

**CITY OF CEDARBURG
COMMON COUNCIL
September 29, 2008**

CC20080929-1

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, September 29, 2008 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, Steve Glamm, Noel Jepson, Paul Radtke, Michael Maher, Kip Kinzel

Excused - Council Member Amy Goyette

Also Present - City Attorney Kaye Vance, City Administrator/Treasurer Christy Mertes, Director of Engineering and Public Works Tom Wiza, Police Chief Tom Frank, Director of Parks and Recreation Mikko Hilvo, Senior City Clerk Constance McHugh, Senior Center Director Carol LaFontaine, Cedarburg Chamber of Commerce Executive Director Kristine Hage, interested citizens and news media

STATEMENT OF PUBLIC NOTICE

At Mayor Myers' request, City Clerk McHugh 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.

MAYOR'S APPOINTMENTS

Motion made by Council Member Reimer, seconded by Council Member Jepson, to confirm Mayor Myers' reappointments of Blaine Hilgendorf and Joseph Dorr to the Light & Water Commission, terms to expire September 30, 2011. Motion carried without a negative vote with Council Member Goyette excused. City Clerk McHugh administered the oath of office to Mr. Hilgendorf.

APPROVAL OF MINUTES

Motion made by Council Member Glamm, seconded by Council Member Jepson, to approve the minutes of the September 8, 2008 meeting with the addition of Council Member Radtke's comments regarding the proposed solar panel at Cedarburg Light & Water. Motion carried without a negative vote with Council Member Goyette excused.

REPORTS OF BOARDS, COMMISSIONS, AND COMMITTEES

Council Member Radtke said that a review of the proposals from MLG Development and Irgens Development Partners, LLC is not a high priority due to changes in the Seven Gables Subdivision.

COMMENTS AND SUGGESTIONS FROM CITIZENS - None

CONSIDER REQUEST OF THE CHAMBER OF COMMERCE TO RELOCATE THE CEDARBURG FARMER'S MARKET FROM THE CULTURAL CENTER PARKING LOT TO CITY HALL PROPERTY

Kristine Hage, Executive Director of the Cedarburg Chamber of Commerce, said the Chamber has hosted the Farmer's Market since 2003. The Market began as a small venture at City Hall. The Market was moved to the Cultural Center parking lot; however, the Cultural Center is having some issues with parking. The Chamber is looking for a spot in the community with more room and visibility. Ms. Hage said the first spot that comes to mind is City Hall property. She asked the Council to consider relocating the Market to the south side of City Hall property in 2009.

Ms. Hage said the Farmer's Market currently has 15 high quality vendors. The Market has become very popular among the residents. She said that visibility is the key to the Market. She would also like the Council to consider allowing the Market to use the lawn in front of City Hall.

Council Member Jepson said he has a few concerns about relocating the Market to City Hall property. The first concern is the impact the Market could have on the Senior Center. He said that the City's first obligation is to the Senior Center. He also expressed concern about increased maintenance costs if the Market uses the lawn of City Hall. He said that he is very much opposed to moving the Market to City Hall property.

Council Member Maher said that he enjoys the Farmer's Market, but he can't imagine people biking through the Market if it is located on the south side of City Hall property. He suggested the Chamber look at other options.

Mayor Myers asked Ms. Hage what the footprint of the Market will look like.

Ms. Hage said she came to the Council meeting looking for suggestions. Again, she stated the Market is all about visibility. One idea is locate the Market on the south side of City Hall property near Sal's Pizza. She said enough space could be left for foot and bike traffic. She said persons using the Senior Center may appreciate the Market being in this location. She said the Council needs to establish whether a farmer's market in Cedarburg is important.

Mayor Myers said he doesn't have a problem with the Farmer's Market using the front lawn of City Hall. He asked if trucks would use the lawn.

Ms. Hage said that trucks would not use the lawn. If vendors have trucks, they could possibly be parked behind ReMax or would have to use the area on the south side of Sal's. All vendors are required to have 10' x 10' pop-up tents. Some vendors use two spaces. Some vendors have trucks that are parked behind the tents, others do not.

Council Member Radtke said anything going on in downtown Cedarburg is a positive thing. He said the Farmer's Market is a positive thing, regardless of whether there is a profit. He said it may be possible to work something out on a one-year trial basis.

Council Member Glamm said he agrees with Council Member Radtke that anything that brings people to downtown Cedarburg is a good thing. He suggested the property owned by Greg

Zimmerschied in the area of Washington Avenue, Mill Street, and Hanover Street would be an ideal location for the Farmer's Market.

