

**CITY OF CEDARBURG  
COMMON COUNCIL  
October 28, 2013**

**CC20131028-1**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, October 28, 2013 at City Hall, W63 N645 Washington Avenue, second floor, Council Chambers. Mayor Kinzel called the meeting to order at 7:00 p.m.

ROLL CALL: Present - Common Council: Mayor Kip Kinzel, Council Members Chris Reimer, Ron Reimer, Art Filter, Paul Radtke, Michael Maher, Doug Yip, Mike O'Keefe

Also Present - City Attorney Kaye Vance, City Administrator/Treasurer Christy Mertes, Director of Engineering and Public Works Tom Wiza, City Clerk Constance McHugh, Police Chief Tom Frank, Library Director Mary Marquardt, City Assessor Cathy Timm, Parks, Recreation, and Forestry Director Mikko Hilvo, Recreation Supervisor Maggie Bultman, Senior Center Director Carol LaFontaine, Wastewater Superintendent Ron Clish, Building Inspector Mike Baier, Public Works Superintendent Jeff Boerner, City Planner Marty Marchek, Economic Development Coordinator Mary Sheffield, Library Board President Sue Karlman, Library Board Member Steve Ruggieri, interested citizens and news media

**STATEMENT OF PUBLIC NOTICE**

At Mayor Kinzel's 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.

**APPROVAL OF MINUTES**

Council Member Radtke suggested that the motion on page 9 of the October 14, 2013 minutes regarding the DPW tennis courts be revised to reflect that staff consider the costs of upgrading the DPW courts and update the courts, if possible.

Motion made by Council Member Filter, seconded by Council Member O'Keefe, to approve the minutes of the October 14, 2013 meeting as amended. Motion carried unanimously.

**PUBLIC HEARING – PRESENTATION OF THE 2014 CITY BUDGET/FURTHER CONSIDERATION OF THE PROPOSED 2014 BUDGET**

Mayor Kinzel opened the public hearing at 7:02 p.m. to receive comments and input regarding the proposed 2014 budget.

City Administrator/Treasurer Mertes presented an overview of the proposed 2014 budget:

- The total assessed value for 2013 is \$1.18 billion, an increase of 1.5% or \$1.7 million.
- Equalized value decreased from \$1.16 billion to \$1.156 billion, .3% or \$3.2 million.
- The proposed tax levy of \$8,356,104 is a 4.9% increase.
- The proposed equalized tax of \$7.22 is a \$0.35 or 5.2% increase.
- The proposed assessed tax rate of \$7.06 is a \$0.23 or 3.4% increase.
- This would amount to a \$59 increase on a home assessed at \$259,000.
- Total budgeted revenues are \$15.5 million.
- Total budgeted expenditures are \$20.6.
- The budget includes capital expenditures for street and stormwater projects, vehicles and equipment and the Library building project.
- The proposed budget includes a 2% wage increase as of January 1 for non-protective and a 3.5% increase for protective employees.

**General Fund:**

- The General Fund will have a levy of \$5.66, up 4.6%.
- The General Fund accounts for 67% of the total levy.
- This is a balanced budget. No fund balance use is proposed.
- There is between 2-3 months of fund balance on hand.
- Total revenues are \$8.3 million, up 3.5%.
- Intergovernmental revenues are increasing 3.7% due to an increase of \$6,000 in fire insurance dues.
- Regulation and compliance revenues are increasing 1.3% due to an estimated increase in HVAC permits.
- Public charges for services are decreasing 1.6% due to the loss of recycling cart upgrade.
- Commercial revenues are down 11%.
- Property taxes are increasing 4.6%.
- Interest earnings continue to drop.
- The property tax equivalent is increasing by 2.8%.
- Total expenditures are \$8.25 million, up 3.15%.
- There is a salary increase of 4.8%.
- The health insurance increase is projected at 3.5%, or \$12,288, based on current premium estimates.
- There will be four elections in 2014, compared to two in 2013, resulting in a \$22,236 increase.
- The new recycling and refuse contract is increasing by \$52,018.
- A \$47,600 increase in planning services is budgeted to fund a full-time planner; however, an RFP will be done to consider a 30 hour per week contracted position.

