

**CITY OF CEDARBURG
COMMON COUNCIL
July 9, 2012**

**CC20120709-1
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, July 9, 2012 at City Hall, W63 N645 Washington Avenue, second floor, Council Chambers. Mayor 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 – Mayor Kip Kinzel, Council Members Chris Reimer, Ron Reimer, Art Filter, Paul Radtke, Michael Maher, Douglas Yip, Mike O’Keefe

Also Present - City Attorney Kaye Vance, City Administrator/Treasurer Christy Mertes, Director of Engineering and Public Works Tom Wiza, Deputy City Clerk Amy Kletzien, Police Chief Tom Frank, Field Training Officer Brian Emmrich, Patrol Officer Dustin Koehler, Accountant II Kathy Huebl, Light & Water General Manager Dale Lythjohan, Wastewater Superintendent Ron Clish, Economic Development Coordinator Mary Sheffield, Library Board Members Sue Karlman and Art Palleon, Landmarks Commissioner Tomi Fay Forbes, Todd Taves of Ehlers & Associates, interested citizens and news media

STATEMENT OF PUBLIC NOTICE

At Mayor 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.

APPROVAL OF MINUTES

Motion made by Council Member Maher, seconded by Council Member Yip, to approve the minutes of the June 11, 2012 and June 26, 2012 meetings. Motion carried without a negative vote

INTRODUCTION OF NEW POLICE OFFICER DUSTIN D. KOEHLER/OATH OF OFFICE

Police Chief Frank introduced Police Officer Dustin D. Koehler to the Council. Deputy City Clerk Kletzien administered the Oath of Office.

PUBLIC HEARING: CONSIDER ORDINANCE NO. 2012-10 AMENDING TABLE 13-1-53 IN SEC. 15-1-53 OF THE ZONING CODE PERTAINING TO THE OPEN SPACE REQUIREMENT IN THE B-1 NEIGHBORHOOD BUSINESS DISTRICT

Mayor Kinzel declared the public hearing open to consider Ordinance No. 2012-10 amending table 13-1-53 in Sec. 15-1-53 of the Zoning Code pertaining to the open space requirement in the B-1 Neighborhood Business District at 7:15 p.m. Proper legal notice had been given.

Planner Marchek stated that the B-1 Neighborhood Business District applies to only two areas in the City. One area includes the three adjacent lots containing the Out & Out Restaurant, Stone Manor Bridal Shop, and a vacant wooded lot fronting on Lincoln Blvd. The other B-1 Neighborhood Business area is located on the east side of Washington Avenue and south of Cambridge Avenue, which consists of two single-family homes that back into the County Fairgrounds.

This Ordinance was initiated by the preliminary site planning for the three lots on Washington Avenue and Lincoln Blvd. that have been purchased for redevelopment purposes. The B-1 Neighborhood Business District presently requires that 50% of the land in this area needs to be set aside as open space. Upon looking at the other zoning districts, such as the M-3 Business Park, it only requires a 30% minimum open space. All other zoning districts are governed by a floor area ratio. The Plan Commission recommended a reduction of open space from 50% to 35% in the B-1 Neighborhood Business District at their June 4, 2012 meeting.

In answer to Mayor Kinzel's question, Planner Marchek stated that there are only two B-1 zoned homes located on the east side of Washington Avenue and south of Cambridge Avenue.

In answer to Council Member Yip's question, Planner Marchek stated that it is possible that SEWRPC did an Ordinance in the 1970s for B-1 zoning in this area to distinguish the transition from businesses to residential.

In answer to Council Member C. Reimer's question, Planner Marchek stated that the present zoning on Washington Avenue, south of Cambridge Avenue would allow for a commercial business even though it is surrounded by residential and would require 50% green space.

In answer to Council Member Maher and C. Reimer's questions, City Attorney Vance stated that the Council would need to follow a separate procedure to change the zoning in the B-1 area located near Washington and Cambridge Avenues.

Council Member C. Reimer asked if the zoning could be changed to B-2.

