CITY OF CEDARBURG **CC20090810-1**
COMMON COUNCIL **UNAPPROVED**
August 10, 2009

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, August 10, 2009 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 Myers, Council Members Chris Reimer, Ron Reimer, Art Filter, Paul Radtke, Michael Maher, Kip Kinzel, Robert Loomis

Also Present - City Attorney Kaye Vance, City Administrator/Treasurer Christy Mertes, Police Chief Tom Frank, Library Director Mary Marquardt, Library President Sue Karlman, Library Board Member Debra Goeks, Executive Director of the Pedestrian and Bicycle Professionals Association Kit Keller, Deputy City Clerk Amy Kletzien, Town Administrator Jim Culotta, 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.

CONSIDER MAYOR MYERS' ANNUAL APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES - None

APPROVAL OF MINUTES

Motion made by Council Member Kinzel, seconded by Council Member C. Reimer, to approve the minutes of the July 27, 2009 meeting with one correction from Council Member Maher to change the last sentence on page 4: If the Town is not part of the Joint Library, the ~~City~~ Library budget would take a hit of $101,503, which is about 1/7 of the 2009 budget. Motion carried without a negative vote.

REPORTS OF BOARDS, COMMISSIONS & COMMITTEES - None

COMMENTS & SUGGESTIONS FROM CITIZENS - None

DISCUSS ISSUES RELATED TO THE TOWN OF CEDARBURG AND PROCHNOW LANDFILL

Council Member Loomis expressed frustration with the Town situation. It appears the City is not going to get a detailed response to its counter-proposal. He opined that the City has one of two options: 1) Make a decision on the permanent vs. temporary border agreement and discuss whether the City wants to change their stance on this offer, which should result in continued discussion and perhaps obtain an agreement that has all of the desired elements, or 2) If the City is not willing to change its stance on the boundary agreement, then the Council should work on separate tracks on some of the separate agreements, specifically shared services based on the Town's decision to pay the County Library tax if an agreement is not reached by October. If the Town pays the County then the City will be out 1/7 of the Library budget. He asked the Council to consider which track they want to take.

Council Member R. Reimer disagreed with Council Member Loomis' proposed tracks and asked the Council to consider a third track which is to wait for a total response to the City's last offer because there has not been a formal response to-date.

City Attorney Vance stated that the Town will not talk to the City if a permanent boundary agreement is not offered.

Council Member Maher stated that he attended the last Town Board meeting and they made that fact very clear.

Council Member Radtke stated that the City has only received bits and pieces of the Town's desires through newsletters and newspapers. It is not clear what the Town wants unless someone is able to attend one of their closed meetings. He stated that it appears the Town wants to continue to drag out the situation.

Council Member R. Reimer stated this is not the proper way to negotiate.

City Attorney Vance stated the Town has confused the offer by taking out previously agreed upon items. The Town also agreed to negotiate if the City agrees to discuss a permanent boundary agreement.

Council Member C. Reimer stated the Town should engage in a counter proposal to facilitate the proper procedure for negotiations.

Council Member R. Reimer stated it is not negotiating if the other party states "out of our list of items we need to have this one agreement or the rest of items will not be discussed." This tactic is not negotiating.

Council Member Kinzel opined this is the Town's starting point so the City needs to decide on which route to take as proposed by Council Member Loomis. He also opined that the Town is not interested in negotiating with the City and he is tired of being called a bully. It appears to him that the Town may want to incorporate which will result in a City, Village, and Town of Cedarburg,

which will be adding levels of government and does not make sense. Council Member Kinzel stated that if the Town's starting point is a permanent boundary agreement than he will vote no to any agreement. He does not want to be part of permanently affecting someone's property rights by not allowing them to become part of the City, if they so choose at some point for whatever reason.

Mayor Myers clarified that under State Statutes the Town has no ability to stop a Town property owner from annexing to the City, if in fact their property is located contiguous to the City and the City can offer utilities. A border agreement will be asking the City to deny Town people of their property rights.

