

City of Chetek Common Council Meeting Agenda

Tuesday, September 13, 2016 - 7:00 p.m. – Council room, 220 Stout Street, Chetek, WI

AGENDA:

1. Call to order
2. Roll call – Cliff Bronstad___, Bill Waite___, Mark Edwards___, Shirley Morley___
3. Prayer
4. Pledge of Allegiance
5. Approve agenda

PUBLIC COMMENT citizens may direct questions/comments to the council for items not on the agenda.
The council may have limited discussion, however; no action will be taken under public comments.

MAYOR COMMENTS

CONSENT AGENDA:

1. council minutes – **August**
2. Department/Board reports as submitted – **Plan Commission July 28th, Library June and August, Housing Authority July, building/zoning report August,**
- 3 Claims: **August claims**
4. Resignations from boards/committees – none
5. Appointments to Boards & commissions: none
6. General licenses/permits: none

OLD BUSINESS (discussion and possible action by council)

1. **Alley behind nursing home** – proposed purchase of paved portion of alleyway from abutting property owners
2. **Clean water fund applications** – update on funding for sewer re-lining & fine screen for treatment plant

NEW BUSINESS (discussion and possible action by council)

1. **Move November council meeting to 15th due to November 8th Election**
2. **bridge lights** – City's expense for replacing light poles on bridge located on 2nd Street
3. **Request for credit on sewer billing**
4. **Request for reduced payment on CDBG loan**
5. **authorization to purchase used dump truck**
6. **Ordinance 758A** – reduction in number of airport committee members
7. **Ordinance 759A** – right of way
8. **Amend hangar lease #8** – Grant Southworth – adding Mia Jenneman
9. **Name change for Community Center to "The Center"**
10. **approval for one-way traffic on Dixon** – City right of way – southbound from Center Street to Stout Street
11. **Procedure for referrals from committees/boards**

Adjourn

Minutes of the Meeting of the Common Council of the City of Chetek held on August 2, 2016 at 7:00 p.m. in the Council Chamber, 220 Stout Street, Chetek, WI

Meeting was called to order at 7: 00 p.m. by Jeff Martin, mayor.

Present: Jeff Martin, Bill Waite, Mark Edwards, Shirley Morley

Absent: Cliff Bronstad

Agenda approval: motion to approve agenda by Waite, 2nd by Edwards. Carried.

Consent agenda: Council Minutes of July 12, 2016, July claims, committee minutes: Board of Appeals 7/26, Housing Authority 6/23, Community Center 6/7, Chamber of Commerce application for wine walk to be held on 9/22/16. Motion by Morley, 2nd by Edwards to approve consent agenda items – Carried.

Financial Review: Dan Thole, with CliftonLarsonAllen, presented the 2015 financial review. The city's finances are in good order. A modified opinion is given on the position of the governmental activities, business-type activities, and proprietary funds for the year ended 12/31/2015 as a result of not adopting GASB Statement No. 68, Accounting and Financial Reporting for Pensions and the related GASB No. 71 Pension Transition for Contributions Made Subsequent to the Measurement Date – an amendment of GASB Statement No. 68 which came out in 2015. This will be adopted in 2016.

Old business/updates: Council members offered to purchase a portion of the vacated alley which is owned by the residents whose back yards abut the parking lot behind the Atrium assisted living units. When the parking lot had been paved several years ago approximately 8 feet of the parking lot was extended onto the land owned by the residents. The residents will discuss their options and bring their decision back to the council in September.

New Business:

Owners of the house located at 1113 W. Stout requested to have their housing loan written off due to the fact that they have not received any offers for purchase high enough to cover their housing loan along with their current mortgage and other loans against the house. Council members did not make a motion to approve

Motion made by Waite, 2nd by Morley to approve a request to exceed the pet limit for new owners at 718 Center Street, Barryman's. They advised they will comply with pet limit when one of the dogs is deceased. Carried.

Edwards motioned to decrease the airport committee to 5 members due to the fact it is difficult to have a quorum for meetings. 2nd by Waite. Carried. Bill Waite advised he would be willing to go off of the committee.

