIDER MEETING DATE TO CANCEL IN SUMMER

It was the consensus of the Council to cancel the June 25, 2012 Council meeting; with the understanding there will be a telephonic meeting if it is necessary for the Council to approve alcohol beverage licenses.

PAYMENT OF BILLS

Motion made by Council Member Filter, seconded by Council Member C. Reimer, to approve the payment of the bills for the period 4/13/12 through 4/23/12, ACH transfers for the period 4/16/12 through 4/30/12, and payroll for the period 4/1/12 through 4/14/12. Motion carried unanimously with Council Members Radtke and Yip excused.

LICENSE APPLICATIONS

Motion made by Council Member C. Reimer, seconded by Council Member R. Reimer, to approve new Operator's License applications for the period ending June 30, 2012 for Elizabeth R. Grade, Jenna Hall, Robert A. Glass, Therese A. Dowe, Michael Besaw, and Gloria R. Mitchelson and to approve the issuance of a 6-month Class B Beer license to C. Wiesler's Inc., Michael G. Jackson, agent, for the Cedar Creek Park Concession Stand, N52 W5926 Portland Road, from May 1, 2012 through October 31, 2012. Motion carried unanimously with Council Members Radtke and Yip excused.

CITY ADMINISTRATOR'S REPORT

City Administrator/Treasurer Mertes said the First Quarter Financial Report was included in the Council packet.

City Administrator/Treasurer Mertes said the County is putting together plans to consolidate the Revolving Loan Fund monies into a County-wide fund. The intent is to not to lose the monies to a regional fund.

City Administrator/Treasurer Mertes said the Council packets contain the 2011 Parks, Recreation, and Forestry report that was prepared by Director Hilvo. Director Hilvo encouraged Council Members to review the report and contact him with any questions.

City Administrator/Treasurer Mertes said the City has received a letter from the Wisconsin Department of Safety and Buildings. The Council will not need to meet in closed session tonight to discuss the letter because Attorney Vance received an extension. Staff is looking into ways to comply with the letter and the matter will be discussed at the next Council meeting.

MAYOR'S REPORT

Mayor Kinzel issued a proclamation proclaiming April 29-May 5 as Municipal Clerk's week.

Mayor Kinzel suggested that Council Members contact him with any ideas they may have on how some of the various boards, committees, and commissions can be consolidated.

Council Member R. Reimer said that it seems that each of the City's budget centers needs an oversight committee. All others should have annual re-verification of purpose and need.

ADJOURNMENT

Motion made by Council Member Filter, seconded by Council Member C. Reimer, to adjourn the meeting at 9:50 p.m. Motion carried unanimously.

Constance K. McHugh, MMC/WCPC
City Clerk