

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

**CC20110711-1
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, July 11, 2011 at City Hall, W63 N645 Washington Avenue, second floor, Council Chambers. Council Member Filter called the meeting to order at 7:00 p.m. The meeting began with a moment of silence followed by the Pledge of Allegiance.

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

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

Also Present - City Attorney Kaye Vance, City Administrator/Treasurer Christy Mertes, Police Chief Thomas Frank, Light & Water General Manager Dale Lythjohan, City Clerk Constance McHugh, City Assessor Cathy Timm, Superintendent of Parks & Forestry Kevin Westphal, Deputy City Clerk Amy Kletzien, interested citizens and news media

STATEMENT OF PUBLIC NOTICE

At Council Member Filter’s request, Deputy City Clerk Kletzien verified that notice of this meeting was provided to the public by forwarding the agenda to the City's official newspaper, the *News Graphic*, to all news media and citizens who requested copies, and by posting in accordance with the Wisconsin Open Meetings Law. Citizens present were welcomed and encouraged to provide their input during the citizen comment portion of the meeting.

Council Member Filter stated that as Acting Mayor he will retain his right to vote as Council Member of the 3rd Aldermanic District.

APPROVAL OF MINUTES

Motion made by Council Member R. Reimer, seconded by Council Member Maher, to approve the minutes of the June 27, 2011 meeting as corrected by Council Member Loomis on page 6: Motion made by Council Member Filter that the Library Board proceed with ~~handling the project and moving it forward~~ obtaining detailed cost estimates for the options proposed. Motion carried without a negative vote with Council Members C. Reimer and Radtke excused.

CONSIDER REQUEST FROM SUMMER SOUNDS TO BE ALLOWED TO SELL AND CONSUME BEER AND WINE AT CEDAR CREEK PARK BEYOND THE HOURS STATED IN COMMON COUNCIL POLICY CC-15

Steve Shapson, 11611 N. Grace Ct., Mequon, WI, stated that Summer Sounds concerts end at 10:00 p.m. and they are requesting to be allowed to sell/serve beer and wine up to 10 p.m. rather than 9:30 p.m. as stated in Policy CC-15. He stated that the cash registers close at 9:30 p.m. and they are unable to sell beer, water or soda until the end of the concerts.

Chief Frank stated that he prefers that Summer Sounds continue to stop selling/serving alcohol at 9:30 p.m. to prevent people from consuming alcohol up to 10:30 p.m. after the bands stop performing. Music complaints were received from residents during the first concert and this would just add to the current noise level after the music ends.

In answer to Council Members Maher and R. Reimer's questions, Chief Frank stated that the ball diamond has always sold beer later because of the timing of their games and they do not draw as big of a crowd.

Council Member Yip stated that he enjoys Summer Sounds and he understands ending the sale of beer and wine one half hour before people drive home. There are many children and people walking after the concerts.

Lisa Taubner stated that Summer Sounds would like to offer beverages later as a convenience to attendees.

Steve Shapson stated that 35% of the revenues from beverage sales go directly back to paying for the bands.

Council Member Loomis stated that the County Fair is allowed to sell beer and wine later and he wants to support Summer Sounds. He is in favor of allowing sales later during Summer Sounds as requested on a trial basis.

Motion made by Council Member Loomis, seconded by Council Member Maher to allow Summer Sounds to sell beer and wine until 10:00 p.m. and end consumption by 10:30 p.m. at Cedar Creek Park, with the understanding that the Common Council review this decision at the end of this season.

Council Member Yip questioned whether the City will allow all organizations to extend their sales time for beer and wine?

City Attorney Vance stated that this may be setting a precedent for events in Cedar Creek Park.

In answer to Council Member R. Reimer's question, City Clerk McHugh stated that the policy does not need to be changed because this is just a variance for Summer Sounds.

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

CONSIDER REQUEST TO PURCHASE A WRIGHT STAND-ON MOWER TO CUT BOULEVARDS

Parks & Forestry Superintendent Westphal explained that his department has identified the need for a specialized type of compact mower that is designed to cut grass quickly with great maneuverability. Cutting the boulevards is very time consuming and labor intensive with the current equipment. The boulevard median strips that run from Pioneer Rd. to Wauwatosa Rd. and from Pioneer Rd. to Washington Ave. are eight feet wide by 2.6 miles long. Due to the narrow

width the crew is unable to mow them with the large riding mowers currently in the fleet. The boulevard medians currently have to be cut with walk behind push mowers and it takes a two person crew using push mowers approximately 16 man hours to complete the boulevard cutting, once per week. Upon completion, each crewperson will have walked approximately six miles.

