

**CITY OF CEDARBURG
COMMON COUNCIL
June 25, 2007**

CC20070625-1

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, June 25, 2007 at City Hall, W63 N645 Washington Avenue, second floor, Council Chambers. Mayor Myers called the meeting to order at 7:01 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 Steven Glamm, Haly Besaw, Paul Radtke, Kip Kinzel, Sandra Beck

Excused - Council Members Reimer and Loomis

Also Present - City Attorney Kaye Vance, City Administrator/Treasurer Christy Mertes, Director of Engineering and Public Works Tom Wiza, City Clerk Constance McHugh, City Planner Jon Censky, Light & Water General Manager Dale Lythjohan, Wastewater Superintendent Ron Clish, interested citizens and news media.

STATEMENT OF PUBLIC NOTICE

At Mayor Myers' 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 had 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.

MAYOR'S APPOINTMENTS - None

APPROVAL OF MINUTES

Motion made by Council Member Besaw, seconded by Council Member Glamm, to approve the minutes of the June 11, 2007 meeting. Council Member Radtke made the following correction: page 6, third paragraph, change the word "majority" to the word "many". Motion carried without a negative vote with Council Members Reimer and Loomis excused.

REPORTS OF BOARDS, COMMISSIONS & COMMITTEES - None

COMMENTS AND SUGGESTIONS FROM CITIZENS

Noel Jepson, W61 N358 Washington Avenue, said that he lives at the corner of Wurthmann Street and Washington Avenue. He said that he has observed a vast number of dump trucks driving up and down Wurthmann Street, as part of the road project that is taking place. He said the trucks drive on Johnson Street, turn onto Wurthmann, which is a residential area, and then turn right or left on to Washington Avenue. Mr. Jepson suggested that the trucks continue driving one more block on Johnson Street to Lincoln Blvd. and that the drivers be asked to change their route. He said that is not a big inconvenience to go one more block to Lincoln Blvd.

Mr. Jepson said that he would like to make a similar request with respect to City Departments. He said that City trucks also find it convenient to use Wurthmann Street. He suggested that City trucks that use Wurthmann Street use Lincoln Blvd. instead. He said that this would not be an inconvenience.

Mayor Myers thanked Mr. Jepson for his comments.

CONSIDER RESOLUTION 2007-27 AMENDING THE CITY'S SANITARY SEWER SERVICE AREA AND ADOPTING SEWPRC STAFF MEMORANDUM ENTITLED "RESPONSE TO REQUEST BY THE CITY OF CEDARBURG TO AMEND THE CEDARBURG SANITARY SEWER SERVICE AREA" AS A GUIDE FOR THE PROVISION OF SANITARY SEWER SERVICE WITHIN THE CEDARBURG AREA

Mayor Myers said that this matter was postponed at the May 14, 2007 Common Council meeting. At that time there was a formal public hearing on the matter.

Motion made by Council Member Glamm, seconded by Council Member Beck, to adopt Resolution 2007-32 amending the City's Sanitary Sewer Service area and adopting SEWPRC staff memorandum entitled "Response to Request by the City of Cedarburg to amend the Cedarburg Sanitary Sewer Area" as a guide for the provision of Sanitary Sewer Service within the Cedarburg area.

Council Member Glamm said that he made the motion because the Council has established that the sewer service area is somewhat of a misnomer. It is a questimate of the area that is most likely to need sewer services in the future and it is the most likely area for the City to expand towards. He said that there has been much ado about this being a precursor to annexation; however, annexation is not something the City controls. Council Member Glamm said that this is the area that will most likely need sewer service in the next 30-50 years. He said that it makes sense to do this at this time, given the City is expanding to the business park. Many of the areas in the Town are already in the sewer service area. That does not mean this is a precursor to annexation. He said that it makes sense for the City of Cedarburg to do this and it is in the best interest of the City in the event of future development. If future land owners asked to be annexed into the City, the City can then be prepared. He said that for all these reasons it makes sense to adopt the resolution.