Council Member Kinzel reiterated that he will not be part of a permanent boundary agreement because government has been set up at different levels to allow for cities, towns and villages for a reason. Cities were designed to grow and it is a matter of keeping taxes low. A permanent boundary agreement works against this system and it will duplicate services and create new positions. It appears the Town wants to become a village and the City is not going to stop them from pursuing this road if this is their goal. He stated that the communities should be discussing a merger and not a separation.

Mayor Myers stated that the 10-year agreement will give the future elected officials the opportunity to assess the border agreement situation and decide if this is still the proper agreement for the community.

City Attorney Vance clarified that the 10-year agreement was set up by the legislature to make the municipalities work together towards an agreeable situation. The permanent 66.0301 agreement is set up so the Department of Administration is part of the agreement process and will require their approval for an amendment. You can add a 66.0301 to any agreement and add protections such as septic and water failures. If there is going to be a change, the Town and City will need to agree in the future and the DOA will be involved. Representative Gottlieb's legislative provision allows protection for the private property owner's rights. The agreement continues unless there is an affirmative action to change it after the 10 years. Protections can be added to a permanent agreement.

Council Member Kinzel stated that the Town wants to talk truth but everything they say is half truths. If the Town wants to talk truths, they should enter into discussions with the City.

Council Member C. Reimer opined that the ball is in the Town's court and the City is open to anything. They should send a proposal to the City and the Council will discuss anything. He agrees that a boundary agreement would take away property owners' rights and he is not in favor of this action. He also stated that it is unknown whether the EPA or DNR would require the City to extend services to the Town in the event of septic or water failures in the future. He stated that it will be better to discuss one large community vs. three separate communities.

Council Member Radtke stated the differences in both sides are clear. The Town's statement saying "fences make better neighbors" is silly because Grafton and the Town of Cedarburg are our neighbors and we are one community. A merger should be considered in order to spend less money together. He has had people ask him why the community is moving farther apart instead of closer

together to eliminate some of the bureaucracy. Council Member Radtke wants to know exactly what the Town wants in order to facilitate discussions. He opined also that the Town is not interested in making the relationship work between the City and Town of Cedarburg. He wants to be wrong about this; however, all of their actions point in that direction. Scare tactics are the oldest political move in the books by making the Town residents believe the City is going to do horrible things to them.

Council Member R. Reimer agreed that the Town is spending a lot of time demonizing the City. This is not helping the Town and City move closer to an agreement.

Mayor Myers said the Town's last letter to the public stated a half truth in regard to the City taking away the Town's Fire service a few years ago because it did not discuss how it originated by the Town not paying their fair share for water. Their truths were not the truth in the Town's FAQs in this instance.

Council Member Loomis stated that it is difficult for him to divorce his personal emotions from what might be best for the City. It is hard to take a rational approach when someone is flashing a saber in front of you; however, he realizes that the permanent boundary agreement is the Town's primary concern. Even though both communities realize that a so called temporary agreement under State Statute 66.0301 really isn't necessarily temporary because both parties have to agree to change it after 10 years. Putting this aside, there are three problems with the original permanent agreement: 1) The Town does not seem to mind taking away the rights of private property owners in the Five Corners area. He has had people ask him – if the Town does not care, why should you care? The City has not heard any Town residents speaking up to protect themselves and we are fighting a battle on their behalf and they are silent. This is unnerving to Council Member Loomis. 2) The major problem that Council Member Loomis has with a permanent boundary agreement is that it could be a stepping stone for the Town to incorporate. There are some advantages to having a permanent boundary agreement when trying to incorporate. He sees incorporation as a total failure and a divorce between the City and Town of Cedarburg. Council Member Loomis' litmus test on this situation is if the Town residents are not willing to express themselves and the Town does not concern themselves with their residents, then to fight this battle for a temporary boundary agreement is futile. Council Member Loomis wants to know if language can be included in a permanent boundary agreement stating that the Town will not incorporate. 3) If the City can get some assurance that the Town will not restrict the rights of property owners outside of the boundary agreement and they will not incorporate, then he would be in favor of a permanent boundary agreement. If these items cannot be incorporated into a permanent boundary agreement, then the City needs to go down a separate track to obtain a shared services agreement because he does not want 1/7 of the Library budget cut.

