

**CITY OF CEDARBURG
COMMON COUNCIL
August 8, 2011**

**CC20110808-1
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, August 8, 2011 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, Ron Reimer, Art Filter, Paul Radtke, Michael Maher, Douglas Yip

Excused - Council Member Bob Loomis

Also Present - City Attorney Kaye Vance, City Administrator/Treasurer Christy Mertes, Director of Engineering and Public Works Tom Wiza, Wastewater Superintendent Ron Clish, Accountant II/Accounts Receivable Kathy Huebl, Library Director Mary Marquardt, Library Board Members Sue Karlman, Steve Ruggieri, Debra Goeks, Elizabeth Bryde, Art Palleon and Vonna Pitel, Joe Huberty and Alexandra Ramsey from Engberg Anderson, George Beyer from Beyer Construction, City Clerk Constance McHugh, Deputy City Clerk Amy Kletzien, 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 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 Filter, seconded by Council Member Yip, to approve the minutes of the July 11, 2011 meeting. Motion carried without a negative vote with Council Member Radtke abstaining and Council Member Loomis excused.

COMMENTS & SUGGESTIONS FROM CITIZENS

Ruth Cook, W64 N649 Hanover Avenue, called attention to the need for a new break-off position for an Election Supervisor to train the election workers and be present on Election Day for the City of Cedarburg. The current poll workers submitted a petition to have this position filled by Cathie Anschuetz for consideration by the Common Council. She stated that there will be four elections in 2012 along with new rules and regulations and redistricting. In light of the discrepancies found in other municipalities, the value of having an experienced person in charge of the election is vital to continue meeting the high standards of the process in Cedarburg.

Jan Chart, W64 N645 Hanover Avenue, stated that she submitted a letter to the Common Council stating her reasons for the need to create the Election Supervisor position, due to the complex nature of elections. She stated that the poll workers work very hard and it is important to continue the current standards of training and support.

Greg Goeks, N67 W6918 Cleveland Street, stated that he grew up in Cedarburg and lived here when the first library was built. He now has two daughters in high school and his wife, Debra Goeks serves on the Library Board. He opined that the current offer on the table for the library donation should not be accepted, as it is right now. The original referendum delineated what was needed. Since then, the Town of Cedarburg broke away from a joint library and the Mercury Marine site has presented obstacles. If the library is built downtown, it will scale the library down further. The library proposal is a wonderful idea and it is difficult to walk away from this offer; however it is unclear whether the property is clean and suitable for building at this time. Mr. Goeks stated that he has experience with the DNR changing their decisions on property that was previously cleared for construction. He understands that building the library downtown will put more traffic in the area; however, he questioned the costs and the reason for moving a building to the back of the property. He also expressed concern for taking this property off of the tax roll and including retail space in the proposed library. A retail portion is not a successful part of libraries and also reduces the footprint of the library. The City and Library Board have a fiduciary responsibility to the citizens of Cedarburg. He opined that the current proposal has too many downsides and he asked the Common Council to seriously reconsider the existing library property. The firing range in the former police station was a concern a few years ago and it is no longer being used; therefore, making it possible to expand onto this property.

Val Sorchy, N40 W6086 Jackson Street, stated that as a poll worker she is advocating for the addition of an Election Supervisor. She also agreed with Greg Goek's comments in regard to the new library. The library should be user friendly and she hopes that the community gets a new library. The current proposal is not perfect; however, the participation of the youth in Cedarburg should be considered.

Debra Spiering, W61 N673 Mequon Avenue, stated that she agreed with Greg Goek's comments also, particularly regarding the retail space.

Jean Kobin, W71 N371 Fox Pointe Avenue, expressed concern for the cost of a new library and would like clarification on the costs involved in this project.

DISCUSS THE NEED FOR A LETTER OF DONATION COMMITMENT FROM THE LIBRARY DONOR'S GROUP CLEARLY DEFINING THE DETAILS OF ITS COMMITMENTS SUCH AS: DEDICATION OF THE SITE, AMOUNT TO BE DONATED, AND THE CONDITIONS ON THE DONATION (i.e., DESIGN AND USE REQUIREMENTS) AND THE WEBER HAUS RELOCATION COST SHARING ARRANGEMENT

Mayor Myers stated that he met with staff and it is evident that a clearer commitment from the donor group is needed for the City to proceed with the project.