Planner Marchek stated that the B-1 zoning could be changed to B-2, which would allow more uses because floor area ratio is applied to B-2 zoning.

Mayor Kinzel stated that this change is being proposed because a 50% open space requirement in this area is more restrictive than the housing in Cedar Pointe and seems excessive. Mayor Kinzel stated that there are apartments in close proximity to the proposed area and 35% open space seems reasonable.

Motion made by Council Member Maher, seconded by Council Member C. Reimer, to close the public hearing. Motion carried without a negative vote.

Motion made by Council Member Radtke, seconded by Council Member Maher, to adopt Ordinance No. 2012-10 amending table 13-1-53 in Sec. 15-1-53 of the Zoning Code pertaining to the open space requirement in the B-1 Neighborhood Business District allowing for a reduction of the open space requirement from 50% to 35%.

CONSIDER RESOLUTION NO. 2012-10: INITIAL RESOLUTION AUTHORIZING \$5,255,000 GENERAL OBLIGATION BONDS FOR LIBRARY PROJECT; RESOLUTION NO. 2012-11: INITIAL RESOLUTION AUTHORIZING \$395,000 GENERAL OBLIGATION REFUNDING BONDS; RESOLUTION NO. 2012-12: RESOLUTION DIRECTING PUBLICATION OF NOTICE TO ELECTORS; AND RESOLUTION NO. 2012-13: RESOLUTION PROVIDING FOR THE SALE OF \$5,650,000 GENERAL OBLIGATION CORPORATE PURPOSE BONDS

Todd Taves from Ehlers and Associates reviewed a packet of information that was provided to the Common Council in regard to authorizing general obligation bonds for the library building project. He presented a summary of interest rates over the last ten years and it indicated that interest rates have been at a historical low since January 2012 and it makes sense in their opinion to complete the financing, providing there is a commitment to go ahead with the Library project next year.

Todd Taves explained that four Resolutions are being presented to issue corporate purpose bonds for two reasons. The first reason is the library building project for \$6.2 million less \$200,000 for private donations and \$1,050,000 that has already been borrowed, leaving a total of \$4,950,000 to be borrowed. There is almost \$200,000 in interest to mitigate the short term increase that borrowing has on the tax rate vs. not capitalizing a couple years worth of interest. The total to be borrowed including estimated issuance expenses is \$5,259,402.

The second reason for the borrowing is to refinance the TID #2 because the project was not undertaken and the City has been using those monies to pay the debt service on this obligation as they come due. Ehlers & Associates is recommending that the City take this opportunity to save approximately \$250,000 in long term interest by refinancing. In this case, it has been set up to get rid of the debt as quickly as possible; therefore, \$1,730,186 will be put in an escrow and held by a trustee to pay future debt payments on their call date. The bonds that are financed are not presently callable or pre-payable. The City has \$1,353,057 left on hand that can be infused in the equation, resulting in a residual number of \$377,129 that needs to be funded. With finance charges added to this number, the total borrowing for the TID #2 refinancing will be \$395,000. The total amount to be borrowed for both purposes is \$5,650,000.

Todd Taves presented a table indicating how the loan will be paid back using the equalized value over time and the payments on the existing debt, with the exception of the refinancing portion. Payments will be close to \$1 million a year through 2014 and then in 2015 the payments will drop off substantially and will be retired by 2023. The 2007 bond proceeds of \$262,399 will be applied to manage the tax rate impact on an overall basis. Once this is netted out, the table shows the amount that needs to be levied for debt service on a forward looking basis and then it is expressed as a tax rate per \$1,000.

