

**CITY OF CEDARBURG
COMMON COUNCIL
March 28, 2016**

CC20160328-1

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, March 28, 2016, at City Hall, W63 N645 Washington Avenue, second floor, Council Chambers. Mayor Kip Kinzel called the meeting to order at 7:00 p.m.

ROLL CALL: Present - Common Council: Mayor Kip Kinzel, Council Members Jack Arnett, Art Filter, Rick Verhaalen, Patricia Thome, Mike O'Keefe

Excused - Council Members John Czarnecki and Mitch Regenfuss

Also Present - City Administrator/Treasurer Christy Mertes, Police Chief Tom Frank, Director of Engineering and Public Works Tom Wiza, City Clerk Constance McHugh, Light and Water General Manager Dale Lythjohan, Director of Parks, Recreation and Forestry Mikko Hilvo, Economic Development Coordinator Mary Sheffield, City Attorney Michael Herbrand, 3rd Aldermanic District Candidate Dick Dieffenbach, Todd Taves and Maureen Schiel from Ehlers, Michael Lindner from Hotel R & D; interested citizens and news media

STATEMENT OF PUBLIC NOTICE

At Mayor Kinzel's 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 Filter, seconded by Council Member O'Keefe, to approve the minutes of the March 14, 2016 meeting as presented. Motion carried unanimously with Council Members Czarnecki and Regenfuss excused.

CONSIDER RESOLUTION NO. 2016-04: INITIAL RESOLUTION AUTHORIZING GENERAL OBLIGATION BONDS IN AN AMOUNT NOT TO EXCEED \$8,810,000 FOR A BUILDING FOR HOUSING OF MACHINERY AND EQUIPMENT

Maureen Schiel of Ehlers presented the Pre-Sale Report for the borrowing of \$9,830,000 over a 20 year period. General Obligation bonds in the amount of \$8,810,000 will be used for the construction of the new public works facility and \$1,020,000 will be used for sanitary sewer projects. The projected debt service impact on a homeowner with a home assessed at \$260,000 will be approximately \$136 a year. Also presented were the projected debt limit calculations. Ms. Schiel reminded the Council that with this borrowing the City will be at 30% of its debt capacity. The City has the ability to borrow an additional \$43 million.

Motion made by Council Member Filter, seconded by Council Member O'Keefe, to adopt Resolution No. 2016-04: Initial Resolution authorizing General Obligation bonds in an amount not to exceed \$8,810,000 for a building for housing of machinery and equipment. With Council Members Arnett, Filter, Verhaalen, Thome and O'Keefe voting aye and Council Members Czarnecki and Regenfuss excused, the motion carried unanimously on a roll call vote.

CONSIDER RESOLUTION NO. 2016-05: INITIAL RESOLUTION AUTHORIZING GENERAL OBLIGATION BONDS IN AN AMOUNT NOT TO EXCEED \$1,020,000 FOR SANITARY SEWER PROJECTS

Motion made by Council Member Filter, seconded by Council Member Thome, to adopt Resolution No. 2016-05: Initial Resolution authorizing General Obligation Bonds in an amount not to exceed \$1,020,000 for sanitary sewer projects. With Council Members Arnett, Filter, Verhaalen, Thome and O'Keefe voting aye and Council Members Czarnecki and Regenfuss excused, the motion carried unanimously on a roll call vote.

CONSIDER RESOLUTION NO. 2016-06: RESOLUTION DIRECTING PUBLICATION OF NOTICE TO ELECTORS RELATING TO BOND ISSUES

Motion made by Council Member Thome, seconded by Council Member Arnett, to adopt Resolution No. 2016-06: Resolution directing publication of the Notice to Electors relating to bond issues. With Council Members Arnett, Filter, Verhaalen, Thome and O'Keefe voting aye and Council Members Czarnecki and Regenfuss excused, the motion carried unanimously on a roll call vote.

