

**CITY OF CEDARBURG  
COMMON COUNCIL  
November 24, 2008**

**CC20081124-1**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, November 24, 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 (participating by speakerphone), Paul Radtke, Michael Maher, Kip Kinzel

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, Jim Doering of Towne Realty, Inc., 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 Myers said Council Member Jepson will be participating by speakerphone as he is in the hospital.

**APPROVAL OF MINUTES**

Motion made by Council Member Reimer, seconded by Council Member Kinzel, to approve the minutes of the October 27, 2008 and November 10, 2008 meetings with the words "most of" removed from the second sentence of the second paragraph on page 6 of the October 27, 2008 minutes. Motion carried without a negative vote.

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

**COMMENTS AND SUGGESTIONS FROM CITIZENS** - None

**CONSIDER AWARD OF ENGINEERING DESIGN SERVICE CONTRACT FOR THE 2009 STREET AND UTILITY PROJECT**

Director Wiza said Requests for Proposals (RFPs) were mailed to four engineering firms for the design of the 2009 Street and Utility Project. All four firms responded, with two firms (Crispell-Synder and McMahon Group) coming in at a cost of \$48,000 and a third firm (Kapur & Associates) coming in at a cost of \$48,750. He said any of the firms could do the work and it is difficult to pick one firm over another. He said the Public Works Commission and Sewerage Commission recommended the contract be awarded to Crispell-Synder in the amount of \$48,000.

Council Member Radtke said he does not have a problem awarding the contract to Crispell-Synder; however, it has been noted that the language in this year's contract with Crispell-Synder could have been better, which may have prevented problems with the current contractor doing the work. He also said staff has indicated they have been very pleased with the preliminary work that was done by Kapur & Associates.

Attorney Vance said the contractor has been the problem with the current Street and Utility project contract. She said that she will make sure that the new contract document does not have the same problems as the past document.

Motion made by Council Member Glamm, seconded by Council Member Reimer, to award the Engineering Design Service Contract for the 2009 Street and Utility Project to Crispell-Snyder, Inc. in the amount of \$48,000. Motion carried unanimously on a roll call vote.

**CONSIDER REQUEST FROM TOWNE REALTY, INC. TO AMEND THE DEVELOPERS AGREEMENT FOR THE PRAIRIE VIEW SUBDIVISION WITH RESPECT TO DATES OF COMPLETION AND THE LETTER OF CREDIT**

Director Wiza said in 2006 the Council approved an 80-lot single family subdivision known as the Prairie View Subdivision located at the southwest corner of Wauwatosa Road and Western Road. Towne Realty had planned to construct the subdivision immediately following the completion of the TopView Trails Subdivision; however, the slowdown in the real estate market has forced a change in the schedule. The developer is requesting an amendment to the Developers Agreement that would extend the completion date from August 31, 2010 to August 31, 2013. Director Wiza said that he and Attorney Vance do not see a problem with the extension provided the required off-site utility work relating to the proposed Wisconsin Department of Transportation round-about construction is completed by Towne Realty.

Director Wiza said Towne Realty is also requesting that the \$4.4 million letter of credit be released and put back in place prior to construction of the subdivision. Again, Director Wiza said that he does not have a problem with this request and opined that he will be able to work with Towne Realty to determine the value of the necessary utility work that would be covered under a separate letter of credit.

Motion made by Council Member Glamm, seconded by Council Member Kinzel, to amend the Developers Agreement with Towne Realty to extend the completion date three years in accordance with the letter received from Towne Realty dated November 7, 2008 and to release the \$4.4 million letter of credit to be reinstated prior to construction with the understanding that any infrastructure improvements in regards to Wauwatosa Road be the subject of discussions between staff and the developer. Motion carried without a negative vote.

**CONSIDER RESOLUTION NO. 2008-23 AUTHORIZING FILING AND/OR PARTICIPATION IN LEGAL ACTION SEEKING A DECLARATION OF RIGHTS, STATUS, AND OTHER LEGAL RELATIONS REGARDING THE MID-MORaine MUNICIPAL COURT**

City Administrator/Treasurer Mertes said certain issues between member municipalities of the Mid-Moraine Municipal Court and the Municipal Judge have resulted in the member municipalities

seeking to file a declaratory judgment action against the Judge. She said that members of the Court adopted ordinances to create a service fee for issuing or serving a warrant or commitment order. The Judge is now refusing to collect the fee through the Court.

A second issue is that the Judge is taking the stance that citations must be personally served on a defendant, rather than mailed, before a default judgment will be entered against the defendant.

The third issue is that the Judge is requiring that municipalities cover the cost of blood draws to determine the presence of alcohol or drugs rather than allowing the municipalities to recover the fees from the offender. All three issues result in a loss in revenue for the member municipalities.

