

**CITY OF CEDARBURG
COMMON COUNCIL
July 28, 2008**

CC20080728-1

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, July 28, 2008 at City Hall, W63 N645 Washington Avenue, second floor, Council Chambers. Acting Mayor Paul Radtke 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 Chris Reimer, Noel Jepson, Paul Radtke, Michael Maher, Amy Goyette

Excused - Mayor Gregory Myers, Council Members Steve Glamm and Kip Kinzel

Also Present - City Attorney Kaye Vance, Director of Engineering and Public Works Tom Wiza, Police Chief Tom Frank, Planner Jon Censky, Light & Water General Manager Dale Lythjohan, City Clerk Constance McHugh, Building Inspector Michael Baier, Library Director Mary Marquardt, Library Board President Sue Karlman, Plan Commissioner Brook Brown, interested citizens and news media

STATEMENT OF PUBLIC NOTICE

At Acting Mayor Radtke'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.

Council Member Radtke stated that as Acting Mayor he is retaining his right to vote as Council Member of the 4th Aldermanic District.

MAYOR'S APPOINTMENT TO THE AD HOC REVOLVING LOAN FUND COMMITTEE

Motion made by Council Member Jepson, seconded by Council Member Reimer, to confirm the Mayor's appointment of Bob Loomis to the ad hoc Revolving Loan Fund Committee. Motion carried without a negative vote with Council Members Glamm and Kinzel excused.

PUBLIC HEARING – CONSIDER ORDINANCE NO. 2008-12 AMENDING SECTION 13-1-63(g)(2) (INSTITUTIONAL DISTRICT BUILDING AREA REGULATIONS), SECTION 13-1-63(f)(1) AND SECTION 13-1-63(f)(3) (INSTITUTIONAL DISTRICT STREET YARD AND REAR YARD SETBACK REGULATIONS), AND SECTION 13-1-82(h)(6)b (PARKING REGULATIONS FOR LIBRARY USES) OF THE ZONING CODE

Acting Mayor Radtke declared the public hearing on Ordinance 2008-12 amending Sec. 13-1-63(g)(2) (Institutional District building area regulations), Sec. 13-1-63(f)(1) and Sec. 13-1-63(f)(3) (Institutional District street yard and rear yard setback regulations), and Sec. 13-1-82(h)(6)b (parking regulations for library uses) of the Zoning Code open at 7:02 p.m. City Clerk McHugh

verified that proper legal notice had been given with publication in the *News Graphic* on July 10, 2008 and July 17, 2008.

Planner Censky said the proposed ordinance deals with Institutional District building area regulations, Institutional District street yard and rear yard setback regulations, and parking regulations for library uses. The intent is to accommodate plans for the new library on the Mercury Marine site. The EPA's approved remedial action plan is based on the use of the existing foundation and concrete slab. Since that foundation and slab encroach on setback and offset requirements, certain Code changes are necessary for the location of the library on the site as proposed. His calculation indicates that the proposed on-site parking falls short of the required number of spaces needed to comply with the current Code requirement for library uses. This ordinance addresses this by reducing the number of parking spaces needed for public libraries. The preliminary plan shows 38 on-site parking stalls. The current Code requires 120 parking stalls. Finally, while the proposed library plans comply with the I-1 Institutional and Public Service District's building-to-lot area ratio requirement, there is little room for future expansion. This ordinance proposes to increase the floor area ratio (FAR) from 40% to 50% to allow for future expansion.

Planner Censky said this ordinance was discussed at the July 7 Plan Commission meeting. With three members absent, the Plan Commission's vote to recommend Council approval of this ordinance was tied 2 to 2.

Plan Commissioner Brown said he is opposed to the proposed changes for a number of reasons. He said that building codes are established to maintain consistency. It is not advisable to change the Code for one building. He said there is no definition of a contaminated site. He said that there are other sites in the City that may be contaminated. Changing the Code will impact the other contaminated sites in the City as well. He suggested that these issues be addressed outside the Code. He also said that increasing the floor area ratio in a residential district from 40% to 50% is not advisable and opens the door for similar requests elsewhere in the City. He said this ordinance will be making a change for a considerable number of uses and properties in the City, not just the library site.

In terms of parking, Commissioner Brown said the current Code requires 120 spaces. The change would allow for 38 spaces. He reminded the Council the new library will be located in a residential district. He questioned whether people would really walk or ride bikes to the library. He said that he could not imagine that the Council would allow anyone else in the City to reduce the required parking by 50%.

Commissioner Brown said the proposed ordinance is not good planning and would do more harm than good.