Council Member Maher stated that the donation letter from June 27 was discussed by the Library Board and they are most interested in the second scenario which involves adding the Washington Avenue land adjoining the Zimmerschied/Bourbulas parcel on the north. The Library Board also expressed that they want to have Engberg Anderson involved in the inside design of the library. He stated that the donors want to include retail space on Washington Avenue to maintain downtown community support.

In answer to Council Member C. Reimer's question, Council Member Maher stated that the retail space was not mentioned in the initial letter to the Common Council. He learned of these plans during conversation and believed it was important to communicate these plans to the Mayor and Common Council to eliminate speculation. The Library Board has questions and concerns regarding the retail space and wants to be involved in all discussions and make this an open process. The donor group has indicated that they would withdraw their offer if the retail space is not included.

Council Member Filter stated that he is against the retail space and expressed concerns about the donors wanting a different architect than Engberg Anderson.

Mayor Myers asked that the donor group explain to the Common Council in detail as to what they want in this project.

Motion made by Council Member Yip, seconded by Council Member Filter, to request a letter of donation commitment from the Library Donor's Group clearly defining the details of its commitments such as: dedication of the site, amount to be donated, and the conditions on the donation (i.e., design and use requirements) and the Weber Haus relocation cost sharing arrangement at their earliest convenience.

Council Member Radtke stated that the library donation is a generous offer and he appreciates their generosity; however, the Common Council still needs to be concerned and needs to know more about the project.

Council Member Maher stated that there are many unknowns and he wants to see more details. This concept is new for the City. He would like to begin with authorization from the Common Council to begin Phase I testing as soon as possible. The tests may show that the property is not clean enough to build on.

Council Member R. Reimer indicated that the design by Kubala Washatko and Michael Doll present some architectural concerns.

In answer to Mayor Myers question, City Attorney Vance stated that the donor group should submit a letter to the City that clearly defines their offer and conditions to the project. This is the first step of any contract negotiations and will lead to a legally enforced document.

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

DETERMINE THE LIBRARY PROJECT ORGANIZATION AND RESPONSIBILITIES TO INCLUDE THE ROLE OF THE LIBRARY BOARD, THE USE OF CONSTRUCTION MANAGEMENT, AND PRE-CONSTRUCTION FEE

Motion made by Council Member C. Reimer, seconded by Council Member R. Reimer, requesting that the Library Board send a proposal to the Common Council outlining the project organization and responsibilities to include the role of the Library Board, the use of construction management, and pre-construction fee.

Director Wiza confirmed that a project team consisting of City representatives, Library Board Members, the Architect and Construction Manager needs to be established. Contracts will be needed for the different entities and the exact membership of the construction team will need to be determined.

In answer to Council Member Yip's question, Director Wiza stated that it is important to establish a group that involves the Library Board and the multiple architects.

Council Member Maher stated that the Library Board will distribute the proposal at the next Common Council meeting.

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

AUTHORIZE PRELIMINARY WORK RELATED TO THE NEW LIBRARY: PHASE 1 ENVIRONMENTAL TESTING, PHASE 2 ENVIRONMENTAL TESTING, GEOTECHNICAL EXPLORATION, AND SURVEY COSTS TO PREPARE THE CERTIFIED SURVEY MAP (CSM)

Motion made by Council Member Filter, seconded by Council Member Maher, to authorize the Phase 1 environmental testing for \$3,300 and to review the results of the testing along with the donor letter before continuing with the Phase 2 testing, geotechnical exploration and survey costs to prepare the Certified Survey Map (CSM).

Director Wiza stated that Phase 1 is important because it is related to the City's due diligence. It is necessary to investigate beyond the closure letter from the DNR because circumstances change over time and the contamination could have migrated. Part of the process will involve looking at the ownership chain of the property and to determine the level of contamination. Phase 2 will involve soil and groundwater sampling and more in-depth lab testing.

In answer to Council Member Yip's question, Director Wiza stated that Phase 1 and Phase 2 testing will cost approximately \$7,800. Phase 1 testing will take approximately 18 days to complete per the proposal, and Phase 2 testing will take four weeks. Answers are needed before continuing with the project and it is best to do Phase 1 and Phase 2 separately.

In answer to Council Member R. Reimer's question, Director Wiza stated that even though the DNR website shows that the property has been closed of any potential hazard, it will be important to receive an updated verification of their status. This may have been a flexible closure, assuming

that the remaining petroleum would disperse and that excavation would not take place on the property.