Council Member Kinzel stated that he does not want to be part of a permanent boundary agreement, which will take away someone's property rights away, whether they care or not.

City Attorney Vance stated it is frustrating and hard to know if the Town plans to incorporate, as they have had 18 closed session meetings to-date. It is her understanding that they are talking with the Village of Grafton and are serious about a relationship with them. Incorporation protection can be included, as much as possible, if the City is negotiating with the Town; however, she cannot say

that it will protect fully from incorporation. There is not an attorney that will guarantee it. One of the Town Attorney's stated that they would put in language that would satisfy the City, stating the Town would not incorporate. Whether the City does or does not have a border agreement, the City is in a better position if there are negotiations. The Town can incorporate whether or not they have a border agreement with the City and will not be one of the required standards.

Mayor Myers confirmed with City Attorney Vance that there are standards that have to be met to incorporate; however, they are pretty loose. She stated that the City can put in as much protection as the standards allow and they should be included. Case law shows that the City has a good measure of protection, but it is not guaranteed. The City will have nothing if the City and Town are not talking.

Council Member Radtke wants to know where the City stands with the Town. He questioned whether all of the horrible things that the City is accused of will go away if the City agrees to a permanent boundary agreement.

City Attorney Vance stated that the Town has a theme to all of their stories. She stated that the City cannot knock on people's doors and ask them to annex – it is against the law.

Council Member R. Reimer stated the Town accused the City of involuntary annexation, which is one of two methods used to take Town property.

City Attorney Vance stated the annexation was a unanimous petition to annex.

Council Member R. Reimer stated that the Town legal advisors should be informed and the Town should not accuse the City of wrong doing.

Council Member Kinzel stated that the annexation had nothing to do with the City. That one landowner was carried along with a petition from a number of neighbors.

Mayor Myers stated the dairy farm along Wauwatosa Road was forced to annex by six of his neighbors when Parkview Meadows was built. The neighbors followed State Statutes to be annexed, and part of the process was a vote of the property owners, the dairy farmer was included in the annexation involuntarily. This happened many years ago under another Common Council.

Council Member R. Reimer expressed concern for the Town of Cedarburg accusing the City of doing something illegal, when in fact the annexation was initiated and carried out by the property owners.

Council Member Loomis stated the language and tenor coming from the Town of Cedarburg is very antagonistic and it indicates to him they may want to accelerate the divorce process and incorporate. He opined if the City would agree to a permanent boundary agreement, the City would have more control over their ultimate attempts to incorporate. If the City does not come to an agreement, it appears the Town is moving like a train toward incorporation. The Town will get their water from Grafton and they will file a number of lawsuits against the City for trying to develop their business park and proceed with the eminent domain procedure. He sees a better solution to getting some

protections by agreeing to a permanent boundary agreement. Council Member Loomis encouraged the Council to work on some type of no incorporation language, no restrictions on annexations outside the boundary area, and flexibility to deal with failed septic systems in the boundary area with the Town.

Council Member Loomis confirmed with Attorney Vance that in the case of a failed septic system in the boundary area, the landowner would need to get the Town and City to agree on service to the property by annexation.

Mayor Myers stated that the Common Council has two courses of action to consider: go back to the Town with a counter offer or wait for an offer from the Town at this point.

Council Member Maher opined that if the City is waiting for a counter offer, it will not happen. He attended the last Town Board meeting and he heard all four Town Supervisors say that they will not waste their time in putting together another counter proposal until the City considers a permanent boundary agreement.

