

**CITY OF CEDARBURG  
COMMON COUNCIL  
September 12, 2016**

**CC20160912-1  
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, September 12, 2016, at City Hall, W63 N645 Washington Avenue, Cedarburg, WI, in the Council Chambers. Mayor Kinzel called the meeting to order at 7:00 p.m.

ROLL CALL: Present - Common Council – Mayor Kip Kinzel, Council Members Jack Arnett, Dick Dieffenbach, Rick Verhaalen, Mitch Regenfuss, Patricia Thome, Mike O’Keefe

Excused - Council Member John Czarnecki

Also Present - City Administrator/Treasurer Christy Mertes, City Attorney Michael Herbrand, Deputy City Clerk Amy Kletzien, City Planner Jon Censky, Police Chief Tom Frank, Police & Fire Commissioner Linda Krieg, James Doering of Town Realty, interested citizens and news media

**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. 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 Dieffenbach, seconded by Council Member Arnett, to approve the minutes of the August 29, 2016 meeting as presented. Motion carried without a negative vote with Council Members Czarnecki excused and Council Member Thome abstaining.

City Attorney Herbrand brought attention to a requested change in the minutes regarding the agreement with Wilcox Environmental Engineering for consulting services for remediation of the Amcast site. He asked that the following be changed to reflect that the CDA, and not the City, will be working with Wilcox Environmental Engineering: (The CDA recommends a firm be selected to work with the ~~City~~ CDA in reviewing the project plan, schedule and costs.) The City wants to make a clear record that the agreements are with the CDA to insulate the City from any potential liability and to also assist in any potential grant requests in the future.

In answer to Council Member Dieffenbach’s question, City Attorney Herbrand stated that the CDA is a governmental entity just like the City and has the power to enter into contracts. In this regard, it is entering into the contract to hire Wilcox as a consultant. He wants it to be clear that this is a CDA action and not a City action. The City and the CDA are the only two bodies that can enter into contracts.

Motion made by Council Member Dieffenbach, seconded by Council Member Arnett, to approve the aforementioned amendment to the August 29 Common Council minutes. Motion carried without a negative vote with Council Member Czarnecki excused.

**COMMENTS AND SUGGESTIONS FROM CITIZENS** - None

**PRESENTATION**

**CONSIDER RESOLUTION NO. 2016-15 COMMENDING RETIRING SERGEANT SCOTT YANKE FOR HIS YEARS OF SERVICE; AND ACTION THEREON**

Motion made by Council Member O'Keefe, seconded by Council Member Thome, to adopt Resolution No. 2016-15 commending retiring Sergeant Scott Yanke for his years of service to the City of Cedarburg. Motion carried without a negative vote with Council Member Czarnecki excused.

Mayor Kinzel and the Common Council thanked Scott Yanke for his 29 years of Service to the City.

**NEW BUSINESS**

**CONSIDER RESOLUTION NO. 2016-18 COMMENDING COMMERCE BANK FOR BUSINESS OF THE YEAR AWARD; AND ACTION THEREON**

Motion made by Council Member Thome, seconded by Council Member O'Keefe, to adopt Resolution No. 2016-18 commending Commerce Bank for Business of the Year Award. Motion carried without a negative vote with Council Member Czarnecki, excused.

City Administrator/Treasurer Mertes stated that the Resolution will be presented to Commerce Bank by Ozaukee Economic Development at their Business of the Year Awards Economic Forecast Breakfast on Tuesday, October 4, 2016 at the Ozaukee Pavilion.

**CONSIDER REAPPOINTMENT OF LIGHT AND WATER COMMISSION MEMBERS DAVID PAGEL AND TIM LARSON (TERMS EXPIRE 09/30/2019); AND ACTION THEREON**

Motion made by Council Member Arnett, seconded by Council Member Thome, to reappoint Light and Water Commission members David Pagel and Tim Larson (terms expire 09/30/19). Motion carried without a negative vote with Council Member Czarnecki excused.

In answer to Council Member Dieffenbach's question, on whether or not the City has a policy on how long members may serve on a board, commission or committee, Mayor Kinzel said no and continuity goes a long way with this Commission.

Council Member Arnett explained that David Pagel and Tim Larson are newer members of the Commission in relation to other members. He stated that it is a very committed group and it is important to have this during the budgeting process.

