

**CITY OF CEDARBURG
COMMON COUNCIL
July 9, 2007**

CC20070709-1

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, July 9, 2007 at City Hall, W63 N645 Washington Avenue, second floor, Council Chambers. Mayor Myers 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 Gregory P. Myers, Council Members Chris Reimer, Steven Glamm, Paul Radtke, Sandra Beck, Kip Kinzel, Robert Loomis

Excused – Council Member Haly Besaw

Also Present - City Attorney Kaye Vance, City Administrator/Treasurer Christy Mertes, Deputy City Clerk Amy Kletzien, Director of Engineering and Public Works Tom Wiza, Public Art Committee Member Renée Graef, interested citizens and news media

STATEMENT OF PUBLIC NOTICE

At Mayor Myers' 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 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.

CONSIDER MAYOR MYERS' ANNUAL APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

Motion made by Council Member Glamm, seconded by Council Member Reimer, to appoint Renée Graef as a member of the Public Art Committee, term to expire April 30, 2009. Motion carried without a negative vote with Council Member Besaw excused. The oath of office was given to the new appointee by Deputy City Clerk Kletzien.

APPROVAL OF MINUTES

Motion made by Council Member Beck, seconded by Council Member Radtke, to approve the minutes from the June 25, 2007 meeting. Motion carried without a negative vote with Council Member Besaw excused.

REPORTS OF BOARDS, COMMISSIONS & COMMITTEES - None

COMMENTS & SUGGESTIONS FROM CITIZENS – None

UNFINISHED BUSINESS – None

PRESENTATION – 2006 POLICE DEPARTMENT REPORT

Police Chief Frank presented a summary report of the Police Department for 2006. He acknowledged the Police and Fire Commission and their contributions. The following facts were presented:

- Violent crimes consisted of three robberies and two aggravated assaults
- Property crimes decreased from 161 in 2005 to 132 in 2006
- Stolen property increased from \$41,052 to \$122,041 with \$31,423 recovered
- 34 felonies and 98 misdemeanors occurred in 2006 compared to 38 felonies and 90 misdemeanors in 2005
- 852 reports were investigated in 2006 compared to 965 in 2005
- Calls for service increased from 15,076 to 15,397
- 3,391 people were assisted in 2006 compared to 3,535 in 2005
- People at the station increased from 8,414 in 2005 to 8,586 in 2006
- Telephone calls decreased from 20,185 in 2005 to 18,396 in 2006
- 911 calls decreased from 902 in 2005 to 895 in 2006
- 181 alarms were received in 2006 compared to 205 in 2005
- Department activities included 391 non-traffic arrest in 2006 compared to 479 in 2005; 1,928 traffic arrest compared to 1,821 in 2005
- Warnings for non-traffic offenses decreased from 713 in 2005 to 542 in 2006
- Traffic warnings decreased from 2,853 in 2005 to 2,250 in 2006
- 343 speeding tickets were issued in 2006 compared to 415 in 2005
- OAWI offenses decreased from 48 in 2005 to 41 in 2006
- Arrests for adult alcohol offenses increased from 63 in 2005 to 75 in 2006
- Juvenile arrests increased from 22 in 2005 to 23 in 2006
- 13 tobacco violations occurred in 2006 compared to 7 in 2005
- Drug offenses decreased from 53 in 2005 to 44 in 2006
- 64 bicycle/skateboard warnings were issued compared to 83 in 2005
- Worthless checks decreased from \$35,475 in 2005 to \$6,708 in 2006, with \$1,894 recovered
- 159 accidents occurred in 2006 with 25 injuries compared to 168 accidents with 20 injuries in 2005
- Community policing included 107,805 checked doors with 140 open, 1,790 vacation checks, 185 vehicle lockouts, 678 rescue squad calls, 187 fire calls, police video and Fleet Watch, D.A.R.E. program for 260 students, Safety Town and Safety Camp for 209 students, School Liaison Officer, child safety seat inspections (69), Safety Days, Website, Tele-care program, Hunter Safety program, renting of the Community Room (156), and conducting the Citizens Police Academy

Chief Frank summarized the overtime and training hours, adding that Emergency Government helps with traffic control and parades/runs/walks which reduces overtime.

Personnel changes consisted of Detective Sergeant Backes' retirement after 30 years, Detective Vahsholtz promotion to Detective Sergeant, Sergeant Yanke's promotion to Detective, Officer Spaeth's promotion to Sergeant, new officer Tom Schellinger, new dispatcher Amy Kell and new custodian Randy Kasten.

