

**CITY OF CEDARBURG  
COMMON COUNCIL  
June 9, 2014**

**CC20140609-1  
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, June 9, 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, Paul Radtke, Michael Maher, Patricia Thome, Mike O’Keefe

Also Present – City Administrator/Treasurer Christy Mertes, City Attorney Michael Herbrand, Director of Engineering & Public Works Tom Wiza, Deputy City Clerk Amy Kletzien, Wastewater Superintendent Eric Hackert, 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 O’Keefe, to approve the May 12, 2014 Council minutes. Motion carried without a negative vote.

**UNFINISHED BUSINESS**

**CONSIDER ORDINANCE NO. 2014-07 ALLOWING THE CITY ATTORNEY TO APPOINT ASSISTANTS**

City Attorney Michael Herbrand brought back a revised ordinance to allow the City Attorney to appoint assistant City Attorneys from his firm on an as-needed basis, subject to approval by the City Administrator/Treasurer. Compensation will be in accordance with the City’s contract with the City Attorney. This will allow a team approach from his firm.

Motion made by Council Member Maher, seconded by Council Member Radtke, to adopt Ordinance No. 2014-07 allowing the City Attorney to appoint assistants. Motion carried without a negative vote.

**CONSIDER EMPLOYEE PERSONNEL MANUAL AND ORDINANCE NO. 2014-08 REPEALING SEC. 2-6 OF THE MUNICIPAL CODE ENTITLED "PERSONNEL CODE"**

City Administrator/Treasurer Mertes explained that per the suggestion of the City Attorney at the June 24, 2013 Common Council meeting, the Personnel Code will be changed into a Personnel Manual. The policies are the same as those in the Personnel Code, just reformatted for the handbook.

City Administrator/Treasurer Mertes reviewed the changes and comments offered by Attorney Ron Stadler. It was the consensus of the Common Council to agree to the majority of the comments and suggestions except for the following:

- Do not delete the proposed sentence on page 14 of 60.
- Accept the proposed changes on page 15 of 60 with the exception of Section 3-2(d)(1) add: Police Chief and Library Director after City Administrator and delete parenthesis. Also delete the last sentence in Section 3-2(d)(2).
- Use Google Maps in place of Rand McNally Road Atlas on Page 28 of 60, Section 4-12(c)(1).
- The Personnel Committee should discuss adding a sentence that explains saving records for open records requests on page 34 of 60.
- Add the page back acknowledging the receipt of the Personnel Manual.

In answer to Council Member Reimer's question, City Attorney Herbrand explained that it is an easier process to alter the manual rather than by ordinance. It is not less of a legal document because it is a manual.

Motion made by Council Member Czarnecki, seconded by Council Member Filter, to adopt the revised Employee Personnel Manual as proposed by Attorney Stadler with the exception of the few changes as listed. Motion carried without a negative vote.

Motion made by Council Member Thome, seconded by Council Member O'Keefe, to adopt Ordinance No. 2014-08 Repealing Sec. 2-6 of the Municipal Code entitled "Personnel Code." Motion carried without a negative vote.

**NEW BUSINESS**

**CONSIDER 2013 COMPLIANCE MAINTENANCE ANNUAL REPORT (CMAR) FOR THE WASTEWATER TREATMENT PLANT AND RESOLUTION NO. 2014-09 ACCEPTING THE REPORT**

Wastewater Superintendent Hackert explained that the CMAR is a DNR summary report used to determine the effectiveness of the sewerage system to meet DNR permit limits and to indicate areas of the system that may need improvement. In 2013, no points were deducted from any categories in the report. No action for improvement in the system is needed. At the

recommendation of the Public Works and Sewerage Commission on May 8, 2014, he asked for a motion to accept the CMAR report.

Motion made by Council Member Reimer, seconded by Council Member Filter, to adopt Resolution No. 2014-09 and accepting the 2013 Compliance Maintenance Annual Report (CMAR) for the Wastewater Treatment Plant. Motion carried without a negative vote.

