

**CITY OF CEDARBURG
COMMON COUNCIL
July 14, 2014**

**CC20140714-1
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, July 14, 2014 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 John Czarniecki, Ron Reimer, Art Filter, Michael Maher, Patricia Thome, Mike O’Keefe

Excused - Council Member Paul Radtke

Also Present – City Administrator/Treasurer Christy Mertes, City Attorney Michael Herbrand, Deputy City Clerk Amy Kletzien, interested citizens

STATEMENT OF PUBLIC NOTICE

At Mayor 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.

APPROVAL OF MINUTES

Motion made by Council Member Thome, seconded by Council Member Filter, to approve the June 30, 2014 Council minutes. City Attorney Herbrand requested the following addition to a motion on page 8: Motion made by Council Member Radtke, seconded by Council Member O’Keefe, to deny the application of Matthew A. Tonn for a new operator’s license based on the recommendation of Police Chief Frank. Motion carried without a negative vote with Council Member Radtke excused.

COMMENTS & SUGGESTIONS FROM CITIZENS – None

PRESENTATIONS

PRESENTATION OF THE 2013 ANNUAL LIGHT & WATER REPORT

Light & Water General Manger Dale Lythjohan presented a summary report of the Light and Water Utility for 2013. The following facts were presented:

Electric Highlights

- Electric Revenues in 2013 were \$12,345,394, a decrease of \$90,214
- Purchased power was \$9,073,716, a decrease of \$14,272

- The net change in revenues (revenue less purchased power) was -\$75,942 or a decrease of 2.7%
- Operating expenses were \$1,184,858, an increase of \$84,895
- Depreciation expenses were \$749,605, an increase of \$30,175
- Tax equivalent was \$490,612, an increase of \$47,493
- Operating income was \$846,603, a decrease of \$205,208
- The last electrical rate adjustment was effective January 2011
- The amount of electric KWHs purchased has been steadily decreasing since 2007, mainly due to the loss of Amcast and International Paper. The reduced usage since 2009 is also due to conservation efforts and the reaction to the economic downturn. The amount was higher in 2010 due to hot summer temperatures and residential A/C load. The mild temperatures in 2013 impacted heating and cooling usage

Water Highlights

- Water revenues in 2013 were \$1,816,742, a decrease of \$80,215
- Operating expenses were \$847,037, an increase of \$86,630
- Depreciation expenses were \$235,898, an increase of \$20,094
- Tax equivalent was \$344,500, an increase of \$19,920
- Operating income was \$389,307, a decrease of \$206,859
- Water rates became effective January 2012

Additional Highlights

- Added infrastructure (plant additions) in 2013 (new customer and rebuild activities) was \$1,061,376 (electric) and \$1,054,364 (water)
- Total net plant value end of year 2013 was \$24,668,207 (electric) and \$19,220,240 (water)
- Both utilities are debt-free and have been since 2005
- Power use in Cedarburg has changed over the last 10 – 15 years to be driven much more by residential and small commercial customers creating greater potential for higher costs to all customers because of “peak usage” tied mainly to air conditioning
- In 2013 the average customer paid 19+% less for electricity compared to other areas in Ozaukee County
- It is conservatively estimated that customers in Cedarburg spent \$2.0 million less on their electric costs compared to if they were served by WE Energies
- Water rates remain “middle of the pack” compared to water utilities throughout southeast Wisconsin

2014 and Beyond

Challenges:

- Responsible conservation activities (water and electric) that benefit individual customers without causing costs to increase to all
- Keeping both utilities financially strong for the long term, while managing customer costs today
- Ongoing loss of industrial customers and cost impacts to all
- Well #4 cost recovery

- Direction on long-term water source (groundwater vs. lake water)
- Ongoing staff planning due to upcoming retirements (5-6 people in the next 7+ years)

Opportunities:

- Ability to control costs through growth in sales through economic development activities. The Utility needs to sell an additional 100,000,000 gallons of water and 25,000,000 KWHs just to get back to sales levels of about 10 years ago.