On the same graph, Mr. Taves highlighted the new debt broken down into two amortization schedules (one for each purpose). For the Library project, they will be deferring any principal payments until 2015 to coincide with the time that the debt begins to drop off markedly. Estimated interest rates were used and with all things considered, Mr. Taves believes that the City should see better interest rates than shown. For the TID #2 refinancing, they are planning on two maturities in 2015 and 2016. Because they will be paid off early, the municipal bond interest ascends over time and they expect to have very low interest rates for this component of the borrowing. On the \$395,000, the interest should

only amount to approximately \$12,000. By refinancing the TID borrowing, the City will save approximately \$250,000 in interest over what would have been the remaining life of the existing 2007 bonds. The sum of the two amortizations will be included in the bond issue. Mr. Taves stated that a 15 year amortization schedule was chosen rather than a 20 year schedule to eliminate a significant amount of interest. The City has very little debt to be repaid after 2015 and it makes sense to shorten the term.

Mr. Taves stated that the four Resolutions for consideration will direct Ehlers and Associates to move forward on the borrowing. He will work with staff to prepare an official statement for the offering of the bonds that will be sold at a competitive sale with the result brought to the Council on August 13. As part of the process, Ehlers & Associates will also be getting an updated credit rating from Moody's on the City's bond rating.

In answer to Council Member C. Reimer's question, City Administrator/Treasurer Mertes stated that the City has paid approximately \$75,000/year in interest since 2007 on the TID #2 borrowing.

Council Member C. Reimer stated that \$407,284 was spent on a project that did not go anywhere because of the economy.

Mayor Kinzel stated that much of that cost went for engineering.

Director Wiza stated that approximately \$90,000 was spent on engineering studies. The conceptual and layout of utilities and such is completed.

Council Member C. Reimer corrected the loss amount to approximately \$310,000 as result of not being able to move forward with the project.

City Administrator/Treasurer Mertes stated that the district is still open.

Mr. Taves stated that even though the prospect of development in the area is not there, the City has chosen to keep the district open and if something happens in the future to create increment, there is a possibility to recover the lost funds.

Council Member C. Reimer agreed with including TID #2 in the borrowing and expressed appreciation to City Administrator/Treasurer Mertes for moving forward on this idea.

In answer to Council Member R. Reimer's question, City Administrator/Treasurer Mertes stated that \$200,000 was subtracted from the borrowing because those funds (private donations) are on hand in the trust and agency fund.

Mayor Kinzel stated that the City is borrowing \$6 million for the library.

Council Member R. Reimer confirmed that the Library will have \$6.2 million for the project.

Council Member Maher stated that the Pre-Sale Report for \$5,650,000 G.O. Corporate Purpose Bonds for the City of Cedarburg that was presented by Ehlers & Associate was excellent. The report and presentation was very helpful in the borrowing process and is appreciated.

In answer to Council Member Radtke's question, City Administrator/Treasurer Mertes confirmed that the tax levy will go up initially for the first 3 years of debt before going down substantially.

In answer to Council Member C. Reimer's question, Mr. Taves stated that the bonds will be callable with a date and time that they will become pre-payable in 2021 and 2022. The maturity is due in 2022 and beyond and they would first be pre-payable on March 1, 2021.

In answer to Council Member Radtke's question, City Administrator/Treasurer Mertes stated that the levy will not necessarily go down in three years because history has shown that the levy switches between capital, debt service and general fund.

Council Member Radtke confirmed that the average homeowner is paying \$200 more for the library and may go down unless the City uses the balance for other purposes.

City Administrator/Treasurer Mertes stated that the City can try to make the levy go down in proportion to the debt service levy.

In answer to Council Member C. Reimer's question, Mr. Taves stated that the City is presently rated Aa2 by Moody's and he suspects that it will be reaffirmed at that level. The City's debt burden is very low including this borrowing. Any additional borrowing in the future would not put any downward pressure on the City's rating. The City will have the capacity to borrow an additional \$50 million according to State Statutes.

Council Member Radtke asked if there were any impediments that could occur to prevent the library from being built, similar to the proposed business park.

Council Member R. Reimer stated that there may be an unknown environmental issue.

Council Member O'Keefe asked about the Town. City Attorney Vance stated that the Council was aware of all developments up to today and there is nothing new. In answer to Council Member Radtke's question, City Attorney Vance stated that as far as she was aware nothing has changed since the last update was given to the Common Council on this matter.

