

**CITY OF CEDARBURG  
COMMON COUNCIL  
September 12, 2011**

**CC20110912-1  
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, September 12, 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, Bob Loomis

Also Present - City Attorney Kaye Vance, City Administrator/Treasurer Christy Mertes, Director of Engineering and Public Works Tom Wiza, Police Chief Tom Frank, City Clerk Constance McHugh, Deputy City Clerk Amy Kletzien, Steve Shapson and Sue Shrader of Summer Sounds, 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 Loomis, seconded by Council Member Filter, to approve the minutes of the August 29, 2011 meeting. Motion carried without a negative vote.

**CONSIDER MAYOR MYERS REAPPOINTMENTS OF JOSEPH DORR AND BLAINE HILGENDORF TO THE LIGHT & WATER COMMISSION**

Motion made by Council Member Loomis, seconded by Council Member Radtke, to confirm Mayor Myers reappointment of Joseph Dorr and Blaine Hilgendorf to the Light & Water Commission (term to expire 9/30/14). Motion carried without a negative vote.

Deputy City Clerk Kletzien administered the oath of office to Blaine Hilgendorf.

**ADJOURNMENT – CLOSED SESSION**

Motion made by Council Member C. Reimer, seconded by Council Member Radtke, to adjourn to closed session at 7:03 p.m. pursuant to Wis. Stat. 19.85(1)(e) to deliberate or negotiate the investing of public funds or conducting other specified public business, whenever competitive or bargaining reasons require a closed session, more specifically, to discuss collective bargaining regarding the Cedarburg Police Department. Approval of closed session minutes of August 29, 2011. Motion carried without a negative vote.

**RECONVENE TO OPEN SESSION**

Motion made by Council Member Filter, seconded by Council Member R. Reimer, to reconvene to open session at 7:15 p.m. Motion carried without a negative vote.

**CONSIDER/REVIEW DECISION TO ALLOW SUMMER SOUNDS TO SELL BEER AND WINE UNTIL 10:00 P.M. AND END CONSUMPTION BY 10:30 P.M. AT CEDAR CREEK PARK**

City Attorney Vance stated that the original motion by the Common Council to allow Summer Sounds to sell beer and wine until 10:00 p.m. and end consumption by 10:30 p.m. at Cedar Creek Park was made with the understanding the Council would review the decision at the end of the season.

In answer to Council Member Yip's question, Steve Shapson stated that the increased sales as a result of the extended time have helped the event. Sue Schrader stated that they do not take hourly totals; therefore, she cannot provide a percentage or dollar amount of the increase.

In answer to Council Member Radtke's question, Steve Shapson confirmed that the music is still ending at 10:00 p.m.

In answer to Council Member Filter's question, Police Chief Frank stated that the department has not received any calls related to the later time for beer and wine sales at Summer Sounds.

Council Member Maher stated that he has never received a complaint in regard to Summer Sounds.

Mayor Myers commended the group for running Summer Sounds because it is a great community event.

Steve Shapson stated that Summer Sounds will be celebrating their 10<sup>th</sup> Anniversary next year.

**CONSIDER ORDINANCE NO. 2011-13 AMENDING SEC. 10-1-31 OF THE CODE OF ORDINANCES RESTRICTING PARKING TO COMPACT VEHICLES ONLY FOR THE FIRST SPACE SOUTH OF THE INTERURBAN TRAIL CROSSING ON THE EAST SIDE OF WASHINGTON AVENUE**

Motion made by Council Member Loomis, seconded by Council Member Maher, to adopt Ordinance No. 2011-13 amending Sec. 10-1-31 of the Code of Ordinances restricting parking to compact vehicles only for the first space south of the Interurban Trail crossing on the east side of Washington Avenue.

In answer to Council Member Filter's question, Police Chief Frank stated that he did not have a definition for a compact vehicle; however, the Department has never had a ticket contested for this citation and are able to distinguish if the vehicle is appropriate for the space.

Director Wiza stated that motorists and pedestrians have a difficult time seeing around parked cars adjacent to the Interurban Trail crossing at Washington Avenue, especially when large vehicles park close to the crossing. The Public Works Commission talked about eliminating this space altogether; however, because parking is at a premium this is a good compromise.

Motion carried without a negative vote.