Council Member Radtke said that he wants a response from the Town.

Council Member C. Reimer stated that a Town representative is in the audience and they know exactly what the City is considering. They can read between the lines and come to us with any proposal as stated in the record.

Council Member Maher stated that the Town will not budge on a permanent boundary agreement.

Council Member R. Reimer stated the courteous thing to do is tell the City that a temporary boundary agreement is not acceptable and here is the rest of the bargaining. If they don't want to do this, then the Town is not at the table bargaining.

Council Member Kinzel agrees that the Town wants a permanent boundary agreement and is the City willing to agree?

Council Member Maher asked to consider a permanent boundary agreement.

Mayor Myers asked that the Town come back with a proposal that does not budge on the permanent boundary area agreement and also addresses the shared services agreement.

Council Member R. Reimer stated that the Common Council is negotiating with the Town by trying to guess what is in the best interest of their citizens and our citizens. That is not the City's job, the Town Board represents their citizens and they should be doing it in negotiations.

Council Member C. Reimer stated the City is not saying no, but waiting for a response to our last proposal.

Council Member R. Reimer stated that he has not made up his mind on a temporary vs. permanent boundary agreement because they both have their advantages and disadvantages. The Town has a right to seek what they want assuming that the public knows what is happening.

Council Member Maher stated that the Council should seriously consider going back to the City's last offer and reconsidering a permanent boundary agreement as suggested by Council Member Loomis because time is running out. Many services are hanging in the balance at this point and the City is jeopardizing those things. It is known that the Town is talking to the Village of Grafton. If the City were in the same situation as the Town of Cedarburg with a shared services agreement expiring at the end of the year, the City would be talking to Grafton also.

Council Member Radtke agreed but he just wants more information from the Town of Cedarburg. If we send them the same agreement as last time but change it to a permanent boundary agreement, maybe the City will get an answer.

Motion made by Council Member Loomis to agree to the permanent border according to State Statutes 66.0301 with the conditions that the contract includes language that there shall be no incorporation by the Town, no restriction on annexations by Town property owners who want to annex into the City outside the boundary area, and flexibility is built into State Statutes 66.0301 to deal with the problems of failing septic systems. Motion seconded by Council Member Maher.

Council Member R. Reimer questioned Council Member Loomis about his third condition and how it is in the best interest of his district. He stated that it should be the Town's counter offer if anything.

Council Member Loomis opined that the Town is not looking out for their property owners and these people are Cedarburg community residents. There needs to be some flexibility in the agreement.

Council Member Maher stated that the Town's proposal from March did try to address the incorporation issue and maybe it could be expanded on.

City Attorney Vance stated that the language that was presented was not sufficient.

Council Member Maher stated it would be a good starting point and maybe it could be expanded.

Council Member C. Reimer stated that the clock is ticking on the library agreement.

Council Member Maher stated that was his reason for pursuing the permanent boundary area agreement to get the wheels of negotiation back in motion.

Mayor Myers stated the Town's proposal wanted the option to terminate shared services agreements with 12 months notice. He stated that Council Member Maher is proposing a permanent boundary agreement but he is not addressing that aspect of their counter offer.

City Attorney Vance stated that shared services agreements are not part of Council Member Loomis' motion. This can be discussed later.

Council Member C. Reimer stated he wants to see the agreement on paper and will not vote based on this discussion. He would like to review a draft and come back next week if necessary.

Council Member Radtke stated he does not have a problem with the motion but would vote against it now for a number of reasons. He wants to see the language to stop incorporation and he is not willing to offer a permanent boundary agreement at this point. He could potentially be in favor but he wants to see where the Town stands on the rest of the proposal.

Council Member C. Reimer asked for research on the sewer aspect and septic systems if they fail. Is this enforceable by the City?

City Attorney Vance stated it is enforceable; however, a separate agreement would need to be in place with either a hardship clause or utility agreement.