Council Member Maher stated that he understands the Council's concerns; however, the interest rates and construction costs are very low right now.

Motion made by Council Member Maher, seconded by Council Member R. Reimer, to adopt Resolution No. 2012-10: Initial Resolution authorizing \$5,255,000 General Obligation Bonds for Library Project; Resolution No. 2012-11: Initial Resolution authorizing \$395,000 General Obligation Refunding Bonds; Resolution No. 2012-12: Resolution Directing Publication of Notice to Electors and Resolution No. 2012-13: Resolution providing for the sale of \$5,650,000 General Obligation Corporate Purpose Bonds. Motion carried without a negative vote.

REVIEW STATUS OF THE 2012 BUDGET, INCLUDING A REVIEW OF 1.5 FURLOUGH DAYS FOR EMPLOYEES

City Administrator/Treasurer Mertes stated that the Common Council included one and one-half furlough days in the 2012 budget that would not be taken until a mid-year review of the budget was completed. The City would save \$21,750 if the furlough days are implemented. She explained that to-date, the \$10,000 contribution towards the high school JV tennis courts and two additional elections were not included in the budget. Currently, the election budget is 90% expended. Most other accounts are in-line with the budgeted amounts. Due to personnel changes at the Police Department, their salaries will be below the budgeted amount.

Motion made by Council Member R. Reimer, seconded by Council Member Radtke, to forgo implementing the proposed 1.5 furlough days for employees.

Council Member Radtke stated that furlough days had their purpose but he does not believe in using them as a budgeting process year after year.

In answer to Council Member C. Reimer's question, City Administrator/Treasurer Mertes stated that the budget will be close and she does not expect to be over budget because the Department Heads do a great job of staying within their budget. She stated that she is confident that the furlough days can be eliminated if the Council does not approve any additional expenditures for the year.

Motion carried without a negative vote.

CONSIDER AWARD OF ENGINEERING SERVICES CONTRACT FOR THE 2012 NR 216 STORM WATER COMPLIANCE REPORTING

Director Wiza stated that the City has had an annual contract with AECOM for assisting and preparing the NR 216 permit. The DNR requires an on-going Illicit Discharge Detection program which mandates testing for storm water pollutants in various outfalls. The program involves dry weather flow sampling and lab testing to search for specific pollutants. Whenever test readings come back positive, a follow-up investigation to determine the source is required. AECOM also compiled the required comprehensive annual report for the past few years.

Director Wiza stated that AECOM has \$5,662 remaining on their current contract. He is asking the Common Council to amend their existing contract with an additional \$7,538 to cover their technical services that are required for this year and have been budgeted in 2012.

Motion made by Council Member R. Reimer, seconded by Council Member Maher, to award the engineering services contract for the 2012 NR 216 Storm Water Compliance Reporting to AECOM in an amount not to exceed \$7,538. Motion carried without a negative vote.

CONSIDER RESOLUTION NO. 2012-14 HONORING CHARLES BRADBURN FOR HIS YEARS OF SERVICE ON THE LIGHT AND WATER COMMISSION

Motion made by Council Member Filter, seconded by Council Member Radtke, to adopt Resolution No. 2012-14 honoring Charles Bradburn for his years of service on the Light and Water Commission. Motion carried without a negative vote.

The Resolution will be presented to Charles Bradburn on Monday, July 16, during a reception prior to the Light & Water Commission meeting.