Motion made by Council Member Jepson, seconded by Council Member Reimer, to close the public hearing at 7:15 p.m. Motion carried with Council Members Glamm and Kinzel excused.

Council Member Jepson asked Planner Censky if there has been any feedback from the neighborhood regarding the proposed parking.

Planner Censky said that he is not aware of any feedback from the neighborhood about the parking.

Library Director Marquardt reminded the Council the current library has no on-site parking, with the exception of 10 parking spaces for staff. She said that this ordinance is very important for the project to continue because the current design is based on the existing footprint.

Planner Censky said that Cedarburg has the same parking ordinance that Brookfield and Mequon have. Those communities are highly auto-dependent. These ordinances do not take into account the fact that people may walk or bike to the library. The City of Port Washington has no parking standard. There have been no complaints about the lack of on-site parking at the Port Washington Library. The proposed ordinance will take into account the idea that the City of Cedarburg is a walkable community. Planner Censky said ordinances are generally not changed for one reason unless there is a public purpose. In this case, the public purpose is the control being achieved over the on-site contaminates by using the existing foundation and slab to avoid unnecessary disturbance of the exiting imperious surface. The change will also promote the recently adopted Smart Growth Plan.

Council Member Jepson asked Planner Censky to address Commissioner Brown's comments about opening the door to similar requests elsewhere in the City.

Planner Censky said Commissioner Brown's comments are valid in terms of the proposed change in the floor area ratio. The change, if adopted, would apply across the board to all properties in the I-1 Institutional and Public Service District. Typically, however, institutional zoning applies only to churches, schools, and government buildings.

Director Wiza said it is wise to contemplate a future expansion of the library; however, if there is concern about changing the section of the Code pertaining to floor area ratio at this time, it could be done at a later date. The actual building size of the proposed library will not exceed 40% of the lot area.

Council Member Maher asked Chief Frank if he has any concerns regarding the proposed parking at the new library.

Chief Frank said it is hard to know how many people will park on the street. Currently many students from Cedarburg High School park on the street for a number of reasons. He said there are one or two residents in the neighborhood who are vocal about parking on the street.

Acting Mayor Radtke questioned whether the same provision that is found in the ordinance that allows the setbacks to be changed only upon approval of the Common Council after recommendation of the Plan Commission in order to facilitate redevelopment of a designated state or federal contaminated site could also be placed in the section regarding the floor area ratio.

Attorney Vance said that provision could be added in this section also.

Motion made by Council Member Jepson, seconded by Council Member Reimer, to adopt Ordinance No. 2008-12 amending Sec. 13-1-63(g)(2) (Institutional District building area regulations), Sec. 13-1-63(f)(1) and Sec. 13-1-63(f)(3) (Institutional District street yard and rear yard setback regulations), and Sec. 13-1-82(h)(6)b (parking regulations for library uses) of the Zoning Code, with the modification that Sec. 13-1-63(g)(2) pertaining to the floor area ratio read: "The sum total of the floor area of the principal building and all accessory buildings shall not

exceed forty (40%) of the lot area. The required floor area may be increased up to 50% of the lot area by action of the Common Council following review and recommendation by the Plan Commission in order to facilitate redevelopment of a designated state or federal contaminated site.”

Council Member Jepson said it is very clear that the community is divided on the issue of a new library. He said this may not be the ideal site for the new library, but it is the best site available. He said the Council needs to move forward with the project. For this reason, he will vote to adopt the ordinance.

Council Member Maher said this is a tough decision and Commissioner Brown brings up many good points. However, there are advantages to making the Code changes and moving forward with the library plans. He said that he lived in Port Washington for 20 years and the fact that there is little or no on-site parking at the Port Washington Library has not been a problem. He said that Cedarburg is a very walkable community. He said people are in favor of building the library in this neighbor. He said he would like to see the project move forward.

Acting Mayor Radtke said a library on this site will give Cedarburg a facility that is well suited to the community. He said the language in the ordinance is such that it won't create a free-for-all for similar requests and may give the City more flexibility in terms of redevelopment of other contaminated sites in the City.

Motion carried without a negative with Council Members Glamm and Kinzel excused.