- There is an increase in the Parks, Recreation & Forestry budget for a change in the allocation of the supervisor salary.

Capital Improvements:

- The levy is \$1,235,000, up 11.6%.
- Capital improvements account for 15% of the total levy.
- Revenues total \$2,315,000.
- Expenditures total \$6,870,673. The difference is due to library borrowing in the prior year.
- \$90,000 is for General Government (\$40,000 for gutter system on City Hall and \$50,000 is for the first half of the City Hall parking lot).
- \$127,000 is for the Police Department (\$120,000 for three squad cars and \$7,000 for the painting of the station).
- \$36,000 for an emergency management/auxiliary police siren replacement.
- Public Works capital improvements include \$195,000 for equipment, \$793,500 for street improvements, \$203,000 for stormwater improvements, and \$350,000 for the public works garage (engineering study and soil borings).
- Other capital improvement expenditures include \$4,355,173 for the library building, \$111,000 for Parks, Recreation & Forestry equipment, \$70,000 for park improvements, \$60,000 for park equipment, and \$250,000 for the creekwalk.
- Environmental capital expenditures include \$30,000 for the Prochnow Landfill remediation and \$200,000 for dam repairs.

Sewer Utility:

- Flow rate per 1,000 gallons is \$5.16, an increase of 1.8%.
- The monthly connection fee is \$12; no increase is proposed.
- The holding tank hauler rate is \$8.60 per 1,000 gallons, a 1.8% increase.
- The septic tank hauler rate is \$41.58 per 1,000 gallons; no increase is proposed.
- Operating revenues are \$2,294,658.
- Operating expenses are \$2,647,157.
- Capital projects are \$340,000.

Debt Service:

- The debt service levy is up 1.8%.
- Debt service is 12% of the total levy.
- There is \$8,026,833 of outstanding debt.
- The City is at 13.8% in terms of its statutory debt limit.
- This is 17.3% of the City's debt policy.

Special Revenue Funds:

- Includes Cemetery, Room Tax, Recreation Programs, Swimming Pool, Park Subdivider Deposit Fund, and Library.
- There is a slight increase for the room tax based on 2013 actual.
- A major change for the cemetery is a decrease in expenditures – no planned equipment purchases for 2014.
- \$13,000 is budgeted for the gym floor refinishing.

- There is a reduction in salaries for the recreation supervisory portion of the salary charged back to the General Fund.
- There is a 3% decrease in pool revenues and expenditures.
- There is a \$40,000 transfer to the capital improvement fund from the Park Subdivider fund for the Prairie View Park development.
- The Library tax levy is held at the same level since 2012.
- The Library tax levy is 5.9% of the total levy.
- Library revenues are declining .35%.
- Library expenditures are increasing 2.8%.
- Four months in the new facility are estimated for calculation of utilities and maintenance staffing.
- The Library budget includes the use of \$75,269 of fund balance. At the end of the year only \$15,133 of the Library fund balance will remain.

Internal Service:

- Total revenues are \$295,618.
- Total expenditures are \$287,955.
- Internal service is used to fund insurance premiums and claims. The City will see a decrease in workers' compensation insurance due to a decrease in the modification factor.

Items on the Unfunded List:

- Police Officer (\$96,962).
- Library operating expenditures (\$75,269).
- Recodification of the City Code (\$15,000).
- Parks, Recreation and Forestry tree planting (\$20,000) and pruning (\$20,000).

Council Member C. Reimer said \$40,000 for tree planting and pruning should come off the unfunded list permanently. At last year's public hearing on the budget, fund balance was approved to be used for the \$39,840 backlog and the tree planting line item was to be increased to \$20,000 each year to replace the necessary trees each year.

Director Hilvo said that additional work needs to be done in terms of removing trees and pruning. He said Forester Westphal has a difficult time keeping up with the crew he has.

Council Member Yip suggested Forester Westphal revisit his forecasts in terms of tree planting and pruning.

Council Member Filter said there was an ice skating rink on private property on Washington Avenue this past winter that did not work out well. He asked if there will be another skating rink this year, as he has heard of plans for a rink on the front lawn of City Hall.

Director Hilvo said there will not be a skating rink on the front lawn of City Hall as planned. There will be an ice rink at Cedar Creek Park. The budget is not being increased for this. Work will be done using existing staff.