Ms. Hage said this site was suggested, but there is a concern that the Market would have to again move if the site is developed.

Council Member Jepson said in spite of his opposition to the use of City Hall property, he is not opposed to the Farmer's Market. He said the idea of the Zimmerschied property is a good one.

Mayor Myers said the Council cannot speak for Mr. Zimmerschied, but must address the request at hand.

Council Member Maher said it would be a burden to have the Market move again. He said he is in favor of the suggestion to use the front lawn.

Council Member Reimer said that he too likes the idea of using the City Hall lawn.

Mayor Myers suggested those vendors with trucks park them elsewhere.

Ms. Hage suggested she meet with City staff to come up with a plan and layout that can be provided to the Council at a later date.

Mayor Myers said this is a good idea and suggested Ms. Hage contact City Administrator/Treasurer Mertes.

CONSIDER ORDINANCE 2008-15 AMENDING SECTION 8-3 OF THE CODE OF ORDINANCES REGARDING REFUSE COLLECTION AND DISPOSAL

Director Wiza said the Council recently approved a five-year contract with Waste Management for the collection of refuse and recyclables in the City. Changes to the current ordinance regulating refuse and recycling collection are necessary to reflect the terms of the new contract, which goes into effect January 1, 2009.

Director Wiza said the proposed ordinance reflects that the City will no longer offer two-yard dumpsters. The ordinance also reflects that the 18 gallon bins currently used for recycling collection will be replaced with 64 gallon carts, with a provision to allow 96 gallon carts when requested. There will be a one-time flat fee of \$25 for the five-year period if someone requests a 96 gallon cart for recyclables. Another change is that the only reason someone would be disqualified from receiving service is because they have more than six, 32-gallon garbage containers per week. Someone will not be refused recycling collection provided all materials are located within the recycling cart. The final change is that refuse and recycling containers must be stored within a garage or accessory structure or in a location screened from street view.

Council Member Jepson said there may be situations where it is impossible for a resident to find a place to hide the refuse and recycling containers; therefore, would be in violation of the ordinance. He asked if exceptions can be made.

Director Wiza said a provision for exceptions is not written into the proposed ordinance.

Mayor Myers said most residents can put the containers behind their house.

Council Member Maher said he asked to have this language added to the ordinance because he receives many calls from residents who have neighbors who leave garbage cans and recycling bins in the front of their property all the time. This language addresses these situations.

Council Member Radtke said he agrees with Council Member Maher, but some homes in the City do not have garages and people will put the containers on the side of the house or garage and they may still be visible from the street.

Council Member Radtke asked if the \$25 fee for a larger recycling cart will cover the additional costs over the five-year period.

Director Wiza said the \$25 fee will cover the collection costs for the five-year period and an administrative fee.

Council Member Jepson said he is looking for an exception in case residents cannot hide the containers from street view.

Attorney Vance said this can be done without changing the proposed language.

Motion made by Council Member Kinzel, seconded by Council Member Radtke, to adopt Ordinance 2008-15 amending Section 8-3 of the City Code regarding refuse and recycling collection and disposal.

Council Member Glamm said that several references are made in the ordinance to bi-weekly service. He asked if the language should be bi-weekly or semi-weekly.

Attorney Vance said she found out through research that bi-weekly and semi-weekly can mean the same thing.

Director Wiza suggested that the words "every two weeks" be included in the ordinance after each reference to bi-weekly.

Council Member Kinzel offered a friendly amendment to the motion to include the language suggested by Director Wiza. Council Member Radtke accepted the amendment.

The motion, as amended, carried without a negative vote with Council Member Goyette excused.

CONSIDER AWARD OF CONTRACT FOR ASPHALT REPAIRS ON HIGHWOOD DRIVE

Director Wiza said bids were received for the replacement of the asphalt pavement on Highwood Drive between Bridge Road and Appletree Lane. The low bid came in at \$26,055. The bid notice was advertised as a Class I notice in anticipation that bids would come in under \$25,000. Since the price of asphalt has recently jumped, and the bid amount came in over \$25,000, the City Attorney

advised that legally a Class 2 notice was required and the City should reject all bids. He said the project will be re-bid next year.

Motion made by Council Member Radtke, seconded by Council Member Glamm, to reject all bids received for the asphalt repairs on Highwood Drive. Motion carried without a negative vote with Council Member Goyette excused.

CONSIDER IMPLEMENTATION OF THE LEGACY BENCH AND TREE PROGRAM

Director Hilvo said the Parks and Recreation Department has received several requests for planting memorial trees in City parks. He has put together a Legacy Bench and Tree Program that will allow residents to provide a tree, bench, or picnic table in memory or in honor of a loved one.