**CONSIDER REQUEST TO FILL VACANT WASTEWATER PLANT OPERATOR POSITION**

Wastewater Superintendent Hackert explained that one of the wastewater plant operators is leaving to take a similar position with another municipality. Because this Department has lost a great amount of seniority over the last few years, it is imperative to fill this position.

Superintendent Hackert and Director Wiza are considering a restructure in the Department between the lab and collection positions, which may affect which position is filled.

Motion made by Council Member Radtke, seconded by Council Member Thome, to authorize filling the vacant Wastewater Plant Operator position. Motion carried without a negative vote.

**CONSIDER AUTHORIZING 50% COST SHARING OF THE BRIDGE ROAD RESURFACING CONTRACT WEST OF WAUWATOSA ROAD**

Director Wiza explained that the corporate boundary between the City and Town of Cedarburg runs right down the centerline of Bridge Road west of Wauwatosa Road. The Town has been planning to resurface the half mile segment immediately west of the new roundabout construction limits, and the City has budgeted for the north half of this pavement. The Town took the initiative on this project and bid out the work. Two bids were received with the low bid coming from Payne and Dolan for \$93,460.55. The City share of this project would be \$46,730.28, if the City agrees to a 50/50 cost split. He added that the project is \$4,700 more than was budgeted; however, this amount is in-line with other similar projects.

In answer to Council Member Reimer's question, Director Wiza confirmed that the Town will award the bid and oversee the project. They will invoice the City when the project is complete.

Motion made by Council Member O'Keefe, seconded by Council Member Maher, to authorize a 50% cost sharing of the Bridge Road resurfacing contract west of Wauwatosa Road in an amount not to exceed \$46,730.28. Motion carried without a negative vote.

**CONSIDER AMENDING POLICY PW-2: SPECIAL ASSESSMENT METHODS FOR PUBLIC WORKS CONSTRUCTION PROJECTS, TO LIMIT CONSTRUCTION COST INDEX ADJUSTMENTS ON DEFERRED ASSESSMENTS AND CHARGES CONTINGENT UPON ANNEXATION TO 10 YEARS**

Director Wiza explained that staff is recommending limited revisions to Public Works Policy PW-2 to revise the sunset on the number of years that the Construction Cost Index adjustments

would apply. The City has some situations where utilities were run past Town properties in the 1970's, and applying the Construction Cost Index escalator for a 20 year time period can make it cost prohibitive to annex. A ten year period provides a realistic option and releases some of the burden that may prevent someone from annexing.

In answer to Council Member Radtke's questions, Director Wiza stated that this change will result in a 20 – 25% drop in charges and will not hurt the taxpayers in the long run. This would apply to numerous town islands.

Council Member Reimer questioned whether the cost index is higher than normal interest and if this would be an impediment for some. He asked that the Public Works and Sewerage Commission do a further study on the difference between normal interest and the construction cost index amounts.

In answer to Council Member Radtke's question, Director Wiza stated that this change will benefit property owners with failing septic systems, who may want to annex into the City.

In answer to Council Member Czarnecki's question, City Attorney Herbrand stated that the City cannot influence a property owner to annex into the City; thereby, offering any incentives for this purpose would not be allowed. The City must wait for interested parties to submit an application.

Motion made by Council Member Reimer, seconded by Council Member Filter, to amend Policy PW-2: Special Assessment methods for Public Works construction projects, to limit Construction Cost Index adjustments on deferred assessments and charges contingent upon annexation to 10 years. Motion carried without a negative vote.

**CONSIDER BIDS FOR THE INLAID GUTTER REPLACEMENT ON THE CITY HALL BUILDING**

Director Wiza explained that the current gutters were built over the top of the side wall of the building and were reliant upon a waterproof liner to prevent leaking. The new gutters will correct any potential leakage into the building.

The City received three bids with the lowest bid submitted by Paul Crandall & Associates for \$42,000. Some wood may need attention and this will cost an additional \$108 per hour. There is \$80,000 in the budget and this project will not come near to this amount.