CONSIDER FUNDING OF AN INTERN FOR THE CREEK WALK PROJECT

Architect Paul Rushing and Chairman for the ad hoc Creek Walk Committee asked the Common Council to consider paying for an intern to do work on the Creek Walk project. Dana Graunke would be working on a presentation to the Common Council for consideration of the completion of the next section of the Creek Walk. She is an architectural student at Baltimore State University. Miss Graunke has worked on the Creek Walk project for the last two summers and has done a stellar job. The architectural work on the section by the Grist Mill was done in great part by Miss Graunke with his oversight and using a lot of the facilities at Kubala Washatko Architects. She has put in approximately 600 hours to-date pro-bono. Miss Graunke's level of skill has increased since the beginning of the project. The purpose of the work she is doing is to make a presentation to the Common Council and interested citizens regarding what is being done on the Creek Walk. It is as much a promotional piece as it is a design tool. Miss Graunke would be working approximately 250 hours over the next two months at \$7.50/hour; \$1,875.

In answer to Council Member R. Reimer's question, Mr. Rushing confirmed that Miss Graunke will be working on a 3D virtual model.

Mr. Rushing distributed a summary of the projected work hours and task description for the summer intern. The virtual model is indispensable as a promotional tool and design tool. Most design work is now done in virtual models and is much more effective.

In answer to Council Member R. Reimer's question, Mr. Rushing stated that all of the software that is being used has been paid for and is being used free and clear.

Motion made by Council Member R. Reimer, seconded by Council Member Maher, to fund an intern for the Creek Walk Project by charging the contingency fund in an amount not to exceed \$1,875.

City Attorney Vance asked if Miss Graunke would be an employee of Kubala Washatko or an intern of the City of Cedarburg. If the intern is working for the City then it would be an independent contract entered into between the City and the intern. If she is an intern for Kubala Washatko and supervised by a non-City employee it would be outside of the City's authority.

In answer to Council Member C. Reimer's question, Director Wiza stated that there are two different aspects. The conceptualization and modeling are useful for the promotion of the Creek Walk. The City's standpoint is more nuts and bolts by looking at permitting and construction.

Mr. Rushing stated that the models are not perfect but they do provide a very important segway into the very drawings that Director Wiza is referring to. The last section of the Creek Walk that was done, they went right from the 3D virtual model into the 2D working drawings. They are refined as they go along and the technical aspects are answered. The 3D model is built taking into account the conditions on the creek in terms of grade fall, water level and how existing buildings work in relation to the creek. The model is measured and very carefully built providing a very accurate springboard from which to make the 2D drawings. It should not be considered just a promotional piece because they are important working tools.

In answer to Council Member Yip's question, Mr. Rushing stated the 3D model will answer more questions than it raises. The committee has been working with the landowners by taking their information and concerns and using it as a basis for the model.

In answer to Council Member C. Reimer's question, Mr. Rushing stated that it would cost the City \$75 - \$150/hour for a licensed architect to do this work.

Council Member Filter stated that he is not in favor of adding an intern as a City employee, even if it is part time. He questioned who would be supervising the intern. He also stated that some landowners are not on board and there will be a marketing tool without them in favor of the project.

Mayor Kinzel stated that the intern would not be an on-going position.

City Attorney Vance expressed concern for this being a municipal project with oversight by an ad hoc committee where Kubala Washatko is not contracted. She stated that the intern should be an independent contractor with the City or an employee, or the City can contract with Kubala Washatko. Sometimes interns, who are not paid, work in the City and they are supervised

In answer to Council Member Yip's question, Mr. Rushing stated the ad hoc Creek Walk Committee has been endorsed by the Common Council to do this work because they are qualified people. Mr. Rushing has been supervising Miss Graunke for the past two summers along with other committee members. The City selects people for committees to accomplish things for the betterment of the City.

City Attorney Vance confirmed that the City has the authority to enter into a contract with Kubala Washatko for the purpose of developing the 3D virtual model that will be both useful in regard to planning and permitting the construction of the Creek Walk and as a promotional tool.

It was the consensus of the Common Council to leave the method of contracting up to City Administrator/Treasurer Mertes and City Attorney Vance.

Motion made by Council Member R. Reimer, seconded by Council Member C. Reimer, to call the question. Motion carried without a negative vote.

The motion to fund an intern for the Creek Walk Project by charging the contingency fund in an amount not to exceed \$1,875 carried with Council Members C. Reimer, R. Reimer, Radtke, Maher, Yip and O'Keefe voting in favor and Council Member Filter opposed.

