

**CITY OF CEDARBURG  
COMMON COUNCIL  
October 12, 2009**

**CC20091012-1**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, October 12, 2009 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, Art Filter, Paul Radtke, Michael Maher, Kip Kinzel, Robert Loomis

                         Excused -        Mayor Gregory P. Myers, Council Member Ron Reimer

                         Also Present -    City Attorney Kaye Vance, City Administrator/Treasurer Christy Mertes, Director of Engineering and Public Works Tom Wiza, Police Chief Thomas Frank, Parks, Recreation and Forestry Director Mikko Hilvo, Police Captain Glenn Lindberg, Library Director Mary Marquardt, Library Board Member Steve Ruggieri, Senior Center Director Carol LaFontaine, Deputy City Clerk Amy Kletzien, Public Works Superintendent Jeff Boerner, City Forester Kevin Westphal, Brad and Joni Fine of Fineco, LLC (d/b/a Grapes & Tastes), ad hoc Creek Walk Committee appointees Jenna Smith and Steve Banas, Town Management Assistant for Parks and Planning Eric Ryer, 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.

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

**APPOINTMENTS**

Motion made by Council Member C. Reimer, seconded by Council Member Radtke, to approve Mayor Myers' appointment of Council Member Paul Radtke, Steve Banas, Dean Fitting, Paul Rushing, and Jenna Smith to the ad hoc Creek Walk Committee. Motion carried without a negative vote with Council Member R. Reimer excused.

Deputy City Clerk Kletzien administered the oath to Council Member Radtke, Steve Banas and Jenna Smith.

**APPROVAL OF MINUTES**

Motion made by Council Member Loomis, seconded by Council Member C. Reimer, to approve the minutes of the September 23 and September 28, 2009 meetings. Motion carried without a negative vote with Council Member R. Reimer excused.

**REPORTS OF BOARDS, COMMISSIONS & COMMITTEES** - None

**COMMENTS & SUGGESTIONS FROM CITIZENS** - None

**DISCUSS ISSUES RELATED TO THE TOWN OF CEDARBURG, THE COOPERATIVE PLAN, SHARED SERVICES AGREEMENTS**

Council Member Loomis reported that he was very disappointed with the last press release from the Town of Cedarburg. He stated that it appeared that the City and Town were making progress up to the Town's recent offer. Council Member Loomis stated the Council Members will need to answer to the citizens of Cedarburg and he proposed sending another offer to the Town to make sure that everything was tried to save the City/Town relationship. He shared two scenarios for the Common Council's consideration. Both offers included fees for the recreation and senior center programs based on usage. One of the offers includes the Library, using the fee to be exempt from the County Library Tax.

City Attorney Vance stated the basis for the two agreements is that shared services have been in existence since 2005. The proposals are one-year agreements containing the language that was recently proposed by the Town based on usage. One includes the library and one does not. It is unclear whether the Town is able or willing to rescind their motion to pay the County Library Tax exemption amount to the County made at their August meeting.

In answer to Council Member C. Reimer's question, Library Director Marquardt stated that the deadline is November 1 for the Town to advise the County on how they will fund their library services.

Council Member Radtke stated that the City's offer is similar to the 2005 Shared Services Agreement that was praised by Town Supervisor Valentine.

Council Member Loomis opined that the due date for a response from the Town should be set for the Wednesday prior to the next Council meeting, which would be October 21, 2009. He is hopeful that there will be pressure from citizens to come to an agreement. If the Town does not reply or rejects this latest offer from the City, a final letter will be drafted to the citizens of Cedarburg.

Council Member Radtke stated that the City needs to do whatever it will take to keep the community together. A separation between the City and Town would be catastrophic. The City is asking the Town of Cedarburg to pay \$57,000 in 2010 for recreation programs on a use basis. It will cost the Town of Cedarburg a lot more to pay wages and benefits for a recreation director.

In answer to Council Member Kinzel's question, Director Hilvo confirmed that \$57,000 is based on usage by Town residents.

In answer to Council Member Filter's question, City Administrator/Treasurer Mertes stated that the actual operating costs for programs include salaries and benefits to oversee and run the programming.

City Attorney Vance stated that the City has always billed this way because the Town agreed to this method in the past.

City Administrator/Treasurer Mertes stated that the billing has been based on use, population, and equalized value and is billed quarterly to the Town.

Motion made by Council Member Loomis, seconded by Council Member C. Reimer, to send both proposed agreements to the Town of Cedarburg with a deadline date of October 21, 2009.