Motion to adjourn by Edwards, 2nd by Morley. Carried.

Carmen Newman, clerk/treasurer

City of Chetek

Plan Commission Meeting Minutes

For July 28th, 2016 – 6:30pm

The Plan Commission Meeting was held at the Chetek City Hall.

Members in attendance: Jeff Martin – Mayor, John Hunsinger, Del Wacker, and Mark Etten

Also Attending: Rick Jacob, Earl Grover, Brian Colby, Joe Atwood - Building Inspector/Zoning Administrator

Jeff Martin called the Plan Commission Meeting to order at 6:30pm. Attendance was taken with all Plan Commission members in attendance with the exception of Bill Waite, Sarah Knepper, and Jim Fultz. Jeff Martin verified compliance to the open meeting law. There were no minutes available for review from the previous meeting.

Discussion/Action: Earl Grover, Rick Jacob will address the Commission in regards to the improvements at Red Lodge.

Joe Atwood described the ongoing improvements to Units 11 & 14 which was approved previously. The owners of Units 12 & 13, Rick Jacob and Earl Grover, then explained their plans to make improvements. Rick described the footing and cement block to be placed which will raise the units above the flood plain elevation. Old holding tanks have been replaced with new holding tanks. Red Cedar Electric has installed new underground electric power source to each unit including new improved circuit breaker boxes.

Del W. asked if the units would be rented and the response was no, not planned at this time. Rick J. did state that it is in the Condominium Association bylaws to allow having the units available as rentals.

Del W. then asked about sand point wells and Rick J. stated they are allowed by the county and they are 25' deep.

The Plan Commission agreed with the improvements to Units 12 & 13.

Joe Atwood then brought to the commissions attention Charles Bailey and the fact that he owns a majority of the units at Red Lodge. Joe added that seven of the nine units he owns have been condemned and there are plans to replace those units.

As described by Earl Grover, additional concerns for the Red Lodge Condominium Association include leaking septic tanks, children trespassing, and overall safety.

Joe Atwood announced the next Plan Commission Meeting to be August 18th, 2016. He stated that we would soon be meeting with Charles Bailey to discuss his future plans at Red Lodge.

There being no further business before the Commission, the meeting was adjourned at 7:43 pm
Motion: Mark Etten, Second: John Hunsinger, carried.

Respectfully submitted,

Mark Etten
Alternate Plan Commission Secretary

Minutes of Calhoun Memorial Library Board of Directors Meeting, June 7, 2016.

The regular monthly meeting was called to order at 9:00 A.M. on June 7, 2016 by President, Evie Nelson, at Calhoun Memorial Library.

Members present: Evie Nelson, Shirley Morley, Jean Wacker, Rachel Westberg, Kathy Hayes, Nancy Nix, and Lucy Zachary. Also present: Library Director, Carol Burnham.

The agenda was approved by motion made by Kathy Hayes, second by Shirley Morley. Motion carried.

Public Comment: Carol reported an email from a library patron expressing her thanks and appreciation for services provided

Minutes of May 3, 2016 meeting were presented to Board members in printed form. Motion by Jean Wacker, second by Rachel Westberg, to accept minutes of May 3, 2016 meeting as presented. Motion carried.

Treasurer, Kathy Hayes, presented the Treasurer's reports of May transactions, year to date budget, Act 150, and checking account. A donation of \$500.00 has been received from the Town of Chetek. Motion by Lucy Zachary, second by Jean Wacker to authorize purchase of 3 rolls of stamps in the amount of \$141.00 from the library checking account. Motion carried.

Motion by Jean Wacker, second by Nancy Nix, to accept the Treasurer's reports as presented. Motion carried.

Library Director, Carol Burnham presented Petty cash, statistics, activities, Friends of the Library liaison, and her director's reports.

Rachel Westberg reported on school activities and relayed an offer of used books when the school purges their collection this summer.

April Solberg submitted her resignation as a library aid. The position has been advertised and applications are being accepted at the library. Interviews are in process.

