

**CITY OF CEDARBURG
COMMON COUNCIL
September 26, 2016**

**CC20160926-1
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, September 26, 2016, 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, Jack Arnett, Dick Dieffenbach, Rick Verhaalen, Mitch Regenfuss, Patricia Thome, Mike O'Keefe

Also Present - City Administrator/Treasurer Christy Mertes, Director Public Works and Engineering Tom Wiza, City Clerk Constance McHugh, Police Chief Tom Frank, City Assessor Cathy Timm, Wastewater Superintendent Eric Hackert, Parks, Recreation and Forestry Director Mikko Hilvo, Forestry Superintendent Kevin Westphal, City Attorney Michael Herbrand, Deputy Director of Emergency Management Frank Even, other members of Emergency Management; interested citizens and news media

STATEMENT OF PUBLIC NOTICE

At Mayor Kinzel 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 Thome, seconded by Council Member Arnett, to approve the minutes of the September 12, 2016 meeting. Motion carried unanimously.

CONSIDER RESOLUTION NO. 2016-19 HONORING FRANK EVEN FOR 50 YEARS OF VOLUNTEER SERVICE

Motion made by Council Member Dieffenbach, seconded by Council Member Thome, to adopt Resolution No. 2016-19 honoring Frank Even for 50 years of volunteer service for Cedarburg Civil Defense, Emergency Government and Emergency Management. Motion carried unanimously.

CONSIDER RESOLUTION NO. 2016-20: CLOSE LOOPHOLES CAUSING MORE OF PROPERTY TAX BURDEN TO SHIFT FROM COMMERCIAL TO RESIDENTIAL

City Assessor Timm said tax attorneys for big box chains such as Walgreens and CVS are using what is known as the "Dark Store" theory to argue that the assessed value of new, thriving stores should be based on the value of vacant or abandoned buildings of similar size. In addition,

drugstores use different but related strategy to argue that the assessed value of their property should be less than half of actual sale prices on the open market. She urged the Council to consider adopting a resolution urging the Legislature to pass legislation clarifying that leases are appropriately factored into the valuation of properties; and assessors must, when using the comparable sale method of valuation, consider as comparable those sales exhibiting a similar highest and best use market segment, rather than similarly sized but abandoned properties.

Council Member Dieffenbach asked if any communities in Wisconsin have been hit by this.

Assessor Timm said that larger communities such as Janesville and Brookfield have been hit with lawsuits.

Motion made by Council Member Czarnecki, seconded by Council Member Dieffenbach, to adopt Resolution No. 2016-20 urging the Legislature to pass legislation to close loopholes causing more of a property tax burden to shift from commercial to residential property. Motion carried unanimously.

CONSIDER RESOLUTION NO. 2016-21 AUTHORIZING THE SUPERINTENDENT OF PARKS & FORESTRY TO ACT ON BEHALF OF THE CITY TO APPLY FOR AN URBAN FORESTRY GRANT

Forester Westphal plans to submit an application for an Urban Forestry grant to pay for 50% of the expenses for the Westlawn Woods Restoration project, or \$14,325.

Motion made by Council Member Arnett, seconded by Council Member Czarnecki, to adopt Resolution No. 2016-21 authorizing the Superintendent of Parks & Forestry to act on behalf of the City to apply for an Urban Forestry Grant. Motion carried unanimously.

CONSIDER REQUEST TO FILL WASTEWATER OPERATOR POSITION

Superintendent Hackert said an operator recently resigned to take a job in the private sector. He is requesting authorization to fill this position.

Motion made by Council Member Thome, seconded by Council Member Czarnecki, to authorize the hiring of a Wastewater Operator. Motion carried unanimously.

CONSIDER BIDS RECEIVED FOR THE 2016 ASPHALT REPAIR PROGRAM

Director Wiza said bids were received for the 2016 asphalt repair program. The lowest responsive bid was submitted by Stark Pavement Corporation in the amount of \$96,430.

Motion made by Council Member Verhaalen, seconded by Council Member Czarnecki, to award the 2016 asphalt pavement repair contract to Stark Pavement Corporation in the amount of \$96,430. Motion carried with Council Members Czarnecki, Dieffenbach, Verhaalen, Regenfuss, Thome and O'Keefe voting aye and Council Member Arnett voting nay.