Mayor Myers pointed out that the Municipal Judge is an elected official. He questioned how much say the member municipalities have over what the Judge does. He said this Council may want to consider not being a member of this group at a later date.

Attorney Vance said that a Municipal Judge can only be told what to do from another Court.

Council Member Glamm said that the City joined this group for cost savings and to be more locally responsive. The alternative would be to send cases to Circuit Court.

Motion made by Council Member Reimer, seconded by Council Member Kinzel, to adopt Resolution No. 2008-23 authorizing filing and/or participation in legal action seeking a declaration of rights, status, and other legal relations regarding the Mid-Moraine Municipal Court. Motion carried without a negative vote.

**CONSIDER RESOLUTION NO. 2008-24 SUPPORTING AGREEMENTS BETWEEN THE CITY OF CEDARBURG AND THE WISCONSIN GOVERNMENT ACCOUNTABILITY BOARD REGARDING THE USE OF THE STATEWIDE VOTER REGISTRATION SYSTEM**

City Clerk McHugh said that as of January 1, 2009 the Ozaukee County Clerk's Office will no longer be providing services related to the Statewide Voter Registration System (SVRS) for the cities of Mequon, Cedarburg, Port Washington and the Village of Grafton. Staff in the Clerk's office will now be entering voter registrations into the system, printing poll books, entering voters into the system after elections, and will perform other election management functions using the system rather than relying on Ozaukee County to do this work.

Motion made by Council Member Reimer, seconded by Council Member Glamm, to adopt Resolution No. 2008-24 supporting agreements between the City of Cedarburg and the Wisconsin Government Accountability Board regarding the use of the Statewide Voter Registration System (SVRS). Motion carried without a negative vote.

**CONSIDER ORDINANCE NO. 2008-26 CHANGING/INCREASING/ESTABLISHING FEES FOR LIQUOR LICENSE PUBLICATIONS; PRELIMINARY AND FINAL PLAT REVIEW; AND CERTAIN BUILDING, ELECTRICAL, HEATING, VENTILATING, AIR CONDITIONING, PLUMBING, SIGN, AND RELATED PERMITS**

Motion made by Council Member Glamm, seconded by Council Member Jepson, to adopt Ordinance No. 2008-26 changing/increasing/establishing fees for liquor license publications; preliminary and final plat review; and certain building, electrical, heating, ventilating, air conditioning, plumbing, sign, and related permits.

Council Member Kinzel said he noticed the proposed fee ordinance includes a \$150 fee for kitchen remodeling and a \$75 fee for bathroom remodeling, which was not discussed at budget time. He said that he is opposed to these new fees for residents to improve their kitchens and bathrooms. He said that he would like to see these fees removed from the ordinance.

Council Member Radtke said he agrees and that it could be costly for residents who do simple remodeling such as changing counter tops or cabinets.

Council Member Kinzel offered a friendly amendment to the motion that the proposed kitchen and bathroom remodeling fees be struck from the ordinance. Council Member Glamm accepted the amendment.

Motion as amended carried without a negative vote.

**CONSIDER ORDINANCE NO, 2008-27 AMENDING ORDINANCE NOS. 2007-08, 2007-17, 2007-32, AND 2008-05 ESTABLISHING 2009 PAY RANGES FOR NON-REPRESENTED EMPLOYEES**

Motion made by Council Member Kinzel, seconded by Council Member Reimer, to adopt Ordinance No. 2008-27 amending Ordinance Nos. 2007-08, 2007-17, 2007-32, and 2008-05 establishing 2009 pay ranges for non-represented employees with a correction made to reflect that the pay range for election officials is per day, not per hour. Motion carried without a negative vote.

**LICENSE APPLICATIONS**

Motion made by Council Member Radtke, seconded by Council Member Glamm, to deny an Operator's License to James C. Kossow. Motion carried without a negative vote.

**CITY ADMINISTRATOR'S REPORT**

City Administrator/Treasurer Mertes said that as of today four individuals have submitted applications indicating their interest in filling the District 7 Alderperson vacancy,

**COMMENTS AND SUGGESTIONS BY CITIZENS** - None

**REPORTS AND COMMENTS BY COUNCIL MEMBERS** - None

**MAYOR'S REPORT**

Mayor Myers reminded the Council of the annual Tree Lighting Ceremony on December 1, 2008.

Mayor Myers wished everyone a Happy Thanksgiving.

**ADJOURNMENT**

Motion made by Council Member Glamm, seconded by Council Member Reimer, to adjourn the meeting at 7:33 p.m. Motion carried without a negative vote.

Constance K. McHugh, CMC  
City Clerk