

**CITY OF CEDARBURG
COMMON COUNCIL
November 29, 2010**

CC20101129-1

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, October 29, 2010 at City Hall, W63 N645 Washington Avenue, second floor, Council Chambers. Mayor Myers called the meeting to order at 7:30 p.m.

ROLL CALL: Present - Mayor Gregory P. Myers, Council Members Chris Reimer, Art Filter, Paul Radtke, Michael Maher, Kip Kinzel, Bob Loomis

Excused - Council Member Ron Reimer

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, Light and Water General Manager Dale Lythjohan, Library Director Mary Marquardt, Senior Center Director Carol LaFontaine, Fire Chief Richard Van Dinter, City Clerk Constance McHugh, Library Board President Sue Karlman, Police and Fire Commission appointee Michael O'Keefe, Fred Beyer; 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.

APPROVAL OF MINUTES

Motion made by Council Member Loomis, seconded by Council Member C. Reimer, to approve the minutes of the November 8, 2010 meeting.

Council Member Maher said the 8th paragraph on page 7 of the November 8 minutes has a math error. The figure of \$250 should be changed to \$2.50. \$11,000 added to the levy equates to a 01. increase (\$2.50 on a \$250,000 home), not \$250.

Council Member Radtke suggested the 3rd paragraph on page 7 be replaced with the following sentence: "Council Member Radtke said the Council and the Mayor have done a great job on holding the line on taxes over the last six years, but just like at home, expenses have gone up."

Motion to approve the minutes as amended carried unanimously with Council Member R. Reimer excused.

APPOINTMENT OF MICHAEL O'KEEFE TO THE POLICE AND FIRE COMMISSION

Motion made by Council Member Radtke, seconded by Council Member C. Reimer, to approve the Mayor's appointment of Michael O'Keefe to the Police and Fire Commission, term to expire April 30, 2011.

City Clerk McHugh administered the oath of office to Mr. O'Keefe.

MAYOR'S REPORT

Mayor Myers issued a proclamation honoring Fred Beyer and the 20th anniversary of the annual Fred Beyer Thanksgiving Dinner and a proclamation declaring December 1 as Eric Larsen day in the City.

REVISED POLICY PW-7: DEFECTIVE SIDEWALK REPAIR/REPLACEMENT POLICY

Director Wiza said the language in Policy PW-7 pertaining to defective sidewalk repair and replacement was overly specific. The policy has been revised to include what constitutes a safety hazard.

Motion made by Council Member Loomis, seconded by Council Member Filter, to adopt revised Policy PW-7: Defective Sidewalk Repair/Replacement Policy. Motion carried unanimously with Council Member R. Reimer excused.

POLICY PR-7: PARK NAMING POLICY

Director Hilvo said the Parks, Recreation, and Forestry Department has developed a park naming policy that would provide guidelines on how the City names its parks. The Park and Forestry Board reviewed the proposed policy in 2007 and decided to forward the policy to the City Attorney and Common Council.

Council Member Maher suggested that the City's legacy tree and bench program be referenced in the policy so residents know there are other options to honor residents.

Council Member Radtke said the policy is great, but the Council may want to limit how often the parks are renamed or limit the number of applications that are accepted. He said he does not want to see all parks renamed every three or five years.

Director Hilvo said that to prevent this from happening he put language in the proposed policy that states park naming is strongly discouraged.

Mayor Myers said the Council should be very selective in terms of the naming of parks. He said there are many people in the community with significant contributions; however, the threshold for naming parks should be set high. He said the contributions must last many generations and the name of the park must also last many generations.

Council Member Radtke agreed that the legacy must last a lifetime. Again, he said he doesn't want to see all parks renamed every three or five years.

Council Member C. Reimer suggested the policy include language that park naming decisions by the Council must be unanimous.

Attorney Vance said that this could be included in the policy.

Motion made by Council Member C. Reimer, seconded by Council Member Loomis, to approve PR-7: Park Naming Policy as presented, with the inclusion of Council Member Maher's suggestion that the legacy tree and bench program be referenced in the policy, Council Member Radtke and Mayor Myers' suggestions about a person's contributions lasting a lifetime and influencing many generations be included, that the policy include a provision that all naming decisions require unanimous approval by the Council, and that the City Attorney review the policy with Director Hilvo to eliminate redundancies and clean-up the language. Motion carried unanimously with Council Member R. Reimer excused.