CONSIDER ACCEPTANCE OF DRAINAGE EASEMENT FOR LOT 41 PRAIRIE VIEW PHASE II

Director Wiza said Homes by Towne, the developer of Prairie View Subdivision, has asked that the City accept a revised drainage easement for lot 41. This easement is needed to better reflect the actual subdivision grading and drainage.

Motion made by Council Member Thome, seconded by Council Member O’Keefe, to accept a drainage easement for lot 41 Prairie View Subdivision Phase II. Motion carried unanimously.

CONSIDER MERCURY MARINE ACCESS AGREEMENT FOR CEDAR CREEK CLEANUP

Attorney Herbrand said an access agreement has been drafted that will allow the remediation of Cedar Creek to occur. He recommended the Council approve the access agreement. A restoration plan will be worked out as the project proceeds.

Motion made by Council Member Thome, seconded by Council Member O’Keefe, to approve the Mercury Marine Access Agreement for the Cedar Creek cleanup with the words “work with Cedarburg” removed from item 7 on page 3. Motion carried unanimously.

CONSIDER REQUEST FOR AUTHORIZATION TO HIRE A POLICE OFFICER DUE TO A RETIREMENT

Chief Frank said Sergeant Stroik announced his retirement on October 7 thereby creating a vacancy. An eligibility list has been created that has two candidates available. He is requesting authorization to hire a police officer.

Motion made by Council Member Thome, seconded by Council Member O’Keefe, to authorize the hiring of a Police Officer. Motion carried unanimously.

DISCUSS CEDARBURG SCHOOL DISTRICT FACILITY FEES CHARGED TO THE CITY

Director Hilvo said a fee schedule for use of Cedarburg School District facilities has been received by his Department. Previously the City did not have to pay rental fees for facilities and paid custodial fees for opening and closing facilities only. He said the School District is now charging rental fees, hourly fees, and custodial fees of \$25 to \$45 per hour with the requirement that a custodian be present during the times the facility is being used. He said the costs that would need to be passed along to participants to cover these fees will be very high.

Council Member Arnett said he reviewed his tax bill. The School District portion of the tax bill is 45%. He said with the proposed fee structure residents will be paying twice.

Council Member Czarnecki said the School District is now telling the City what will be charged. He said he finds it ironic that in the letter from the School District the Superintendent is referring to “our” facilities and “our” property. He said these are taxpayer facilities and properties and now the

City is being told fees will be charged for their use. He said this is obviously not fair, and ludicrous. He said residents are paying twice.

Council Member Arnett said the fee increases range on average from 40% to 200%; however, fees for the JV tennis courts are increasing by 500% and fees for the high school courts are increasing by 700%. Use of the tennis courts does not require any custodial fees, electricity, heating or cooling costs, or incur much wear and tear.

Mayor Kinzel said user fees generally do make sense; however, the proposed fee increases are ludicrous.

Council Member Regenfuss said the purpose of the fees is to get things in the right bucket. He suggested the Council go back to the School District with new ideas.

Council Member Czarnecki said the School District has not responded to the Council, except to provide the fees.

Council Member Arnett said the Council has offered the same as has been offered in the last 50 years. That is – providing a chunk of money for the tennis courts and in return receiving a waiver of fees. The School District had indicated they will take the sum of money, waive tennis court fees, but will not waive fees for other facilities. He suggested each program be reevaluated to determine if some programs can happen in City facilities.

Council Member Verhaalen said the School District did say they would consider picking up some programs.

Council Member Thome said the Council needs to figure out something with the School District. Council Member Arnett agreed.

Council Member Verhaalen again suggested that the programs be joint programs with the School District and Town and City of Cedarburg, rather than the programs being run separately by each entity. He said he thinks the School District is willing to work this way also.

Council Member Dieffenbach said he is always in favor of collaboration and said representatives from the Town, City and School District must meet.

Council Members Arnett, Verhaalen and Thome volunteered to again discuss this matter with the School District, along with Director Hilvo.