CONSIDER ORDINANCE NO. 2012-11 AMENDING SEC. 2-4-10 OF THE CODE OF ORDINANCES RELATING TO THE DUTIES OF THE LANDMARKS COMMISSION

Motion made by Council Member C. Reimer, seconded by Council Member O'Keefe, to adopt Ordinance No. 2012-11 amending Sec. 2-4-10 of the Code of Ordinances relating to the duties of the Landmarks Commission.

Council Member R. Reimer opined that the Council should be authorizing expenses before they are paid and therefore, the last sentence in Sec. 2-4-10(a) should read: The members of said Commission shall receive no compensation except for necessary expenses sustained in carrying out their duties, which expenses shall be paid by the City of Cedarburg as ~~may~~ be authorized by the Common Council.

Motion carried as amended without a negative vote.

CONSIDER ORDINANCE NO. 2012-12 CREATING SEC. 2-4-13 OF THE CODE OF ORDINANCES ALLOWING FOR THE MAYOR TO APPOINT ALTERNATE MEMBERS TO CERTAIN BOARDS, COMMITTEES, AND COMMISSIONS

In answer to Council Member R. Reimer's question, Mayor Kinzel stated that all of the boards, commissions and committees do experience quorum problems at times and that is the reason for appointing alternate members.

Council Member Radtke stated that it takes quite a bit of staff time to ensure a quorum for meetings.

In answer to Council Member R. Reimer's question, Mayor Kinzel stated that an alternate member can be at all meetings; however, they cannot vote unless someone is missing or there is a conflict of interest.

Motion made by Council Member C. Reimer, seconded by Council Member O'Keefe, to adopt Ordinance No. 2012-12 creating Sec. 2-4-13 of the Code of Ordinances allowing for the Mayor to appoint alternate members to certain boards, committees, and commissions. Motion carried without a negative vote.

CONSIDER ORDINANCE NO. 2012-13 AMENDING SEC. 2-4-2 OF THE CODE OF ORDINANCES INCREASING THE NUMBER OF MEMBERS ON THE PUBLIC WORKS AND SEWERAGE COMMISSION FROM SEVEN TO NINE

Motion made by Council Member C. Reimer, seconded by Council Member O'Keefe, to adopt Ordinance No. 2012-13 amending Sec. 2-4-2 of the Code of Ordinances increasing the number of members on the Public Works and Sewerage Commission from seven to nine. Motion carried without a negative vote.

CONSIDER MAYOR KINZEL'S APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Kinzel asked that Dave Polacek be added to the Parks, Recreation and Forestry Board.

Motion made by Council Member C. Reimer, seconded by Council Member Yip, to approve Mayor Kinzel's appointments to Boards, Committees, and Commissions as listed below. Motion carried without a negative vote.

CITIZEN APPOINTMENTS – 2012

Board of Appeals- 3 year term

Vera Brissman, Chair
Jay Stutz (04/30/15)
Steve Ehlers (04/30/15)
Kristofor Hanson (04/30/15)

Economic Development Board – 3 year term

Mike Ruzicka (04/30/13)
Chris Smith (04/30/14)
Eric Stelter (04/30/15)
Jim Pape (04/30/15)
Greg Zimmerschied (04/30/15)
Heather Cain (04/30/15)
David Krier (04/30/15)
Duey Stroebel (04/30/15)
Bob Poggenburg, Alternate (04/30/13)
Rebecca Zuba, Alternate (04/30/13)
John Cordio, Alternate (04/30/13)

Community Pool Commission - 2 year term

Wendy Sprenger (04/30/14)
Nina Walker (04/30/14)
Raymond Ronchetti (04/30/14)
Alternate – leave open

Landmarks Commission – Three year term

Judy Jepson (04/30/15)
Tom Kubala (04/30/15)
Allison Hanson (04/30/15)

Library Board- 3 year term (3 year term)