Council Member Beck said that she was at the Town of Cedarburg meeting when this matter was discussed. She said that there were many people at that meeting who were concerned about things they thought the City was going to do.

Mayor Myers said that there were a lot of questions and concerns about this matter; however, staff was sensitive to these questions and concerns and went out of their way to accommodate everyone and answer the questions. Mayor Myers stressed that this is a planning tool, that things change, and that no one can foresee the future. He said that this is a good way to plan for future changes.

Council Member Besaw said that someone at the May 14, 2007 meeting mentioned that he was forced by the City in 1982 to annex part of his farm. She asked if anyone looked into this situation.

Mayor Myers said that he pulled the file on this matter. This was a situation involving nine landowners near the Parkview Meadows area who voluntarily agreed to annex their properties to the

City. One property owner did not sign the petition. However, this landowner did not protest the annexation – he just did not sign the petition. His land came in under a direct annexation petition by his neighbors. Mayor Myers said that the City did not force this person to annex. The City was required to accept the direct annexation petition. He said that this property is a good example of how the City does not force someone to do something with their property. He said that this property was annexed 30 years ago and the owner is still farming it. He has not developed it and the City has not forced him to develop it.

Council Member Beck said that somehow this issue turned into the idea of the City wanting to build 600 homes. A Town Supervisor brought this up and somehow the newspapers ran with it. She said that it was probably easier to say the City wanted to build 600 homes rather than explain what a city sewer service area is. She said that any growth in the City will be to the north for the next several decades. She said that people in the proposed area are afraid that the City would run sewer lines now and that they will have to pay for them. She said that there is no reason to think that the City would put sewer lines in at this time that won't be used. She said that adopting this resolution is in the best interest of the City.

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

CONSIDER APPROVAL OF AN EXTRATERRITORIAL CERTIFIED SURVEY MAP (CSM) TO SPLIT AN 8 ACRE PARCEL LOCATED AT 8502 CEDAR CREEK ROAD IN THE TOWN OF CEDARBURG INTO TWO 4 ACRE PARCELS

City Planner Censky said that Steve and Sally Klug of 8502 Cedar Creek Road are requesting land division approval to divide their property, which is located within the City's three mile extraterritorial land division approval authority. The parcel is located about 1 mile north and west of the Five Corners area and is located outside the existing sanitary sewer service area; therefore, is not planned for future sewer service. There is currently one home on the site. The parcel would be split off with the intention of another home being built.

Motion made by Council Member Kinzel, seconded by Council Member Beck, to approve the certified survey map to split an 8 acre parcel located at 8502 Cedar Creek Road in the Town of Cedarburg into two 4 acre parcels. Motion carried without a negative vote with Council Members Reimer and Loomis excused.

CONSIDER BIDS RECEIVED FOR THE HIGHLAND LIFT STATION UPGRADES

Public Works Director Wiza said that McMahon Associates, acting as construction manager, solicited proposals from contractors to complete the required work for the Highland lift station upgrade. The total construction cost for the recommended contract awards is \$158,074. A bid of \$240,000 was rejected earlier in the spring. The bids were reviewed by the Sewerage Commission at their June 19, 2007 meeting. The Commission recommended unanimously to proceed with the construction contracts based on the low bids received in each category.

Council Member Besaw thanked Director Wiza for handling the project in this manner, which saved approximately \$70,000.

Motion made by Council Member Besaw, seconded by Council Member Glamm, to award the contracts for the Highland lift station upgrades to the low bidders as follows:

ENERGENECS

Two new Smith& Loveless 40 hp pumps	\$ 30,874
Control panel	54,700
SCADA	<u>8,900</u>
	\$ 94,474

EARTH ENGINEERING

Impressed Current Cathodic Protection	\$ 9,400
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LEE'S CONTRACTING/FABRICATION, INC

Pump Removal and Installation	\$ 5,400
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JAMES J. CALMES & SONS, INC.

General Concrete Construction	\$ 8,553
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PIEPER ELECTRIC, INC.