The Cedarburg Police Department participates in Mutual Aid with three officers on the Ozaukee Special Response Team and two officers on the Ozaukee Drug Enforcement Unit. Assists to other departments totaled 190 in 2006.

At the request of Council Members Reimer and Radtke, Chief Frank will provide a break down of the 190 assists to other departments.

Current projects for the Police Department are the upgrade to the 911 system and an upgrade to the in-house video system.

The Police Department employs 20 school crossing guards for 10 intersections during the school year.

UPDATE ON THE STATUS OF THE WOOLEN MILLS, RUCK, AND COLUMBIA MILLS DAMS

Director Wiza stated that the City recently completed technical reports on the Woolen Mills, Ruck and Columbia Mills dams as required under Wisconsin Administrative Code NR 333. Based on preliminary discussions with the DNR staff, it appears that the dams will be required to meet current structural stability and hydraulic capacity standards.

Director Wiza stated that from a structural and stability standpoint, the City cannot prove (through accepted engineering calculations) that the dams will be stable under all loading conditions. As far as hydraulics is concerned, the analysis shows that the dams would withstand a 10 year flood but would not withstand a 100 year storm event stream flow without overtopping. In order to increase the spillway width to carry the 100 year storm, the dams would have to be reconstructed about twice as wide as they presently are and this is not an option at any of the three locations. However, the same width could be retained, if the existing spillway elevation were lowered approximately two feet. This is most likely the best solution to meet the hydraulic requirements of NR333, but it would probably entail complete reconstruction of the dams at a potential cost of approximately \$1,000,000 each.

Director Wiza stated that the City has not received any written orders to repair the dams to-date; however, he has contacted several consulting firms for proposals to evaluate the best options and associated costs for the City in the event strict compliance with NR333 standards is required.

In answer to Council Member Reimer's question, Director Wiza stated that lowering the elevation of the dams would change the appearance of the dams and all the banks would need to be regraded.

In answer to Mayor Myers' question, Director Wiza stated that the DNR has made an initial appeal for repair of many dams statewide.

Mayor Myers explained that the three dams have historical value to the City.

City Attorney Vance stated that contamination issues would have to be addressed if changes are made to the current dams. The EPA, DNR, and Mercury Marine would have to work together on the clean up before they could be removed.

In answer to Council Member Glamm's question, Director Wiza stated that if the dams are removed, it would drastically change the look of the proposed Creekwalk.

Council Member Loomis suggested the City contact the League of Municipalities to have them lobby to preserve the dams.

City Attorney Vance stated that a Public Hearing would need to take place before any decisions are made to tear down the dams because of their historic status in Cedarburg.

In answer to Council Member Reimer's question, Director Wiza stated the Nail Factory dam is privately owned and that dam would also be subject to repair in the future.

CONSIDER ISSUANCE OF TRANSIENT ENTERTAINMENT LICENSE TO TIP TOP RIDES & ATTRACTIONS FOR THE OZAUKEE COUNTY FAIR FOR AUGUST 1 (NOON TO 11:00 P.M.), AUGUST 2, 3, AND 4 (11:00 A.M. TO MIDNIGHT) AND AUGUST 5, 2007 (11:00 A.M. TO 10:00 P.M.); WAIVE THE REQUIREMENT FOR A CLEAN UP BOND AS REQUESTED BY THE AGRICULTURAL SOCIETY

Motion made by Council Member Glamm, seconded by Council Member Beck, to issue a Transient Entertainment License to Tip Top Rides & Attractions for the Ozaukee County Fair for August 1 (Noon to 11:00 p.m.), August 2, 3, and 4 (11:00 a.m. to midnight) and August 5, 2007 (11:00 a.m. – 10:00 p.m.) contingent upon submitting a daily list of employees to the Cedarburg Police Department and to waive the requirement for a clean up bond as requested by the Agricultural Society. Motion carried without a negative vote with Council Member Besaw excused.

LICENSE APPLICATIONS

Motion made by Council Member Glamm, seconded by Council Member Reimer, to authorize issuance of renewal Operators' Licenses for the period ending June 20, 2008 to:

Melissa M. Radtke	Kenneth P. Albinger
Bonnie C. Prah	Charles A. Kison
John E. Zarling	LeRoy C. Haeuser
Michael R. Heebner	John W. Witte
Carolyn J. Kitzke	Jacob JP Banas
Trevor W. Shanahan	Robert J. Flom
Joseph M. Buth	Andrew T. Golden

Motion carried without a negative vote with Council Member Besaw excused.