Vonna Pitel (04/30/15)
Debra Goecks (04/30/15)

Parks, Recreation and Forestry Board – 2 year term

Glenn Herold (04/30/14)
Dave Polacek (04/30/13)

Plan Commission – 3 year term

Mark Poellot (04/30/15)
Pat Thome (04/30/15)

Police & Fire Commission – 5 year term

Robert Carroll (04/30/17)
John Hammen (04/30/17)
Joel Dhein (04/30/16)

Public Works and Sewerage – 2 year term

Bob Dries (04/30/14)
Bill Oakes (04/30/14)
Randy Roupp (04/30/14)
Charles Schumacher (04/30/14)
Gary Graham (04/30/14)
Sandy Beck (04/30/14)
Jim Slavin (04/30/14)

Board of Review – 5 year term

Dean Goetter, alt. (04/30/17)

REVIEW AND CERTIFY CODE OF ETHICS

It was the consensus of the Common Council to confirm the review and certification of the Code of Ethics.

CONSIDER PAYMENT OF BILLS FOR THE PERIOD 6/8/12 THROUGH 6/22/12, ACH TRANSFERS FOR THE PERIOD 6/7/12 THROUGH 6/30/12, AND PAYROLL FOR THE PERIOD 5/29/12 THROUGH 6/23/12

Motion made by Council Member C. Reimer, seconded by Council Member O’Keefe, to approve the payment of bills for the period 6/8/12 through 6/22/12, ACH transfers for the period 6/7/12 through 6/30/12, and payroll for the period 5/29/12 through 6/23/12. Motion carried without a negative vote.

CONSIDER NEW OPERATOR'S LICENSE APPLICATIONS FOR THE PERIOD ENDING JUNE 30, 2013

Motion made by Council Member C. Reimer, seconded by Council Member Radtke, to approve new Operator's License applications for the period ending June 30, 2013 for: Alexandra L. Klapka, Michael A. Georgeff, Jonathan P. Dunne, and Amber N. Carlson. Motion carried without a negative vote.

CONSIDER RENEWAL OPERATOR'S LICENSE APPLICATIONS FOR THE PERIOD ENDING JUNE 30, 2013

Motion made by Council Member C. Reimer, seconded by Council Member Radtke, to approve renewal Operator's License applications for the period ending June 30, 2013 for: Roger E. Behling, Maria T. Carrillo Sanchez, Elizabeth M. Bursten, Melissa M. Radtke, Kelly A. Schopp, Jamee Vaughn, Marie L. Glander, David J. Polacek, Tammy M. Potter, Richard L. Carlson and Frieda C. Carlson. Motion carried without a negative vote.

CONSIDER RESOLUTION NO. 2012-15 AUTHORIZING THE LIGHT & WATER COMMISSION AND GENERAL MANAGER TO DECLARE A WATER EMERGENCY AND TO RESTRICT WATERING IN THE CITY

General Manager Lythjohan advised the Common Council that there is not a water crisis. There has not been any measurable precipitation in 36 days and the odd/even voluntary watering ban has been successful. The typical water pumpage amounts to 1.6 – 1.7 million gallons a day and this has escalated to 2.1 – 2.2 million gallons for the last three weeks. The aquifer is showing stress. He stated that the Light & Water Commission is paying attention and asked for this authorization to be in place in case of an emergency. It is yet to be determined, if a ban is necessary.

General Manager Lythjohan stated that he will have a conversation with the News Graphic to educate the public on the odd/even voluntary watering procedure.

In answer to Council Member C. Reimer's question, City Attorney Vance stated that the water restriction and/or ban will be enforced similar to a public nuisance; whereas, the Police or Building Inspector will conduct a soft enforcement by talking to the individuals or sending a letter.

Council Member R. Reimer asked if the Resolution could be reworded to allow empowerment on an ongoing basis. He also asked to change the Resolution to authorize the Cedarburg Light & Water Utility and its General Manager Dale Lythjohan in place of the Light & Water Commission.