Parks and Forestry Superintendent Westphal stated that a Wright Stand-On mower with a 32" wide deck would allow the crew to cut the boulevards three times faster than the current method as demonstrated by a dealer from West Bend. The use of this mower will save the City approximately 10 man hours per week during the growing season, especially in spring and fall when the grass is growing fast and the department has to rely on full-time staff to do the cutting. The Department tried to contract the work out for six weeks in the spring and six weeks in the fall for a low contract bid of \$12,000 and they could not do it for that price.

Parks and Forestry Superintendent Westphal received a price quote for a new Wright Stand-On mower for \$5,912. Parks & Forestry recently sold a back-up brush chipper to Cedarburg Light & Water for \$5,000. He is proposing to use this revenue to pay for the majority of the cost of this mower.

In answer to Council Member Loomis' questions, Superintendent Westphal stated that he can use a current truck and utility trailer when needed to haul the mower.

Council Member Loomis stated that the mower will have a 5 year payback period.

In answer to Council Member Yip's question, Superintendent Westphal stated that the mower will have a seven year life before it is traded.

Council Member Filter expressed safety concerns for going around shrubs and lights 71 times and riding off the curb into traffic. He also had a call from a local dealer asking why they were not given the opportunity to bid on the mower.

Superintendent Westphal explained that the crew currently goes on and off the curb with push mowers and the Wright Stand-On mower is able to do the work efficiently. Currently, the Wright Stand-On mower is the only mower with a 32" wide deck and it is not offered through a dealer in Cedarburg.

In answer to Council Member Filter's question, City Attorney Vance stated that this purchase does not have to go to the Parks, Recreation & Forestry Board for consideration because the Common Council has control over budgetary items.

In answer to Council Member Filter's question, City Administrator Treasurer Mertes stated that the chipper was not being used by the City and it will not be replaced. The Light and Water Utility borrowed it occasionally and they use it for tree trimming.

In answer to Council Members R. Reimer and Filter's question, City Administrator Treasurer Mertes stated that Superintendents Westphal and Boerner usually decide if a piece of equipment is surplus.

Council Member Loomis stated that it is an example of one hand taking from another and it is a small amount. The Common Council should trust Superintendents Westphal and Boerner with this decision.

In answer to Council Member Yip's questions, Superintendent Westphal explained that the annual maintenance costs will be approximately \$30 - \$40 per year for blades, oil, filters, and an occasional belt. The mower will accumulate approximately 3,000 hours of use in 7 years and will be a nice trade-in at that point. A full-time person with experience will be using the mower.

Superintendent Westphal stated that the mower can be used on trim routes also and will help with all facets of grass cutting.

Motion made by Council Member Loomis, seconded by Council Member R. Reimer, to purchase the Wright Stand-On mower for a total cost of \$5,911.64 as outlined. Motion carried on a roll call vote with Council Members R. Reimer, Maher, Yip and Loomis in favor, Council Member Filter opposed, and Council Members C. Reimer and Radtke excused.

RECONSIDERATION OF THE APPLICATION OF AARON SCHMIDT FOR AN OPERATOR'S LICENSE THAT WAS NOT APPROVED BY THE COUNCIL ON JUNE 13, 2011

Chief Frank stated that the recommendation for denial was based on three convictions of drunk driving. The first conviction was in the late 1990s and Mr. Schmidt had that conviction when the Council approved his first license. There are bartenders in the City that do have one conviction for operating while intoxicated. The reason he recommended denial in this case is because of the two recent back-to-back convictions in 2009, which causes concern and could possibly factor in his decision in serving people. Mr. Schmidt has not sought renewal of his license since the two convictions in 2009.

Aaron Schmidt stated that he has lived in Cedarburg for over 30 years and he cares about the community. He is a 12-year member of the Lions Club and a past Board member. He has helped other local charities with fundraising projects and event coordination. Mr. Schmidt asked the Common Council to reconsider his application for an Operator's License. He has made some mistakes in his personal life that may not look good and he has learned a lot from them. He held an operator's license for seven years prior to his 2009 convictions and he never had any contact with police while serving. He is very conscious about over serving and under age service because he takes this very seriously. Mr. Schmidt considers himself a responsible person other than the bad decisions he has made in his personal life. He cares about the community and his fellow citizens and he asked the Common Council to reconsider his application.