PRESENTATION – 2007 ANNUAL LIGHT & WATER REPORT

Light and Water General Manager Dale Lythjohan presented a summary report of the Light and Water Utility for 2007. The following facts were presented:

Electric Highlights

- Electrical revenues in 2007 were \$10,075,939, an increase of \$890,354
- Purchased power was \$7,253,331, an increase of \$876,931
- The net change in revenues (revenue less purchased power) was \$13,463
- Operating expenses were \$1,244,065, an increase of \$225,066
- Depreciation expenses were \$562,965, an increase of \$21,611
- Taxes were \$351,191, an increase of \$30,197
- Operating incomes was \$664,387, a decrease of \$263,411
- The last electrical rate adjustment was effective February 2, 2008

Water Highlights

- Water revenues in 2007 were \$1,505,843, an increase of \$28,809
- Operating expenses were \$681,351, an increase of \$10,926
- Deprecation expenses were \$185,611, an increase of \$26,811
- Taxes were \$232,010, an increase of \$7,366
- Operating income was \$406,871, a decrease of \$16,294
- Water rates became effective February 23, 2008

Additional Highlights

- Added infrastructure in 2007 was \$1,221,511 (electric) and \$994,204 (water)
- Total net plant value end of year 2007 was \$19,675,063 (electric) and \$14,974,743 (water)
- Phase II of the Distribution Automation Project affecting areas in the northwest corner of the City was completed
- There were two retirements in 2007
- 50 poles, 5,000 feet of underground cable, and 3,000 feet of watermain were replaced to maintain and enhance reliability
- The average customer paid 15+% less for electricity in 2007 compared to other areas in Ozaukee County
- It is conservatively estimated that customers in Cedarburg saved in excess of \$2,000,000 in 2007 compared to communities elsewhere in Ozaukee County
- Water rates remain “middle of the pack” compared to water utilities throughout southeastern Wisconsin

2008 and Beyond

- A joint fiber-optic project with the Cedarburg School District has begun.
- Phase III of the Distribution Automation Project affecting the southeast section of the City has begun.
- There is an ongoing commitment to replace 50+ poles, 5,000 feet of underground cable, and 300 feet of watermain in 2008.
- Electrical wholesale increases of 5-9% per year are expected for the next five years.
- The only effective way to address costs is to reduce consumption. Cedarburg Light and Water has a commitment to the community and now is a member of Focus on Energy. The Utility tries to lead by example and has an increased emphasis on conservation and renewable energy. A solar panel will be installed at the Light and Water office.
- The second annual Cedarburg Energy Fair will be held on October 4. The Fair will provide energy education, tips, and products and will be adding topics about sustainability and renewable energy. Electronics recycling will be new at the Fair this year.

Council Member Maher said he attended the Energy Fair last year. He said the Light and Water Utility did a great job with it and that it is a good event for the community.

Council Member Jepson asked if there will be any problems with increased operating costs because of the increase in energy costs.

General Manager Lythjohan agreed that energy costs are high; however, other costs would have to go up a great deal before the Utility is impacted. He said that there will be no change in electrical rates in 2009. A change in the base electrical rates will occur in 2010.

APPROVAL OF MINUTES

Motion made by Council Member Reimer, seconded by Council Member Goyette, to approve the minutes of the July 14, 2008 meeting. Motion carried without a negative vote with Council Members Glamm and Kinzel excused.

REPORTS OF BOARDS, COMMISSIONS, AND COMMITTEES - None

COMMENTS AND SUGGESTIONS FROM CITIZENS - None

CONSIDER AT&T CONTRACT FOR TELEPHONE SERVICE

Building Inspector Baier said the City's telephone service for primary phone service (PRI), Centrex, and long distance will expire in August. Staff has met with several companies to discuss possible changes and upgrades to the current phone system. Staff has reviewed the proposals and agrees that an agreement be entered into with AT&T with three modifications: 1) City Hall, Police Department, and Light and Water should be under one contract; 2) the rates be negotiated under the State contract; and 3) the Police Department would have their own PRI installed. Staff recommends an agreement with AT&T for a period of five years under the State contract.

Acting Mayor Radtke said the State contract has the pricing for the Centrex lines at \$10 per line per month for five years. AT&T pricing is \$13 per line if the City does not go through the State. The City has 101 Centrex lines, which Acting Mayor Radtke said are lines using 1960s technology. He said the City needs to take a proactive approach to getting off this technology. He said he is not in favor of a five-year agreement of any kind. This is especially true in this case because the State does not want anyone to back out of this agreement. If the City backs out during the five-year period because the City decides to implement new technology, the City may not be able to keep the current telephone numbers. The State will allow the City to go down to two Centrex lines without breaking the contract. AT&T will allow the City to reduce the number of lines but only to 20-40.

Council Member Jepson said it may make sense to go with a five-year agreement to be able to take the time to look into new technology and implement changes.