Mayor Myers commented that all the agreements and special stipulations being considered by the Common Council just show how silly the whole problem is. Although Town Board Chairman Valentine said that the laws are antiquated regarding Towns, they are valid considering what City's have to offer and what Town's have to offer. They work pretty well.

City Attorney Vance stated that Council Member C. Reimer may be saying that this needs to be put off until she can get some reassurance.

Mayor Myers stated that he simply wanted to comment on the hoops that the City is jumping through and how the laws that are in place are valid and time tested, he was not reflecting on Council Member C. Reimer's inquiry to City Attorney Vance.

Council Member C. Reimer stated that the Council is jumping through hoops that are helping all of Cedarburg and he questioned why the Town is not trying. He questioned why their decisions have been in closed session because it is not allowed.

In answer to Mayor Myers' question, City Attorney Vance stated that the Town's questions and answers, printed in the newspaper, have never been approved in open session. She still has an outstanding public records request.

Council Member Filter stated that he could agree to a permanent boundary agreement but he would like to know what will be on the table. An agreement is a two-way street and what would the Town be willing to agree to (Library, t-ball)? The City should get some response from the Town because they participate in the City's recreation and senior citizen programs, along with the ambience of the City of Cedarburg. He would like to see a counter-proposal on paper to the City, not in the newspaper.

Council Member Radtke stated the counter-proposal does not need to be a long drawn out response. A simple yes or no response to our individual offers would be sufficient at this point.

Council Member Kinzel wondered if the Town would be able to get assurances from all the property owners that will have their rights taken away that they will never want to annex into the City.

Council Member Radtke stated that Town residents are probably scared to annex after reading the newspaper.

Council Member Kinzel stated that a permanent boundary agreement would be taking the permanent rights away from the property owners to annex into the City. He would not consider an agreement until each property owner signs a waiver.

Council Member C. Reimer stated that the majority of the Common Council is willing to discuss a permanent boundary agreement. It has been said and everyone should know this.

Council Member R. Reimer opined that this is the proper and ethical way to proceed.

Motion made by Council Member Filter, seconded by Council Member C. Reimer, to call the question. Motion carried without a negative vote.

The motion made by Council Member Loomis and seconded by Council Member Maher, to agree to the permanent border according to State Statutes 66.0301 with the conditions that the agreement includes language that there shall be no incorporation by the Town, no restriction on annexations by Town property owners who want to annex into the City outside the boundary area, and flexibility is built into State Statutes 66.0301 to deal with the problems of failing septic systems failed with Council Members Loomis and Maher in favor and Council Members C. Reimer, R. Reimer, Filter, Radtke, and Kinzel opposed.

In answer to Council Member Loomis' question, Council Member Maher stated the Town needs to give a response to the Eastern Shores Library System in regard to paying the County Library Tax or not by October. The Town plans on proceeding with paying the County Tax in lieu of continuing a joint agreement with the City, if there is not a new agreement in place by that time.

Council Member Radtke confirmed with Council Member Maher the Town would pay the exact same amount to the City as they would to the County to use the Cedarburg Public Library as proposed by the City. He questioned why the Town would not agree to pay the City the same amount for Town residents to use the Cedarburg Library because they would most likely not travel out of Cedarburg to use another library. The Town is hurting everyone with this action.

Council Member Loomis stated if the Town does not respond to the City's offer, the Common Council needs to put forth a shared services agreement apart from a boundary agreement. If this is not resolved, the City will need to cut 1/7 of the Library budget.

Council Member C. Reimer suggested offering just a library agreement at this time.

Council Member Radtke wanted to include the Parks and Recreation agreement.

Council Member Loomis asked how long the City should wait to talk about an agreement for the shared services.

Mayor Myers stated that the Town property owners will be hurt the most and they have been silent.

Council Member R. Reimer asked how long the City should defend the Town citizens.

Council Member Kinzel proposed that the City offer the Town an agreement on the Library to pay the City the same amount it would pay for the County Tax rate for a determined amount of time.