CONSIDER RESOLUTION NO. 2016-07: RESOLUTION PROVIDING FOR THE SALE OF \$9,830,000 GENERAL OBLIGATION CORPORATE PURPOSE BONDS, SERIES 2016A

Motion made by Council Member O'Keefe, seconded by Council Member Thome, to adopt Resolution No. 2016-07: Resolution providing for the sale of \$9,830,000 General Obligation Corporate Purpose Bonds, Series 2016A. With Council Members Arnett, Filter, Verhaalen, Thome and O'Keefe voting aye and Council Members Czarnecki and Regenfuss excused, the motion carried unanimously on a roll call vote.

CONSIDER REQUEST OF THOMAS RESTAURANTS, LLC TO AMEND THE PREMISE DESCRIPTION OF THE CLASS "B" BEER AND "CLASS B" LIQUOR LICENSES OF TOMASO'S AT W63 N688 WASHINGTON AVENUE TO SELL AND SERVE ALCOHOL OUTSIDE DURING STRAWBERRY AND WINE AND HARVEST FESTIVALS

Motion made by Council Member O'Keefe, seconded by Council Member Thome, to approve the request to amend the premise description of the Class "B" beer and "Class B" liquor licenses of Tomaso's at W63 N688 Washington Avenue to sell and serve alcohol outside during Strawberry and Wine and Harvest Festivals under a tent located on the street directly in front of the business. Motion carried unanimously with Council Members Czarnecki and Regenfuss excused.

CONSIDER THE REQUEST OF STAGECOACH 520 LLC TO AMEND THE PREMISE DESCRIPTION OF THE CLASS “B” BEER AND “CLASS B” LIQUOR LICENSES OF THE STAGECOACH INN/THE 520 AT W61 N520 WASHINGTON AVENUE TO SELL AND SERVE ALCOHOL OUTSIDE DURING STRAWBERRY AND WINE AND HARVEST FESTIVALS

Motion made by Council Member Thome, seconded by Council Member Arnett, to approve the request to amend the premise description of the Class “B” beer and “Class B” liquor licenses of The Stagecoach Inn/The 520 at W61 N520 Washington Avenue to sell and serve alcohol outside during Strawberry and Wine and Harvest Festivals under a tent located on the street directly in front of the business. Motion carried unanimously with Council Members Czarnecki and Regenfuss excused.

CONSIDER FUNDING THE BORING OF STREET LATERALS IN THE 2016 STREET & UTILITY PROJECT TO SAVE STREET TREES

Director Hilvo said there are 10 City-owned street trees located in the 2016 Street and Utility project area that are in conflict with the proposed sewer and water lateral replacement. These trees were planted on top of or very close to the utility laterals servicing these homes. In order to preserve them, an alternative to open trenching next to the trees must be used. This alternative, called lateral boring, is a trench-less technology which digs under the root system of the trees, keeping the root system intact. This technology is more expensive, costing an additional \$53 per foot. Parks and Forestry staff requested funding for this project be included in the 2016 budget; however, the funding was cut from the budget. Staff is requesting funding in the amount of \$8,480 to preserve these street trees during construction.

Director Wiza said the cost of the boring is included in the contract for the 2016 Street and Utility project. It is a question of which department should pay for the boring. For example, should the Parks and Forestry Department, the Sewer Department, or Cedarburg Light and Water pay.

Mayor Kinzel said if boring is not done, the City will have to pay to remove the trees and plant new ones. Director Hilvo said the cost of a new tree is \$300 to \$500, plus staff time.

Council Member O’Keefe asked if the necessary boring is unique to this project.

Director Hilvo said staff does not come across this very often.

Council Member Arnett suggested that which Department pays for the costs of the boring be determined by a radius, such as 10’

Director Wiza suggested that if the lateral is beyond 8’ of the center of the tree and the Parks and Forestry Department wants to do the boring, that Department should pay. General Manager Lythjohan suggested that the type of service determine which Department pays.

Mayor Kinzel asked what happens if the homeowner suggests the tree not be saved.

Director Hilvo said then perhaps there be no boring in this case.

Council Member Thome suggested the decision to save the tree be left up to the Parks and Forestry Department so that healthy trees are not removed.