Motion by Evie Nelson, second by Kathy Hayes, to elect the following slate of officers to Calhoun Memorial Library Board: Jean Wacker, President, Shirley Morley, Vice President, Kathy Hayes, Treasurer, and Lucy Zachary, Secretary. Motion carried.

Trustee Manual TE 26 and TE 27 were reviewed. This completes the review of the Handbook for Wisconsin Public Library Trustees.

Items for next meeting agenda- August 2, 2016 – Library Policy update, 2017 budget draft.

Meeting was adjourned.

Respectfully submitted,

Lucy zachary

Minutes of Calhoun Memorial Library Board of Directors Meeting, August 2, 2016

The regular monthly meeting was called to order at 9:00 a.m. on August 2, 2016 by President Jean Wacker, at the Calhoun Memorial Library.

Members present: Jean Wacker, Rachel Westberg, Shirley Morley, Nancy Nix, and Kathy Hayes. Also present: Library Director, Carol Burnham.

The agenda was approved by motion made by Kathy Hayes, seconded by Shirley Morley. Motion carried.

Public comment: The Library received a post card from a vacationing patron, and a positive email from a frequent library user. We have had several comments about "How cool it is that the Library is a Pokémon Go site."

Minutes of June 7, 2016 meeting were presented to Board members in printed form. Motion by Rachel Westberg, seconded by Nancy Nix, to accept minutes of June 7, 2016 meeting as presented. Motion carried.

Treasurer, Kathy Hayes presented the Treasurer's reports of June and July transactions, year to date budget, ACT 150, and checking account. A \$100.00 memorial donation for Joan Cochrane will be deposited in the checking account. Motion by Shirley Morley, second by Rachel Westberg, to accept the Treasurer's reports as presented. Motion carried.

Library Director, Carol Burnham presented petty cash, statistics, activities, Friends of the Library liaison, and her director's reports.

Rachel Westberg reported on school activities and getting ready for the start of the new school year. She explained the summer meal program and its importance to the children of our community. Carol has accepted an invitation to have a booth at the Roselawn Elementary 1st Day Celebration on September 1, 2016.

A rough draft of the 2017 budget request was presented. The final draft must be approved at the September 6, 2016 meeting.

An ad-hoc committee was suggested to review, prepare and present Library Policies. This will be a long-term project. Shirley Morley made a motion to appoint Carol Burnham, and Nancy Nix to the committee with Rachel Westberg acting in a support position. Motion seconded by Kathy Hayes. Motion carried.

Items for next agenda:

Final 2017 budget request approval

Next meeting date-September 6, 2016

The meeting was adjourned by motion by Kathy Hayes and second by Nancy Nix. Motion carried.

Respectfully submitted,



THE CHETEK HOUSING AUTHORITY

MONTHLY BOARD MINUTES

July 28, 2016

The Chetek Housing Authority met at Lone Oak Manor Apartments in the community room at 801 W Stout Street, Chetek WI.

CALL TO ORDER / ROLL CALL: Chair Judy Anderson opened the meeting at 10:30 AM. Board members present are Judy Anderson, Lou Ann Novak, Shirley Morley, Tom Nicolaides, and Denise Moran. Executive Director Jean Odell was present, as were 16 tenants.

ASSURE COMPLIANCE WITH OPEN MEETING LAW: Meeting is in compliance with open meeting law.

MOMENT OF SILENCE: There was a moment of silence to open the meeting.

OPEN DISCUSSION / COMMENTS: Denise Moran, resident commissioner, said that she has been asked to express tenant concerns. She presented a typed list to the Board and Executive Director. The list that she presented had topics including staff parking alongside the building where tenants could park; dirty carports needing power washing; painting the flagpole; signs for handicap cutouts; sidewalks having water or ice cover; mice on property; contacting arborists; installation of component shelf and sound bar for TV in community room; wanting love seat, sofa, or sectional in community room; wanting tables to get knocked down for more space in the community room; window insulation and door trim fixing; paperwork for certifications; issues following annual inspections; independent living issues; tree replacement; painting of yellow lines; outdoor spigot repair. It was also requested that the agenda and minutes be available in advance of meetings.

