

**CITY OF CEDARBURG  
COMMON COUNCIL  
July 25, 2016**

**CC20160725-1  
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, July 25, 2016, at City Hall, W63 N645 Washington Avenue, second floor, Council Chambers. Council President O'Keefe called the meeting to order at 7:00 p.m.

ROLL CALL: Present - Common Council: Council Members John Czarnecki, Jack Arnett, Dick Dieffenbach, Rick Verhaalen, Patricia Thome, Mike O'Keefe

Excused - Mayor Kip Kinzel, Council Member Mitch Regenfuss

Also Present - City Administrator/Treasurer Christy Mertes, Public Works Tom Wiza, City Clerk Constance McHugh, Light and Water General Manager Dale Lythjohan, City Attorney Michael Herbrand; interested citizens and news media

**STATEMENT OF PUBLIC NOTICE**

At Council President O'Keefe'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.

Council Member O'Keefe said as Acting Mayor he is retaining his right to vote as Council Member of the 7<sup>th</sup> Aldermanic District.

**APPROVAL OF MINUTES**

Motion made by Council Member Thome, seconded by Council Member Dieffenbach, to approve the minutes of the July 11, 2016 meeting. Motion carried unanimously with Council Member Regenfuss excused.

**RESOLUTION NO. 2016-13 CELEBRATING THE CEDARBURG FIRE DEPARTMENT'S 150<sup>TH</sup> ANNIVERSARY**

Motion made by Council Member Thome, seconded by Council Member Arnett, to adopt Resolution No. 2016-13 celebrating the Cedarburg Fire Department's 150<sup>th</sup> Anniversary. Motion carried unanimously with Council Member Regenfuss excused.

**CONSIDER RECOMMENDATION OF POLICE CHIEF TO DENY RENEWAL OPERATOR'S LICENSE APPLICATION OF MICHAEL J. MORALES**

Attorney Herbrand said Michael Morales applied for a renewal of a current operator's license. Chief Frank has provided the Council with a recommendation to deny the license based on the

background investigation. Because this is a renewal of an existing license, the applicant has a right to a due process hearing prior to the denial. He said if the Council wishes to consider Chief Frank's recommendation; a hearing for Mr. Moralez should be scheduled.

It was the consensus of the Council to hold a hearing on Monday, August 29, 2016 at 6:00 p.m.

**CONSIDER RETAINING A CONSULTANT AND CONSTRUCTION OF A NEW MONOPOLE CELL TOWER ON CITY-OWNED PROPERTY LOCATED ON WESTERN ROAD ADJACENT TO THE WATER TOWER; AND ACTION THEREON**

Director Wiza said the City currently leases space on the Western Road water tower to telecommunications companies. The need for additional antennae space continues to increase, and the tower is very full and nearing structural capacity due to increased wind loading. In addition, Cedarburg Light and Water is considering retiring this tower in the near future. If the City wishes to continue the revenue stream collected from leasing space on the tower, the Council should consider construction of an adjacent monopole to which the existing antennae could be transferred, and new ones added.

Director Wiza said if there is consensus that a new monopole should be constructed, a consultant with expertise in this area could be retained. He estimates it could cost \$400,000 to construct a new 190' monopole, but the costs could be as high as \$800,000 to \$900,000 if there are site problems, or as low as \$300,000.

Director Wiza said a Council Member contacted him to ask how the City would go about doing the engineering work to get the process started. He said the firm of SEH has a lot of expertise in this area and has worked with Cedarburg Light and Water on related work and could be retained to do a feasibility study. Director Wiza said the feasibility would look at three things: 1) soil, foundation, site survey, and constructability issues; 2) regulatory concerns; and 3) detailed construction cost estimates. The estimated cost of this first phase is \$40,000 to \$60,000. The second phase would be the development of engineering and bid specifications. This is estimated to be around 10% to 15% of the construction cost.

Director Wiza said a Council Member asked if this firm could also assist with the negotiations with the telecommunication providers regarding locating on the monopole. Director Wiza said SEH prefers not to be involved in the negotiations. SEH has provided the names of a few firms that do broker these kinds of things, but indicated they may retain 45% of the rental revenue for their services. SEH also suggested that the City Attorney may be able to see the City through the negotiation process.

General Manager Lythjohan said the Western Road water tower is 65 years old. The primer is failing and the tower cannot be recoated but must be fully repainted. The cost to paint the tower is estimated to be \$350,000 to \$450,000. The Light and Water Commission made a decision not to repaint the tower but to extend the life 2-4 years until a new water tower can be built. The existing antennae can stay on the tower; however carriers looking to upgrade their antennae and install additional antennae cannot.