Mayor Myers stated that this would give the Town a chance to rebuild trust.

Council Member Loomis stated that it is to everyone's advantage to have a shared services agreement. If the City does not get a counter proposal, then the City needs to put forth a shared services agreement similar to the one in place with a few changes. We need an agreement or the Library will suffer greatly along with the Recreation Department unless non-resident fees make up the difference.

Mayor Myers stated the whole community will suffer, including the Town.

Council Member C. Reimer stated he is in favor of offering a Library agreement separately because time is of the essence. If they say no, the City can feel good about trying. The Town did ask for a global agreement and they may think the City is holding them hostage; however, that is not the intent.

Mayor Myers stated the Friends of the Library should get active. It is ridiculous to give the funds to the County rather than the Cedarburg Library because it will not cost them one cent more.

Council Member Radtke agreed because of the timing to break off the Library agreement for consideration.

Mayor Myers stated that the Council needs to decide what they want. First Council Members wanted a counter proposal first before proceeding and now they are considering offering a Library agreement. This is not consistent.

City Attorney Vance asked if any questions could be answered before the next Common Council meeting so the City can have a response that doesn't shut the door and would open communication between the City and Town. She asked for something to tell the Town and told the Council that if the City does not talk or agree, the City will continue to repeat history. We have eminent domain, incorporation, and sewer issues open.

Council Member R. Reimer stated all the issues are still there regardless of a boundary agreement.

City Attorney Vance stated it would be beneficial to have productive communication between the City and Town. It would be a nicer and a better negotiation if they responded, but they are not.

Council Member R. Reimer stated the City is in a transmit/receive mode and the Town is in a receive mode only. They need to start transmitting or there will be no negotiations.

City Attorney Vance asked the Council if the Town reinstates their March offers as the response to the last City offer, would that be sufficient. What can she relay to the Town?

Council Member Radtke simply wants to know what the Town agrees or disagrees with in the last City proposal.

Motion made by Council Member C. Reimer, seconded by Council Member Kinzel, to separate the Library Agreement from the Shared Services Agreement and send it to the Town because time is of the essence. The cost will be the same as what the Town is willing to pay for the County Library Tax for one year.

Mayor Myers stated that the Council has made a good faith effort this evening by saying they are willing to discuss permanency and this would be a good faith effort on the Town Boards part saying that they would be willing to do what is best for the community and the Library.

Council Member Radtke asked City Administrator/Treasurer Mertes to send a letter to the Town stating that the City is open to a permanent agreement and to please respond to the other items in the City's offer.

Council Member Maher asked if the motion can be amended to say that the City will propose the one-year Library agreement and we are also open to a permanent boundary agreement.

Council Member C. Reimer stated he does not want to mire the offer in anything. He does not want to hold anything over the Town's head. If the City adds anything else to the offer, then the Library is not being discussed any longer. This issue is time sensitive.

Council Member R. Reimer stated the Town will be cutting a check for library services and either they will send it to the County or to the City to benefit the community.

Library Director Marquardt clarified that the City will ask to remain a Joint Library Board by paying the amount that would make the Town exempt from the County Library Tax. It is not the same as the Town paying the County Tax. The $206,000 amount needs to be paid to the City.

The Common Council agreed to amend the motion to reflect that the City will ask the Town to remain a Joint Library Board by paying the City the amount that would make the Town exempt from the County Library Tax. The City is proposing the Town of Cedarburg pay to the City the minimum amount required by the County to be exempt from the Ozaukee County Library Tax to remain a Joint Library for one year. The amended motion carried without a negative vote.

Council Member Maher wants to continue working on the whole agreement.

Council Member Radtke asked to send a letter stating that the City is open to a possible permanent border agreement; however, the City wants to hear the Town's response to the remaining offer. He

wants to let the Town Board know what was discussed at tonight's meeting. Mayor Myers agreed to another letter.

