

**CITY OF CEDARBURG  
COMMON COUNCIL  
August 9, 2010**

**CC20100809-1  
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, August 9, 2010 at City Hall, W63 N645 Washington Avenue, second floor, Council Chambers. Council President 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 – Council Members Chris Reimer, Ron Reimer, Art Filter, Paul Radtke, Michael Maher, Kip Kinzel

Excused - Mayor Gregory P. Myers, Council Member Bob Loomis

Also Present - City Attorney Kaye Vance, City Administrator/Treasurer Christy Mertes, Deputy City Clerk Amy Kletzien, Director of Engineering and Public Works Tom Wiza, City Forester Kevin Westphal, Economic Development Coordinator Mary Sheffield, interested citizens and news media

**STATEMENT OF PUBLIC NOTICE**

At Council President 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.

**PRESENTATION – UPDATE ON EMERALD ASH BORER (EAB) TREATMENT BY CITY FORESTER KEVIN WESTPHAL**

City Forester Westphal provided an update on the Emerald Ash Borer (EAB) treatment to the Common Council by providing the following facts:

- EAB was discovered in Newburg, WI in August of 2008, just nine miles from Cedarburg's City limits.
- Since 2008, the tree-killing emerald ash borer has been discovered in seven Wisconsin Counties including Brown, Crawford, Kenosha, Milwaukee, Ozaukee, Vernon and Washington.
- An infestation was discovered in West Bend recently, five miles from the Newburg City limits. It is estimated that EAB has been in West Bend 3 – 4 years already.
- The City of Cedarburg has over 1,600 ash street trees (22% of the street population) at risk along with an untold number of trees in parks, green spaces and on private property.
- The loss of ash trees would have a devastating affect on the City budget, services, aesthetics, energy costs, home values, and tourism.
- A street tree survey in 2005 determined that the appraised value of ash trees in the City was over \$2 million.
- The cost in 2005 to remove and replace the ash trees was calculated at \$1,248,000.

- In-house removal of all city-owned ash trees would take an estimated 7,760 hours or 4 persons, one year of uninterrupted work. Contracted tree replacement would cost \$435,240 today.
- In 2005, a Tree Benefit Calculator estimated the Annual Economic Benefit of the City's ash trees was approximately \$153,000 (based on tree location, species, and size).
- In Fall 2008, the Common Council determined that letting the City ash trees die was not economically feasible and authorized treatment for the largest ash trees.
- The Common Council included a small increase in the property tax levy totaling \$70,000 to cover the cost of an annual treatment program involving soil injections of all trees in the fall and trunk injections of all trees greater than 12 inches in diameter in spring.
- The estimated 2010 contracted cost to treat the City ash trees was \$73,114. The City is performing the work using a combination of contracted and in-house treatment for a cost of \$54,000. To date, \$36,015 has been spent on contracted trunk injections (completed in June) and \$6,243 has been spent on equipment. Fall soil injections will be done by the City Forester.
- The City should plan on budgeting \$50,500 for ash tree treatment in 2011, if the City crews continue doing part of the treatments in-house.
- History has shown that once EAB is confirmed in an area it will take approximately 10 years to move through that area. After the insect has exhausted its food source (untreated ash) the insect population will crash. If the City continues the course over that 10-year period, the City will have saved its ash trees and will be able to stop annual treatments.
- The City will have spent one-half of what it would have cost to remove and replace all of the ash trees, and will simply have to monitor the trees for re-infestation after treatment is complete.
- Since 2008, the City has spent a total of \$119,051 on its Ash Protection Program. If the Council were to terminate this program, the money invested to-date will have gone to waste because the chemical residual would slowly wear off leaving the trees susceptible to the borer.
- According to Wayne White, Board Certified Master Arborist and leading national expert at saving ash trees, stated that "Cedarburg started treating its trees at the perfect time."

City Forester Westphal opined that investing in a resource valued at over \$2 million that pays us back \$153,000 annually in environmental and economic benefits makes good economic sense. He concluded by stating that the City of Cedarburg is at the forefront in the Midwest of being proactive against EAB, which in his opinion is something to be proud of.