Electrical Contract.....	\$ 40,247
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Total Construction Cost \$158,074

Council Member Glamm said that the project is more than the budgeted amount. He asked where the funds to pay for this will come from.

Director Wiza said that it was anticipated that the project might be over budget. He said that funds will come from the Wastewater Equipment Replacement Fund.

The motion carried on a roll call vote, with Council Members Glamm, Besaw, Radtke, Beck, and Kinzel voting in favor, and Council Members Reimer and Loomis excused.

CONSIDER RESOLUTION 2007-32 APPROVING A RELOCATION ORDER AND RIGHT-OF-WAY PLAT FOR PHASE I OF THE CEDAR CREEK WALKWAY

Director Wiza said that everyone is anxious to get the Cedar Creek Walkway project started. He said that he is requesting approval of the first phase of the project, which is the area near Advent Lutheran Church and the area immediately south of Bridge Road. He said that it is awkward for the City to go through this because the City cannot actually negotiate with the property owners as to where the easements should be without losing powers that the City may need in the future. He said that he and the engineering firm of Crispell-Snyder must take the best approach and look at this on paper. The right-of-way presented looks good on paper and looks good in the field, but it does create issues with some of the neighboring property owners. He said that the neighbors should have the opportunity to voice their opinions about this. Director Wiza said that an acceptable option would be table this to get more input or to consider other options.

Director Wiza said that when this was drawn up it accomplished stairway access off of the bridge onto the creek walk. The walkway would extend to property #6 on the drawing. There will need to be a return walkway to Washington Avenue. This would allow for handicapped access and would

allow construction equipment to the creek edge. A permanent easement returning back to Washington Avenue will be necessary. Director Wiza said that it would be good to hear from residents who are in attendance at this meeting before proceeding.

Steve Banas, W58 N438 Hilbert Avenue, said that he owns property #6 on the proposed right-of-way plat. He said that the proposed walkway would go through his entire property. He said that he received the document this weekend and hoped that the Council would consider several concerns he has, although his view on the walkway has not changed. He said that he thinks the walkway is a great project. However, Mr. Banas said that he plans to build on and improve his property that would encompass a lot line to lot line structure. His building on Washington Avenue houses the August Weber Haus. He said that the proposed walkway may limit or eliminate his plans. The proposed walkway would use approximately 1,500 square feet of his property. He said that the 10' pathway on the drawing reflects an inaccurate portrayal of the buildings that actually exist. The plan reflects approximately 30' between buildings 5 and 6. In reality there is only about 23' between the buildings, with 13' being on his property and 10' being on his neighbor's property. The proposed walkway would take 10' of his 13'.

Mr. Banas said that he has several safety concerns also. The pathway for pedestrians walking and customer vehicles entering and exiting his property leaves potential for injury. The pathway would have to be used for car turnaround.

Mr. Banas asked if other options for the walkway could be considered. He said that there could be 10' stretches of walkways on a number of properties to the north of his that he would like the Council to consider. Mr. Banas said that he does want to make this walkway work and thinks it could work. He asked the Council to pursue other avenues for access points to the north.

Council Member Radtke asked Mr. Banas if he has a problem with the proposed easement along the creek.

Mr. Banas said that he does not have a problem with this easement and feels that these issues can be worked out.

Council Member Kinzel said that the proposed walkway on Mr. Banas' property could adversely affect Mr. Banas from expanding his building.

Mr. Banas said that this is correct. He said that he wants to make some improvements to the August Weber Haus, which he recently opened.

Council Member Kinzel said that Mr. Banas is greatly improving this property and it would be a shame to negatively impact the improvements in the back.

Mayor Myers asked Director Wiza if there are other alternatives that could be put together.

Director Wiza said that there are two or three other possible access points for the Washington Avenue access and three properties that have driveways to the creek. He said that staff could try to show other alternatives.

Council Member Beck said that she feels the Council is not ready to act on this matter tonight. She said that all Council Members should be present to act on this matter.

Motion made by Council Member Beck, seconded by Council Member Kinzel, to table this matter until the Council receives more information from staff. Motion carried without a negative vote with Council Members Reimer and Loomis excused.