Mayor Myers extended a sincere apology to Town Administrator Jim Culotta on comments that were made at the last Common Council meeting. Town Supervisor Wickert opined at the last Town Board meeting that Mayor Myers was attacking Town Administrator Culotta. Mayor Myers stated that the comments were not directed to him personally at all. It was directed to the Town Board because he believes that this type of discussion should be held in open session. But it was not directed at Town Administrator Culotta.

CONSIDER THE POSSIBILITY OF THE CITY OF CEDARBURG BEING A PILOT SITE FOR THE WALK FRIENDLY COMMUNITY PROGRAM

Cedarburg resident and Executive Director of the Association of Pedestrian and Bicycle Professionals Kit Keller presented an opportunity for the City of Cedarburg to be a pilot site for the new National Walk Friendly Community (WFC) program. There is no application or out-of-pocket expense to be incurred by the City, only staff time is required. The City will receive recognition for the work it has already done on pedestrian safety and accessibility. The initial application was developed by the University of North Carolina. This is similar to the Bicycle Friendly America Program. This designation can be used to advertise the quality of life in the community.

Ms. Keller requested involvement of the following staff: Police Chief Frank, Director of Engineering and Public Works Wiza, City Planner Censky, public works staff who oversee the Sidewalk Program, Senior Center Director LaFontaine, Parks, Recreation and Forestry Director Hilvo and a designee of the Mayor. She estimates it will take 6.5 – 7 hours of time for each staff member.

Ms. Keller stated that the number of pilot sites has been reduced from ten to four. This will provide a nice distinction for the City. A $1,000 honorarium will be given to the City to offset some of the staff time. The time to meet in September has been extended and is negotiable.

The completion of the pilot application will be very similar to the final application which will be available to other communities in 2010.

In answer to Council Member C. Reimer's questions, Ms. Keller stated that when completing the application awareness may occur that a particular intersection in the City is problematic for pedestrians and it may be a contribution for the process of planning for a more pedestrian-friendly community, which is the intent of the application. The City of Cedarburg is far along in its efforts by having a local ordinance that every street has a sidewalk. In reference to the help of the ad hoc Pedestrian Committee, Ms. Keller stated that the process does not require committee input; however, a previous plan developed by the committee can serve as a guide.

Council Member Maher is in favor of the Walk Friendly Community Program and he would also like to pursue the Bicycle Friendly Community designation in the future. He offered to volunteer his time, if needed. He stated that the City ranked above 8 points out of 10 on the walkscore.com website that rates communities on their walkability.

Ms. Keller stated that the County is interested in applying for the Bicycle Friendly designation as a County due to the Interurban Trail.

Council Member Loomis stated that any designation like this can be an asset to the community and is a plus to the quality of life in Cedarburg.

Motion made by Council Member Loomis, seconded by Council Member Maher, to proceed with the application to participate in the pilot testing of the National Walk Friendly Community Program.

In answer to Council Member C. Reimer's question, Police Chief Frank stated the program can only enhance safety in the community and benefit the Police Department.

Council Member R. Reimer asked that the ad hoc Pedestrian Safety Committee be considered as a resource for this project.

Motion carried without a negative vote.

Mayor Myers directed City Administrator/Treasurer Mertes to coordinate the staff time in completing the application.

CONSIDER AWARD OF CONTRACT TO ENGBERG ANDERSON, INC. FOR SITE CIVIL AND SUBSURFACE DESIGN SERVICES ASSOCIATED WITH THE FUTURE LIBRARY

Motion made by Council Member R. Reimer, seconded by Council Member C. Reimer, to approve the award of contract to Engberg Anderson, Inc. for site civil and subsurface design services associated with the future library.

Council Member R. Reimer expressed concern for the Town not participating in the Cedarburg Library and the budget consequences. He asked what the impact would be to look at the library plan again.

City Attorney Vance stated this is the reasoning for awarding a contract on a piece of the project rather than the whole project at this time.