Lynne Buehler, W52 N844 Castle Court, asked why an ice rink is being considered at Cedar Creek Park instead of baby swings.

Council Member Radtke said he understands the dumping station is required by the DNR and is used mainly by those outside the City. He questioned whether the City is charging what it should be.

Director Wiza said rates have been raised steadily over the years. The City has actually lost customers over the years.

Mayor Kinzel asked if the City has more than three months of fund balance on hand, and what the difference is between two months of fund balance and three months of fund balance.

City Administrator/Treasurer Mertes emailed Council Members later that two months of unreserved fund balance is \$1.375 million and three months is \$2.064 million. She said the City has more than two months of fund balance on hand, but less than three months.

Council Member Radtke said the Council gives staff a tough job and they are only doing what the Council asks them to come up with.

Council Member R. Reimer said that staff has done well following the direction of the Council in the past few years and not raising the levy and taxes. If the Council does not spend money to fix things, it is pushing the problems down the road. He said the Council was warned about this two years ago. Now the City is borrowing money for more items. He said it is not good to insist on a zero percent increase across the board. In the past few years the Council has reduced staff and hours. He said he believes there is not enough blood in the staff's veins to keep running the City. He said he does not like to have an increase in taxes, but it is necessary.

Council Member Filter said years ago the Council required staff to start new each year with their budget and justify their expenses.

Mayor Kinzel said he has been happy with little or no tax increases in the past several years. He said the budget is reasonable, but the Council must limit the increase.

Council Member Maher asked what the increase would be if all items on the unfunded list were funded.

City Administrator/Treasurer Mertes said \$0.18 would need to be added to the tax rate to pay for the unfunded items.

Motion made by Council Member Radtke, seconded by Council Member C. Reimer, to close the public hearing at 7:47 p.m.

Budget discussions will continue at the November 11 Council meeting.

**CONSIDER APPOINTMENT OF CITY REPRESENTATIVE TO THE JOINT REVIEW BOARD FOR TID #3**

Council Member C. Reimer recused himself from discussion and voting on this matter because of his position on the School Board.

Motion made by Council Member Maher, seconded by Council Member Radtke, to nominate Mayor Kinzel as the City representative to the Joint Review Board, and that the Council be notified prior to the first official meeting (not organizational meeting) of the Joint Review Board. Motion carried with Council Members R. Reimer, Radtke, Maher, Yip, and O'Keefe voting aye, Council Member Filter voting nay, and Council Member C. Reimer abstaining.

**REAPPOINTMENTS OF TIM LARSON AND DAVID PAGEL TO THE LIGHT & WATER COMMISSION**

Motion made by Council Member Filter, seconded by Council Member Radtke, to approve Mayor Kinzel's reappointment of Tim Larson and David Pagel to the Light & Water Commission, with terms to expire September 30, 2016. Motion carried unanimously.

**CONSIDER RESOLUTION NO. 2013-13 DESIGNATING LIGHT & WATER CHECKING AND SAVINGS ACCOUNTS FOR THE ENSUING YEAR**

Motion made by Council Member Filter, seconded by Council Member C. Reimer, to approve Resolution No. 2013-13 designating depositories for Cedarburg Light & Water for the ensuing year. Motion carried unanimously.

**CONSIDER ORDINANCE NO. 2013-23 UPDATING AND AMENDING SECTION 13-1-55 OF THE ZONING CODE WHICH IS THE B-3 CENTRAL BUSINESS DISTRICT**

Planner Marchek said the Plan Commission did several months of work updating and amending Sec. 13-1-55 of the Zoning Code, which is the B-3 Central Business District. The proposed ordinance adds text explaining that certain exterior changes in the B-3/Historic Preservation District require approval by the Landmarks Commission and Plan Commission, adds outdoor dining and non-alcohol beverage service as a permitted accessory use, eliminates adult entertainment establishments as a use, and adds renewable energy systems as a conditional use.