**CONSIDER PRELIMINARY PLAT APPROVAL FOR THE SANDHILL TRAILS  
SUBDIVISION; AND ACTION THEREON**

City Planner Censky explained that this preliminary plat is the same as the plat that was approved for Mr. Tillman when he was processing the Keup Trails subdivision a number of years ago. The road pattern will remain the same and the infrastructure being proposed will be the same except for the addition of the six lots when the property was rezoned earlier this year. The subdivision will have 43 single-family lots ranging in size from 14,532 square feet to 31,133 square feet. Staff has reviewed the preliminary plat and it is consistent with the Smart Growth Comprehensive Plan 2025 and fully complies with the City's subdivision platting requirements. Accordingly, Staff has no objection subject to the following:

- The radius of West Oak Street where it connects to this subdivision must be modified to meet the City required 100-foot centerline radius per Chapter 14 of the Municipal Code.
- The right-of-way line at the north end of Starling Lane to maintain a minimum 10-foot distance from the existing water main.
- Sidewalk at the north end of Starling Lane should be connected to the Interurban Trail.
- All impact fees and the fee-in-lieu of parkland dedication will apply at building permit acquisition.
- The developer shall be required to install public sidewalks and street trees along the Keup Road frontage.
- This subdivision shall include the full complement of improvements as required in the City's Subdivision Ordinance and all infrastructure plans (i.e. sewer, water, storm sewer, road, sidewalk, grading, drainage, and erosion control) shall be reviewed and approved by the City Engineer.
- Submittal and City Forester approval of a street tree plan showing size, location and species.

The Plan Commission unanimously recommended approval at their September 6 meeting with these conditions.

Council Member Arnett brought attention to outlot 1 which is to be managed by the Homeowners Association for Sandhill Trails. He questioned why this outlot was outside the lines and who owned it.

City Planner Censky stated that this area was the stormwater management plan for both developments.

James Doering of Towne Realty explained that the stormwater management outlot 1 and the pond to the south is outside of the plat boundaries because that stormwater management area was developed for the Keup Trails (original phase) and the Pine Ridge Subdivisions. The Tillman's had every intention of doing this as their addition. So, outlot 1 and the pond is owned by the Keup Trails Homeowners Association (84%) and Pine Ridge Homeowners Association (16%). Towne Realty's agreement with them is to buy into that partial ownership. They are working with Attorney Levy (representing Tillman's) on a management maintenance agreement. Towne Realty is also recommending amending the stormwater management practices agreement when they seek final plat approval and developer's agreement approval. There will be three entities responsible for this area.

Mayor Kinzel confirmed that this arrangement will be listed on the deeds for future owners.

Mr. Doering stated that they will attach the stormwater management practices to the declarations.

In answer to Council Member Dieffenbach's question, Mr. Doering stated that a Plan Commissioner objected to the road name of Starling Lane because he believed that the starling was an aggressive bird and it was not appropriate. The names Gull Lane or Sandpiper Lane have been suggested and will be decided when the final plat is approved.

In answer to Council Member Dieffenbach's question, Planner Censky stated that the City has some naming control because the City does not want a name too similar to an existing street.

Mr. Doering stated that Towne Realty consults with their marketing group for street names and they cross check through the surveyor and through Google maps to be sure there is not another name within the City and/or the school district.

Motion made by Council Member Thome, seconded by Council Member O'Keefe, to approve the preliminary plat for the Sandhill Trails subdivision subject to the listed conditions. Motion carried without a negative vote with Council Member Czarnecki excused.

**CONSIDER PAYMENT OF BILLS FOR THE PERIOD 8/26/16 THROUGH 9/6/16, ACH TRANSFERS FOR THE PERIOD 8/25/16 THROUGH 9/7/16, AND PAYROLL FOR THE PERIOD 8/14/16 THROUGH 8/27/16; AND ACTION THEREON**

Motion made by Council Member Arnett, seconded by Council Member Dieffenbach, to approve the payment of bills for the period 8/26/16 through 9/6/16, ACH transfers for the period 8/25/16 through 9/7/16, and payroll for the period 8/14/16 through 8/27/16. Motion carried without a negative vote with Council Member Czarnecki excused.

In answer to Council Member Dieffenbach's question, City Administrator/Treasurer Mertes explained that the dump truck amount of \$78,000 is the full amount. The retired truck would have been sold online. It could also be only part of the truck. If it is sold online it goes into the sale of City property account and those revenues are used for future equipment costs.

**CONSIDER LICENSE APPLICATIONS; AND ACTION THEREON**

Motion made by Council Member O'Keefe, seconded by Council Member Regenfuss, to approve the renewal Operators License application for the period ending June 30, 2017 for Stephen E. Leonard. Motion carried without a negative vote with Council Member Czarnecki excused.