Motion carried unanimously on a roll call vote.

DISCUSS REMEDIATION AGREEMENT REGARDING THE PLANT NO. 2/FUTURE LIBRARY SITE

City Attorney Vance stated the language has changed and the City is not sharing the liability as it was initially drafted by Mercury Marine. The City will not be assuming joint liability as originally written.

In answer to Council Member Radtke's question, City Attorney Vance stated that Mercury Marine is liable, not Brunswick.

City Administrator/Treasurer Mertes stated that nothing is stated on the terms of this loan. A previous meeting with the DNR indicated that they have $1.2 - $1.8 million available for loan and she wants to clarify with the Council the borrowing amount. The original offer was for a $1 million loan and she is satisfied with this amount.

The City determines the repayment terms of the loan with the State. The interest rate is 0%.

In answer to Council Member Maher's question, City Attorney Vance stated that the Brunswick Corporation may not want to borrow more because their latest position states that "because of their financial condition, they want to put off the repayments."

In answer to Council Member C. Reimer's question, City Administrator/Treasurer Mertes stated the City will receive the funds as the City incurs the invoices.

In answer to Council Member Loomis' question, City Administrator/Treasurer Mertes recommends staying at the $1 million figure with a 10-year repayment term. The length of the loan may affect the bond rating or debt capacity and she does not want to deviate from the original $1 million loan to be repaid in 10 years.

In answer to Council Member Radtke's question, City Attorney Vance stated that Mercury Marine is still responsible for the complete clean up of the site.

In answer to Council Member Maher's question, City Administrator/Treasurer Mertes will research how the $.8 million will affect the City's bond rating.

Council Member Maher is in favor of borrowing the additional $.8 million to expedite the Library project.

City Administrator/Treasurer Mertes stated that the City could borrow the $.8 million later once the site is cleaned up if necessary for the building. She would like the amount and terms to remain at $1 million over 10 years for Mercury Marine to repay the City.

Council Member C. Reimer asked City Administrator/Treasurer Mertes to research the balance available and how it will affect the City's bond rating if the City borrows this amount to repay at 0% interest for the Library building and update the Common Council at the next meeting.

LICENSE APPLICATIONS

Motion made by Council Member R. Reimer, seconded by Council Member C. Reimer, to approve the issuance of new Operator's Licenses for the period ending June 30, 2010 to Teri L. Jackson, Laura Ann Kuerschner, Courtney M. Smith and Robert A. Schnuck. The motion excluded the approval of a license to Michael G. Jackson as recommended by Police Chief Frank for further discussion. Motion carried without a negative vote.

In answer to Council Member Maher's question, Chief Frank stated that there have not been any previous problems with Michael G. Jackson and a probationary or conditional license is not recommended.

City Attorney Vance stated that this license is not for his current occupation.

Motion made by Council Member C. Reimer, seconded by Council Member Kinzel, to authorize issuance of renewal Operator's Licenses for the period ending June 30, 2010 to Charles M. Pretty and Adam A. King. Motion carried without a negative vote.

CITY ADMINISTRATOR'S REPORT

City Administrator/Treasurer Mertes stated she participated in a Financial Oversight Committee conference call today to review the proposed rates from the actuary. The health insurance premium proposal for 2010 would be an increase of .7% and a dental increase of 2.2%. The WPPI Trust Fund Board will vote on these rates on Tuesday, August 11. The current budget proposals have a 7% increase, so she will be refiguring these budget amounts.

COMMENTS & SUGGESTIONS BY CITIZENS - None

REPORTS AND COMMENTS BY COUNCIL MEMBERS - None

MAYOR'S REPORT - None

ADJOURNMENT

Motion made by Council Member Filter, seconded by Council Member Loomis, to adjourn the meeting at 8:43 p.m. Motion carried without a negative vote.

Amy D. Kletzien, MMC
Deputy City Clerk