Acting Mayor Radtke said a plan can be done in three years and more savings realized. The problem is that under the State plan the City may not be able to migrate to new technology and keep the same numbers. The question for the Council is whether the City should enter into a five year agreement with the State or a three-year agreement even though it is more expensive and look towards better technology.

Motion made by Council Member Jepson, seconded by Council Member Maher, to enter into an agreement with AT&T under the State contract for a period of five years for the provision of telephone service, subject to verification by staff that current phone numbers will not be lost. If staff determines that the current phone numbers cannot be retained, a three-year agreement with AT&T is to be entered into.

Council Member Goyette said that she appreciates the work Acting Mayor Radtke has done on this matter; however, she said that she does not have enough information to change midstream. She said that there will be an opportunity to look at new technology during the five-year period.

Motion carried unanimously on a roll call vote with Council Members Glamm and Kinzel excused.

CONSIDER LEASE WITH FALLS PRESBYTERIAN CHURCH FOR LEASE OF THE FIRST FLOOR OF THE EMERGENCY GOVERNMENT BUILDING

Motion made by Council Member Reimer, seconded by Council Member Jepson, to approve the lease with Falls Presbyterian Church for the use of the first floor of the Emergency Government Building. Motion carried without a negative vote with Council Members Glamm and Kinzel excused.

CONSIDER VERIZON AGREEMENT LEASE AMENDMENT

Verizon would like to extend the area they lease at the water tower at N49 W6411 Western Road to allow for a generator for backup power. The location was approved by Light & Water. The Plan Commission approved the request at its meeting on June 2, 2008. The lease amendment allows for additional compensation in the amount of \$2,400 to the City.

Motion made by Council Member Reimer, seconded by Council Member Goyette, to approve a lease amendment with Verizon that allows for a generator for backup power. Motion carried without a negative vote with Council Members Glamm and Kinzel excused.

CONSIDER AGREEMENT WITH MILLIMAN, INC. FOR GASB 45 COMPLIANCE

Motion made by Council Member Jepson, seconded by Council Member Goyette, to approve the contract with Milliman, Inc. for GASB 45 compliance in an amount not to exceed \$6,000, subject to review and approval by the City Attorney. Motion carried unanimously on a roll call vote with Council Members Glamm and Kinzel excused.

CONSIDER AMENDING POLICY CC-23 RE: BOARD, COMMISSION, COMMITTEE & COUNCIL AGENDAS

Motion made by Council Member Goyette, seconded by Council Member Reimer, to adopt revised Policy CC-23 re: Board, Commission, Committee & Council agendas. Motion carried without a negative vote with Council Members Glamm and Kinzel excused. This policy was revised to reflect the title change for the City Administrator/Treasurer, a change in the time of staff meetings, and that Council packets are now to be picked up in the Clerk's Office.

CONSIDER AMENDING POLICY FC-9 RE: WRITING OFF UNCOLLECTIBLE RECEIVABLES

Motion made by Council Member Goyette, seconded by Council Member Jepson, to adopt revised Policy FC-9 re: Writing off uncollectible receivables. Motion carried without a negative vote with Council Members Glamm and Kinzel excused. This policy was revised to reflect the title change for the City Administrator/Treasurer and suggestions made by the Auditors.

LICENSE APPLICATIONS

Motion made by Council Member Reimer, seconded by Council Member Jepson, to authorize issuance of:

July 28, 2008

- a Festival Permit to Festivals of Cedarburg, Inc. for Wine and Harvest Festival to be held on September 20, 2008 from 10:00 a.m. to 6:00 p.m. and on September 21, 2008 from 10:00 a.m. to 5:00 p.m.
- renewal Operator's Licenses for the period ending June 30, 2009 to:
Gerald B. Henning David B. Myers
Richard L. Carlson Frieda C. Carlson
- new Operator's Licenses for the period ending June 30, 2009 to:
Andrew R. Meyer Michael Potter
Tammy Potter

Motion carried without a negative vote with Council Members Glamm and Kinzel excused.

CITY ADMINISTRATOR'S REPORT - None

COMMENTS AND SUGGESTIONS BY CITIZENS - None

REPORTS AND COMMENTS BY COUNCIL MEMBERS

Acting Mayor Radtke encouraged Council Members to contact newly hired Economic Development Coordinator Linda Skalecki to chat with her about the things she has accomplished thus far.

MAYOR'S REPORT - None

ADJOURNMENT

Motion made by Council Member Reimer, seconded by Council Member Goyette, to adjourn the meeting at 8:40 p.m. Motion carried without a negative vote with Council Members Glamm and Kinzel excused.

Constance K. McHugh, CMC
City Clerk