In answer to Council Member C. Reimer's questions, City Forester Westphal stated that after the 10-year treatment period the City will reevaluate the trees for infestation and treat them on an individual basis. Full-scale treatment will not be needed.

In answer to Council Member Filter's question, City Forester Westphal stated that the City has not planted any new ash trees.

In answer to Council President Kinzel's question, City Forester Westphal stated that the trees will be hit much like a bell curve. There will be a maximum period and then it will taper off. City trees will get hit hard and they will survive because of the current treatment plan.

In answer to Council Member Radtke's questions, City Forester Westphal stated that the City is not treating the ash trees in City parks because there are too many. Only specimen trees are being treated which amounts to less than 100 trees. Some parks have more ash trees than others and the City has started to under plant with hickory, oak, birch, and maple trees.

Council Member Radtke stated that he wants someone to go through the parks in the City to estimate how many trees may be lost to EAB. It may be worth it to inform the citizens of Cedarburg and start fundraising to save or replace ash trees in the parks.

City Forester Westphal stated that in larger heavily wooded areas, it is wise to do some pre-emptive removals of ash trees by a logger to get some value out of the wood.

Council Member C. Reimer asked for a ballpark figure to treat the park trees.

City Forester Westphal opined that the City cannot afford to treat all of the ash trees in the parks.

Council Member Radtke requested that City Forester Westphal provide a ballpark percentage of trees that may be lost in the parks to the Common Council.

In answer to Council Member Filter's question, City Forester Westphal stated that oak wilt only affects red oaks. Council Member Filter stated that the City cannot put a price on aesthetics.

Council Member R. Reimer stated that in lieu of the current budget crunch it is likely that the City will not be able to do anything about the loss of ash trees in the parks.

Council Member Radtke stated that his neighbors will want to know if area parks will be barren from the loss of ash trees. This also gives reason for the current treatment plan.

Council Member Maher asked if it was a burden on City Forester Westphal to do one-half of the ash tree treatments.

City Forester Westphal stated that he will be working on the ash tree treatment in October and November and it may be difficult to respond to citizen requests and paperwork.

Council Member Maher asked City Forester Westphal to inform the Common Council if it becomes a hardship to continue in-house treatment.

In answer to Council Member Radtke's question, City Forester Westphal stated that he does not know of any ash trees that need to be cut down to-date.

In answer to Council Member C. Reimer's question, City Forester Westphal stated that in 10 years the EAB will be miniscule and will have exhausted their food source; therefore, it is very unlikely

that the insect will move from an untreated tree to a treated tree and cause any harm. The insect dies within four years of laying their eggs.

Council President Kinzel thanked City Forester Westphal for his presentation and the reminder to keep this item in the budget.

Council President Kinzel stated that as Acting Mayor, he will retain his right to vote as Council Member of the 6<sup>th</sup> Aldermanic District.

### **APPROVAL OF MINUTES**

Motion made by Council Member Filter, seconded by Council Member Kinzel, to approve the minutes from the July 12, 2010 meeting. Council Member Radtke requested the following corrections to the minutes:

On page 3, the seventh paragraph should read: Council Member Radtke expressed concern about the mediation because one side seems to want to continue sharing services while the other community seems to want to divide the community.

On page 4, the fourth paragraph should read: Council Member Radtke stated that the Town has offered very little other than to stop or not pursue a bunch of legal action.

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

### **COMMENTS & SUGGESTIONS FROM CITIZENS** - None

### **CONSIDER CONTRACT FOR PROFESSIONAL SERVICES WITH ECONOMIC DEVELOPMENT COORDINATOR MARY SHEFFIELD**

City Administrator/Treasurer Mertes stated that 10 – 12 applications were received for the Economic Development Coordinator position and four people were interviewed. Mary Sheffield stood out among the other applicants and has been chosen for the position. Mary Sheffield will start employment on August 16. The proposed contract for Council approval is the same as the previous coordinator and has been reviewed by City Attorney Vance.