In answer to Council Member Filter's question, City Attorney Vance stated that if there is no recommendation from the Common Council, than Mr. Schmidt's request for reconsideration is dropped and his license will not be renewed.

Council Member Maher asked if Mr. Schmidt's circumstances are similar to the most recent denial of a license for a person who had a felony charge. Is State Statutes involved in preventing the issuance of this license?

City Attorney Vance stated that it would certainly set a precedent in terms of the renewal of operator's license with drunk driving and alcohol convictions. Personal factors should not be considered. Licenses are not to be granted for misdemeanor convictions that substantially relate to the licensing activity. She stated that there is a substantial relationship between OWI convictions and serving alcohol.

In answer to Council Member Maher's question, City Attorney Vance stated that it is not an option to allow certain conditions to be placed on an operator license.

No motion was made to reconsider the application of Aaron Schmidt for an operator's license that was not approved by the Common Council at a previous meeting.

CONSIDER PAYMENT OF BILLS FOR THE PERIOD 6/24/11 THROUGH 6/30/11. ACH TRANSFERS FOR THE PERIOD 6/21/11 THROUGH 7/7/11, AND PAYROLL FOR THE PERIOD 6/17/11 THROUGH 7/1/11

Motion made by Council Member Loomis, seconded by Council Member Yip, to approve payment of bills for the period 6/24/11 through 6/30/11, ACH transfers for the period 6/21/11 through 7/7/11, and payroll for the period 6/17/11 through 7/1/11.

In answer to Council Member R. Reimer's question, City Administrator Treasurer Mertes stated that she has asked for more detailed descriptions on payments. Sometimes it is difficult to list part numbers for nuts and bolts or small items from a local hardware store. Many times the vendor name will help with the description of the item that was purchased.

Council Member R. Reimer asked about the handwritten detail on the last page of the voucher list.

City Administrator/Treasurer Mertes stated that this detail was provided for a credit card payment at Council Member C. Reimer's request at a past Common Council meeting.

In answer to Council Member R. Reimer's questions, City Administrator/Treasurer Mertes provided a complete explanation for an item listed on the voucher list and explained that invoices will be attached to the check and that it was approved by the Department Head. Also the items are charged to identifiable expense account numbers. Council Member R. Reimer asked City Administrator/Treasurer Mertes to consider more detail on the voucher list.

Council Member Loomis asked about a payment on page 7 for \$4,615 with an explanation of Recreation Hat.

City Administrator/Treasurer Mertes stated that the payment was most likely for baseball hats and it should have been plural.

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

LICENSE APPLICATIONS

Motion made by Council Member Loomis, seconded by Council Member Yip, to approve new Operator's License applications for the period ending June 30, 2012 for Christopher J. Schultz and Ashley Y. Wiita. Motion carried without a negative vote with Council Members C. Reimer and Radtke excused.

Motion made by Council Member R. Reimer, seconded by Council Member Loomis, to approval renewal Operator's License applications for the period ending June 30, 2012 as listed (Denise M. Beno, Joy M. Booth, Deborah J. Downing, Joan E. Fine, Katherine K. Gleisner, Lori A Haeuser, Gerald J. Henning, Charles A. Kison, Dennis R. Kison, Todd R. Luft, Neal C. Maciejewski, Tammy M. Potter, Charles M. Pretty, Kelly A. Schopp, James M. Salp and Colleen A. Sekas) with the exception of Jacob J.P. Banas as recommended by Police Chief Frank.

Based on a previous comment by Police Chief Frank, Council Member Maher questioned why the license for Jacob J.P. Banas is being denied for one OWI conviction?

Police Chief Frank stated that the recommendation for denial came from the recent arrest and conviction for OWI and considering his past record of three misdemeanor convictions which he considered to be alcohol related for theft and disorderly conduct.

Council Member R. Reimer called the question.

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

CITY ADMINISTRATOR'S REPORT

City Administrator/Treasurer Mertes stated that the Village of Grafton is no longer interested in sharing recreation department services.

The Japanese Taiko & Hanagasa Group will be performing on July 14 and information was provided to the Council Members by Parks, Recreation and Forestry Director Hilvo.

Council Member R. Reimer stated that he understood that four items were to be given to a committee to discuss for shared services and he expressed concern for the Village of Grafton making the decision to pull this item without any discussion.

Council Member Loomis and City Administrator/Treasurer Mertes expressed disappointment.

