

**CITY OF CEDARBURG
COMMON COUNCIL
March 25, 2019**

**CC20190325-1
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, March 25, 2019, at City Hall, W63 N645 Washington Avenue, second floor, Council Chambers. Mayor O’Keefe called the meeting to order at 7:00 p.m.

Roll Call: Present - Mayor Michael O’Keefe, Council Members Jack Arnett, Kristin Burkart, Rick Verhaalen, Garan Chivinski and Rod Galbraith

Excused - Council Member Patricia Thome

Vacant - Aldermanic District 1

Also Present - City Administrator/Treasurer Christy Mertes, City Clerk Constance McHugh, Police Chief Tom Frank, Director of Public Works and Engineering Tom Wiza, Assistant City Administrator/Parks, Recreation and Forestry Director Mikko Hilvo, Water Recycling Center Superintendent Eric Hackert, Assistant City Engineer Mike Wieser, Water Recycling Center Operators Dennis Grulkowski and Mike Kelley, City Attorney Michael Herbrand, Jon Butt from Symbiont; interested citizens and news media

STATEMENT OF PUBLIC NOTICE

At Mayor 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.

APPROVAL OF MINUTES

Motion made by Council Member Burkart, seconded by Council Member Galbraith, to approve the minutes of the March 11, 2019 meeting as presented. Motion carried with Council Member Thome excused and Aldermanic District 1 vacant.

COMMENTS FROM CITIZENS

Steve Brill, W69 N419 Fox Pointe Avenue, said he realizes that the authorization of repairs to structures in Cedar Creek is on the agenda tonight. He said unless there are severe safety reasons, the Council should delay repairs to the dams until there are public forums and a cohesive plan for the Cedar Creek watershed is developed. He said there are a large number of residents in the community who are concerned about repairing the dams because they are likely to fail in the future.

Amber Psket, N28 W6360 Alyce Street, Apt. 226, said the Light and Water Commission recommended the Common Council continue the water fluoridation process. She believes; however, that the Commission did not do due diligence and members do not know enough about

fluoridation. She would like to get this matter on a Council agenda for discussion as residents deserve to know what is in the water.

CONSIDER RECOMMENDATION OF POLICE CHIEF TO DENY NEW OPERATORS LICENSE APPLICATION OF TIMOTHY SPITZ

Chief Frank said he is recommending the Operator's license application of Timothy Spitz be denied based on his arrest and conviction record, which includes a conviction in 2017 of credit card fraud and a 2016 felony conviction for fleeing an officer/carrying a concealed weapon.

Mr. Spitz said he realizes he made some poor decisions and mistakes in the past but he just wants to get a job.

Council Member Verhaalen said he gives Mr. Spitz credit for attending this meeting; however, there are numerous offenses. Council Member Galbraith said he does not feel Mr. Spitz has learned from his mistakes. Council Member Arnett said that Mr. Spitz is able to work as a bartender as long as he is under the supervision of someone who does have a license.

Motion made by Council Member Verhaalen, seconded by Council Member Chivinski, to deny the new Operator's license application of Timothy Spitz based on the recommendation of Chief Frank. Motion carried with Council Member Thome excused and Aldermanic District 1 vacant.

CONSIDER AWARD OF CONTRACT FOR THE COLUMBIA MILLS DAM PROJECT

Director Wiza said four bids were received for the Columbia Mills Dam repair project. The low bidder was Staab Construction Corporation in the amount of \$297,000. Director Wiza said this is a very competitive bid. The City will receive a DNR Municipal Dam Grant for 50% of the cost in the amount of \$189,420. Director Wiza reminded the Council that the dam repairs were ordered by the DNR. When bids were received last fall they were three times the estimate and the work was put on hold. He said he appreciates the comments of Mr. Brill but he has not heard comments from any residents favoring removing the dam. He said he believes the majority of residents in the area would be livid if the dam was removed.

Council Member Burkart asked if there is a time limit for the grant. Director Wiza said the timeline for the grant is March 14, 2019 – March 13, 2020. The bid expires in 45 days, and 20 of those days have gone by.

Mayor O'Keefe said there was a positive meeting with the DNR and the DNR is not pushing for removal of the dam at this time. He said that the bid received from Staab is encouraging.

Council Member Chivinski commended Director Wiza for his work on this project. He said he is impressed with the bids and it appears the project is finally coming together.

Council Member Arnett reminded the Council that the pond near this dam was recently restored by Mercury Marine.

Council Member Burkart said she respects Mr. Brill's comments but she is not ready to postpone the repairs. The City has received an attractive bid and a matching grant.