Council Member Maher stated he was very discouraged by the Town's recent press release and opined they have already made a choice. The City may be spinning their wheels and he is not very optimistic. He questioned why the City and Town cannot meet face-to-face.

City Attorney Vance stated that the City has requested a face-to-face meeting and the Town has not responded.

Council Member C. Reimer agreed that the City owes it to their citizens to extend one last offer to the Town of Cedarburg.

Acting Mayor Kinzel stated that the Town keeps changing their offers. The City and Town were close to an agreement in March 2009.

Council Member Radtke stated that the Town has done everything possible to split up the community. All the agreements were working well in 2005 and now the City and Town are on the verge of separation. This is not the time to add more levels of government.

Acting Mayor Kinzel stated that the Town is abandoning their seniors and relying on the County to help them. The County is strapped just as much as the surrounding communities.

Council Member Radtke stated that it will cost the Town more than \$58,000 to run a new recreation program and he hopes that the Town will take this into consideration with the City's offer.

Council Member Maher confirmed that the City is asking the Town to pay the same amount as the County Library Tax exemption amount to remain as a joint library.

Acting Mayor Kinzel stated this action will prevent the funds from going to all the libraries in the Eastern Shores Library System.

Motion carried without a negative vote with Council Member R. Reimer excused.

Council Member Loomis stated that the Common Council will need to look at specific cuts for City Departments and determine what the non-resident fees will be to participate in City programs. Citizens will need to know how the Town's actions will affect the City budget if they do not accept one of the City's proposals.

Council Member Filter stated that staff will need to consider furloughs or employment cuts.

In answer to Council Member C. Reimer's question, City Administrator/Treasurer Mertes stated that if all programs remain as is, it will cost taxpayers .01 per \$11,000.

In answer to Council Member Loomis' question, Director Hilvo stated that the basketball program fee will be \$75 for residents and \$150 for non-residents.

Council Member Radtke stated that it will be hard for families to pay \$150 for a recreation program. It will be difficult on school children to have two separate T-ball teams and departments.

Council Member C. Reimer stated it does not make sense for seniors, who paid their taxes and worked their entire lives, not to be able to participate in a Senior Center in their community. It is a quality of life issue.

Acting Mayor Kinzel stated that his children participated in recreation programs and it was important to have that quality of life for his family. He wants to make sure that these programs continue for all families.

In answer to Acting Mayor Kinzel's question, Council Member Loomis stated that it will cost each Town resident approximately \$9 - \$10 to support the \$57,000 recreation agreement.

Council Member Loomis opined that the Town's distrust in the City warrants mediation to work through a boundary agreement and future shared services between the two entities. He envisions a future of endless litigation addressing eminent domain, the Prochnow Landfill, the Business Park, annexations, etc. These issues will be hard to address without mediation looking from each angle. There is no downside to considering mediation at this point to salvage the relationship between the City and Town of Cedarburg.

In answer to Council Member Maher's question, Council Member Loomis stated that mediation should be pursued if the Town rejects the City's final offer. He envisions a future of endless litigation and the Town's willingness to enter into any agreement is very low.

Acting Mayor Kinzel remarked that mediation will get the City and Town to the table and will focus on the true issues.

Council Member Radtke summarized that the Town wants a permanent boundary agreement and is being asked for minimum participation in the library, recreation and senior programs. He pointed out the Town should give something as a good faith effort. The City is not getting anything in return at this point.

Council Member Loomis opined the Town is heading toward incorporation as a village and their willingness to participate in mediation should make this clear. All of the City's discussions have been in open session and all of the Town's discussions have been in closed session. It would be helpful to have their true motivation on the table.

Council Member Filter stated that the Town has stonewalled all of the City's records requests and have not given the City anything. The Town should make a good faith effort by paying the City for library services, rather than paying the County. The Town has several members on the Joint Library Board and he does not agree that they do not have any say in the Library budget.

Motion made by Council Member Loomis, seconded by Council Member C. Reimer, to propose mediation between the City and Town, to be facilitated by an impartial individual such as retired Judge McCormack.

In answer to Council Member Maher's question, City Attorney Vance stated that the mediation would be open with both governing bodies present initially and then possibly changing to two representatives from each entity.

Council Member Maher is in favor of participation from the full Common Council and full Town Board.

City Attorney Vance opined that the Town may believe that they can get around the open meetings law. They have had 23 – 24 closed meetings.

Council Member Radtke opined that citizens should know what is happening before it is too late. He wants to work these problems out between the City and Town.

Council Member Maher suggested including the mediation proposal along with the final offer to participate in the library, recreation and senior center programs with the City to allow ample time for consideration. Council Members Loomis and C. Reimer agreed to the inclusion.