Planner Marchek said the Plan Commission is concerned about how to treat single-family and two-family homes that have been converted from residential to commercial use but may want to be converted back again to residential use. Plan Commissioners discussed and affirmed that single-family and two-family homes existing prior to the adoption date of the amended B-3 District are non-conforming uses. Commissioners recognized the proposal to prohibit the re-establishment of residential use would affect property rights, but also acknowledged the need to assure that the downtown area remains a viable shopping and tourist destination with predominately retail establishments in the lower levels of downtown buildings. The Landmarks Commission believes that the proposed amendment to not permit switching back and forth between business and residential use of the first floor areas is not desirable.

Planner Marchek said the proposed ordinance, after recommendation by the Plan Commission, leaves the issue of single-family and two-family homes alone. The Plan Commission recommended that the B-3 District not be amended at this time regarding the use of existing single-family and two-family homes in the B-3 District, with the further intention of discussing this issue in more detail. Single-family and two-family homes in the B-3 District will continue to be non-conforming uses.

Some key dimensional changes proposed in the ordinance include reducing the front street yard setback from 5' to zero, revising the side yard setback, if provided, from a minimum of 10' to a minimum of 5', raising the minimum floor area for an efficiency residential unit from 350 square feet to 420 square feet, adding a provision to allow two-bedroom residential units with a minimum floor area of 550 square feet, and raising the maximum building height of an accessory structure from 20' to 25'.

Council Member Radtke confirmed that the Plan Commission intends on further discussing the single-family and two-family issue. Mayor Kinzel agreed and said the Plan Commission intends to resolve the non-conforming issue. He recommended the Council adopt the ordinance as proposed.

Motion made by Council Member Radtke, seconded by Council Member C. Reimer, to adopt Ordinance No. 2013-23 updating and amending Sec. 13-1-55 of the Zoning Code pertaining to the B-3 Central Business District. The motion carried unanimously.

**CONSIDER BIDS RECEIVED FOR THE CREEK WALK PROJECT SOUTH OF COLUMBIA ROAD**

Director Wiza said staff advertised and received bids for construction of the Creek Walk project south of Columbia Road. Two bids were received, and the low bid of \$344,619 was submitted by Beyer Construction. This bid is approximately \$95,000 over the budgeted amount. There have been suggestions to reduce the scope of the project by eliminating the patio extension over the tailrace. This would save \$56,633.

Don Levy, 1115 Elm Road, said he met with tenants of the Cedarburg Mill about the potential loss of patio space and spoke to Steve Venturini from Silver Creek Brewing about this. The amount of space that would be lost was explained and all tenants are fine with it because the project benefits the City as a whole. He also said the City does not want to lose the \$85,000 grant for this project.

Council Member R. Reimer said the grant expires on June 30, 2014. He asked if construction has to be started by then.

Director Wiza said that construction must be completed by June 30, 2014 and the paperwork submitted in order to receive the grant.

Director Wiza said that a recent letter received from the DNR advises that the permit will not be issued until at least mid-December, mainly due to public notice requirements. The DNR does plan to eventually issue the permit, and any work not on the creek bank could proceed. The EPA does not object to the construction proceeding before the cleanup of Cedar Creek, but when the cleanup begins there is a possibility the Creek Walk might be disturbed. Any sediment/soil material that

might be disturbed must be handled properly and the EPA recommends that any sediment/soil material that is removed be sampled for PCBs.

Council Member Radtke said past Councils have almost unanimously supported the Creek Walk project since its beginning. If the Council does not do this segment now, the project will die, and there will be two paths to nowhere.

Director Wiza said the bid does not include the cost of the beer garden railing as required, which is estimated at \$7,500.

Council Member R. Reimer made a motion that the Council accept the bid from Beyer Construction for the Creek Walk project south of Columbia Road, moving out item #4 on the bid tabulation, which is the patio extension over the tailrace in the amount of \$56,633, and adding the lump sum consideration of \$15,000 for necessary soil borings, soil removal, and beer garden fence. The motion was seconded by Council Member Radtke.

Council Member Yip asked the Council how it will pay for the budget overage.

Council Member Radtke said the Council cannot let this project die or the total investment will be lost.

Council Member Filter suggested the project be rebid.

Council Member C. Reimer said that normally he would agree with rebidding the project, however, the project needs to be completed now in order to receive the reimbursement grant. He suggested the Council move forward with the project as it has been the Council that has championed this project.