MINUTES OF PREVIOUS MEETING: Minutes of the June 28, 2016 meeting were reviewed. Denise Moran had issues with the minutes and specified corrections to be made. Jean Odell was advised by Chair Judy Anderson that previous minutes had not been approved by the City Council, and would need to be corrected. Shirley Morley made a motion to approve the corrected May and June minutes; seconded by Lou Ann Novak. Minutes were approved.

HAAS FINANCIALS: Executive Director Jean Odell stated that the June financials are not available, as the Housing Authority fiscal year end is 6/30/16. The fee accountant considers both the June and July financials (for example, to determine in which fiscal year to place an item) prior to distribution.

CHECK REGISTER / CHECKS FOR JULY: Director Jean Odell explained several items on the July check register, including a change to new insurance carriers, an explanation of the pest control situation, a discrepancy in the amount of the bulk telecommunications bill and the decrease in the water and sewer bill. Commissioner Denise Moran felt that tenants had been inappropriately blamed for the excess water consumption. Odell explained that all parties need to work together and be attentive to water and other utility usage in order to avoid wasting utilities. Lou Ann Novak made a motion to approve the July checks, seconded by Denise Moran. Motion approved. Checks will be signed and mailed.

OLD BUSINESS:

- A. EXECUTIVE DIRECTOR'S REPORT: 1. Maintenance: Executive Director, Jean Odell, reported that staff has been busy with maintenance and grounds work; she reminded tenants to write out maintenance requests, rather than verbally ask a busy staff person; UW Extension agent Tim Jergenson evaluated two trees; use common sense in energy and utility usage (we need to fix what is "broken"); there are slips in the laundry room for service requests for laundry machines; 2. Complaints: Minor changes will be made in the storage areas of buildings 1, 2 and 7 to allow better access to the area by all four

tenants who use the room; also containers need to be labeled and stored within a tenant's own space. Note: Chair Judy Anderson suggested that feedback on the storage rooms be shared at a time and place other than a Board meeting, as it is not a Board issue. 3. Vacancies: We currently have no vacancies with apartments 10 and 16 recently filled.

- B. **UPDATING OF DOCUMENTS:** Commissioners have reviewed select documents and have advised Director Odell of suggested changes. Odell stated that some new policies (resolutions) need to be established through Board input, review, and approval, as well as public review. All documents need to be examined for errors and revisions made, as appropriate. She will email revised documents to the Board shortly.
- C. **INSURANCE:** The new insurance carrier for property insurance is Municipal Property Insurance Company, with the price substantially less than other carriers. Two additional policies will be added, with the total price of the policies showing a savings of several thousand dollars.
- D. **CHARTER UPDATE:** Denise Moran gave an update on the Charter bulk project. She stated that there are a few glitches, but things are, for the most part, going well.
- E. **ANY OTHER OLD BUSINESS:** The Housing Authority Board needs further information on the cost of addressing a gear problem on the John Deere tractor; whether there are spare parts for furnaces or boilers should any furnace or boiler fail; what replacement appliances are available. Time slots should be added to the laundry schedule; the shower in Apt. 25 needs attention; paperwork needs to be completed.

NEW BUSINESS:

- A. **L.O.R.A.C.:** A meeting will be held soon about restructuring L.O.R.A.C., which is still seeking persons to serve as president, vice president, or committee chair (birthday, Sunshine, fundraising, etc.).
- B. **RESIDENT ADVISORY BOARD:** Jean Odell will gather information for an August tenant meeting regarding the establishment of a Resident Advisory Board (form, purpose, function, funding).
- C. **WAHA Convention to be held in Eau Claire in September (Sept. 19 – 22, 2016) for Executive Director, Commissioners, Maintenance.:** Director Odell will be attending; commissioners need to decide and advise Jean Odell if they intend to attend.
- D. **ANY OTHER NEW BUSINESS:** The Board will consider a contract with the Nan McKay company regarding the Admissions and Continued Occupancy Policy (ACOP).