Council Member Radtke opined that the City needs to work quickly to come to an agreement with the Town.

Motion carried without a negative vote with Council Member R. Reimer excused.

**CONSIDER REQUEST OF SUMMER SOUNDS REGARDING PARK FEES, GARBAGE AND RECYCLING COLLECTION, AND MOVIES BY MOONLIGHT 2010 PROPOSAL**

Sue Schrader, W53 N454 Park Circle, spoke on behalf of Summer Sounds to request the Common Council waive the park rental fees for Friday night concerts and four Saturday movie nights in 2010, as well as provide trash collection on the mornings after the events. She said that the City has waived the park rental fee in the past and it is helpful because they operate with an all volunteer staff. This is their 8<sup>th</sup> year of bringing local, regional and national bands using the funds that are made on the events.

There are a total of 10 Friday night concerts and 4 Saturday movie nights. The lost revenue for park rental would amount to \$2,310. Staff clean up on Saturdays and Sundays would amount to \$2,500 - \$3,500.

Sue Schrader stated that Summer Sounds expects the costs involving the events to increase due to a need for more lavatories at some events and a higher quality sound system. Local merchants are invited to sell items for a \$20 charge per event. The fee collected from the vendors is put back into the program to provide quality events. The Movies by Moonlight events would be free family movies and will be shown on a 30-foot inflatable screen similar to the screen used at Bayshore Town Center.

Sue Schrader empathizes with the Council and the budget cuts that are before them; however, adding a clean up charge to the Summer Sounds program would take away from the events that benefit the Community.

In answer to Acting Mayor Kinzel's question, Steve Shapson confirmed that the movies would be shown in September after Summer Sounds is finished.

In answer to Council Member Radtke's question, Steve Shapson stated that there is \$3,000 remaining from vendor contributions and these funds will go back into bringing quality bands to the events next year. There is one paid high school person helping set up the bands.

Council Member Radtke stated Summer Sounds and movies are great for the community; however, the budget is a concern and the City is considering furloughs and cutbacks.

Director Hilvo stated the City pays time and a half on Saturdays and double time on Sundays for clean up after the events so the park is ready for park rentals the next day.

Steve Shapson reported that he is expecting a quote from Waste Management for clean up.

In answer to Council Member Radtke's question, Director Hilvo stated that it takes two people – two hours after each event to clean up the park before park rentals begin at 8:00 a.m.

City Administrator/Treasurer Mertes remarked that Festivals contract for their own clean up.

Sue Schrader explained that the people involved in Summer Sounds do it for fun. It may affect the quality of the event if they need to raise more money and find additional sponsors.

Council Member Filter advised the City is cutting their contribution to the fireworks display and deferring equipment purchases, times are tough and the Council needs to look at the budget first.

Council Member Radtke stated there are too many unknowns in the budget. He does not want to answer the garbage collection issue this evening.

Acting Mayor Kinzel stated that he could see waiving the park rental fees; however, the clean up costs need further discussion.

Council Member Maher stated that Summer Sounds attracts some wonderful talent and it is a vibrant music scene addition to the Milwaukee area. Some larger groups may eventually require police presence and wondered where the line should be drawn. Summer Sounds is great for the community and he wants to support it but the Council will need to make some tough decisions and he wants to revisit trash and recycling issues at a later time.

Motion made by Council Member C. Reimer, seconded by Council Member Kinzel, to waive the park rental fees. Motion carried without a negative vote with Council Member R. Reimer excused. The garbage and recycling issues will be discussed at a later date.

**CONSIDER AWARD OF ENGINEERING SERVICES CONTRACT FOR THE 2010 WASHINGTON AVENUE RECONSTRUCTION PROJECT**

Director Wiza reported that seven firms qualified for proposals for the engineering services contract for the 2010 Washington Avenue reconstruction project. The lowest overall fee for service was submitted by Ayres Associates at \$48,060 and the highest fee was submitted by Graef for \$104,000. The Public Works Commission recommended Ayres Associates at their October 8 meeting.

Director Wiza added if this project is postponed, it will have to wait until at least 2012, as the State will be constructing the Western Road and Bridge Road intersection improvements on Wauwatosa Road in 2011. It would not be feasible to close Washington Avenue and Wauwatosa Road at the same time.

In answer to Council Member C. Reimer's question, Director Wiza stated that the project may affect events at the fairgrounds; however, they will be working on a phased construction and the contractors will be notified when they will need to provide access to the fairgrounds during the project.