Council Member Radtke said this is a great idea, but his concern is with the repair and upkeep of the tree, bench, or picnic table.

Director Hilvo said that an amount for maintenance is built into the cost that someone pays for the memorial.

Council Member Radtke asked what would happen if a memorial would have to be moved.

Director Hilvo said that he will develop a master plan for each park so that parks are not saturated with memorials. All requests will go through the Parks and Recreation Department.

Motion made by Council Member Glamm, seconded by Council Member Reimer, to approve the Legacy Bench and Tree Program developed by Director Hilvo and staff. Motion carried without a negative vote with Council Member Goyette excused.

Council Member Reimer said this program is a great idea. Mayor Myers thanked Director Hilvo for putting the program together.

CONSIDER EXTENSION OF CASH FARM LEASE WITH BOB RODEN FOR 2009

Motion made by Council Member Glamm, seconded by Council Member Jepson, to approve the extension of the cash farm lease with Bob Roden for 2009. Motion carried without a negative vote with Council Member Goyette excused.

CONSIDER PURCHASE OF K-9 DOG FOR THE POLICE DEPARTMENT

Chief Frank said the Cedarburg Police Department was given permission to determine if community funds could be raised to pay for the operation of a proposed K-9 unit. To date, approximately \$77,107 has been raised. This is approximately \$10,000 more than the anticipated start-up costs of the K-9 unit.

Chief Frank said a comprehensive policy was developed that provides direction and guidelines for the use of the police K-9, selection of the K-9 officer, and the officer overtime and compensation. He said the K-9 unit will be a good addition to the Police Department.

Mayor Myers said the estimated start-up costs of the K-9 unit include \$1,500 for officer overtime. He said information from the City of Mequon indicates that overtime is approximately \$5,400 per year.

Chief Frank said the City of Mequon's program is very different from what Cedarburg's program will be. He said the Mequon K-9 unit is trained in narcotics, tracking, and officer protection. Cedarburg's unit will not be trained for officer protection. To limit overtime paid to the handler, the handler will be released 30 minutes early with pay or will start his/her shift 30 minutes later with pay. The \$1,500 is approximately 30 hours of overtime, which will be paid for from donations and will not be included in the 2009 budget.

Council Member Jepson asked what the actual costs to the City will be.

Chief Frank said the biggest cost to the City will be sending the handler home 30 minutes early or having him/her come in 30 minutes late. This results in not having the officer on the streets.

Council Member Reimer asked if the K-9 officer can perform the same tasks that other officers perform.

Chief Frank said the K-9 officer will do the same tasks as other officers, with the exception of transporting stray animals.

Council Member Maher said he is in favor of the K-9 unit and said it will be a great addition to the Police Department. He asked if the donated items of veterinary care, food, and yearly K-9 recertification are on-going.

Chief Frank said the items will be donated as long as the Department has the K-9 unit.

Council Member Maher asked how many years of service are expected from the dog.

Chief Frank said six to seven years of use is anticipated from K-9 units. Glendale has had its unit for 12 years. He said it really depends on the health of the dog and whether the dog is used for officer protection, which can be hard on the dog.

Motion made by Council Member Radtke, seconded by Council Member Jepson, to approve the request of the Police Chief for a K-9 unit for the Police Department. Motion carried on a roll call vote with Council Members Reimer, Glamm, Jepson, Radtke, Maher, and Kinzel voting in favor and Council Member Goyette excused.

CONSIDER ORDINANCE 2008-16 AMENDING SECTION 7-2-18 OF THE CITY CODE PERTAINING TO THE CANCELLATION OF LIQUOR LICENSES DUE TO NONUSE

Motion made by Council Member Glamm, seconded by Council Member Jepson, to adopt Ordinance 2008-16 amending Section 7-2-18 of the City Code pertaining to the cancellation of liquor licenses due to nonuse. Motion carried without a negative vote with Council Member Goyette excused.

This ordinance will permit the cancellation of a liquor license for nonuse if the premise is not open for business within 30 days of the granting of such license or is not open for business for a period of thirty consecutive days. The previous period for which a license could be cancelled for nonuse was 180 days.

OVERVIEW OF THE PROPOSED 2009 CITY BUDGET

A draft of the proposed 2009 budget was distributed to the Council Members at the meeting.