DISCUSS / ADD AGENDA ITEMS FOR THE NEXT BOARD MEETING:

- A. Joe Atwood, fire extinguisher contractor, indicated he will attend the 9/29/16 Board meeting for a fire extinguisher safety demonstration
- B. Nan McKay

ADJOURN MEETING: Motion was made by Lou Ann Novak to adjourn the meeting, seconded by Denise Moran. Meeting was adjourned at 11:50. The annual tenant / Board picnic followed the meeting.

Jean Odell, Executive Director

Judy Anderson, Chair

**CITY OF CHETEK
RESOLUTION # 2016-15**

**A RESOLUTION DECLARING OFFICIAL INTENT
TO REIMBURSE EXPENDITURES**

WHEREAS, the City of Chetek, Barron County, Wisconsin (“the City”) plans to make improvements to its wastewater collection and treatment systems as described in its Clean Water Fund Intent to Apply and Priority Evaluation Ranking Form, and to be assigned a Clean Water Fund Project number by the Department of Natural Resources (“the Project”); and

WHEREAS, the City expects to borrow funds and incur debt from one or more possible sources including the State of Wisconsin Clean Water Fund Loan Program to finance the Project; and

WHEREAS, because proceeds of the debt which will provide project financing may not become available prior to commencement of the Project, the City may need to provide interim financing to cover costs of the Project incurred prior to receipt of the Loan; or other debt proceeds; and

WHEREAS, it is necessary, desirable, and in the best interests of the City to use moneys on an interim basis other than proceeds of borrowing;

NOW, THEREFORE, BE IT RESOLVED, by the Common Council of the City of Chetek, Barron County, Wisconsin, that:

Section 1. Expenditure of Funds. The City shall make expenditures as needed from its Wastewater and General Funds, to pay the costs of the Project until loan proceeds become available.

Section 2. Declaration of Official Intent. The City hereby officially declares its intent under 26 CFR Section 1.150-2 to reimburse said expenditures with proceeds of the debt, the principal amount of which is not expected to exceed \$400,000.

Section 3. Effective Date. This Resolution shall become effective upon its adoption and approval.

Adopted: September 13th, 2016

Jeff Martin, Mayor

Carmen Newman, City Clerk-Treasurer

**RESOLUTION NO. 2016-14
CITY OF CHETEK**

**AUTHORIZED REPRESENTATIVE TO FILE APPLICATIONS FOR
FINANCIAL ASSISTANCE FROM
STATE OF WISCONSIN CLEAN WATER FUND PROGRAM**

WHEREAS, it is the desire of the City of Chetek, Wisconsin, a municipal corporation, to file applications for state financial assistance for Wastewater System Improvements under the Wisconsin Clean Water Fund Program;

WHEREAS, it is necessary to designate a representative for filing said applications;

BE IT THEREFORE RESOLVED by the Common Council of the City of Chetek that the Mayor is hereby appointed as the authorized representative for the City of Chetek for the purpose of filing these applications, and that the representative is further authorized and empowered to do all necessary things and take all necessary steps in connection with said applications.

Adopted the 13th day of September, 2016.

CITY OF CHETEK
BARRON COUNTY, WISCONSIN

Jeff Martin, Mayor

Attest: _____
Carmen Newman, City Clerk-Treasurer

Date: _____

My name is Judith Black

I live at 1077 3rd St.
3rd ward

In August I noticed
late one morning that
sometime during the
night someone turned
my outside faucet on.
It ran all nite and
part of the morning.

I notified City Hall
and Karen suggested I
write this letter for
the next council meeting
to see if they can make
an adjustment on my
water-bill

thank you
Judith Black

Caselle Clarity® Enter Payments Customer Inquiry

Customer: [Customer] 253 of 2977
 435-00 BLACK, JUDITH 1027 3RD STREET Account balance:
 1027 3RD ST Balance due: 09/21/2016
 435 12 CHETEK WI 54728 Last payment: 08/22/2016

Display Compare History Transactions Customer Services Location Meters Backflow Contracts Loans Certification Credit History