In answer to Council Member Filter's question, Director Wiza stated that the bids were opened on June 4.

Motion made by Council Member Reimer, seconded by Council Member Radtke, to award the bid for the inlaid gutter replacement on the City Hall building to Paul Crandall & Associates for \$42,600 plus \$108 hourly labor rate for any time and material work. Motion carried without a negative vote.

**CONSIDER REFERRAL OF PROPOSED ANNEXATION OF 5.007 ACRES OF LAND ADJACENT TO AND NORTHWEST OF THE PRAIRIE VIEW SUBDIVISION IN THE TOWN OF CEDARBURG TO THE PLAN COMMISSION**

Property owners Matt and Minal Hahm have submitted a petition for direct annexation of their parcel to the City of Cedarburg. The application should be referred to the Plan Commission for their review and recommendation.

Motion made by Council Member Radtke, seconded by Council Member Thome, to accept and refer the proposed annexation of 5.007 acres of land adjacent to and northwest of the Prairie View subdivision in the Town of Cedarburg to the Plan Commission. Motion carried without a negative vote.

**CONSIDER REQUEST OF JEN AND TIM KELLY OF KELLEY'S INC., TO AMEND THE PREMISES DESCRIPTION OF KELLEY'S DRIVE THRU MARKET AT W61 N506 WASHINGTON AVENUE TO SERVE WINE SAMPLES IN THE TENT IMMEDIATELY TO THE SIDE OF THE BUILDING DURING FESTIVALS**

Tim Kelley explained that they are looking for approval to serve wine samples in a tent adjacent to their building during Festivals to comply with the law.

Motion made by Council Member Maher, seconded by Council Member Thome, to amend the premises description of Kelley's Drive Thru Market at W61 N506 Washington Avenue to serve wine samples in the tent immediately to the side of the building during the hours allowed by State Statutes within the Festival hours. Motion carried without a negative vote.

**CONSIDER AGREEMENTS WITH TIME WARNER CABLE FOR TELEPHONE SERVICE, ORION COMMUNICATIONS, INC. FOR COMMUNICATION SYSTEMS CONSULTING SERVICES, AT&T FOR CENTREX SERVICES AND U.S. CELLULAR FOR WIRELESS DEVICES**

City Administrator/Treasurer Mertes explained that the City's five year contract with AT&T for the City's PRI ended on May 28, 2014. The City received quotes from AT&T and Time Warner Cable. The proposals were analyzed by Orion Communications who recommended switching the phone service over to Time Warner Cable due to the lower cost. It is recommended that the City remain with AT&T for the Centrex line because Time Warner is not able to match this cost. Upon reviewing the cell phone plan it was also suggested that the City renew the contract with US Cellular who offered reduced rates to meet the competitors pricing.

In answer to Council Member Reimer's question, City Administrator/Treasurer Mertes stated there was no committee involvement to review this information. The information was analyzed by Orion Communications, Inc.

City Administrator/Treasurer Mertes explained there will be a one-time installation charge of \$350 from Time Warner Cable. The estimated savings will be \$204/month for telephones. This change will also result in an increase in the internet speed at City Hall.

In answer to Council Member Thome's question, City Administrator/Treasurer Mertes stated that the recent acquisition of Time Warner Cable will not affect this contract.

In answer to Council Member Radtke's question, City Administrator/Treasurer Mertes explained only the needed centrex lines will be kept (24).

City Administrator/Treasurer Mertes stated that City Attorney Herbrand has reviewed all of the contracts.

Motion made by Council Member O'Keefe, seconded by Council Member Thome, to approve the agreements with Time Warner Cable for telephone service, Orion Communications, Inc., for communication systems consulting services, AT&T for Centrex services, and US Cellular for wireless devices. Motion carried without a negative vote.