City Administrator/Treasurer Mertes said that staff was directed by the Council to prepare a budget with a 0% increase in the assessed tax rate. The highlights of the proposed budget are:

- Salaries are increasing 3% due to union contracts;
- Dental insurance premiums are increasing 10.7% and health insurance premiums are increasing 5.7%; however, the budgeted amount for health and dental insurance is decreasing 4.3% due to the change to a high deductible plan for 2008;
- Electric rates are projected to increase 8% and water rates are expected to increase 5%;
- Refuse and recycling collection costs will increase by approximately \$191,000 due to a new five year contract with Waste Management;
- New Building Inspection and special assessment letter fees are proposed generating additional revenue;
- The Sewer Fund volume charge will increase in 2009 to \$4.63/1,000 gallons, from \$4.42/1,000 gallons. The fixed charge will remain the same in 2009 at \$12/month/connection. The holding tank hauler's fee per 1,000 gallons will increase 4.8% from \$7.37 to \$7.72; and
- The unfunded list includes \$2,000 for a people counter at the library, \$6,522 for Common Council salaries; and \$75,000 for treatment of City ash trees.

City Administrator/Treasurer Mertes said that she is proposing to use the \$48,000 in savings realized in 2008 from the change in health insurance plans to help fund the 2009 budget. She is also proposing to use Fund Balance to fund the one-time purchase of electronic voting equipment, transfer funds to Capital improvements for a retaining wall at the Fire Department and funding of street projects, an overhead door on a shed at the DPW garage, a recycled oil furnace, and partial funding of police radios. The City's policy requires funds equivalent to 2-3 months of expenditures on hand at all times. That means the City should have a \$1.4 to \$2 million Fund Balance. The Fund Balance would be \$1.6 million if funds are used to pay for the one-time expenses.

Under the proposed budget, General Fund revenues are increasing by almost 5% and expenditures are increasing by 4.42%. The budget includes a borrowing proposal for the library in 2009 and the Washington Avenue project in 2010. Also proposed is the use of impact fees to fund library debt service in 2009.

The total levy for all funds is \$7.4 million. This is an increase of 2.9% over the current levy. The proposed tax rate increase is .10/\$1,000 of assessed value, or a 1.6% increase. For every additional \$11,421 added to the levy the assessed tax rate will increase by one cent.

City Administrator/Treasurer Mertes said that a special Council meeting will be held on October 20, 2008 for budget presentations by Department Heads.

Council Member Jepson asked if the Council has ever considered establishing a sinking fund for emergencies or unexpected costs.

Mayor Myers said in the past the Council has always appropriated money in the contingency account; however, this counts against the Expenditure Restraint Program. The Council has money available in the Fund Balance in the case of emergencies or if something comes up that is not budgeted.

Mayor Myers encouraged Council Members to contact City Administrator/Treasurer Mertes if they have questions or comments related to the proposed 2009 budget.

LICENSE APPLICATIONS

Motion made by Council Member Reimer, seconded by Council Member Glamm, to authorize issuance of new Operator's licenses for the period ending June 30, 2009 to: Sam A. Michelson, Michael F. Hofstedt II, Michael H. Buikus, and Morgyn R. Easterday. Motion carried without a negative vote with Council Member Goyette excused.

CITY ADMINISTRATOR'S REPORT

City Administrator/Treasurer Mertes said the City received a letter from WisDOT stating that the grant for the second phase of the Creek Walk was denied.

COMMENTS AND SUGGESTIONS BY CITIZENS - None

REPORTS AND COMMENTS BY COUNCIL MEMBERS - None

MAYOR'S REPORT

Mayor Myers issued a proclamation to the Cedarburg Mercs recognizing the team's first place Land o' Lakes Grand Championship on September 6, 2008.

Mayor Myers said that he has received several calls from residents in the Lexington Street area regarding the sewer backup claims that were denied by the Council and the reasons for the denial. He informed these residents that this matter would be placed on the next Council meeting agenda.

Mayor Myers said that he will not be at the October 13, 2008 Council meeting.

ADJOURNMENT – CLOSED SESSION

Motion made by Council Member Kinzel, seconded by Council Member Glamm, to adjourn to closed session at 8:12 p.m. pursuant to State Statutes 19.85(1)(g) to confer with legal counsel who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved and 19.85(1)(e) to deliberate or negotiate the

purchase of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session, specifically the 2008 Street and Utility Project contract. Approval of closed session minutes of September 8, 2008. Motion carried without a negative vote with Council Member Goyette excused.

ADJOURNMENT

Motion made by Council Member Glamm, seconded by Council Member Reimer, to adjourn the meeting at 8:20 p.m. Motion carried without a negative vote with Council Member Goyette excused. Meeting did not reconvene into open session.

Constance K. McHugh, CMC
City Clerk