Council Member Radtke stated that Mary Sheffield has a unique perspective because she lived in Cedarburg and moved out of the community and then chose to come back. She has a strong background in marketing and sales at her previous employer and this is the type of skill set that is needed.

In answer to Council Member C. Reimer's question, Mary Sheffield stated that she went to school to be dietician and worked for several years in this field. She later moved into sales and marketing for Baxter Healthcare Corporation for 11 years in the Chicago area.

Motion made by Council Member Radtke, seconded by Council Member C. Reimer, to award the contract for Professional Services with Economic Development Coordinator Mary Sheffield.

In answer to Council Member Maher's question, Council Member Radtke stated that the Chamber of Commerce will only be paying a pro-rated portion of this position because Linda Skalecki did not work the entire year. He has good assurances from members of Tourism, Promotion and Development and the Festivals Committee that \$5,000 of the Economic Development Coordinator position will be funded next year.

City Administrator/Treasurer Mertes stated that she spoke to Chamber of Commerce President Mark McGaver and he indicated that they will be funding their portion of the position next year.

Motion carried unanimously on a roll call vote with Council Member Loomis excused.

**CONSIDER ORDINANCE NO. 2010-12 RELATING TO LIMITATIONS ON SEWER AND WATER CONNECTIONS OUTSIDE MUNICIPAL BOUNDARIES**

City Attorney Vance stated that the proposed Ordinance No. 2010-12 incorporates the City's long standing policy of not providing sewer and water outside the City's boundaries. Because of case law, the City needs to make this policy perfectly clear.

Council President Kinzel confirmed that the Plan Commission has always followed this practice. It is a benefit to have it in writing.

In answer to Council Member C. Reimer's question, City Attorney Vance stated that water was extended to 23 Town properties through an order from the EPA in 1992. Since then, the Town has been purchasing properties and the City needs to be clear on the Public Service Commission's developing law. If the City is ordered to extend services in the future, annexation will be required. This includes the need for larger piping.

In answer to Council Member Maher's question, City Attorney Vance stated that other communities already have similar ordinances in place.

Council Member Radtke stated this ordinance will eliminate property owners from choosing services ala carte.

In answer to Council Member Maher's question, City Attorney Vance stated that this ordinance does not have to go to the Plan Commission for approval.

Motion made by Council Member C. Reimer, seconded by Council Member Filter, to approve Ordinance No. 2010-12 relating to limitations on sewer and water connections outside municipal boundaries. Motion carried without a negative vote with Council Member Loomis excused.

**CONSIDER ESTABLISHING A DATE AND TIME FOR TRICK OR TREAT**

Council Member Radtke stated that he asked the Common Council to change trick-or-treat to Friday, October 31 in 2008 and Saturday, October 31 in 2009 because it was enjoyable for families to celebrate the holiday on a Friday or Saturday, rather than Sunday when the children need to go to school the following day. Trick-or-Treat also coincided with the Pumpkin Walk Downtown and the merchants enjoyed their participation. Since Halloween falls on a Sunday this year, he is proposing

that trick-or-treat be held on October 31 from 5:00 p.m. – 8:00 p.m. so it coincides with the Pumpkin Walk.

Motion made by Council Member Radtke, seconded by Council Member Kinzel, to establish Sunday, October 31, 2010 from 5:00 p.m. – 8:00 p.m. as trick-or-treat.

Council Member Maher suggested that the Council make it permanent that trick-or-treat be held to coincide with the Pumpkin Walk each year.

Council Member Radtke stated that it might be difficult for parents to celebrate Halloween during the week when children have school the following day.

Council Member C. Reimer asked City Administrator/Treasurer Mertes to find out when the Pumpkin Walk will be held in 2011.

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

### **CONSIDER DATES FOR MEDIATION WITH THE TOWN OF CEDARBURG**

The Common Council discussed possible dates for mediation with the Town of Cedarburg.