Motion made by Council Member Kinzel, seconded by Council Member Radtke, to award the engineering services contract for the 2010 Washington Avenue reconstruction project to Ayers Associates in the amount of \$48,060. Motion carried unanimously on a roll call vote with Council Member R. Reimer excused.

**OVERVIEW OF PROPOSED 2010 CITY BUDGET**

A draft of the proposed 2010 budget was distributed to the Council Members at the meeting.

City Administrator/Treasurer Mertes said 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 for union employees are increasing 3%, non-union 1%, and Council, Mayor and City Administrator/Treasurer 0%. To accomplish this, the retirement expense will be reduced .5%, with a proposed one time use of General Fund – fund balance (\$311,000) to pay off the City's unfunded pension liability.

- Health insurance premiums are increasing .7%; however, because the health savings account contribution is going down from 60% to 50% of the deductible for 2010, there will be a decrease in health insurance costs.
- Other operating expenses such as training, supplies, equipment and insurance are decreasing by \$108,335 in the General Fund from 2009 due to budget cuts and our experience modification factor for workers' compensation insurance. Computer replacements are being delayed for the second year in a row (savings of \$6,000). The contingency reserve will be cut by \$95,000.
- The City-wide newsletter and recreation brochure printing has been cut and will be distributed electronically. A few hundred copies will be available at City Hall and the Library.
- Electric rates are budgeted to increase 7% over the 2009 actual costs, while the other utilities are budgeted at the same level. Fuel budgets are reduced slightly.
- The Department of Public Works is proposing to cut the summer help in half. The Parks crew would be maintaining the parks less often. The Department is proposing to cut out the park clean up after Summer Sounds and the watering of the downtown flower baskets. There is \$1,800 in the Room Tax Fund that could be used for the flower baskets should the Council desire. The fireworks donation to the Chamber was reduced by \$3,000.
- The General Fund Recreation Programs were moved into the Special Revenue Fund for Recreation Programs.
- The Senior Center and Recreation budgets are prepared assuming we will NOT have a shared services agreement with the Town in 2010.
- An adjustment may need to be made to the General Fund undesignated balance by removing the pay-off of the intra-fund loan and add in the \$40,000 of additional expense.
- The Library Fund assumes the Town will pay the County the library tax. In order to deal with the reduction in revenue the Library may be closed one hour early on Monday – Thursday, closed on Sundays September – May, decrease the materials budget, close Library four hours on Fridays, decrease aide hours by 1,444, and cut maintenance person's hours on Saturdays. Even with these reductions in services the Library is still \$38,324 short in funding.
- The Swimming Pool Expenditures were reduced with a proposed use of fund balance.
- The Debt Service Fund has a proposed use of fund balance in the amount of \$154,000 from impact fees and prior years' interest earnings. There is planned borrowing in the amount of \$800,000 for the Washington Avenue street project. There are no budgeted principal or interest payments for this borrowing until 2011. The State Trust Fund loan program will be utilized for the borrowing since the Library project borrowing will not be necessary until early 2011. A transfer from Capital Improvements is also budgeted which is a use of \$60,000 in library impact fees for the 2010 debt payment.
- All equipment and vehicle purchases were postponed in the Capital Improvement Fund reducing the amount of funding necessary for the replacement fund through the tax levy. The Washington Avenue street project still remains along with park projects funded by impact fees.
- The Sewer Utility budget has a proposed volume charge and holding tank hauler rate increase of 2.8%. The volume charge would increase from \$4.63 to \$4.76/1,000 gallons. The fixed monthly charge is proposed to remain at \$12/month. The haulers' holding tank

fee would increase from \$7.72 to \$7.94/1,000 gallons. The capital projects not funded through the replacement funds were reduced for the year to help balance the budget. Even with the increase in the rate the fund is budgeted to end the year with a loss of \$229,551. On a cash flow basis the 2010 budget ends the year with an additional \$35,700.

- Internal Service accounts for all of our insurance expenditures: premiums, claims and legal fees for litigation. In 2008, Reilly, Penner & Benton suggested the City rebuild the fund balance in this fund. The proposed budget would increase the fund balance by \$5,000 (rather than \$10,000 initially, due to legislation at the State level regarding our property insurance payment). However, instead of reducing our premiums for 2010 a proposal is being considered to issue dividends at half the amount of the savings that would have been realized with the reduced premiums. This is still being addressed at the State level. The workers' compensation insurance modification factor is down from 1.07 in 2009 to .9 in 2010. This helps significantly with the premium.