CONSIDER OFFERING REWARD FOR REPORT OF GRAFFITI

Council Member C. Reimer asked that this item be placed on the agenda because of recent vandalism and graffiti in the City. In recent weeks both private and public property has been the target of such vandalism and graffiti. To date, the Police Department does not have any leads. He said he would like to see a reward program offered because of the damage to both public and private property. He said he would ideally like to see the City post \$2,000 as a reward for tips or information that leads to prosecution.

Council Member Radtke said that vandalism and graffiti has been happening in several City parks for a number of years.

Attorney Vance said the Police Chief has told her that sometimes offering rewards works and sometimes it doesn't. She suggested there be a fund for such incidents throughout the City and the Police Chief have the authority to administer it. It could be administered like the arson reward program.

Council Member C. Reimer suggested putting \$2,000 in the fund and the Council talk about replenishing it next year at budget time.

Council Member Maher asked if the funds could come from Police Department revenues.

City Administrator/Treasurer Mertes said the money to fund the program this year could come from the savings in the Clerk's Department from not filling a vacancy. The fund could be established at \$2,000 this year and carried over until next year, with the Chief having the ability to decide how to use the funds.

Motion made by Council Member C. Reimer, seconded by Council Member Radtke, to approve establishing \$2,000 in a fund to be used at the discretion of the Police Chief for reward money for the reporting of various crimes in the City of Cedarburg, such as the recent incidents of graffiti and

vandalism, mirroring the guidelines for the arson rewards program, and funded as suggested by City Administrator/Treasurer Mertes. Motion carried unanimously on a roll call vote with Council Member R. Reimer excused.

CONSIDER CHANGE TO REVOLVING LOAN FUND PROGRAM TO LOWER THE INTEREST RATE ON RLF LOANS

Motion made by Council Member Radtke, seconded by Council Member Loomis, to approve a change in the language of the Revolving Loan Fund Program to lower the interest rate on RLF loans from the current rate of 4% to the current Department of Commerce rate of 2%. Motion carried unanimously with Council Member R. Reimer excused.

CONSIDER CHANGING THE EXISTING GRID-ADDRESS SYSTEM IN THE CITY TO A NON-GRID ADDRESS SYSTEM

Mayor Myers said he has had inquiries from residents about the possibility of changing the existing grid-address system in the City to a non-grid address system. The County likes the idea of changing the existing address system. The Postmaster originally had reservations about the idea but is now on board; however, a resolution from the Council supporting such a change is necessary.

Fire Chief Van Dinter said it is very simple to find addresses with the current system. He said Department members know exactly where they are going because addresses are based on a grid system. He said he has no idea at this time what a change in the system will mean for emergency services.

Mayor Myers said the City of Cedarburg is one of the few communities that has a grid-based system. He said the system is difficult, clumsy, and burdensome to use. With the technology available, anyone using a GPS system can locate an address, regardless of the system used.

Council Member C. Reimer suggested Fire Chief Van Dinter talk to other fire departments and/or the Milwaukee Fire Department that use a more conventional address system to see how emergency services deal with locating addresses.

Council Member Maher said changing the address system would be very costly for homeowners and businesses. He said he is opposed to any change at this time and is not comfortable voting on this because it impacts everyone in the City.

Council Member Filter said he is opposed to changing the address system. He said he talked to a few mail delivery employees who like the system. He said people know exactly where they are going. A further problem would be created for owners of newer homes who have addresses embedded in concrete on their homes. He said he will not vote to eliminate the existing system.

Council Member Radtke agrees the current system is a little confusing; however, he is concerned with the cost to businesses and homeowners at this time.

Council Member Loomis said he would be more comfortable making a change if the Fire Chief were comfortable with it.

Council Member Kinzel said he likes the existing system. He said it can be effective once a person learns it. He is also concerned about the costs to businesses. He said he would vote in favor of changing the system only if he knew the majority wanted the change.

The consensus of the Council at this time is to not pursue changing the current grid-address system.

UPDATE ON THE ISSUES RELATED TO THE PROCHNOW LANDFILL

Attorney Vance said in 1999 all Primary Responsible Parties (PRPs) for the Prochnow Landfill agreed to work together on remediation efforts. She said there were no meetings or discussion addressing the issues that included the City's concerns regarding Well #4 and the potential contamination in surrounding Town wells. This contamination from the Prochnow Landfill is an imminent concern of the City.