COMMENTS & ANNOUNCEMENTS BY COUNCIL MEMBERS

MAYOR'S REPORT - None

PRESENTATION – 2010 LIGHT & WATER ANNUAL REPORT

Light & Water General Manager Dale Lythjohan presented a summary report of the Light and Water Utility for 2010. The following facts were presented:

Electric Highlights

- Electric revenues in 2010 were \$11,606,744, an increase of \$994,634
- Purchased power was \$8,556,485, an increase of \$881,962
- The net change in revenues (revenue less purchased power) was \$112,672 or 12.8%
- Operating expenses were \$1,266,953, a decrease of \$17,385.
- Depreciation expenses were \$667,579, an increase of \$26,914
- Taxes were \$429,164, and increase of \$36,045
- Operating income was \$653,264, an increase of \$67,098
- The last electrical rate adjustment was effective January 2011
- The amount of electric KWHs purchased has been steadily decreasing since 2007, mainly due to the loss of Amcast and International Paper and overall conservation efforts.

Water Highlights

- Water revenues in 2010 were \$1,610,984, a decrease of \$12,734
- Operating expenses were \$750,272, a decrease of \$30,376
- Depreciation expenses were \$197,395, a decrease of \$9,303
- Taxes were \$293,894, an increase of \$20,792
- Operating income was \$369,423, an increase of \$6,153
- Water rates became effective January 2011
- The amount of gallons of water pumped is expected to be less than in 2001, again due to the loss of Amcast and International Paper and overall conservation efforts by customers

Additional Highlights

- Added infrastructure (Plant Additions) in 2010 (New Customer and Rebuild Activities) was \$884,712 (electric) and \$393,953 (water)
- Total net plant value end of year 2010 was \$22,207,921 (electric) and \$16,473,867 (water)
- Over 50 poles and 5,000 feet of underground cable and 4,000 feet of watermain were replaced to maintain and enhance reliability
- Developed a new 3-year Business Plan to help guide the utility through 2013
- Worked on an expedited solution to the Well #4 contamination problem
- City Conservation \$100,000 Grant implementation (\$70,000 spent in 2010 and \$30,000 planned for 2011) The estimated energy savings for the City will be approximately \$12,000 annually
- In 2010, the average customer paid 11.5% less for electricity compared to other areas in Ozaukee County
- It is conservatively estimated that customers in Cedarburg saved in excess of \$1.5 million in 2010 compared to communities elsewhere in Ozaukee County
- Water rates remain “middle of the pack” compared to water utilities throughout southeastern Wisconsin

2011 and Beyond

- The Utility will bring Well #4 back online, and seek cost recovery from those responsible
- There is an ongoing commitment to proactively replace any aging infrastructure while managing declining sales and increasing costs
- Consideration of the need for possible rate action for January 2012 for the water utility
- Dealing with the costs associated with the DOT roundabout projects (Est. \$350,000 plus water and electric moves)
- LED Demonstration Project at the Wastewater Plant and other City facilities by replacing four foot fluorescent tubes and ballasts with LED equivalent tubes
- Challenges include managing flat or reduced sales with increases in costs, promoting conservation activities that benefit individual customer without causing costs to increase at all, dealing with the short term disconnect of lower staffing levels and service expectations, and keeping both utilities financially strong for the long term, while managing customer costs today.
- Opportunities are to grow sales through economic development activities The Utility has product to sell and they want to help existing businesses grow. They need to sell 100,000,000 gallons of water and 25,000,000KWHs just to get back to sales levels of about 10 years ago.

ADJOURNMENT – CLOSED SESSION

Motion made by Council Member Loomis, seconded by Council Member Yip, to adjourn to closed session at 8:32 p.m. pursuant to Wis. Stat. 19.85(1)(e) to deliberate or negotiate the investing of public funds or conducting other specified public business, whenever competitive or bargaining reasons require a closed session, more specifically, to discuss negotiations regarding the Prochnow Landfill and the PRP group. Approval of closed session minutes of June 13, 2011. Meeting did not reconvene to open session. Motion carried without a negative vote with Council Members C. Reimer and Radtke excused.

ADJOURNMENT

Motion made by Council Member R. Reimer, seconded by Council Member Maher, to adjourn the meeting at 8:52 p.m. Motion carried without a negative vote with Council Members C. Reimer and Radtke excused.

Amy D. Kletzien, MMC/WCPC
Deputy City Clerk