Motion made by Council Member Arnett, seconded by Council Member Thome, to authorize funding for the boring of street laterals to save the healthy street trees in the amount of \$8,480. If the lateral is within 8' of the center of the tree, the entity that has use of the lateral causing the need for the boring shall pay for the boring. If a tree is imposing on the curb, it is to be removed. Motion carried with Council Members Arnett, Verhaalen, Thome, and O'Keefe voting aye, Council Member Filter voting nay, and Council Members Czarnecki and Regenfuss excused.

CONSIDER AGREEMENT WITH HOTEL R & D FOR A HOTEL FEASIBILITY STUDY

Economic Development Coordinator Sheffield said four proposals were submitted by consulting firms that specialize in hotel feasibility studies. She and Administrator/Treasurer Mertes reviewed the proposals and are recommending the proposal from Hotel R & D in the amount of \$7,000 be accepted. The reasons for the recommendation include the experience of the consultant, the consultant meeting overall study parameters, the proposal being the lowest fee, the option of marketing to hotel franchises at no additional cost, inclusion of the impact on the current inns, positive references, and an acceptable timeframe.

Council Member Filter asked if any of the firms could possibly come back with a recommendation that a hotel will not work in this area.

Michael Lindner from Hotel R & D said it is possible that his firm or any firm would come back with a recommendation that a hotel in the area is not feasible. He said this will be known when the field work is completed. If that is the case, the study will be shut down or could possibly go in another direction.

Council Member Verhaalen asked if the study will address the quality of hotels that may come to the area and possible amenities that customers may be seeking.

Mr. Lindner said he will be starting with a clean slate when doing the study. Amenities will be looked at in terms of filling any gaps that may exist.

Council Member O'Keefe said that it is worth noting that Mr. Lindner is not affiliated with any franchise, but rather is an independent consultant.

Council Member Arnett asked what percentage of other communities pay for these types of studies as compared to the hotel franchises paying for them.

Mr. Lindner stated that about 75% of the communities where these studies are done are paying for them. This is a change from 10 years ago when developers were mainly paying for the studies.

Council Member O'Keefe made a motion to accept the proposal from Hotel R & D in an amount not to exceed \$7,000 for a hotel feasibility study. The motion was seconded by Council Member Thome.

Council Member Arnett questioned whether the Council is putting the cart before the horse, and whether the Council should decide first whether Cedarburg wants a hotel.

Council Member Filter said he supports doing a study. He said if the Council accepts the proposal, it is basically saying if there is a need for a hotel in the community one will be approved.

Council Member O'Keefe said a study is one way of addressing the Smart Growth areas in the City and possibly bringing in more revenue from room taxes. He said there could also be a benefit to the existing inns in the City.

Mayor Kinzel said that a hotel could possibly spur additional development around it.

Council Member Verhaalen said he is in favor of pursuing a hotel in Cedarburg. He said he would like to see one in the City rather than in a neighboring community.

Council Member Thome said she believes there is enough going on in the City to support a hotel. She said there is a need that can be filled.

With Council Members Filter, Verhaalen, Thome and O'Keefe voting aye, Council Member Arnett voting nay and Council Members Czarnecki and Regenfuss excused, the motion to accept the proposal from Hotel R & D in an amount not to exceed \$7,000 carried.

CONSIDER PURSUING THE CONSTRUCTION OF A MONOPOLE ON WESTERN ROAD (EMERGENCY MANAGEMENT AND CURRENT WATER TOWER SITE)

City Administrator/Treasurer Mertes said the water tower on Western Road is at full capacity for cell service equipment, although the City is receiving requests from providers to add equipment. Any additional loading on the tower will make it structurally unstable. Staff has been discussing options such as retiring the tower, building a new water tower, and building a monopole to house equipment. The current cell tower leases are coming due in the next 3 to 5 years.

The Light and Water Commission hired a consultant to review the viability of retiring the water tower. It was the consensus of the Commission to keep the water tower in service. This leaves the option of constructing a monopole or strengthening the current water tower. With the painting of the water tower scheduled for the fall of 2017, staff feels it would be a good time to suggest the option of a monopole to the cell service providers since they would have to move their equipment for the painting.