The DNR received a report from AECOM that was not submitted by the PRP group. It was a result of an agreement between AECOM and the Town of Cedarburg, later joined by Mercury Marine. It is understood that Mercury Marine is intending to enter into an agreement with the Town in which the Town will assume Mercury Marine's liability and remediation responsibilities. The City met with the DNR on September 27, 2010 and assumed it would be participating in the planning of the remediation steps; however, the City was provided no opportunity to participate in the selection of AECOM or have input into its proposal. AECOM has told the City it is under contract with the Town and it would be a conflict of interest to talk to the City or share information. Attorney Vance said that the hiring of an engineering firm was suppose to be done as a group by the PRPs. She said the conclusions of AECOM remain a concern of the City. Attorney Vance further explained that the City is concerned about the contamination of Well #4.

Council Member Loomis said it is in the Town's best interest to come to the conclusion that the contamination of Well #4 is not from the Prochnow Landfill. He asked where the City stands with the DNR.

Attorney Vance said she and General Manager Lythjohan have talked to the DNR about the City's concerns. She said the DNR is also concerned about the objectivity of the data. She said the DNR knows where the City stands on the position of the Town hiring AECOM and the objectivity of the data. She said the DNR is now looking over the data the Town has sent to them. She expects to receive a letter response from the DNR in the next several weeks.

Mayor Myers said it is obvious the Town is not dealing in good faith. He said it is important to have a firm who is working for all PRPs.

General Manager Lythjohan said he suggested the Town remove themselves as a client of AECOM, then all parties could engage AECOM jointly. He said the Town decided against this.

Mayor Myers said it may be appropriate to have a completely independent engineering firm.

Council Member Radtke said he doesn't have faith in the Town and agreed that a totally independent engineering firm is necessary.

Council Member Loomis said he is very disappointed in the recent actions of Mercury Marine. He said the Town and Mercury Marine have an incentive to say that the Prochnow Landfill is not the reason for the contamination at Well #4; however, it is clear to most people that this is where the contamination is coming from.

General Manager Lythjohan said that if all PRPs cannot get their interest aligned the City will be forced to hire its own engineering firm to monitor the Town's firm. He said oversight will be necessary to make sure there is objectivity. He said the DNR should be able to do this.

In terms of the Well #4, General Manager Lythjohan said the Light and Water Commission reviewed final plans for a treatment facility to remove the contamination at the well, The project is being bid now with the bid opening in mid-December. It is anticipated the Commission will award the contract at its December meeting. Construction should start in 30 days after awarding of the contract with completion by June 1, 2011. The construction project will come to the Council in December for approval.

Council Member Radtke asked if it is beneficial for the Council to get its own engineering firm.

Attorney Vance said this idea has been discussed. She feels the City is in a good position with the DNR at this time and hiring an engineering firm is not critical at this time.

General Manager Lythjohan said the work assembled in the report sent to the DNR is information in the public domain. He said he believes the DNR will require that all parties work together. He thinks the letter from the DNR will reiterate this. He said he could not recommend expending funds for an independent engineering firm at this time.

It was the consensus of the Council to wait to until the DNR submits its response.

CONSIDER DATES FOR MEDIATION WITH THE TOWN OF CEDARBURG

It was the consensus of the Council not to schedule any mediation dates with the Town of Cedarburg at this time.

DISCUSS THE CREATION OF AN AD-HOC JOINT LIBRARY PLANNING COMMITTEE AND THE POSSIBLE MAKE-UP OF THIS COMMITTEE

Council Member Maher said he spoke with David Weinhold, Director of the Eastern Shores Library System, about whether it is a statutory requirement to form a Library Planning Committee to create a joint library agreement. Mr. Weinhold said it is not a requirement but he believes it is a good practice. Council Member Maher said he would like to see an ad hoc committee appointment by the Mayor consisting of one or two elected officials from both the City and Town, two Library Board members who could represent the citizens from the City, two citizens from the Town, and Cedarburg's Library Director Mary Marquardt to make sure everything is done right in terms of a joint library agreement. He asked Council Members what their thoughts are on this as an agreement needs to be in place by July of 2011.

Mayor Myers said ad hoc committees are appointed by the Mayor and serve at his pleasure. He said he understands Council Member Maher's concerns and does not have a problem creating a planning committee; however, he doesn't agree that the scope should be limited to the City and Town nor does he agree with the structure as proposed. He said a planning committee is a good idea as long as the scope and function are broadened to include other options rather than completely relying on the Town of Cedarburg. He said there needs to be movement from the Town that there will be a joint library. He suggested that he, Library Board President Karlman, Library Director Marquardt, and Council Member Maher meet to discuss this and the direction the Library should take.