Council Member Arnett asked what the annual revenue is from leasing space on the water tower.

City Administrator/Treasurer Mertes said the annual revenue is \$143,000.

City Attorney Herbrand said the existing antennae on the water tower are cutting into the stress threshold and Light and Water is looking into retiring this water tower. This is really what is driving this.

Council Member Thome said a feasibility study would look at regulatory concerns. She questioned if the current antennae are compliant with regulations.

Attorney Herbrand said recent legislation passed by the Legislature has lessened the ability of local government to regulate cell tower location. He said there are also some risks involved and other compliance issues that must be examined.

Council Member Arnett said the consultant fees seem a bit high and questioned whether other consultants could be contacted.

Director Wiza said he would have to research the firms that could do this. SEH is very familiar with the current situation. It may also move the process along faster to select SEH. He said a consultant would likely be needed to write an RFP if the Council would like to see other proposals.

Council Member Arnett said the City would be creating an asset worth over \$2 million if a monopole is constructed. He said the Council needs to figure out a way to get this done. He said he would like to know how much money the telecommunication providers could possibly contribute towards the construction costs. He said the Council should move forward with this.

Attorney Herbrand said staff has started to assemble that sort of information. If built correctly, there could be leasing for 25 years. There would be negotiations with the providers in terms of leases and rent amount and payments towards the construction of the monopole.

Director Wiza said SEH would likely be willing to share the information Council Member Arnett is asking for.

Council Member Dieffenbach asked if the technology that will be placed on the tower will still be current in 25 years.

Director Wiza said this is a good question, and something the consultant probably has some insight on.

It was the consensus of the Council to move forward in terms of doing a feasibility study related to the construction of a new monopole on City-owned property located on Western Road adjacent to the existing water tower. The Council directed staff to obtain a proposal for the feasibility study from SEH for review at the next Council meeting.

### **PAYMENT OF BILLS**

Motion made by Council Member Dieffenbach, seconded by Council Member Arnett, to approve the payment of the bills for the period 07/08/16 through 07/15/16, ACH transfers for the period

07/08/16 through 07/22/16, and payroll for the period 07/03/16 through 07/16/16. The motion carried unanimously with Council Member Regenfuss excused.

**LICENSE APPLICATIONS**

Motion made by Council Member Arnett, seconded by Council Member Czarnecki, to authorize the issuance of new Operator licenses for the period ending June 30, 2017 to:

Martha K. Boehlke	David J. Burnside
Woody H. Burrell	Edward J. Dettloff
Latoya Fuller	Cynthia M. Petted
Paul H. Voight	

Motion carried unanimously with Council Member Regenfuss excused.

Motion made by Council Member Thome, seconded by Council Member Czarnecki, to authorize the issuance of renewal Operator licenses for the period ending June 30, 2017:

Richard L. Carlson	Abigail J. Clausing
Amanda J. Clausing	Jennifer A. Clausing
John W. Dais	Dan J. Gogin
Jerry J. Henning	Joshua P. McCutcheon

Motion carried unanimously with Council Member Regenfuss excused.

**CITY ADMINISTRATOR'S REPORT**

City Administrator/Treasurer Mertes said eight responses were received for the RFPs that were sent out for auditing services. This item will be on the agenda of the next Council meeting.

**COMMENTS AND ANNOUNCEMENTS BY COUNCIL MEMBERS**

Council Member Verhaalen asked for an update on the repair of the railroad crossings.

Attorney Herbrand said the City provided its evidence to the State regarding the requested repair. The railroad had until last Friday to provide its counter-evidence. He said it is unlikely the railroad provided any documentation so the next step will be to lobby the Railroad Commissioner to set a hearing.

Council Member Dieffenbach said the County provides \$250,000 each year to this railroad to help with maintenance costs. He suggested the County be contacted.

Council Member Dieffenbach asked if the high school tennis court issue is dead.

Council Member Arnett said the Cedarburg School Board voted to resurface the tennis court and pay for the costs. It is unknown at this time what the impact will be on fees charged to the City's Park and Recreation program.

Council Member Dieffenbach said Summer Sounds will be having a major band in town as part of its summer series. He asked if additional planning is going on.

Council Member O'Keefe said that he and the Mayor will be meeting with the Police Chief, Fire Chief, staff and Summer Sounds to discuss planning for this event.

**ADJOURNMENT**

Motion made by Council Member Dieffenbach, seconded by Council Member Czarnecki, to adjourn the meeting at 8:05 p.m. Motion carried unanimously with Council Member Regenfuss excused.

Constance K. McHugh, MMC/WCPC  
City Clerk