**CONSIDER PAYMENT OF BILLS FOR THE PERIOD 8/25/11 THROUGH 8/31/11, ACH TRANSFERS FOR THE PERIOD 9/1/11 THROUGH 9/9/11, AND PAYROLL FOR THE PERIOD 8/27/11 THROUGH 9/9/11**

Motion made by Council Member Filter, seconded by Council Member R. Reimer, to approve payment of bills for the period 8/25/11 through 8/31/11, ACH transfers for the period 9/1/11 through 9/9/11, and payroll for the period 8/27/11 through 9/9/11. Motion carried without a negative vote.

**LICENSE APPLICATIONS**

Motion made by Council Member C. Reimer, seconded by Council Member Radtke, to approve the new Operator's License applications for the period ending June 30, 2012 for: Mindy L. Budd, Christopher M. Homayouni, Ashlyn L. Motiff, Natalie A. Ruchalski; and renewal Operator's License applications for the period ending June 30, 2012 for: Helen J. Curtis, Jeff D. Fischer, Michael B. Mulally, Deanna G. Ratliff. Motion carried without a negative vote.

**CONSIDER ORDINANCE NO. 2011-14 AMENDING SECTION 2-2-2 OF THE MUNICIPAL CODE MODIFYING TERM LIMITS FOR COUNCIL MEMBERS**

Council Member C. Reimer stated that he asked that the matter regarding term limits for Council Members be revisited in light of redistricting. He stated that many of the constituents will be different than the people who voted for them in the election.

Dick Dieffenbach, W67 N586 Evergreen Blvd., stated that he was on the Common Council in the early 1990's when term limits were implemented. He said that the Council Chambers were full of people who wanted term limits. He opined that this Common Council should protect the term limit concept that was voted on by the citizens in Cedarburg in the form of a referendum. He believes this concept is still popular and suggested that the matter be tabled and talked about at a future meeting when more people are informed and can be present.

Council Member C. Reimer stated that he spoke with Keith Kaiman and for the record; Mr. Kaiman is still a supporter of term limits. He also spoke with former Council Member Sandra Beck and she stated that she was not in favor of Council Member C. Reimer's proposal to have term limits start over when a federal census results in redistricting municipal wards. However, she is in favor of eliminating term limits altogether.

Council Member Filter stated that he served on the Common Council when term limits were addressed many years ago and he voted in favor of term limits. He stated that they are still useful and he will vote in favor of term limits again.

Council Member C. Reimer asked City Attorney Vance to explain his proposed change to term limits.

City Attorney Vance stated that Council Member C. Reimer's request is to have term limits start over when a Federal census results in redistricting municipal wards, which could happen every ten years. She stated that it is a Charter Ordinance and will take affect in 60 days if no one files a petition against the action.

City Clerk McHugh stated that redistricting will happen every ten years; however, there may be less dramatic changes. She stated that the way the proposed ordinance is drafted, Districts 1, 3, 5, and 7 will have term limits and Districts 2, 4, and 6 will probably never have term limits because of when certain Council Members are elected. When Districts 2, 4, and 6 are up for re-election, the Council Members could serve eight years with their last term falling in the redistricting year and would have their term start over. The Council would be getting rid of term limits in some districts but not all of them.

Council Member Maher stated that he was in favor of the proposal to start term limits over when a federal census results in redistricting until he realized the flaw that City Clerk McHugh just mentioned. He also believes that people voted for term limits through a referendum and if the City wants to make a change then it should go to another referendum. For this reason, he would vote to keep term limits as they are.

Council Member Radtke stated that he will be the next person on the Council to reach term limits and he is still in favor of them. He opined that the question on whether to repeal term limits should go to a referendum.

In answer to Council Member Loomis' question, Dick Dieffenbach stated that there was a referendum in the early 1990's to determine term limits; however, he did not know the percentage of votes in favor.

City Attorney Vance stated that the original referendum was not worded correctly.

Council Member Filter stated that the wording may not have been correct; however, people understood what they were voting for.

Council Member Loomis opined that anyone who wants to run for Council Member has a good chance at the position. He does not believe that an incumbent has a particular advantage. In 2000, he ran against an incumbent and won. He does not have a problem with keeping them in place. He is not sure how good term limits are given his particular example.

Council Member Doug Yip stated that he understands that there are term limits for four terms and then the Council Member steps down unless no other candidate files. In this case, the Council Member can run again.

