

**CITY OF CEDARBURG
COMMON COUNCIL
December 14, 2009**

**CC20091214-1
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, December 14, 2009 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 P. Myers, Council Members Chris Reimer, Ron Reimer, Art Filter, Paul Radtke, Michael Maher, Kip Kinzel, Robert Loomis

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, Recreation and Forestry Mikko Hilvo, Deputy City Clerk Amy Kletzien, Library Director Mary Marquardt, Library Board President Sue Karlman, Town Management Assistant for Parks and Planning Eric Ryer, interested citizens and news media

STATEMENT OF PUBLIC NOTICE

At Mayor Myers' 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.

CONSIDER MAYOR MYERS' APPOINTMENTS TO BOARDS, COMMITTEES, AND COMMISSIONS

No appointments were made.

APPROVAL OF MINUTES

Motion made by Council Member Filter, seconded by Council Member Kinzel, to approve the minutes of the November 23 and November 30, 2009 meetings. Motion carried without a negative vote.

COMMENTS & SUGGESTIONS FROM CITIZENS - None

DISCUSS TOWN OF CEDARBURG'S RESPONSE TO THE CITY'S OFFER OF MEDIATION

City Administrator/Treasurer Mertes referenced an email sent from the Town of Cedarburg stating they are open to additional consideration of the issues at hand and proposes a meeting of two elected officials from each municipality without legal counsel to establish parameters for a possible mediation. They asked for possible meeting dates after the holidays.

Council Member Loomis asked City Attorney Vance to explain mediation and how it is run.

City Attorney Vance stated that mediation is voluntary. The mediator is ethically bound to be impartial and tries to bring the parties together in a resolution. Either party may pull out of the mediation at any time. The mediator cannot impose a resolution on anyone. The mediator helps to determine the issues and what direction to take.

In answer to Council Member Loomis' question, City Attorney Vance stated that mediation generally begins all in one room, but then there may be a caucus with each side separated. Parts of the mediation can be confidential; however, you need to work within the open meetings law.

Mayor Myers stated that he insists that the public be present every step of the way.

Council Member C. Reimer agreed that the mediation should involve all City and Town officials and should be open to the public.

Mayor Myers stated that meeting as a small group did not work in the past.

Council Member Loomis stated the response from the Town in regard to mediation suggests meeting in a small group to discuss the issues. He stated that the City and Town's offers from March and June should be on the table for mediation. It appears the Town is trying to restrict the parameters. Council Member Loomis opined that pushing off discussions until after the holidays could have something to do with the two Town Board members that are up for election next year and this is an attempt at showing they are interested in mediation. It could be that the Town is not sincere and they are only interested in incorporating.

Council Member R. Reimer stated the Town agreed to getting together to discuss a border agreement in the November 17 issue of the *News Graphic* and that does not mean they will commit to mediation to discuss all of the issues.

Council Member Radtke stated that the City has offered very simple agreements to the Town and they have refused. He opined that mediation is a good route and that everything should be discussed out in the open.

Council Member Loomis suggested that the City respond to the email regarding mediation stating that the City wants the meetings open to the public and all areas should be discussed from the original offers from March and June.

In answer to Council Member Loomis' question, City Attorney Vance stated that she could suggest three possible mediators: Retired Judge McCormack, Patrick Snyder from Washington County and Eva Soeka from Marquette University.

Mayor Myers opined that the mediator should be from outside of the area.

City Attorney Vance stated that a mediator needs to be impartial and it would be okay to have a mediator from Ozaukee County.

Mayor Myers stated that appearances need to be considered.

Motion made by Council Member Loomis, seconded by Council Member C. Reimer, to respond to the Town email with three requirements: 1) to meet with a mutually agreed upon impartial mediator; 2) all issues are on the table for discussion; and 3) all the negotiations are conducted in public with the full Common Council and full Town Board. If the City receives an affirmative answer, then each side should propose at least three possible mediators for consideration at a later date. Motion carried without a negative vote.