City Administrator/Treasurer Mertes said staff met with consultants from SEH to discuss the options. Staff asked for a proposal to complete a monopole feasibility study. Issues with the site came up during this process and staff is looking for direction. Some of the issues are the minimal ground space to construct a tower foundation and a construction zone/area necessary to complete the project, and possible bedrock on the site. Staff is looking for direction as to whether the Council is interested in pursuing this project, as the cost for the foundation alone could be \$350,000 to \$400,000, for a total cost of approximately \$1 million. The City would need to spend approximately \$5,000 for borings to determine the depth and type of the bedrock and where the

foundation could possibly fit on the site. It is up to the Council to determine if it is worth spending \$5,000 on geotechnical engineering.

Council Member Filter questioned whether the cell service providers would pay for the costs.

Attorney Herbrand said that if the City pays for the construction of the monopole it could rent space to the providers. This is something that could be negotiated with the providers.

Council Member Arnett said the issue before the Council tonight is whether or not to spend the \$5,000 on the geotechnical engineering. He said that there are a lot of pieces to this and the Council needs to know what is underground. He said he would support spending the money in order to protect the income the City receives from the cell service providers.

General Manager Lythjohan agreed there are a lot of issues involved. The consultant is suggesting the geotechnical work be done first and this seems like a reasonable approach to figure out if the construction of a monopole is an option.

Mayor Kinzel asked what happens if the monopole is too tall. It could be found to be offensive to some neighbors.

Attorney Herbrand said there is a fairly new State law that may allow a tower on this site. If that is the case, the City must ensure that it is constructed in a safe manner and is unobtrusive.

Motion made by Council Member Filter, seconded by Council Member Arnett, that staff proceed with soil borings/geotechnical engineering in an amount not to exceed \$5,000. Motion carried unanimously with Council Members Czarnecki and Regenfuss excused.

PRESENTATION OF THE 2015 POLICE DEPARTMENT ANNUAL REPORT

Police Chief Frank presented a summary report of the Police Department activities for 2015. He acknowledged the Police and Fire Commission and their contributions. He specifically acknowledged John Hammen, a 17 year member of the Police and Fire Commission, who recently passed away. The following facts were presented:

- There were 5 violent crimes in 2015, compared to 0 in 2014.
- Property crimes increased to 114 in 2015, compared to 107 in 2014.
- Stolen property decreased to \$64,571, compared to \$81,067 in 2014.
- 20 felonies and 76 misdemeanors occurred in 2015, compared to 24 felonies and 80 misdemeanors in 2014.
- 707 reports were investigated in 2015, compared to 719 in 2014.
- Calls for service increased from 20,296 in 2014 to 20,622 in 2015.
- 2,058 people were assisted in 2015, compared to 2,323 in 2014.
- Citizens at the station increased from 5,730 in 2014 to 6,058 in 2015.
- Telephone calls increased from 10,580 in 2014 to 10,611 in 2015.
- 911 calls decreased from 2,875 in 2014 to 2,642 in 2015.
- 181 alarms were responded to in 2015, compared to 202 in 2014.

- Department activities included 261 non-traffic arrests in 2015, compared to 265 in 2014; 1,362 traffic arrests in 2015 compared to 1,508 in 2014.
- Warnings for non-traffic offenses decreased from 434 in 2014 to 419 in 2015.
- Traffic warnings increased from 2,936 in 2014 to 3,770 in 2015.
- 156 speeding tickets were issued in 2015, compared to 136 in 2014.
- OWI offenses decreased to 26 in 2015, compared to 31 in 2014.
- Arrests for adult alcohol offenses decreased to 28 in 2015, compared to 34 in 2014.
- Juvenile arrests decreased from 24 in 2014 to 9 in 2015.
- 13 tobacco violations occurred in 2015, compared to 16 in 2014.
- Drug offenses increased from 29 in 2014 to 50 in 2015.
- 70 bicycle/skateboard warnings were issued in 2015, compared to 158 in 2014.
- Worthless checks decreased from \$3,016 in 2014 to \$1,980, with 10 investigations.
- 133 accidents occurred in 2015 with 32 injuries compared to 140 accidents with 28 injuries in 2014.
- Community policing included 105,850 checked doors with 226 open doors, 1,375 vacation checks, 145 vehicle lockouts, 786 rescue squad calls, 202 fire calls, Safety Town and Safety Camp for 190 students, School Liaison Officer, child safety seat inspections (35), Safety Days, Website, Tele-care program, Facebook, TIP411, Hunter Safety program (50 participants), renting of the Community Room (78 public meetings), bicycle safety programs and patrol, and the DMV vehicle registration program resulted in 657 transactions totaling \$5,377.50 in profit to the City.
- In 2015 1,258 hours of overtime were paid and 1,436 hours comp time taken by employees.
- Training hours increased from 2,353 in 2014 to 2,821 in 2015.