Council President Kinzel opined that the City should give as many dates as possible.

City Attorney Vance stated that she might not be available on September 23.

Council Member R. Reimer opined that September 13 and 27 may be appropriate, as these are scheduled Council meeting dates.

It was the consensus of the Common Council to agree to all proposed dates on the basis that a quorum will be available on any given date.

### **UPDATE ON DEPARTMENT OF WORKFORCE DEVELOPMENT – CITY OF CEDARBURG PREVAILING WAGE MATTER**

City Attorney Vance stated that the City of Cedarburg is one of 14 communities that are in question by the Department of Workforce Development, requiring the municipalities to apply for prevailing wage determinations for improvements made by private developers pursuant to municipal subdivision ordinances and developer agreements and later dedicated to the municipality. The League of Municipalities and the cities in question believe that the development was not subject to prevailing wage because the development was private in nature and was initiated by the private developer. This is consistent with decades of common practice throughout the state. It was the developer and not the municipality that contracted to build the improvements. The City argues that the improvements were created to serve the private development, and although they would ultimately be dedicated to the municipality, were private when created.

Presently, the case is on hold and the Department of Workforce Development is not pursuing the matter; however, they will not totally dismiss the argument.

In answer to Council Member C. Reimer's question, City Attorney Vance stated that the City is requiring that all future developments pay the prevailing wage.

### **LICENSE APPLICATIONS**

Motion made by Council Member C. Reimer, seconded by Council Member Maher, to approve new Operator's License applications for the period ending June 30, 2011 for: Darrel J. Blank, Dennis F. Jaeger, Kenneth L. Weintraub, John W. Riege, Douglas E. Yip, Katherine K. Gleisner, Lori A. Haeuser, Jordan T. Keister, Deborah L. Colavita, Brian D. Jaszewski, Jean M. Snow Lambo. Motion carried without a negative vote with Council Member Loomis excused.

Motion made by Council Member Radtke, seconded by Council Member Kinzel, to approve renewal Operator's License applications for the period ending June 30, 2011 for: Kristin Schraml and Thomas E. Frank. Motion carried without a negative vote with Council Member Loomis excused.

Motion made by Council Member R. Reimer, seconded by Council Member C. Reimer, to approve the appointment of Larry Gergens as agent for the Cedarburg Cultural Center, Inc. at W62 N546 Washington Avenue to succeed Matthew Brockmeier. Motion carried without a negative vote with Council Member Loomis excused.

### **CITY ADMINISTRATOR'S REPORT**

City Administrator/Treasurer Mertes stated that the Treasurer's Quarterly Report has been included in the Council packet for review.

### **COMMENTS & SUGGESTIONS BY CITIZENS** - None

### **COMMENTS AND ANNOUNCEMENTS BY COUNCIL MEMBERS**

Council Member Maher stated that his family enjoyed the Ozaukee County Fair.

Council Member Radtke stated that Rainbow Valley Rides does a very nice job of running the amusements.

Council Member Filter stated that the Fair had a great fireworks display.

City Administrator/Treasurer Mertes stated that she spoke with the Chamber of Commerce about talking to Fireworks Country in Wittenberg, Wisconsin about possibly doing the City's Fourth of July display in 2011.

Council Member C. Reimer stated that people should canvass the area and clean up afterwards.

Council Member R. Reimer asked for a list of items that were bypassed in last year's budget for discussion.

Council Member Maher asked if the City could do anything to solve the pedestrian crossing problem at Five Corners as stated in the Letter to the Editor in the *News Graphic*.

City Attorney Vance suggested that Council Member Maher talk to Director of Engineering and Public Works Wiza and possibly discuss it at a Public Works Commission meeting.

**MAYOR'S REPORT** - None

**ADJOURNMENT**

Motion made by Council Member C. Reimer, seconded by Council Member Kinzel, to adjourn the meeting at 8:05 p.m. Motion carried without a negative vote with Council Member Loomis excused.

Amy D. Kletzien, MMC/WCPC  
Deputy City Clerk