**CONSIDER MAYOR KINZEL'S APPOINTMENT OF COUNCIL MEMBER JOHN CZARNECKI TO THE LANDMARKS COMMISSION**

Motion made by Council Member Radtke, seconded by Council Member Reimer, to accept Mayor Kinzel's appointment of Council Member John Czarnecki to the Landmarks Commission. Motion carried without a negative vote.

**RECONSIDER EMPLOYEE PERSONNEL MANUAL**

City Administrator/Treasurer Mertes explained there were additional changes to the Personnel Manual that were not included in the earlier discussion in regard to definitions (Sec. 1-3), residency (Sec. 2-10), paid vacations (Sec. 4-2) and sick leave (Sec. 4-4).

It was the consensus of the Common Council to change the wording in Section 2-10 – from ~~fifteen (15) miles of the City's borders~~ to no further than fifteen (15) miles of the City.

Motion made by Council Member Thome, seconded by Council Member Maher, to reconsider the motion to adopt the revised Employee Personnel Manual as proposed by Attorney Stadler with the exception of the few changes as listed. Motion carried without a negative vote.

Motion made by Council Member O'Keefe, seconded by Council Member Reimer, to adopt the revised Employee Personnel Manual with the proposed changes along with the revisions to Sections 1-3, 2-10, 4-2, and 4-4 with one change to Sec. 2-10. Motion carried without a negative vote.

**CONSIDER PAYMENT OF BILLS FOR PERIOD 5/9/14 THROUGH 5/30/14 ACH TRANSFERS FOR THE PERIOD 5/9/14 THROUGH 6/2/14, AND PAYROLL FOR THE PERIOD 4/27/14 THROUGH 5/24/14**

Motion made by Council Member Filter, seconded by Council Member Radtke, to approve the payment of bills for the period 5/19/14 through 5/30/14, ACH transfers for the period 5/9/14

through 6/2/14, and payroll for the period 4/27/14 through 5/24/14. Motion carried without a negative vote.

**CONSIDER LICENSE APPLICATIONS**

Motion made by Council Member Reimer, seconded by Council Member O’Keefe, to approve new Operator’s License applications for the period ending June 30, 2014 for : Alyssa A. Butler, Melanie R. Beining, Bruce A. Krenzke, Natasha Lemon, Michael K. Ollenburg, Stephanie M. Pampel and Michael D. Zeddies. Motion carried without a negative vote.

Motion made by Council Member O’Keefe, seconded by Council Member Filter, to deny the new Operator’s License application for Kari J. Henrichs based on the information provided in the Police Chief’s memo. Motion carried without a negative vote.

Motion made by Council Member O’Keefe, seconded by Council Member Radtke, to authorize issuance of 2014-2015 alcohol and operator licenses as listed:

“Class B” Intoxicating Liquor & Class “B” Fermented Malt Beverage License

World on a Plate, Inc.  
(The Burg)  
Albert Yee – agent  
W62 N547 Washington Avenue

Authorize issuance of new Operator’s License for period ending June 20, 2015:

Jenifer C. Bersch  
Callen L. Cummings

James J. Rice  
Mark J. Hilgendorf

Authorize issuance of renewal Operator’s Licenses for period ending June 30, 2015:

Vanessa K. Altenbach  
Walter H. Alverson  
Kevin J. Bachmann  
Sharon D. Barth  
Melanie R. Beining  
Denise M. Beno  
Daniel W. Brush  
Elizabeth M. Bursten  
Alyssa A. Butler  
Benjamin S. Clithero  
Anne M. Conley  
Morgan A. Deakin  
Shirley A. DeVona

Todd R. Luft  
Michael J. Morales  
Nicholas J. Moran  
Kelly J. Moran  
David B. Myers  
Anette A. Mytko-Kennedy  
Karen M. Nelson  
Sharon L. Nelson  
Brian P. O’Keefe  
Michael K. Ollenburg  
Stephanie M. Pampel  
Hadley W. Pape  
Yolanda M. Peplinski