Mr. Brill said there is a serious movement all across the country to remove dams because these structures will fail. He said the Council needs to be visionaries and develop a cohesive plan for all structures in the City.

Council Member Verhaalen asked if there is a timeline to make the repairs. Director Wiza said the City is two years past the DNR imposed deadline to make the repairs. The repairs need to be completed by March 20, 2020 or the City loses the grant.

Mayor O'Keefe said the Council needs to respect the historic nature of the dams.

A resident living on Cedar Creek said he and others would be heartbroken if the dam was removed.

Motion made by Council Member Verhaalen, seconded by Council Member Galbraith, to award the contract for the Columbia Mills Dam project to Staab Construction in the amount of \$297,000. Motion carried with Council Member Thome excused and Aldermanic District 1 vacant.

CONSIDER AWARD OF CONTRACT FOR THE 2019 ANNUAL CONCRETE SIDEWALK REPLACEMENT PROGRAM

Director Wiza said the annual concrete sidewalk replacement program is put together by Assistant Engineer Wieser. Four bids were received for the 2019 project, with the low bid coming from Forward Contractors in the amount of \$51,075. This firm completed the 2018 sidewalk replacement program.

Motion made by Council Member Arnett, seconded by Council Member Galbraith, to award the 2019 sidewalk contract to Forward Contractors in the amount of \$51,075. Motion carried with Council Member Thome excused and Aldermanic District 1 vacant.

CONSIDER BIDS RECEIVED FOR THE 2019 STREET AND UTILITY PROJECT

Director Wiza said only two bids were received for the 2019 street and utility project although 11 prime contractors took out plans. The low bid was submitted by Dorner, Inc. in the amount of \$947,559.24. Unfortunately their bid is approximately \$250,000 over budget. Several factors contributed to this disparity, but the greatest impact appears to be the Foxconn construction. Many contractors advise their backlog is full for the year and there are simply not enough contractors to go around.

City Administrator/Treasurer Mertes said there is \$200,000 in the contingency reserve account that could be used towards this project along with funds from the General Fund fund balance. Using funds from the fund balance will still leave enough to meet the directive in the Fund Balance policy.

Council Member Arnett questioned whether this work should be postponed for one year. It may be that contractors will have more time and ability to bid on these types of projects next year. Director Wiza said from what he is hearing from contractors is that next year will be same. The numbers

may not come down but actually go up. In addition residents are complaining about the condition of the roads.

Council Member Verhaalen said the City has a responsibility to maintain its roads. Council Member Galbraith said it is difficult to find people to do work in this great economy and it will only get worse. Putting the problem off will only cost more.

Motion made by Council Member Verhaalen, seconded by Council Member Galbraith, to award the 2019 street and utility construction contract to Dorner, Inc. on the basis of the low unit price bid of \$947,559.24. Motion carried with Council Member Thome excused and Aldermanic District 1 vacant.

City Administrator/Treasurer Mertes said an ordinance will be presented at a future meeting that will transfer funds to cover the overage.

CONSIDER 2019 STATUS REPORT ON SOURCE REDUCTION, IMPROVEMENTS, MODIFICATIONS, AND COMPLIANCE ALTERNATIVES FOR THE CEDARBURG WATER RECYCLING CENTER

Jon Butt of Symbiont discussed with the Council the Status Report on source reduction, improvements and modifications, and compliance alternatives for the City of Cedarburg Water Recycling Center for compliance with phosphorus water quality based effluent limits. The status report is to update the DNR of the investigations carried out by the City in the past year to understand the different ways the City can meet the new phosphorus discharge limits. The goal is to meet the obligations of the Wisconsin Pollutant Discharge Elimination System (WPDES) permit which contains a new future total phosphorus (TP) discharge concentration of 0.075 mg/L (6 month average). The average plant influent and effluent TP concentrations from 2015 to 2017 were 3.17 and 0.32 mg/L, respectively.

Mr. Butt said it will be necessary for the City to consider the following alternatives for compliance with the future TP limit:

1. Wastewater treatment plant improvements involving the addition of tertiary filtration, or equivalent.
2. Watershed planning (adaptive management).
3. Nutrient trading.
4. Multi-discharge variance (MDV).

Motion made by Council Member Burkart, seconded by Council Member Arnett, to accept the Status Report as presented. Motion carried with Council Member Thome excused and Aldermanic District 1 vacant.

CONSIDER REQUEST TO REPLACE THE ENGINEERING DEPARTMENT ADMINISTRATIVE SECRETARY

Administrative Secretary Darla Drumel is retiring effective May 31, 2019.