Joe Kultgen, owner of the buildings at N69 W6333 Bridge Road, said that if a sidewalk is built along the buildings there will not be much of a parking lot left. He said a sidewalk will adversely affect the buildings, and the value of the buildings will decline. He asked if the Council has looked at the impact the sidewalks will have on the buildings.

Director Wiza said that there are no plans for a sidewalk in this area. He said that there is no easement on the west side of the Kultgen building.

Mayor Myers said that Director Wiza would be happy to talk Mr. Kultgen about his concerns.

CONSIDER FUNDING FOR ADDITIONAL LIGHTING AT CEDAR CREEK PARK PLAYGROUND

Mayor Myers said that people from Summer Sounds suggested that additional lighting at the playground at Cedar Creek Park be installed as a way to make the park safer. He said that he is in favor of increasing safety in the park. The Parks and Forestry Board recommended that additional lighting be installed.

Council Member Kinzel said that it was the consensus of the Park and Forestry Board that an additional street light would make the park easier to police and would allow parents to watch what their children are doing in the park.

Council Member Besaw asked if this is something that can be budgeted for in 2008.

Council Member Beck questioned whether the neighbors on Portland Road would have a problem with additional lighting.

Council Member Kinzel said that the lighting can be shielded or directed downward. He said that there are other street lights along Portland Road.

Council Member Kinzel said that he thought the Lions Club was interested in doing a project in the parks.

Mayor Myers said the Junior Woman's Club may possibly show interest in donating funds for the lighting.

Motion made by Council Member Besaw to table this matter until staff can look into funding. The motion failed due to a lack of a second.

Motion made by Council Member Kinzel, seconded by Council Member Besaw, to approve the installation of additional lighting at the Cedar Creek Playground, if and when the time comes that

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funding is available. Council Member Glamm offered an amendment that the preference is that the funding come from private donations. Council Members Kinzel and Besaw accepted the amendment. Motion carried without a negative vote with Council Members Reimer and Loomis excused.

DISCUSS AND APPROVE PRELIMINARY BUDGET PARAMETERS FOR THE DEVELOPMENT OF THE PROPOSED 2008 BUDGET

City Administrator/Treasurer Mertes said that typically the Council establishes budget parameters every year. The goal for the past several years has been no increase in the assessed tax rate.

Motion made by Council Member Radtke, seconded by Council Member Kinzel, to set the budget parameters to be a zero percent increase in the tax rate as a target, the same as has been in the last five years. Motion carried without a negative vote with Council Members Reimer and Loomis excused.

DISCUSS STRATEGIC WORK PLAN

City Administrator/Treasurer Mertes said that no action is required on the Strategic Work Plan at this time. She suggested that Council Members review the work plan and provide comments or suggestions to her by July 23rd. She said that the plan will be distributed with the budget on September 20th and will be addressed during the department presentations on October 22nd.

CONSIDER AMENDING POLICY CC-14 RE: ADVISORY BOARDS, COMMISSIONS AND COMMITTEES

Motion made by Council Member Kinzel, seconded by Council Member Besaw, to approve the amended Policy CC-14 re: Advisory Boards, Commissions and Committees. The amended policy replaces the word "Aldermen" with "Council Members." Motion carried without a negative vote, with Council Members Reimer and Loomis excused.

CONSIDER AMENDING POLICY CC-15 RE: HOURS OF OPERATION FOR CLASS "B" PICNIC LICENSES

Motion made by Council Member Glamm, seconded by Council Member Besaw, to approve the amended Policy CC-15 re: Hours of Operation for Class "B" Picnic Licenses. The amended policy more clearly reflects the current ordinance regarding issuance of Class "B" picnic licenses. Motion carried without a negative vote with Council Members Reimer and Loomis excused.