The details of the departments' budget requests and cuts will be discussed at the October 19 Council meeting.

City Administrator/Treasurer Mertes stated that the City is \$190,500 short with the proposed salary increases (\$190,000 is equal to an increase of .17 in the tax rate). If the City is able to freeze wages and have three furlough days, there will be a slight increase of .03 in the tax rate.

Council Member Radtke commented that bond ratings are at a 42 year low in interest rates according to Reilly, Penner and Benton. In regard to the budget, he opined that any cuts will be noticed and it may visually impact the City. He expressed concern for cutting back on grass cutting and ball diamond maintenance.

In answer to Council Member Loomis' question, City Attorney Vance explained that the City will not have to open union contracts for furloughs.

Council Member Radtke notified the Common Council that he will miss part of the October 19 budget meeting; however, he will meet with department heads to discuss what he missed.

Council Member Radtke stated there would have been many fewer cuts if the Town would have agreed to pay the City for using the Library.

It was the consensus of the Common Council to consider license applications next.

### **CONSIDER LICENSE APPLICATIONS**

Motion made by Council Member C. Reimer, seconded by Council Member Filter, to authorize issuance of a new Operator's License to Kyle E. Ciske for the period ending June 30, 2010. Motion carried without a negative vote with Council Member R. Reimer excused.

Motion made by Council Member Radtke, seconded by Council Member Kinzel, to issue a Class "A" beer and "Class A" liquor license to Fineco, LLC, d/b/a Grapes and Tastes, W63 N140

Washington Avenue. Motion carried without a negative vote with Council Member R. Reimer excused.

**CONSIDER PERSONNEL OPTIONS IN LIGHT OF BUDGETARY CONSTRAINTS**

City Administrator/Treasurer Mertes stated that she and City Attorney Vance met with the union representatives. It is not clear whether the unions are willing to talk about changes to their contracts. Since the meetings, City Administrator/Treasurer Mertes knows what is necessary for the budget. If the contracts are opened and a wage freeze is agreed upon, the unions want the City to ensure there will be no layoffs.

City Attorney Vance opined that it may not be necessary to negotiate furloughs with the unions.

Council Member C. Reimer confirmed the City cannot guarantee no layoffs if the unions don't talk.

In answer to Acting Mayor Kinzel's question, City Attorney Vance stated that the City cannot say no to overtime to the Police Department. The Common Council needs to decide what to offer the unions.

Council Member Loomis recommended a wage freeze first and furloughs next. Furloughs may impact the citizens.

Council Member C. Reimer stated that there are other components such as equipment and capital expenses.

Council Member Loomis stated that the City will be pushing some things off and cutting expenses. He stated that there is no fat in the budget. He stated that he was comfortable with offering a wage freeze as a quid pro quo for no layoffs.

Council Member Radtke stated the City has done a great job of not increasing taxes in the past but this is a difficult year.

In answer to Council Member Maher's question, City Administrator/Treasurer Mertes stated that options 1 – 4 of the 2010 budget reduction list are the main options. Depending on what is agreed upon, there may be a .03 increase in the tax rate or \$9 on a \$300,000 home.

It was the consensus of the Common Council to offer a wage freeze with the promise of no layoffs and 3 – 5 furlough days (or holidays for the Police Department) to work towards balancing the budget.

Council Member Maher expressed concern over furlough days.

Acting Mayor Kinzel opined that furlough days would be okay with no service interruption.

Council Member Filter remarked that building permits may not be available on the day that they are requested. Other communities do not always issue permits in one day.

City Administrator/Treasurer Mertes stated the unions indicated that the citizens should see the buildings closed and realize the City is making an effort to cut costs.

**COMMENTS & SUGGESTIONS BY CITIZENS** - None

**REPORTS & COMMENTS BY COUNCIL MEMBERS**

Council Member Loomis stated that a constituent contacted him in regard to canceling a pizza party that was promised to the flag football league at the beginning of the year.

Director Hilvo stated that the party was canceled due to the economy; however, the funds are available.

Council Member Loomis stated that he did not want to micromanage the department; however, he was concerned that parents understood that money was collected for the party.

It was decided that the pizza party will be held this year and will not be included in the league next year.

**MAYOR'S REPORT**

Acting Mayor Kinzel issued a proclamation honoring the National Friends of Libraries Week.

**ADJOURNMENT**

Motion made by Council Member Filter, seconded by Council Member Radtke, to adjourn the meeting at 8:40 p.m. Motion carried without a negative vote with Council Member R. Reimer excused.

Amy D. Kletzien, WCPC/MMC  
Deputy City Clerk