CONSIDER ORDINANCE NO. 2009-20 AMENDING SEC. 3-6-3 TO 3-6-9 OF THE MUNICIPAL CODE ADJUSTING THE IMPACT FEES FOR SWIMMING POOL FACILITIES, RESERVE CAPACITY AT THE WASTEWATER TREATMENT PLANT, BIOSOLIDS, MANAGEMENT FACILITY, LIBRARY FACILITY, POLICE DEPARTMENT FACILITY, PARK FACILITIES, AND WATER SUPPLY FACILITIES; AND ORDINANCE NO. 2009-21 AMENDING SEC. 9-2-6(c) UPDATING AND ADJUSTING THE SANITARY SEWER CONNECTION FEE BASED ON THE CONSTRUCTION COST INDEX PUBLISHED IN THE ENGINEERING NEWS RECORD AND CALCULATED BASED ON THE ANNUAL INCREASE IN THE CCI INDICES

Motion made by Council Member Kinzel, seconded by Council Member Filter, to adopt Ordinance No. 2009-20 amending Sec. 3-6-3 to 3-6-9 of the Municipal Code adjusting the impact fees for swimming pool facilities, reserve capacity at the Wastewater Treatment Plant, Biosolids, Management Facility, Library Facility, Police Department Facility, Park Facilities, and Water Supply Facilities; and Ordinance No. 2009-21 amending Sec. 9-2-6(c) updating and adjusting the sanitary sewer connection fee based on the Construction Cost Index published in the Engineering News Record and calculated based on the annual increase in the CCI Indices.

Director Wiza stated this is an inflationary index that is applied annually per the Code.

Council Member R. Reimer stated that he was speaking with staff to gain an understanding of the composition of impact fees.

Motion carried without a negative vote.

CONSIDER ADOPTING REVISED POLICY PR-1: PARK RESERVATIONS

Director Hilvo stated that there are minor changes to the policy with the addition of a new shelter in Zeunert Park, the exemption of park fees for German Festival added, the removal of three parks from All Park Rentals, and changing the name of Maple Manor Park to Wegmann Park (current official name of the park).

Motion made by Council Member Radtke, seconded by Council Member Kinzel, to adopt revised Policy PR-1: Park Reservations.

Council Member Maher recommended adding Summer Sounds to the park fee exemptions.

Council Member Radtke suggested leaving Summer Sounds off because the Council votes on it every year.

Council Member Filter confirmed that the fees were waived for Summer Sounds for 2010.

Mayor Myers suggested adding Summer Sounds to the park fee exemptions to give the organization some comfort.

Motion made by Council Member R. Reimer, seconded by Council Member Maher, to amend the motion by adding Summer Sounds to the exemption of park fees.

Council Member Radtke thanked Director Hilvo for helping him and other volunteers with the path cleanup around Zeunert Park.

Motion carried without a negative vote.

CONSIDER ORDINANCE NO. 2009-22 AMENDING SEC. 2-4-3 OF THE MUNICIPAL CODE PERTAINING TO THE LIBRARY BOARD

Motion made by Council Member Filter, seconded by Council Member C. Reimer, to adopt Ordinance No. 2009-22 amending Sec. 2-4-3 of the Municipal Code pertaining to the Library Board.

Council Member Maher suggested a change to (b) Library Board Composition, paragraph 3, to strike City's in the second sentence. The sentence should read: The City Mayor shall appoint one (1) of the administrators of the Cedarburg Public Schools, or his designate, as one of the City's members of the Board, subject to confirmation by the Common Council of the City.

Mayor Myers agreed to the change.

Motion carried without a negative vote.

CONSIDER ELEVENTH-AMENDED AGREEMENT FOR THE OPERATION OF THE MID-MORAINÉ MUNICIPAL COURT

City Administrator/Treasurer Mertes stated that the agreement was amended to add the Village of Thiensville as a member, to clarify how voting members are determined, to clarify the calculation of members' fees, and to extend the termination date from April 30, 2011 to April 30, 2021.

Council Member C. Reimer clarified that the Town of Erin is being removed.

In answer to Council Member R. Reimer's questions, City Administrator/Treasurer Mertes stated that the participation fees should go down with the addition of the Village of Thiensville. The Town of Erin was not stricken from the entire document because it was drafted by the court and it provides a history.

Council Member R. Reimer stated that the word shall does not apply later on in the agreement when referring to the Town of Erin.

City Attorney Vance stated the Council minutes of this meeting can be attached to the amended agreement.

Motion made by Council Member Kinzel, seconded by Council Member Maher, to approve the Eleventh-Amended Agreement for the operation of the Mid-Moraine Municipal Court. Motion carried without a negative vote.

CONSIDER APPOINTMENT OF ELECTION OFFICIALS FOR THE PERIOD 1/1/10 THROUGH 12/31/11

Motion made by Council Member C. Reimer, seconded by Council Member Loomis, to approve appointment of Election Officials for the period January 1, 2010 through December 31, 2011. Motion carried without a negative vote.