City Attorney Vance stated that Resolutions are meant to be temporary.

General Manager Lythjohan is only asking for temporary authorization. The last drought occurred in 1988. He will consider an Ordinance in the future if it is necessary to make it permanent.

In answer to Council Member Radtke's question, Director Wiza stated that there is a policy for a snow emergency that allows him to declare one. They agreed that a water emergency does not happen suddenly and there should be time to plan.

General Manager Lythjohan opined that if there continues to be no precipitation it will be a problem. The aquifer may take a year to recover.

Motion made by Council Member C. Reimer, seconded by Council Member Maher, to adopt Resolution No. 2012-15 authorizing the Light & Water Commission and General Manager to declare a water emergency and to restrict watering in the City. Motion carried without a negative vote.

General Manager Lythjohan thanked the Common Council for being proactive and passing the Resolution.

CITY ADMINISTRATOR/TREASURER'S REPORT

City Administrator/Treasurer Mertes explained that she has met with representatives from AT&T on internet options for the City. She indicated that she may want a study done to determine if it is feasible to use the fiber that is available through Cedarburg Light & Water.

In answer to Council Member R. Reimer's question, City Administrator/Treasurer Mertes stated that it would be very expensive and there are many issues to clear up to enable wireless internet in downtown Cedarburg.

COMMENTS & SUGGESTIONS BY CITIZENS

Robert Guse, N95 W5719 Dorchester Drive, commented on the backup in his home resulting from a failure at the nearby lift station. He stated that a similar backup of the system occurred in 2000 and this is the second time that the alarm did not work. Mr. Guse referenced an email from Superintendent Clish indicating that the lift station is checked over once each week and that it had not been checked the week of the backup on a Thursday. Mr. Guse also stated that there is not a written checklist of inspections done on the lift station and he opined that this should be done.

Mr. Guse stated that upon review of the situation by the Sewerage Commission, they requested an independent review of the failure by Ruckert & Mielke that resulted in replacing a board and adding a battery backup to an electrical panel at a cost of \$6,000 - \$8,000 to the City. This is cheap compared to his claim to clean up his home from the backup. It was determined that there was a loose fuse the evening of the flood that prevented an alarm from going off. Once the fuse was removed and reinserted it began to work.

He has submitted a claim to the City for reimbursement to clean his home from the recent backup. He has had two losses to contend with in the last 12 years. He opined that it is a shame that the City did not recognize the problem after the first incident.

COMMENTS & ANNOUNCEMENTS BY COUNCIL MEMBERS

Council Member C. Reimer asked that the light bulb be replaced on the flagpole at Centennial Park near the gazebo.

ADJOURNMENT – CLOSED SESSION

Motion made by Council Member Filter, seconded by Council Member Radtke, to adjourn to closed session at 8:45 p.m. pursuant to Wis. Statutes 19.85(1)(g) to confer with legal counsel for the governmental body who is rendering oral or written advice with respect to litigation in which it is or is likely to become involved and 19.85(1)(e) to deliberate or negotiate the purchase of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session, more specifically, to discuss sewer backup claims. Approval of closed session minutes of March 26, 2012 and May 14, 2012. Motion carried without a negative vote.

RECONVENE TO OPEN SESSION

Motion made by Council Member C. Reimer, seconded by Council Member R. Reimer, to reconvene to open session at 9:18 p.m. Motion carried without a negative vote.

ACTION RELATED TO RECENT SEWER BACKUP CLAIMS

The Council considered liability and policy issues in deciding to deny the claims. There is clearly no liability; the City has a schedule of inspection and had no notice that the electrical malfunction occurred until the event of April 26, 2012. Once the City was placed on notice, the City took appropriate action.

ADJOURNMENT

Motion made by Council Member Filter, seconded by Council Member C. Reimer, to adjourn the meeting at 9:20 p.m. Motion carried without a negative vote.

Amy D. Kletzien, MMC/WCPC
Deputy City Clerk