Motion made by Council Member Reimer, seconded by Council Member Beck, to authorize issuance of a new Operators' License for the period ending June 30, 2008 to Kathryn E. Everly. Motion carried without a negative vote with Council Member Besaw excused.

Motion made by Council Member Beck, seconded by Council Member Kinzel, to authorize the issuance of a Horse and Carriage License to Sid R. Prom, Paradise Ranch, 2408 Spring Hill Drive,

Cedarburg, WI 53012. Motion carried without a negative vote with Council Member Besaw excused.

CITY ADMINISTRATOR'S REPORT

City Administrator/Treasurer Mertes stated that the Cedarburg/Grafton Rotary has sponsored the Cedar Creek Park for five years and they will be contacted to possibly fund the installation of a light as approved by the Common Council.

City Administrator/Treasurer Mertes will be attending the Administrator Academy through UW-Green Bay the week of July 22.

COMMENTS & SUGGESTIONS BY CITIZENS - None

REPORTS & COMMENTS BY COUNCIL MEMBERS

Council Member Loomis stated that the Fourth of July event was great and is very typical of Cedarburg.

MAYOR'S REPORT - None

ADJOURNMENT – CLOSED SESSION

Motion made by Council Member Radtke, seconded by Council Member Reimer, to adjourn to closed session at 8:00 p.m. pursuant to Wis. Stats. 19.85(1)(b) to consider licensing of any person licensed by the Common Council and the taking of formal action on such matter; more specifically the renewal operators license of Sheri Korolewski, pursuant to State Statutes 19.85(1)(g) to confer with legal counsel who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved, and State Statutes 19.85(1)(e) to deliberate or negotiate the purchasing 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 the Prochnow landfill and Highway 60 boundary issues and the Zur Ruhe Cemetery and Wis. Stats. 19.85 (1)(em) relating to the Zur Ruhe Cemetery. Closed session minutes of June 11, 2007.

Journal Sentinel Reporter Tom Kertscher stated that the newspaper objected to the items added on July 9 to the closed session portion of the Common Council meeting agenda. He stated that the addendum made this morning cited the litigation exemption in the open meetings law in order to discuss the Zur Ruhe Cemetery issue in closed session; however, a second addendum, sent out a few hours later, cited a different exemption involving burial sites. In addition, the second addendum also indicated that the entire discussion of the Zur Ruhe issue will be done in closed session based on the burial sites exemption to the open meetings law. Reporter Kertscher emphasized that state law allows a closed session on a burial site only when a public discussion will likely result in disturbance of the site. He also stated that the Wisconsin Public Records and Open Meeting Handbook stated that the exemption is “drafted narrowly,” and that when a governmental body uses the exemption it should “split its deliberations,” conducting “part of the discussion in open session, instructing parties not to mention the location of the burial site, and then commence a

closed session restricted to discussing those aspects of the burial site that cannot be discussed without reference to its location.”

The *Journal Sentinel* requested that the Zur Ruhe item be taken up accordingly, with the substantial portion of the discussion done in open session.

City Attorney Kaye Vance stated that a letter was received threatening litigation and the closed session cemetery discussion falls into that State Statute.

Mayor Myers stated that the discussion will move forward into closed session pursuant to Wisconsin State Statutes.

Council Member Glamm questioned the denial of an operator’s license in closed session, stating that the decision should be determined by the Common Council, whether or not the discussion is appropriate to be considered a confidential nature. Given the public’s ability to access Wisconsin court records, this should not be discussed in closed session. Council Member Glamm requested that the discussion regarding denial of an operator’s license be pulled from the closed session for a separate vote.

In answer to Council Member Beck’s question, City Attorney Vance stated the applicant has the right to request to be heard in closed session but the Council may deny the request and the issue can be discussed in open session.

The applicant stated that she would be willing to reschedule her hearing to a future open session meeting.

Council Members Radtke and Reimer agreed to amend their motion to remove consideration of Wis. Stats. 19.85(1)(b) to consider licensing of any person licensed by the Common Council and the taking of formal action on such matter; more specifically the renewal operator license of Sheri Korolewski from the closed session agenda.

Motion carried without a negative vote with Council Member Besaw excused.

Meeting did not reconvene to open session.

Amy D. Kletzien, CMC
Deputy City Clerk