Mayor Kinzel said he has always felt the City of Milwaukee has not taken full advantage of the lakefront. He said this City has a natural resource that is underutilized. He said this project is an investment in the downtown and the Council should keep the momentum going.

Paul Rushing, W62 N799 Sheboygan Road, said completion of this section of the Creek Walk will give the ad hoc Creek Walk Committee momentum to work on the next section, which is the center section. He said the Committee has talked to all landowners, and all landowners are willing to talk to the Committee now. The Committee is responding to the landowners concerns.

Council Member Filter cautioned Mr. Rushing on what he is saying because not everyone is on board with this project.

Council Member O'Keefe said that landowners talking with the Committee and actually obtaining the necessary easements from the landowners are very far apart. He said he is not comfortable going ahead with the project without all the easements. He said he is not against the Creek Walk, but this is not San Antonio. He said this Creek Walk may be used six months out of the year. The Council could be investing in something that may or may not be used.

With Council Members C. Reimer, R. Reimer, Radtke, and Maher voting aye, and Council Members Filter, Yip, and O'Keefe voting nay, the motion carried on a roll call vote.

**CONSIDER CONTRACT CHANGE ORDER FOR NEW LIBRARY ROOF SYSTEM**

Director Wiza said the roof system as designed for the new library incorporates a 6 mil plastic sheet vapor barrier. The roofing contractor is recommending a switch be made to a self-sealing material known as ICE and Water Shield due to the conduit penetrations and fasteners. The construction manager, Beyer Construction, and the architect, Engberg Anderson, agree this is a better system, although it is more expensive. The cost would be \$25,800.

Director Wiza said that the new Hartford Library has had problems with condensation and icing. These problems seem to have roofing contractors and architects scrutinizing vapor barrier designs. He believes the change order is good insurance.

Ryan Raskin of Beyer Construction said he consulted a roofing contractor as he did not want to see a similar situation as Hartford. The recommendation was to change to a self-sealing vapor barrier. He said the library construction project has a contingency of \$252,000. As of October 15 approximately \$25,000 has been spent. This change order along with a few other minor contingencies will leave approximately \$200,000 in the contingency. He said he is comfortable with where the City is at in terms of the contingency at this point.

Motion made by Council Member C. Reimer, seconded by Council Member Filter, to approve a change order in the amount of \$25,800 for the ICE and Water Shield self-sealing membrane, with the funds to come from the project contingency account. Motion carried unanimously.

**PAYMENT OF BILLS**

Motion made by Council Member R. Reimer, seconded by Council Member C. Reimer, to approve payment of bills for the period 10/10/13 through 10/21/13, ACH transfers for the period 10/09/13 through 10/19/13, and payroll for the period 9/29/13 through 10/12/13. Motion carried unanimously.

**LICENSE APPLICATIONS**

Motion made by Council Member C. Reimer, seconded by Council Member Radtke, to authorize the issuance of new Operator's licenses for the period ending June 30, 2014 to: Conor L. Kortendik, Niall M. McCue, and Andrew J. Schnoor. Motion carried unanimously.

**LIBRARY FUNDRAISING UPDATE AND LIBRARY BUILDING UPDATE**

A revised Sources and Uses of Funds spreadsheet was distributed prior to the meeting. No further update was provided.

**MAYOR'S REPORT**

Mayor Kinzel issued a proclamation proclaiming November 3 as Change Your Clock – Change Your Battery Day.

**ADJOURNMENT - CLOSED SESSION**

Motion made by Council Member Filter, seconded by Council Member Radtke, to adjourn to closed session at 8:53 p.m. pursuant to State Statutes 19.85(1)(e) to deliberate or negotiate the investing of public funds, whenever, competitive or bargaining reasons require a closed session, more specifically, to consider terms and conditions of a proposed developer's agreement regarding TID #3. Approval of closed session minutes of September 30, 2013 and October 8, 2013.

Council Member C. Reimer left the meeting at this time.

**ADJOURNMENT**

Motion made by Council Member Radtke, seconded by Council Member Maher, to adjourn the meeting at 9:35 p.m. Motion carried unanimously with Council Member C. Reimer excused. The meeting did not reconvene to open session.

Constance K. McHugh, MMC/WCPC  
City Clerk