Motion made by Council Member O'Keefe, seconded by Council Member Regenfuss, to approve a new Operators License application for the period ending June 30, 2017 for Joseph B. Hebda. Motion carried without a negative vote with Council Member Czarnecki excused.

**ADMINISTRATOR'S REPORT**

City Attorney Herbrand is trying to schedule a joint meeting for the purposes of reviewing the Amcast redevelopment proposals with the Plan Commission, Common Council and the Community Development Authority. Developer DJ Burns embraces this idea and is anxious to get moving with the project.

City Administrator/Treasurer Mertes offered the October 3 (Plan Commission meeting date) or October 11 (CDA meeting date). It will be most important to have the full Plan Commission present.

In answer to Council Member Dieffenbach's question, City Administrator/Treasurer Mertes explained that the computer network audit will be done by Ontech to determine how secure the City Hall network is. CVMIC will pay for half the cost of this audit. She will share the report with the Common Council when it is received.

In answer to Council Member Regenfuss' question, City Administrator/Treasurer Mertes stated that the joint pool meeting with the Town of Cedarburg is scheduled for October 4 at 7:00 p.m.

Council Member Dieffenbach commented on the railroad crossing determination. He asked what it meant that the railroad shall inquire into needed repairs.

Council Member Verhaalen explained that there were two options when they dig down to determine what needs to be fixed and this will determine which method they will use to fix the crossing (replace the ties and make it a flat crossing or actually dig down underneath the ties and replace the substructure).

City Attorney Herbrand explained that if the substructure needs to be fixed it is called a full renewal and this would be a much more involved repair. The good news is that the Office of the Commissioner of Railroads (OCR) ordered that the inquiry occur by September 23 and all the work should be done within two weeks of the determination. The OCR expressed frustration with regard to this railroad, Wisconsin Central, for their lack of response State-wide.

In answer to Council Member Dieffenbach's question, City Attorney Herbrand stated that the City will not be able to recover any of their attorney fees.

In answer to Council Member Arnett's question, City Attorney Herbrand stated that if the work is not completed by year-end, the City will seek some sort of recourse through the Commissioner of Railroads office again. Council Member Arnett suggested that the City file a report as soon as it is clear that it will not be done by the deadline.

Council Member O'Keefe asked City Administrator/Treasurer Mertes to explain the School District charges for City programs.

City Administrator/Treasurer Mertes explained that the City received a letter from the School District outlining all of the fees that the City may be charged. Director Hilvo determined that the extra fees could amount to an additional \$40,000 in fees for City programs. The current fees are approximately \$2,500.

The Common Council discussed a few possible changes and fees for current programs.

Council Member Arnett stated that there are nine programs that the City uses School District facilities. Six of these programs have user fees that amount to less than \$6,000. The hardest hit programs will be youth basketball and tennis, which account for 61% of the additional fees.

City Attorney Herbrand suggested that this discussion be a future agenda item.

**COMMENTS AND SUGGESTIONS FROM CITIZENS**

Police & Fire Commissioner Linda Krieg brought attention to a report by Chief Frank stating that the Department has been through a three month review process, which is done every three years, and has passed and been recertified by the State. The Cedarburg Police Department is one of 29 departments out of 600 departments throughout the State that have passed this certification process. She has been very impressed by the Cedarburg Police Department and how Chief Frank manages the Department that she thought it was important to bring this information to the Common Council's attention.

**COMMENTS & ANNOUNCEMENTS BY COUNCIL MEMBERS** – None

**MAYOR'S REPORT**

Mayor Kinzel issued a Proclamation for Freedom from Workplace Bullies Week, October 16-22.

**ADJOURNMENT – CLOSED SESSION**

Motion made by Council Member O'Keefe, seconded by Council Member Thome, to adjourn to closed session at 7:36 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, more specifically to discuss the Prochnow Landfill. Approval of closed session minutes of July 11, 2016 and August 29, 2016. Motion carried unanimously on a roll call vote with Council Member Czarnecki excused.

**RECONVENE TO OPEN SESSION**

Motion made by Council Member Thome, seconded by Council Member O'Keefe, to reconvene to open session at 7:58 p.m. Motion carried without a negative vote with Council Member Czarnecki excused.

**ADJOURNMENT**

Motion made by Council Member Dieffenbach, seconded by Council Member O'Keefe, to adjourn the meeting at 7:58 p.m. Motion carried without a negative vote with Council Member Czarnecki excused.

Amy D. Kletzien, MMC/WCPC  
Deputy City Clerk