Motion made by Council Member Galbraith, seconded by Council Member Chivinski, to authorize the replacement of the Engineering Department Administrative Secretary. Motion carried with Council Member Thome excused and Aldermanic District 1 vacant.

CONSIDER OPTIONS FOR REPLACING PART-TIME TREASURER'S OFFICE EMPLOYEE

City Administrator/Treasurer Mertes said staff took the matter of staffing levels in the Treasurer's Office to the Personnel Committee as directed by the Council. The following three options were considered by the Personnel Committee as a result of the recent resignation of the part-time accountant position in the Treasurer's Office:

Option 1:

This option would provide the current Deputy Treasurer/Payroll Officer staff member an opportunity to assist in leading the treasurer's office and learning from the City Administrator/Treasurer as part of succession planning for the Treasurer's department. It would move the current Accountant II/Accounts Receivables employee to the front to also provide receptionist duties. The Department would hire a full-time Accountant II/Accounts Payables employee that will have the knowledge, skills, and abilities to be the back-up for payroll and learn from the current Deputy Treasurer as part of future succession planning.

Cost:

- 1) Increase Deputy Treasurer's salary from \$52,416 to \$55,000 with two staff reporting to her.
(+\$2,584)
- 2) Cost of a full-time entry level accountant position. \$45,000.
 - With family insurance (\$20,587) total cost would be \$65,587
 - With single insurance (\$7932) total cost would be \$52,932

Total cost for option 1: \$55,516 - \$68,171 +FICA and Wisconsin Retirement System (WRS)
Additional \$31,117 to \$43,773 to 2019 Treasurer's Office budget

Option 2:

This option would make the current Administrator's/Clerk's Office Administrative Assistant full-time splitting duties between the Treasurer's Office and Administrator's/Clerk's Office. They would handle accounts payable/receptionist duties. The person in this position currently has a bookkeeping background. The issue with this option is that there is no one to backup payroll. Currently the Deputy Treasurer/Payroll Officer is the only person who knows how to do payroll for the City.

Cost:

- 1) Current hourly rate of the Administrator's/Clerk's Assistant: \$17.88 at 1,040 hours =
\$18,595

- 2) Current hourly rate of the open position in the Treasurer's Office: \$23.46 at 1,040 hours = \$24,398
- 3) Addition of 1,040 hours at \$17.88/hour = \$18,595
- 4) Savings from difference in hourly rate \$24,398 - \$18,595 = \$5,803.40
- 5) Insurance
 - a. Family: \$20,587 - \$5,803.40 = \$14,784
 - b. Single: \$7,932 - \$5,803.40 = \$2,129

Total Cost: \$2,129 - \$14,784 + WRS

Option 3:

This option would be to hire a new part-time person for accounts payable/receptionist for the Treasurer's Office. Issue with this is the ability to retain a qualified part-time person in the position. This also would not solve the problem of having a backup for payroll.

Cost:

- 1) Hire a person at a lower rate. \$20/hour at 1,040 hours = \$20,800
- 2) \$24,398 - \$20,800 = \$3,598

Estimated Savings: \$3,598

City Administrator/Treasurer Mertes said the Personnel Committee recommended Council approval of option 1 with the exception of the proposed salary increase for the Deputy Treasurer/Payroll Officer on a 2 to 1 vote. A full-time replacement will help with succession planning and allow for a backup of the payroll officer. It is likely there may be some savings in the General Fund due to three retirements in the upcoming months.

Council Member Chivinski said he supports the option of a full-time employee because this is a strategically important position. He said it is time to invest in this position as it is worth the extra cost.

Council Member Galbraith said he respectfully disagrees with Council Members Thome and Chivinski. He realizes there may be a savings from retirements but additional money spent on this position will carry over into future years. He said there was no recommendation during the 2019 budget process to make this position full-time. He said that by approving option 1 the Council will not be true to its constituents because a position that is not budgeted for will be added. The Council is also not addressing the problem of one person doing both the Administrator and Treasurer jobs. He suggested having a separate Administrator and Treasurer is something that should be looked at in the 2020 budget. He feels the Council needs to look at the bigger picture.

Council Member Chivinski said he feels comfortable deviating from the norm in this case because he believes option 1 is the best outcome.

Council Member Verhaalen said he is not opposed to restricting positions as a whole but has a hard time adding to expenditures in the middle of the budget year. Council Member Burkart agreed that the Council must be fiscally responsible to its constituents.

Council Member Arnett said he supports option 1 because it was the recommendation of the Personnel Committee, there are some savings to cover the budgetary increase, and the Council sometimes needs to make decisions based on changing circumstances.

