

**CITY OF CEDARBURG
COMMON COUNCIL
September 28, 2010**

CC20100928-1

A special meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Tuesday, September 28, 2010 in the Large Group Instruction (LGI) room at the Cedarburg High School, W68 N611 Evergreen Blvd. The meeting was called 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 (arrived at 7:39 p.m.) Ron Reimer, Art Filter, Paul Radtke, Michael Maher, Kip Kinzel, Bob Loomis

Also Present - City Attorney Kaye Vance, City Administrator/Treasurer Christy Mertes, Director of Engineering and Public Works Tom Wiza, Director of Parks, Recreation and Forestry Mikko Hilvo, Library Director Mary Marquardt, Senior Center Director Carol LaFontaine, Light and Water General Manager Dale Lythjohan, City Clerk Constance McHugh, Town Chairman Dave Valentine, Town Supervisors Dave Salvaggio, Dave Flowers, Gary Wickert, and Joe Rintelman, Town Administrator Jim Culotta, Management Assistant for Parks and Planning Eric Ryer, Town Attorney Stan Riffle, Mediator Patrick Snyder, interested citizens and news media

MEDIATION WITH THE TOWN OF CEDARBURG

Mediator Synder facilitated discussion of aspects of the June 25, 2010 Town proposal to the City and the July 12, 2010 City response to the Town’s proposal. Mediator Snyder noted that while items could be discussed and a consensus formed, agreements would need to eventually be ratified at a formal meeting of the respective elected bodies. It is also understood that while an issue may be agreed to individually, each issue may be contingent on a global agreement.

The following two proposals were made by the Town in its June 25, 2010 proposal and agreed to by the City in its July 12, 2010 response; therefore, it was not necessary to discuss them at the meeting:

The Town will withdraw litigation against the City that is currently held in abeyance pertaining to the City’s use of extraterritorial authority in the Five Corners area beginning in 2006.

The Town will not commence claims or challenges related to City plans in the planned Kohlwey business park, including objections or claims concerning utility extensions to annexed City lands.

Prochnow Landfill Remediation/Potential Athletic Fields: The Town proposes that the City support the immediate transfer of the Prochnow landfill properties to the Town, including written notification to the special administrator of Marvin Prochnow’s estate, so that the Town can develop a sports complex for all Cedarburg residents.

The City has indicated it will agree to the transfer of the Prochnow landfill properties as long as the Town indemnifies the City and assumes the City's share of remediation expenses for the Prochnow landfill as originally proposed by the Town in March 2009.

The City expressed concern over the Town's decision on September 27, 2010 to proceed with the taking of certain developable Prochnow lands through eminent domain for a future sports complex.

Town Attorney Riffle said the Town feels a fair resolution would be:

- 1) all potential responsible parties (PRPs) agree to pay for remediation of Well #4;
- 2) the Town takes over the property,
- 3) the Town develops a park on the property and City and Town residents are treated equally, and
- 4) the Town indemnifies the City for all clean-up costs.

After considerable debate, it was the consensus of both parties that the Prochnow landfill issue be separated from other mediation issues and an entire mediation session be devoted to this issue.

Boundary Agreement: In its proposal of June 25, 2010 the Town provided a map detailing the proposed limits of City annexation and extraterritorial authority over Town properties. The Town proposes that a portion of the Five Corners area will not be eligible for City annexation. The boundary area in the June 25, 2010 proposal by the Town differs from the boundary area proposed in the Town's March 2009 proposal to the City.

There was no consensus as to the area of the boundary agreement; however, the parties agreed to consider that the boundary area be that area as proposed in the Town's March 2009 proposal to the City.

Library: The Town indicated it will participate in the joint operation of the library with the City but will limit annual expenditures to the amount necessary to earn exemption from the County library tax.

The City proposes that the Town participate in the joint operation of the library with the City and form a Joint Library Board. The City will limit annual expenditures to the amount necessary to earn exemption from the County library tax as long as the amount contributed is consistent with the expenditure requirements of the State law. Furthermore, the Town shall agree to contribute its building and land interest in the current library to the new Cedarburg Public library.

The Town agreed to rejoin the library as long as the Town only pays the amount necessary for exemption from the County library tax. Both parties agreed to separate the library issue from other mediation issues.

Recreation: The City proposes the Town take over all programming, administration, and maintenance related to flag football, little league baseball, youth softball, basketball (grades 6-8), lap swimming, and water aerobics. The City will take over the programming, administration, and maintenance related to all other existing recreation programs. City and Town residents will share the same fee schedule for all programs. As an alternative to this, the City will consider a joint

commission for all recreation programs that will have an equal number of City and Town representatives. Under this alternative, a sharing of costs not covered by program fees would need to be agreed upon.

It was the consensus of both parties that there should not be a duplication of services provided, the same fees should apply to City and Town residents, and all recreation programs should be self-supporting, anticipating that agreement will need to be made on how to pay for administrative fees and field maintenance. A joint commission remains a possible way to do this.

Cedarburg Fire Department: The City proposes that the Town agree to share in the cost of running the Fire Department for the term of the boundary agreement. The City also proposes sharing of cost based on property values except during the term of the existing fire agreement, which expires December 31, 2014.

It was the consensus that fire services not be a topic discussed further this evening..

Senior Center: The Town's position is that this is a service it does not want to provide to its residents and pay for. If Town residents wish to use the City's Senior Center they should pay for it.

This has been the case since January 2010 when the prior Shared Services Agreement expired.

The City is continuing with this arrangement.

City provision of water service: The Town proposes that if requested by the Town, the City will provide water service to the proposed "no City annexation area".

The City agrees to extend water to the boundary agreement area agreed upon, as long the costs are paid for on the same terms that are applied to any developer. The Town has agreed that it understands the costs to provide water service to this area will be borne by the Town or a developer.

Proposed sewer service area: *The Town has agreed to remain silent and withdraw its objection to the City's recently proposed sewer service area expansion.*

Extraterritorial authority: The Town is requesting it have sovereign control over zoning and land division requests of Town property owners in a portion of the Five Corners area that will not be eligible for annexation, or inside the boundary agreement area.

The City does not agree with the proposed limits on extraterritorial authority. The City will agree; however, to limit its extraterritorial authority to the City's most recently proposed sewer service area and further agrees not to exercise its extraterritorial authority within the boundary agreement area as originally proposed by the Town in March 2009.

It was the consensus of the parties that if there is a boundary agreement the City will not exercise its extraterritorial authority within the boundary agreement area as proposed by the Town in March 2009.

It was agreed that both municipal attorneys will exchange the tentative agreements discussed over the next few weeks. Both sides agreed to meet at least twice in the future, with the next session devoted to Prochnow landfill matters. Mediator Snyder indicated he would be available in two weeks.

ADJOURNMENT

The meeting adjourned at 9:01 p.m.

Constance K. McHugh, MMC/WCPC
City Clerk