In answer to Council Member Radtke's question, Director Wiza stated that it is appropriate to be concerned about the adjacent property and the consultant will perform testing and monitor that property as well.

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

REFERRAL TO STAFF TO DETERMINE: COSTS EXPENDED TO DATE; POSSIBLE FUTURE COSTS, INCLUDING ISSUES WITH THE PLANT NO. 2 SITE AND CURRENT STATUS REVIEW OF LIBRARY COST ESTIMATE AND FUNDING (Two agenda items were combined for discussion purposes)

City Administrator/Treasurer Mertes reviewed the payments to-date for services by Engberg Anderson. She stated that she also supplied projecting figures for moving ahead with the new library.

Council Members C. Reimer and R. Reimer requested that City Administrator/Treasurer Mertes provide a summary of the use and source of funds expended to-date for all parties involved in the library project.

Mayor Myers stated that the projection figures are based on a limited amount of money that is available. It is not a budget, but simply an estimate of costs.

Council Member R. Reimer explained that the referendum amount was \$6 million and the costs may come in higher so many years later. He wants to know how accurate the estimates are at this point.

George Beyer of Beyer Construction stated that the construction figures were based on the 2006 plan to build a two story library on the Hanover property. Forwarding that plan to today's costs show that construction will cost less than it would have in 2006. He stated that construction costs are very favorable now.

In answer to Council Member C. Reimer's question, George Beyer stated that the 2006 plan did not include a basement in the library.

DISCUSS COUNCIL CONSENSUS ON FEBRUARY 28, 2011 THAT REAFFIRMED THE COUNCIL'S COMMITMENT TO THE PLANT NO. 2 SITE FOR THE NEW LIBRARY

City Attorney Vance explained that the Common Council made motions on January 11, 2011 and February 28, 2011 to approve the footprint and additional cuts to the slab on the Plant No. 2 site. At some point, the Common Council will need to rescind their motions if the project does not move forward on this property.

Mercury Marine had planned on starting the clean-up on their property this fall and the City indicated that they were committed to purchasing the property from Mercury Marine after it was cleaned up.

Questions remain whether or not the DNR and the EPA will allow the property to only be paved if the Library is not built on this site. They may further require that the foundation be dug and the contamination be removed because of drainage issues with only a parking lot. It will cost more to clean up the site if a library is not built on this property and it is possible that they will need to remove some of the slabs.

Mayor Myers stated that City Attorney Vance may communicate to the EPA and DNR that the City may not be using the site for a library; however the City wants to continue to keep all options open.

CONSIDER RELEASE OF PERMANENT BUSINESS PARK SIGN EASEMENT

Motion made by Council Member C. Reimer, seconded by Council Member Radtke to release the permanent Business Park sign easement. Motion carried without a negative vote with Council Member Loomis excused.

CONSIDER MEDIATION WITH THE TOWN OF CEDARBURG

City Attorney Vance stated that Judge Williams made a request that the City and Town of Cedarburg set three meeting dates in a casual setting to discuss their differences. She stated that she will be prepared to discuss this item further at the next Common Council meeting because she did not receive a response from the Town until late today and it did not allow time for review prior to the meeting.

CONSIDER ORDINANCE NO. 2011-10 AMENDING SEC. 2-1-3 OF THE CODE OF ORDINANCES TO PLACE WARDS INTO ALDERMANIC DISTRICTS

Motion made by Council Member C. Reimer, seconded by Council Member Yip, to adopt Ordinance No. 2011-10 amending Sec. 2-1-3 of the Code of Ordinances to place wards into Aldermanic Districts. Motion carried with Council Members Radtke, C. Reimer and Yip in favor, Council Members R. Reimer, Maher and Filter opposed and Council Member Loomis excused. Mayor Myers voted in favor to break the tie vote.

CONSIDER AUTHORIZATION TO REPLACE ADMINISTRATIVE ASSISTANT POSITION

City Administrator/Treasurer Mertes stated that she is proposing to replace the vacated full-time Administrative Assistant position with a three-quarter time person and a temporary part-time election assistant. This request was referred to the Personnel Committee by the Common Council and the Personnel Committee has referred it back to the Common Council for a decision. She has provided an estimate of hours, salary survey information, and a copy of the Personnel Committee minutes from July 13.

Council Member Filter questioned how the City can justify paying a part-time general office employee \$15 per hour when private industry pays \$12 - \$13 in this area. He stated that he could not support this wage.