RESCIND PREMISE LICENSE FOR THE IRISH PUB OF WI LLC, DBA THE IRISH PUB AT W62 N550 WASHINGTON AVENUE AND ACTION ON PREMISE LICENSE FOR RICHARD E. ZIMDARS AT SAME LOCATION

Attorney Vance said that Colum McCarthy no longer has control of the premises at W62 N550 Washington Avenue. In order for him to have the appropriate liquor licenses he must control the premises. Since he no longer has access to the premises, he is no longer entitled to the premise license.

Richard E. Zimdars, owner of the building, said that plans are to clean and fix up the building so that someone else can take it over.

Motion made by Council Member Glamm, seconded by Council Member Beck, to rescind approval of the premise license for The Irish Pub of WI LLC, dba The Irish Pub at W62 N550 Washington Avenue. Motion carried without a negative vote with Council Members Reimer and Loomis excused.

Motion by Council Member Glamm, seconded by Council Member Beck, to approve the premise license for Richard E. Zimdars at W62 N550 Washington Avenue. Motion carried without a negative vote with Council Members Reimer and Loomis excused.

LICENSE APPLICATIONS

Motion made by Council Member Kinzel, seconded by Council Member Glamm, to authorize issuance of premises licenses for the period ending June 30, 2008 to:

Class B Fermented Malt Beverage License

Galioto's Vintage Grille, Inc.
Vintage Café & Take-Away
(agent – Meg Galioto)
W63 N674 Washington Avenue

Class B Intoxicating Liquor & Fermented Malt Beverage Licenses

Cedar's Bowling Center, LLC.
(agent – Mark Z. Johnson)
W53 N404 Park Lane

Jose J. Herrera
Jalisco Restaurant
W63 N145 Washington Avenue

Class C Wine License

Galioto's Vintage Grille, Inc.
Vintage Café & Take-Away
(agent – Meg Galioto)
W63 N674 Washington Avenue

Authorize issuance of renewal Operator's Licenses for the period June 30, 2008 to:

Darcie Stib
Steven K. Stauske
Judi Even
Suzanne V. Ernst
Pamela Leppla

Jeanne Venturini
Dennis R. Kison
Mark Roberts
William Gertsch
Jacqueline A. Jones

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Paul D. Jones	Jessica Kay Bogard
Kathryn E. Peterson	Kyle S. Halleman
James M. Salp	Katie A. Ward
Roy C.A. Oberheau	John B. Mollan
Kara J. Racine	Diane Schneeberger
Daniel W. Kropidlowski	Todd Schneeberger
Charles M. Pretty	Benjamin S. Clithero
Stephen M. Smith	Jennifer A. Halleman
Paul W. Coert	Heidi E. Regnitz

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

PRESENTATION – 2006 LIGHT AND WATER UTILITY REPORT

Dale Lythjohan, Light and Water General Manager, presented a summary report of the Light and Water Utility for 2006. The following facts were presented:

Electric Highlights

- Electrical revenues in 2006 were \$9,185,585, down by \$199,768
- Purchasing power was \$6,376,400, down by \$419,703, mainly due to the loss of Amcast
- Operating expenses were \$992,425, an increase of \$26,574
- Depreciation expenses were \$475,250, an increase of \$66,104
- Taxes were \$325,500, down by \$4,506
- Operating income was \$927,798, an increase of \$131,763
- The last electrical rate adjustment was effective 2/10/2005
- There has been less than a 1% growth in the number of electrical customers in the last few years
- Revenues from residential customers consists of 42% of all revenues, up from 39% in 2004 and 37% in 2000, indicating the utility is relying more and more on residential customers
- There is a trend upward in the use of electricity

Water Highlights

- Water Revenues in 2006 were \$1,477,034, an increase of \$9,829
- Operating expenses were \$670,4256, an increase of \$25,629
- Depreciation expenses were \$158,800, an increase of \$1,050
- Taxes were \$224,644, down by \$6,429
- Operating income was \$423,165, down by \$10,421
- Water rates were effective January 4, 2006
- Net income has been fairly stable over the last 5-6 years
- 550 million gallons of water was pumped in 1998, compared to 490 million gallons projected to be pumped this year, mainly due to loss of Amcast and water conservation on the part of residents
- Residential revenues make up 48% of all revenues, compared to 46% in 2004
- 55% of water usage is used by residential customers, compared to 53% in 2004
- The Utility has just under 22 FTE employees