Deborah J. Downing  
Bethany S. Dykstra  
Steven D. Eskin  
Saul M. Espinosa  
Arthur E. Filter  
Gordon M. Goggin  
Hailey E. Gunville  
LeRoy C. Haeuser  
Lori A. Haeuser  
Jenna L. Hall  
Elizabeth D. Hoffman  
Elizabeth A. Jacobson  
Mark A. Kennedy  
Dennis R. Kison  
Kristen M. Klug  
Mark C. Kowalkowski  
Bruce A. Krenzke  
Leigh A. Kuykendall  
Edmund A. Kwaterski, Jr.  
Jean M. Lambo  
Kimberly S. Larsen  
Mark E. Larson  
Natasha Lemon  
Christian T. Leonard

Sharleen M. Pokora  
Christine L. Pope  
Christian T. Puls  
Sheridan P. Riley  
John P. Robertson  
Richard J. Roden  
Robert J. Roden  
Elizabeth M. Ryan  
Charles H. Strohbach  
Rhyann E. Talbot  
Bryan E. Taylor  
Kevin W. Taylor  
Chris R. Velnetske  
John C. Wallus  
Stacey L. Wedereit  
Kenneth L. Weintraub  
Joseph P. Willbrandt  
Jeffrey A. Wills  
Robert W. Winkel  
Captola R. Wolfe-Bacher  
Anton S. Wycklendt  
Todd R. Zaeske  
John E. Zarling  
Michael D. Zeddies  
James W. Zipter

**LIBRARY FUNDRAISING UPDATE AND LIBRARY BUILDING UPDATE**

Council Member Maher reported that Director Pierschalla reported to him that the Friends of the Library have received \$700,000 with additional pledges not included. The Friends of the Library are confident that they will meet the \$730,000 commitment. He thanked the Cedarburg Junior Women's Club for their recent donation.

**ADMINISTRATOR'S REPORT**

City Administrator/Treasurer Mertes advised the Common Council that Administrative Assistant Jenny Valenta began work in the Administrator and Clerk's Offices today.

**BUILDING INSPECTOR'S REPORT**

Council Member Reimer asked that an additional column be added to the Building Inspector's Report indicating the number of violations issued or the rejection rate.

**COMMENTS AND ANNOUNCEMENTS BY COUNCIL MEMBERS**

Council Member Czarnecki expressed concern regarding the needs and wants for the proposed new public works facility. He will schedule a meeting with Director Wiza to discuss the proposed architectural design.

Council Member Maher stated that his term as a Council Member in the 5<sup>th</sup> District will come to an end soon, as he has purchased a home in the Village of Grafton.

**MAYOR'S REPORT** - None

**ADJOURNMENT – CLOSED SESSION**

Motion made by Council Member Filter, seconded by Council Member Radtke, to adjourn to closed session at 8:33 p.m. pursuant to 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 and 19.85(1)(c) to deliberate or negotiate the purchasing of public properties, the investing of public funds or conducting other specified public business, whenever competitive or bargaining reasons require a closed session, more specifically, to discuss possible litigation involving Advent Lutheran Church, negotiations regarding the sale of the current library and the Town of Cedarburg's interest in the site, and to discuss the lease agreement for the house located at N32 W5464 Hamilton Road in Immanuel Cemetery. Approval of closed session minutes of March 31, 2014 and April 22, 2014. Motion carried unanimously on a roll call vote.

**RECONVENE TO OPEN SESSION**

Motion made by Council Member Filter, seconded by Council Member O'Keefe, to reconvene to open session at 8:58 p.m. Motion carried without a negative vote.

Motion made by Council Member Filter, seconded by Council Member O'Keefe to authorize eviction action against the tenant at N32 W5464 Hamilton Road. Motion carried without a negative vote.

**ADJOURNMENT**

Motion made by Council Member Filter, seconded by Council Member Radtke, to adjourn the meeting at 8:59 p.m. Motion carried without a negative vote.

Amy D. Kletzien, MMC, WCPC  
Deputy City Clerk