LICENSE APPLICATIONS

Motion made by Council Member C. Reimer, seconded by Council Member Radtke, to authorize issuance of a new Operator's License for the period ending June 30, 2011 to Alicia Rae Pufahl and to authorize issuance of a renewal Operator's License for the period ending June 30, 2011 to Adam C. Buth. Motion carried unanimously with Council Member R. Reimer excused.

COMMENTS AND ANNOUNCEMENTS BY COUNCIL MEMBERS

Council Member Filter said he cannot attend the December 13, 2010 Council meeting.

Council Member C. Reimer requested that a presentation of the design of the park at the Topview Trails Subdivision be on the agenda of the December 13, 2010 meeting.

Council Member Maher said it seems people driving downtown do not yield to pedestrians and that there is a lot of reckless and dangerous driving. He asked if he could call the Police Chief and ask for more police presence downtown.

Attorney Vance said Council Member Maher could do this as a citizen of the community.

ADJOURNMENT – CLOSED SESSION

Motion made by Council Member C. Reimer, seconded by Council Member Filter, to adjourn to closed session at 9:00 p.m. pursuant to State Statutes 19.85(1)(e) to deliberate or negotiate the investing of public funds or conducting other specified public business, whenever competitive or bargaining reasons require a closed session; more specifically to discuss labor negotiations. Approval of closed session minutes of November 8, 2010. Motion carried unanimously with Council Member R. Reimer excused.

RECONVENE TO OPEN SESSION

Motion made by Council Member Filter, seconded by Council Member Kinzel, to reconvene to open session at 9:05 p.m.

RESOLUTION NO. 2010-18 ACCEPTING THE LABOR CONTRACT WITH THE DEPARTMENT OF PUBLIC WORKS AND WASTEWATER DEPARTMENT – LOCAL 108, AFSCME, AFL-CIO FOR THE PERIOD 01/01/11 THROUGH 12/31/12

Motion made by Council Member Loomis, seconded by Council Member C. Reimer, to approve Resolution 2010-18 accepting the labor contract with the Department of Public Works and Wastewater Department – Local 108, AFSCME, AFL-CIO for the period 01/01/11 through 12/31/12. Motion carried unanimously with Council Member R. Reimer excused.

RESOLUTION NO. 2010-19 ACCEPTING THE LABOR CONTRACT WITH THE CITY OF CEDARBURG CLERICAL EMPLOYEES’ ASSOCIATION, LOCAL 817, THE LABOR ASSOCIATION OF WISCONSIN, FOR THE PERIOD 01/01/11 THROUGH 12/31/12

Motion made by Council Member Loomis, seconded by Council Member C. Reimer, to approve Resolution No. 2010-20 accepting the Labor Contract with the City of Cedarburg Clerical Employees’ Association, Local 817, The Labor Association of Wisconsin, for the period 01/01/11 through 12/31/12. Motion carried unanimously with Council Member R. Reimer excused.

RESOLUTION 2010-20 ACCEPTING THE LABOR CONTRACT WITH THE CITY OF CEDARBURG PUBLIC LIBRARY EMPLOYEES’ ASSOCIATION, LOCAL 806, THE LABOR ASSOCIATION OF WISCONSIN FOR THE PERIOD 01/01/11 THROUGH 12/31/12

Motion made by Council Member Loomis, seconded by Council Member C. Reimer, to adopt Resolution 2010-20 accepting the labor contract with the City of Cedarburg Library Employees’ Association, Local 806, The Labor Association of Wisconsin, for the period 01/01/11 through 12/31/12. Motion carried unanimously with Council Member R. Reimer excused.

APPROVAL OF A LIMITED ACCESS AGREEMENT TO CEDAR CREEK

Attorney Vance said in 2003 the City entered into an agreement with Mercury Marine to access Cedar Creek for cleanup efforts. The agreement has expired. Mercury Marine is now requesting access to the Creek for fish sampling for the period November 29, 2010 through December 31, 2010.

Motion made by Council Member Filter, seconded by Council Member C. Reimer, to approve limited access to the Creek by Mercury Marine’s consulting firm, Arcadis, for the purpose of fish sampling from November 29, 2010 through December 31, 2010. Motion carried unanimously with Council Member R. Reimer excused.

ADJOURNMENT

Motion made by Council Member Filter, seconded by Council Member C. Reimer, to adjourn the meeting at 9:10 p.m. Motion carried unanimously with Council Member R. Reimer excused.

Constance K. McHugh, MMC/WCPC
City Clerk