DISCUSS POLICE MUTUAL AID AGREEMENT AND THE DOUBLE TAXATION OF POLICE SERVICES BY CITY RESIDENTS

Council Member Loomis stated that double taxation of police services by City residents is an area of frustration and he asked City Administrator/Treasurer Mertes to review the City costs with the Council Members.

City Administrator/Treasurer Mertes reviewed the costs and the bottom line is that the City should have paid approximately \$357,000 for actual services used rather than the \$946,000 that the City was required to levy on the City taxpayers.

Council Member Loomis stated that the City provides approximately 80 mutual aid assistance calls to the Town of Cedarburg that they do not have to pay for. He read an excerpt from a *News Graphic* article from July 30, 2009 that was written by Gary Wickert. "The City is desperate for cash. Its budget is mammoth and the cost of running the police department alone is more than the entire Town budget. Town residents want no part of paying City taxes, directly or indirectly. It's one reason why they live in the Town." The City has issued three different Resolutions opposing double taxation of municipal taxpayers for law enforcement services, with no results. Council Member Loomis proposed that the Cities and Villages throughout Ozaukee County unite to have the County address this issue. The City could have cut .51 of the assessed tax rate this year, which equates to approximately 5% of the levy.

Mayor Myers stated that he was willing to meet with area Mayors and Village Presidents to look at the double taxation figures.

In answer to Council Member R. Reimer's question, City Attorney Vance affirmed that the State Statutes set the parameters for taxation and the City is looking for an administrative change.

Council Member Loomis asked if the League of Municipalities could join the force to gain some momentum on this issue.

Council Member C. Reimer opined that the City of Cedarburg is unique and does not benefit from Ozaukee County services as much as the City of Milwaukee benefits from Milwaukee County services.

In answer to Council Member Kinzel's question, Mayor Myers stated that the current State Statutes provide public protection for Towns.

Council Member Kinzel stated in this case, the County is powerless in making a change.

Council Member R. Reimer opined that it would be beneficial to have the League of Municipalities work with the City to make this change.

Council Member Loomis would like to force Ozaukee County Supervisors to take a position and make it a public issue because it is grossly unfair.

In answer to Council Member Maher's question, City Administrator/Treasurer Mertes stated that the use of the jail does fluctuate from year-to-year; however, the City still has to support the operation.

Council Member Maher stated that the Council is talking about two points: duplication of services and mutual aid. He does not want to disrupt mutual aid and asked that the Council focus on the duplication of services when pursuing this matter.

Council Member Loomis stated that he wants to propose a tax for communities who do not have their own police departments.

In answer to Council Member Radtke's question, City Attorney Vance stated that Towns are not required to have their own Police Departments at any point.

Council Member Loomis opined if apartments are built at the Five Corners area, then additional police services may be required.

In response to Council Member Loomis' request, Mayor Myers stated that he would be willing to meet with area Cities and Villages after the holidays to discuss the double taxation figures.

In answer to Council Member C. Reimer's question, Police Chief Frank stated that the Ozaukee County Sheriff's Department does not help the City often. They do have the power to make traffic stops in the City, but it is unusual for them to do so.

CONSIDER LICENSE APPLICATIONS

Motion made by Council Member Kinzel, seconded by Council Member C. Reimer, to authorize issuance of a new Operator's License application for the period ending June 30, 2010 for Victoria R. Sorenson. Motion carried without a negative vote.

CITY ADMINISTRATOR'S REPORT - None

COMMENTS & SUGGESTIONS BY CITIZENS - None

REPORTS & COMMENTS BY COUNCIL MEMBERS

Council Member Radtke expressed concern for damage in the parks and opined that the City should consider surveillance cameras.

Council Member C. Reimer asked City Administrator/Treasurer Mertes for a ballpark figure on the amount spent to clean up the damage in the parks.

MAYOR'S REPORT

Mayor Myers brought attention to a bill that is being circulated by Representative Mark Gottlieb for co-sponsorship to repeal the maintenance of effort on emergency services provision inserted in the State Budget, Act. 28. This provision prohibits municipalities from reducing their spending on police and fire services below 2009 levels and is supported by the League of Municipalities. He urged Council Members to contact Representative Gottlieb if they support this legislation.

Mayor Myers extended wishes for a Merry Christmas and a Happy New Year.

ADJOURNMENT

Motion made by Council Member Filter, seconded by Council Member Kinzel, to adjourn the meeting at 8:00 p.m. Motion carried without a negative vote.

Amy D. Kletzien, MMC/WCPC
Deputy City Clerk