PRESENTATION OF THE WESTLAWN WOODS PROJECT

Pastor John Norquist of Faith Lutheran Church highlighted the Westlawn Woods project, which is a joint project between Westlawn School, Faith Lutheran Church, and Riveredge Nature Center. Upon starting the presentation he acknowledged Westlawn teachers Ann Ingham and Kathleen Kotnick and Riveredge Nature Center volunteers Fred Rusch, Tom Sear and Phyllis McKenzie.

Pastor Norquist said Faith Lutheran Church sits on 9 acres. In 2008 the Church and Westlawn principle P.J. Sanders met to do some visioning and to determine how to better use the woods. Westlawn Woods consists of 6.5 acres of forest, with the City owning a small portion. Pastor Norquist and Mr. Sanders approached Riveredge Nature Center to determine how to be better stewards of the land and how to restore the woods.

In 2010 the group began to remove buckthorn. In 2011, an area was opened for teaching, an explore and play area was developed, kids trails developed, removal of invasive species continued, and the planting of native trees and shrubs began. A total of 910 trees and shrubs have been planted since 2011. Volunteers have put in 2,000 hours of service since 2010. The joint project is being funded by an \$11,950 Urban Forestry grant, the Faith Lutheran Church Conservation Fund, Thrivent Financial, Westlawn School and PTO, the Riveredge Nature Center, and in-kind donations.

Pastor Norquist said he appreciates the opportunity to tell this story and thanked Superintendent Westphal for his support.

The Mayor and Council thanked Pastor Norquist for his presentation and the group's efforts. Director Hilvo said his Department is grateful to these groups in the community because they help get things done that are not otherwise budgeted for.

CONSIDER UNFUNDED ITEMS IN THE 2017 BUDGET

Director Hilvo said he and Forester Westphal would like to bring to the Council's attention projects that will likely not be included in the proposed 2017 budget. He said there are some projects that are not getting done and his Department has been receiving calls from the public.

Council Member Czarnecki questioned why the Council is discussing this when the budget has not yet been presented.

Forester Westphal presented information on the following items on the unfunded list:

1. Westlawn Woods restoration - \$28,650
2. Contracted street tree pruning - \$58,800
3. Street/utility project lateral boring under trees - \$5,400
4. Contracted stump removal and site restoration - \$27,000
5. Beautification project on Lincoln Blvd. - \$4,760
6. Purchase of a water-reel irrigation system for Behling Field and Cedar Creek Park band shell lawn - \$7,000

Director Wiza said two Public Works unfunded items are:

1. \$16,500 to clean and paint garbage cans in downtown
2. Addition of \$10,000 in capital improvements for street repairs

Mayor Kinzel said it may be helpful to have information as to the services the City has contracted for over the past several years versus adding additional staff. Council Member Arnett suggested the Council be presented with a menu of options on ways these projects could be accomplished.

PAYMENT OF BILLS

Motion made by Council Member Czarnecki, seconded by Council Member Thome, to approve the payment of the bills for the period 09/08/16 through 09/16/16, ACH transfers for the period 09/08/16 through 09/21/16, and payroll for the period 08/28/16 through 09/10/16. The motion carried unanimously.

LICENSE APPLICATIONS

Motion made by Council Member O'Keefe, seconded by Council Member Thome, to authorize the issuance of new Operator licenses for the period ending June 30, 2017 to Chad A. Doedens and Aida H. Kozic. Motion carried unanimously.

COMMENTS AND ANNOUNCEMENTS BY COUNCIL MEMBERS

Council Member Dieffenbach said Amy Birtell, Director of the Eastern Shores Library System, will be speaking at the Library on September 28.

Council Member Dieffenbach asked if regular employees are allowed to get flu shots at the Light and Water flu shot clinic.

City Administrator/Treasurer Mertes said all employees can get flu shots at Light and Water. A flu shot clinic will also be held at the Senior Center next week.

Council Member Dieffenbach asked for a financial update on the new Public Works facility.

ADJOURNMENT

Motion made by Council Member Arnett, seconded by Council Member Czarnecki, to adjourn the meeting at 9:07 p.m. Motion carried unanimously.

Constance K. McHugh, MMC/WCPC
City Clerk