Motion made by Council Member Chivinski, seconded by Council Member Arnett, to approve the hiring of a full-time employee to fill the part-time position. With Council Members Arnett and Chivinski voting aye, Council Members Burkart, Verhaalen, and Galbraith voting nay, Council Member Thome excused, and Aldermanic District 1 vacant, the motion failed.

Council Member Galbraith made a motion to approve option 3 – the hiring of a part-time employee to fill the existing part-time position. The motion was seconded by Council Member Burkart.

After discussion of the pros and cons of options 2 and 3 Council Member Galbraith withdrew his motion. Council Member Burkart withdrew her second of the motion.

Motion made by Council Member Verhaalen, seconded by Council Member Galbraith, to approve option 2 which would make the current Administrator's/Clerk's Office Administrative Assistant full-time splitting the duties between the Treasurer's Office and Administrator's/Clerk's Offices. With Council Members Burkart, Verhaalen, and Galbraith voting aye, Council Members Arnett and Chivinski voting nay, Council Member Thome excused, and Aldermanic District 1 vacant, the motion carried.

CONSIDER PROCESS TO FILL THE 1ST DISTRICT ALDERPERSON VACANCY

Council Member von Bargaen resigned effective March 11 as he and his family is moving out of state. According to Policy CC-20A, whenever an aldermanic position becomes vacant under the conditions listed in Sec. 17.03 Stats., the vacancy is filled by Common Council appointment. The term of this office expires in April of 2020.

Motion made by Council Member Burkart, seconded by Council Member Verhaalen, that the Council seek applicants to be selected by the Common Council to serve until April 2020. Motion carried with Council Member Thome excused and Aldermanic District 1 vacant.

The Council agreed to interview candidates at the April 29, 2019 Council meeting. The Council will discuss questions to be asked of the applicants at the April 8, 2019 meeting.

CONSIDER LICENSE/PERMIT APPLICATIONS

Motion made by Council Member Galbraith, seconded by Council Member Verhaalen, to approve new Operator License applications for the period ending June 30, 2019 for Mark S. Adgate, Jessica J. Brokenshire, and David B. End. Motion carried with Council Member Thome excused and Aldermanic District 1 vacant.

CONSIDER PAYMENT OF BILLS DATED 03/08/19 THROUGH 03/15/19, TRANSFERS FOR THE PERIOD 03/06/19 THROUGH 03/15/19; AND PAYROLL FOR THE PERIOD 03/02/19 THROUGH 03/15/19; AND ACTION THEREON

Motion made by Council Member Burkart, seconded by Council Member Verhaalen, to approve payment of the bills dated 03/08/19 through 03/15/19, transfers for the period 03/06/19 through 03/15/19; and payroll for the period 03/02/19 through 03/15/19. Motion carried with Council Member Thome excused and Aldermanic District 1 vacant.

ADMINISTRATOR'S REPORT

City Administrator/Treasurer Mertes said Assistant Senior Center Director Aubrey Suppiger has been promoted to Senior Center Director. She will be working on filling the vacancy created by Ms. Suppiger's promotion.

COMMENTS & ANNOUNCEMENTS BY COUNCIL MEMBERS

Council Member Arnett said the Branding Committee is moving ahead with promoting the new brand for the City. He and Economic Development Coordinator Mary Sheffield are meeting with business owners to get the word out.

Council Member Chivinski said the Fire Department had a fantastic dinner last weekend. He thanked the Fire Department for inviting Council Members.

MAYOR'S REPORT

Mayor O'Keefe issued a proclamation proclaiming April 25, 2019 as Arbor Day in the City.

ADJOURNMENT – CLOSED SESSION

Motion made by Council Member Arnett, seconded by Council Member Verhaalen, to adjourn to closed session at 9:23 p.m. pursuant to State Statutes 19.85(1)(g) to confer with legal counsel for the Common Council who is rendering oral or written advice concerning strategy to be adopted 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 January 4, 2019. Motion carried on a roll call vote with Council Members Arnett, Burkart, Verhaalen, Chivinski, and Galbraith voting aye, Council Member Thome excused, and Aldermanic District 1 vacant.

RECONVENE TO OPEN SESSION

Motion made by Council Member Arnett, seconded by Council Member Burkart, to reconvene to open session at 9:59 p.m. Motion carried on a roll call vote with Council Members Arnett, Burkart, Verhaalen, Chivinski, and Galbraith voting aye, Council Member Thome excused and Aldermanic District 1 vacant.

ADJOURNMENT

Motion made by Council Member Arnett, seconded by Council Member Chivinski, to adjourn the meeting at 10:00 p.m. Motion carried with Council Member Thome and Aldermanic District 1 vacant.

Constance K. McHugh, MMC/WCPC
City Clerk