Chief Frank said there are 17 active members of Emergency Government/Auxiliary Police. These individuals are a tremendous help in alleviating overtime and are an asset for the Police Department and the community.

The Cedarburg Police Department participates in Mutual Aid with two officers and one negotiator on the Ozaukee Special response Team and one officer plus the K-9 on the Ozaukee Drug Enforcement Unit. Assists to other departments totaled 102 in 2015, compared to 119 in 2014.

Personnel changes included the addition of Paul Riegel as a Dispatcher.

Equipment changes consisted of two marked patrol vehicles, Use of Force Simulator, and a siren replacement at Zeunert Park.

Officer Eric Weisenberger, Thomas Schellinger and Dustin Koehler received Life Saving awards. Officer Thomas Develice received the Top Shot Award for having the high score in the yearly competition.

The Police Department received WI LEAG Accreditation by meeting 340 standards. Cedarburg is one of only 30 agencies out of 600 to receive this accreditation. Re-accreditation will occur this year.

Chief Frank said Canine Officer Jake recently had surgery on his ACL and is expected to recover fully.

The Mayor and Council thanked Chief Frank for his presentation.

PAYMENT OF BILLS

Motion made by Council Member Filter, seconded by Council Member Thome, to approve the payment of the bills for the period 03/11/16 through 03/18/16, ACH transfers for the period 02/06/16 through 02/24/16, and payroll for the period 01/31/16 through 02/13/16. The motion carried unanimously with Council Members Czarnecki and Regenfuss excused.

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, 2016 to Nan J. Bolker and Jennifer B. Bunn. Motion carried unanimously with Council Members Czarnecki and Regenfuss excused.

DISCUSSION/POSSIBLE ACTION ON A RESOLUTION REGULATING OCCUPANCY OF PUBLIC RIGHTS-OF-WAY

Attorney Herbrand said many communities have been receiving requests to erect utility infrastructures on public rights-of-way. If communities do not act within 20 days on the request, it is deemed approved. He presented a resolution regulating occupancy of public rights-of-way. The resolution describes the procedures as to how these companies can apply for a permit to use the public right of way. The resolution also deals with revocations, suspensions and refusals to issue or extend permits. The purpose of the resolution is to set established criteria so the City can act on applications in an objective manner. He said the resolution is a work in progress and it is likely his firm will present a formal ordinance to the Council at a later date.

Director Wiza suggested the fee schedule in section 7(b) be modified to accurately reflect the City’s current fees.

Motion made by Council Member Filter, seconded by Council Member O’Keefe, to adopt Resolution 2016-08 regulating occupancy of public rights-of-way subject to a change in the fee schedule in section 7(b) in accordance with the City’s adopted fee schedule. Motion carried unanimously with Council Members Czarnecki and Regenfuss excused.

COMMENTS AND ANNOUNCEMENTS BY COUNCIL MEMBERS

Council Member Filter thanked City Clerk McHugh for her hard work and dedication over the years he served on the Council.

Council Member Arnett said he attended the last School Board meeting to describe what has happened at the Council level in terms of the tennis court issue and to try to keep the lines of communication open.

MAYOR'S REPORT

Mayor Kinzel issued a proclamation proclaiming April 29, 2016 as Arbor Day in the City.

ADJOURNMENT

Motion made by Council Member Filter, seconded by Council Member O'Keefe, to adjourn the meeting at 9:07 p.m. Motion carried unanimously with Council Members Czarnecki and Regenfuss excused.

Constance K. McHugh, MMC/WCPC
City Clerk