CONSIDER RESOLUTION NO. 2014-11 RECOGNIZING COUNCIL MEMBER MICHAEL MAHER

Motion made by Council Member Filter, seconded by Council Member Thome, to adopt Resolution No. 2014-11 recognizing Council Member Michael Maher. Motion carried without a negative vote with Council Member Radtke excused.

Council Member Maher stated that the City is fortunate to have a great City Staff and it was a pleasure working with them for the past six years.

NEW BUSINESS

CONSIDER THE PROCESS THE COUNCIL WISHES TO USE TO DEVELOP QUESTIONS FOR THE 5TH DISTRICT ALDERMANIC VACANCY AND HOW THE COUNCIL WISHES TO USE THE QUESTIONS

Council Member Filter requested that the advertisement for the 5th District Aldermanic vacancy run one more time in the *News Graphic* before the deadline.

Council Member Thome noted that candidates may submit references from individual citizens within their district as outlined in Policy CC-20A.

City Administrator/Treasurer Mertes will have the City Clerk send a copy of this policy along with the questions to the 5th District candidates prior to the meeting.

It was the consensus of the Common Council to use the proposed questions.

In answer to Council Member Czarnecki's question, City Attorney Herbrand stated that the interviews will be held during an open meeting and all candidates will be present during the interview process according to Policy CC-20A.

ADOPT HAZARD COMMUNICATION POLICY

Motion made by Council Member Filter, seconded by Council Member Czarnecki, to adopt the Hazard Communication Policy. Motion carried without a negative vote with Council Member Radtke excused.

ANNUAL REVIEW AND CERTIFICATION OF CODE OF ETHICS

Motion made by Council Member Reimer, seconded by Council Member O'Keefe, to certify the Code of Ethics. Motion carried without a negative vote with Council Member Radtke excused.

CONSIDER PAYMENT OF BILLS FOR PERIOD 6/27/14 THROUGH 6/27/14, ACH TRANSFERS FOR THE PERIOD 6/29/14 THROUGH 7/11/14, AND PAYROLL FOR THE PERIOD 6/22/14 THROUGH 7/5/14

Motion made by Council Member O'Keefe, seconded by Council Member Thome, to approve the payment of bills for the period 6/27/14 through 6/27/14, ACH transfers for the period 6/29/14 through 7/11/14, and payroll for the period 6/22/14 through 7/5/14. Motion carried without a negative vote with Council Member Radtke excused.

CONSIDER LICENSE APPLICATIONS

Motion made by Council Member O'Keefe, seconded by Council Member Thome, to approve new Operator's License applications for the period ending June 30, 2015 for: Caitlyn Burns, Jessica L. Frank, Jenny Sue Hannert, Angela Hoffmann, Travis J. Lorenz, Bret S. Naggs, Kevin J. Patt, Kelly J. Schmitz and Laine J. Tomesch. Motion carried without a negative vote with Council Member Radtke excused.

Motion made by Council Member O'Keefe, seconded by Council Member Thome, to approve renewal Operator's License applications for the period ending June 30, 2015 for: Shirley M. Hetchler, Neal C. Maciejewski, Kyle D. Scheithauer and Mark J. Schubert. Motion carried without a negative vote with Council Member Radtke excused.

Christopher Hickey, W52 N206 Pierce Avenue, questioned why his application for an Operator's License was recommended for denial. He had heard that 70 – 75% of operator license applications are denied.

Mayor Kinzel read Police Chief Frank's recommendation letter of denial stating the reasons for his decision. Mayor Kinzel stated that standard procedure is that all applications are reviewed by the Police Chief and he advises the Council of any problems.

City Attorney Herbrand stated that the law says that the Chief will provide a report and the Council can consider if a person is a habitual offender or if the person has broken a law that bears a close nexus to the privilege of holding an operator's license. He cannot speak for the Police Chief; however, Mr. Hickey's record causes concern and there may be a question as to whether there is a close nexus between being able to handle alcohol and serving it.