Mayor Myers stated that there is a term of two years for Council Members and three years for Mayor. Anyone who is a resident of the City has a right to get 25 signatures to get on the ballot. It is not a big exercise to run for office if they are interested. Since term limits were put in place, eight percent of the races in the City were contested. He does not care how popular term limits are; people should run for office if they are interested. The ordinance has already been changed because it was not working properly. He does not believe that any community in the area has term limits.

Council Member Radtke stated that he may not be on the Council if he had to run for office. He believes that incumbents have an advantage. He stated that the people should decide how long the Council Members and Mayor have their jobs.

City Clerk McHugh stated that a public hearing would be an alternative to a referendum.

Motion made by Council Member Radtke, seconded by Council Member Maher, to add a referendum to the ballot to ask the citizens of Cedarburg if they want term limits for the Council Members and the Mayor.

In answer to Council Member Loomis' question, City Clerk McHugh stated that the Council will need to provide the language and the date of the election for the referendum. There will be an election in February and April and the referendum question needs to be submitted 42 days prior to the desired election. She estimated it will cost approximately \$300 - \$500 to have the County program the memory cards.

Council Member Yip asked the Council if the current system is broken. If not, why is this being discussed?

Council Member Radtke stated that this issue has been brought up three times since he has been on the Council and it should go to a referendum.

Council Member Loomis stated that he abstained when the Council took their last vote on term limits because his seat was on the line. Had he voted in the affirmative, term limits would have been repealed. He stated that it is appropriate to put a referendum question on the ballot. It is possible the City may have other questions to add also.

Discussion referred back to the consideration of Ordinance No. 2011-14 to amend Section 2-2-2 of the Municipal Code modifying term limits for Council Members which would have term limits start over when a Federal census results in redistricting municipal wards, which could happen every ten years. Mayor Myers ruled the motion for a referendum out of order.

Motion made by Council Member C. Reimer, seconded by Council Member R. Reimer, to adopt Ordinance No. 2011-14 amending Section 2-2-2 of the Municipal Code modifying term limits for Council Members.

In answer to Council Member Yip's question, City Attorney Vance stated that all of the Council Members' term limits would start over if the Council adopts Ordinance No. 2011-14.

Motion failed with Council Members C. Reimer and R. Reimer in favor and Council Members Filter, Radtke, Maher, Yip and Loomis opposed.

**CONSIDER ORDINANCE NO. 2011-15 AMENDING SECTIONS 2-2-2 AND 2-2-3 OF THE MUNICIPAL CODE REPEALING TERM LIMITS FOR COUNCIL MEMBERS AND THE MAYOR**

Motion made by Council Member Radtke, seconded by Council Member Maher, to take term limits to a referendum in April to keep as is, or abolish them.

Council Member Loomis suggested that it be an advisory referendum to ask the public whether they are in support of term limits for the Common Council Members and the Mayor. He stated that the Common Council could draft the language for the referendum in January.

Mayor Myers opined that it is inequitable to allow someone to run after they have reached their term limits, if no one else runs for that district. It does not make sense because there is a different set of rules for different situations.

Council Member Loomis confirmed with City Attorney Vance that if he is at the end of his term limit and no one runs in his district, then he will be able to file papers and run again.

Mayor Myers stated that elections should be open to anyone who wants to run. He does not agree with setting artificial rules to limit people from serving the public.

Motion carried without a negative vote.

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

City Administrator/Treasurer Mertes stated that the EPA is currently in the Community Involvement Stage and is meeting with citizens and Council Members in regard to Amcast and the Cedar Creek clean-up. Updates to the projects can be viewed on the EPA website or through a link on the City website.

City Administrator/Treasurer Mertes is meeting with Department Heads this week to discuss their budgets.

### **COMMENTS & ANNOUNCEMENTS BY COUNCIL MEMBERS**

Council Member Maher requested a future agenda item to discuss the EPA's plan for the Amcast site and the City's role in the process.

In answer to Council Member Filter's question, City Attorney Vance stated that Phase 2 testing of the proposed Library site will begin soon.

Council Member Filter stated that he will not be attending the September 26 and October 31 Council meetings.

### **ADJOURNMENT**

Motion made by Council Member C. Reimer, seconded by Council Member Filter, to adjourn the meeting at 7:50 p.m. Motion carried without a negative vote.

Amy D. Kletzien, MMC/WCPC  
Deputy City Clerk