Additional Highlights

- Added infrastructure in 2006 - \$1,382,177 (electric) and \$370,611 (water)
- Total net plan value end of year 2006 - \$18,659,634 (electric) and \$14,017,092 (water)
- In October 2005 the Utility paid off all outstanding debt and does not anticipate new debt anytime soon
- Infrastructure replacement/conversion – rebuilding over 80 electric poles per year and 3,000 feet of underground cable per year and replacing an average of 3,000 feet of water main each year
- A water impact fee was implemented in 2006; \$235,000 collected

2007 And Beyond

- Planning and designing infrastructure for north development is ongoing
- Distribution automation project phase #2 continues
- There will be two staff retirements in 2007; leading to Electrical Department reorganization
- Exploring a possible garage expansion in 2008
- There is an increasing emphasis on underground electric rebuilds and ongoing electric and water rebuilds
- Long term energy costs are rising

General Manager Lythjohan said that the Sewerage Commission, at its June 2007 meeting, asked staff to begin preparing a filing for increases in both water and electric rates, with an effective date of January 1, 2008. It is anticipated the electric increase will be 2.42%, or a \$1.61 increase per month and the water increase will be 8.42%, or a \$2 per month. In 2005 the Utility did a detailed calculation that showed customers paid \$2,137,870 less than if they were served by WE Energies. It was estimated that in 2006 customers again saved in excess of \$2,000,000 compared to communities elsewhere in Ozaukee County. Water rates are in the “middle of the pack” compared to water utilities throughout southeastern Wisconsin.

The Utility has bottled its own water and will be giving it out at the 4th of July parade as an educational tool.

Council Member Besaw said that compact fluorescent bulbs are quite popular. She asked General Manager Lythjohan if he has any observations about them.

General Manager Lythjohan said that the compact fluorescent bulbs make sense even though they can cost a few dollars more. He said that they can last 5 to 7 years and are environmentally friendly. They can be thrown into the trash; however, the Utility will start offering disposal to customers in the near future.

Council Member Radtke said that he has found the compact fluorescent bulbs do not last very long.

General Manager Lythjohan said that the bulbs do not last long if they are turned on and off frequently (i.e., bathrooms). They are meant to stay on for long periods. He said that the bulbs must be used properly to generate savings.

CITY ADMINISTRATOR’S REPORT

City Administrator/Treasurer Mertes said that Deputy Clerk Amy Kletzien suggested that Council Members wear t-shirts when participating in the 4th of July parade rather than carrying signs. If anyone is interested in having a t-shirt ordered they should email Deputy Clerk Kletzien as soon as possible.

COMMENTS AND SUGGESTIONS FROM CITIZENS - None

REPORTS & COMMENTS BY COUNCIL MEMBERS

Attorney Vance said that the Creek Walkway issue should be placed on the agenda of a future meeting and should be discussed in open session. She said that the Council needs to decide whether the plat should be approved.

Mayor Myers said that staff has been directed to bring back options to the Council.

Council Member Glamm said that he was pleasantly surprised by the number of comments and calls he received at his office about the wonderful community here in Cedarburg and how much they enjoyed Strawberry Fest this past weekend. Many people said that they had not been to Cedarburg for many years but plan to come back soon.

Attorney Vance said that she has some safety concerns regarding the festivals held in Cedarburg.

Council Member Besaw said that the first Summer Sounds was well attended and very nice.

Council Member Beck said that it is interesting that no Town of Cedarburg residents were in attendance at this meeting.

MAYOR'S REPORT

Mayor Myers reminded everyone that the August 13, 2007 Common Council meeting has been cancelled.

ADJOURNMENT

On motion by Council Member Radtke, seconded by Council Member Kinzel, the meeting adjourned at 8:37 p.m. Motion carried without a negative vote with Council Members Reimer and Loomis excused.

Constance K. McHugh, CMC
City Clerk