Mayor Myers stated that this full time position was discussed during the last budget process and it was determined that the Deputy Treasurer/Payroll Officer would be able to assume some of these responsibilities after ADP was retained to assist with the City's payroll. He further stated that Cathie Anschuetz did a great job while working for the City; however, he has a fundamental problem with someone working for the City again after retiring. At a time when the City is trying to cut back, it is difficult to add another break-off position for someone who is retired.

Motion made by Council Member Maher, seconded by Council Member C. Reimer, to hire a part-time person in the Clerk's office to help with election work. Motion died for lack of a vote.

Council Member Filter agreed that additional help is needed to help with election work.

City Clerk McHugh stated that election work is constant and needs to be done on a continual basis.

Council Member R. Reimer stated that the City needs to be diligent on spending; however, two managers are requesting additional personnel in the Clerk's and Administrator's departments.

In answer to Mayor Myer's question, City Clerk McHugh stated that a half-time or three quarter time person on a consistent basis would be helpful.

Poll worker Jan Chart opined that the City needs a skilled person who is trained in elections in addition to an Administrative Assistant.

Mayor Myers expressed confidence and faith in City Clerk McHugh's knowledge and ability to run elections.

In answer to Council Member R. Reimer's question, City Clerk McHugh stated that the Administrative Assistant would be responsible for election duties, answering the phone, helping citizens at the counter, providing assistance with license applications, running the Common Council packets and some confidential work associated with the City Administrator's office.

Motion made by Council Member Maher, seconded by Council Member C. Reimer, to authorize a part-time replacement (1,040 hours) for the Administrative Assistant position to report to City Administrator/Treasurer Mertes and City Clerk McHugh. The position may be revisited and reviewed later in the year. Motion carried without a negative vote with Council Member Loomis excused.

CONSIDER PAYMENT OF BILLS FOR THE PERIOD 7/21/11 THROUGH 7/28/11, ACH TRANSFERS FOR THE PERIOD 7/5/11 THROUGH 8/1/11, AND PAYROLL FOR THE PERIOD 7/9/11 THROUGH 7/29/11

Motion made by Council Member Filter, seconded by Council Member R. Reimer, to approve payment of bills for the period 7/21/11 through 7/28/11, ACH transfers for the period 7/5/11

through 8/1/11, and payroll for the period 7/9/11 through 7/29/11. Motion carried without a negative vote with Council Member Loomis excused.

LICENSE APPLICATIONS

Motion made by Council Member Radtke, seconded by Council Member R. Reimer, to approve new operator's license applications for the period ending June 30, 2012 for: Dena C. Baule, Morgan K. Behm, Kim M. Gordon, Jenessa J. Freck, Elliot R. Kloss, Nick M. Penrod, Keith M. Reid, Daniel F. Riederer, Melissa A. Tonn and renewal operator's license application for the period ending June 30, 2012 for: Amy N. Ford, Ann E. Klug, Christian T. Leonard, Kristine R. Nourse, Nathan G. Peters, Douglas E. Yip. Motion carried without a negative vote with Council Member Loomis excused.

Motion made by Council Member Radtke, seconded by C. Reimer, to authorize issuance of a Festival Celebration Permit to Festivals of Cedarburg, Inc. for Wine and Harvest Festival to be held on September 17, 2011 from 10:00 a.m. to 6:00 p.m. and on September 18, 2011 from 10:00 a.m. to 5:00 p.m. Motion carried without a negative vote with Council Member Loomis excused.

CITY ADMINISTRATOR'S REPORT - None

COMMENTS & ANNOUNCEMENTS BY COUNCIL MEMBERS

Council Member R. Reimer congratulated City Administrator/Treasurer Mertes on her 21st Anniversary with the City.

Council Member R. Reimer received a complaint that fireworks are being fired by citizens and landing on roofs of nearby homes. He will be interviewed by the EPA on September 7 in regard to Amcast. He also reminded the Council that the Joint Initiative Executive Committee will meet in Grafton on August 9.

MAYOR'S REPORT

Mayor Myers issued Proclamations to Eagle Scouts Richard Anderson and Jonathan Pucciatti in recognition of their outstanding achievement.

ADJOURNMENT

Motion made by Council Member C. Reimer, seconded by Council Member Yip, to adjourn the meeting at 9:10 p.m. Motion carried without a negative vote with Council Member Loomis excused.

Amy D. Kletzien, MMC/WCPC
Deputy City Clerk