Council Member Filter stated that during his time on the Common Council, recommendations for denial were based on two or more alcohol related incidents within five years. He will not vote at this time and may vote as present. The reason is not specific enough and Chief Frank should be present to explain.

Council Member O'Keefe asked if the Council would be setting a hearing for the possible denial of Mr. Hickey's license.

City Attorney Herbrand stated that because this license is a new application, the City could act tonight.

Council Member Filter requested to hear from Police Chief Frank before denying the license.

In answer to Council Member Thome's question, City Attorney Herbrand stated that if the Council acts to deny the license this evening, Mr. Hickey will receive a letter from the City Clerk stating that he has the right to a hearing within the next 30 days.

Council Member Reimer asked if the Police Chief could be present.

In answer to Mayor Kinzel's question, City Attorney Herbrand understands the confusion in the process because this is a new license application versus a renewal application. Because this is a new license application, the Council has the right to deny the license this evening. He will then receive a letter giving him the right to a hearing within the next 30 days and Police Chief Frank or a representative of the Police Department should be present.

In answer to Council Member O'Keefe's question, City Attorney Herbrand stated that the Council has the right to table this decision until July 28.

Council Member Filter stated that he is in favor of tabling this item for more information from Police Chief Frank or his representative.

Motion made by Council Member O'Keefe, seconded by Council Member Thome, to table Item E. 3. to consider recommendation of Police Chief to deny new operator's license application of Christopher R. Hickey; and action thereon to the July 28, 2014 Common Council meeting at which time the applicant and Chief Frank or his designee will be present. Motion carried without a negative vote with Council Member Radtke excused.

ADMINISTRATOR'S REPORT

City Administrator/Treasurer Mertes stated that the sales tax audit is complete and a report is coming. The City will have 30 days to appeal the decision. Council Member Filter commended City Administrator/Treasurer Mertes for doing a good job.

COMMENTS AND ANNOUNCEMENTS BY COUNCIL MEMBERS

Council Member Reimer encouraged the Common Council Members to bring him books to take to the King Veteran's Home.

Council Member Maher thanked the Council for attending the Open House for the new Public Library.

MAYOR'S REPORT - None

ADJOURNMENT – CLOSED SESSION

Motion made by Council Member O'Keefe, seconded by Council Member Maher, to adjourn to closed session at 7:55 p.m. pursuant to State Statutes 19.85(1)(e) to deliberate or negotiate the purchase of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session and State Statutes 19.85(1)(g) to confer with legal counsel who is rendering oral or written advice concerning strategy to be adopted by the Council with respect to litigation in which it is or is likely to become involved, more specifically, to discuss the sale of the former library building at W63 N583 Hanover Avenue, to discuss the proposed TID #3 developer's agreement, and to discuss possible litigation involving Advent Lutheran Church. Approval of closed session minutes of June 30, 2014. Motion carried without a negative vote with Council Member Radtke excused.

RECONVENE TO OPEN SESSION

Motion made by Council Member Filter, seconded by Council Member Thome, to reconvene to open session at 8:53 p.m. Motion carried without a negative vote with Council Member Radtke excused.

CONSIDER APPROVAL OF THE SALE OF THE FORMER LIBRARY BUILDING AT W63 N583 HANOVER AVENUE

Motion made by Council Member Reimer, seconded by Council Member O'Keefe, to accept the offer of \$640,000 for the sale of the former Library building at W63 N583 Hanover Avenue contingent upon the Town's approval. Motion carried without a negative vote with Council Member Radtke excused.

ADJOURNMENT

Motion made by Council Member Maher, seconded by Council Member Filter, to adjourn the meeting at 8:54 p.m. Motion carried without a negative vote with Council Member Radtke excused.

Amy D. Kletzien, MMC, WCPC
Deputy City Clerk