	09/30/2016	08/31/2016	07/31/2016	06/30/2016	05/31/2016	09/30/2015
WATER	.00	34.30	6.86	6.86	10.29	6.86
WATER usage	0	10	2	2	3	2
WATER BASE	.00	5.30	5.30	5.30	5.30	5.30
SEWER	.00	58.90	11.78	11.78	17.67	11.78
SEWER BASE	.00	14.09	14.09	14.09	14.09	14.09
PUBLIC FIRE	.00	6.30	6.30	6.30	6.30	6.30
STORMWATER	.00	2.25	2.25	2.25	2.25	2.25
GARBAGE	.00	16.00	16.00	16.00	16.00	15.00
PENALTY WATER	.00	.00	.00	.00	.00	.00
PENALTY SEWER	.00	.00	.00	.00	.00	.00
PENALTY STORMWATER	.00	.00	.00	.00	.00	.00
PENALTY GARBAGE	.00	.00	.00	.00	.00	.00
WATER TAX PENALTY	.00	.00	.00	.00	.00	.00
SEWER TAX PENALTY	.00	.00	.00	.00	.00	.00
STORM TAX PENALTY	.00	.00	.00	.00	.00	.00
GARBAGE TAX PENALTY	.00	.00	.00	.00	.00	.00
Total charges	.00	137.14				
Previous balance	4	3				
Payments	.00					
Adjustments	.00	.00	.00	.00	.00	.00

- Display
- Amounts
 - Usages
 - Payment detail
 - Adjustment detail
- Summarize by
- Detail
 - Service
 - Service category

137.14	137.14	62.58	62.58	71.90	61.58
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Carmen Newman

From: CHERYL FREESE [clfreese@centurytel.net]
Sent: Tuesday, August 16, 2016 7:10 AM
To: Carmen Newman
Subject: Fwd: Re: CDGB Loan 2006

----- Forwarded Message -----

From: Debra Nelson <dnelson2@ruskcountywi.us>
To: CHERYL FREESE <clfreese@centurytel.net>
Sent: Thu, 11 Aug 2016 14:47:31 -0400 (EDT)
Subject: Re: CDGB Loan 2006

Ms. Freese,

We have a buyer who has offered 110K. He has been looking at the house for the past year but will not budge on the price. We have had no other offers and we are at the point where we can no longer continue to pay two house payments. Our options are to either accept this offer and be short approximately 9k to pay off what we owe or let the house go into foreclosure which is something we really do not want to do.

If the City of Chetek would accept a payment of \$10,000 and forgive \$8000 we could go ahead and accept the offer and get the house sold. I wrote a letter to the City Counsel requesting a loan forgiveness but they were afraid it would pave the way for others to expect the same. We are willing to pay the full amount if we can get it out of the sale of the house but that is not going to happen.

Please, see if \$10,000 will satisfy the debt.

Thank you for your help,

Debra Nelson

From: CHERYL FREESE <clfreese@centurytel.net>
Sent: Wednesday, July 13, 2016 7:05:28 AM
To: Debra Nelson
Subject: Re: CDGB Loan 2006

Good morning Debra, I'm sorry to hear about you situation. As you know, the City of Chetek has a mortgage on your property, the buyer would want a clear title, the City of Chetek will not satisfy that mortgage with out some kind of payoff. Is there any way you can pay the City some amount?

Cheryl

----- Original Message -----

From: Debra Nelson <debra.nelson@centurytel.net>

To: clfreese@centurytel.net

Sent: Tue, 12 Jul 2016 15:09:46 -0400 (EDT)

Subject: CDGB Loan 2006

Hello Cheryl,

I got your email from Chetek City Hall. In 2005/2006 my husband and I received a grant from the city of Chetek to make improvement on our home at 1113 West Stout Street in Chetek with siding, windows and doors. Since that time the recession dropped our property value significantly and we put a lot of work into the house to put carpet in the living room, update the kitchen and the Bathroom, and painting.

Due to a job change we moved to Bruce and have had our house in Chetek for sale for almost a year now with very few inquiries. We are in a financial situation that makes it imperative that we sell ASAP as we are having to make two house payments. We finally have a possible buyer but it looks like we will end up having to sell below market value and for less than we owe.

Our bank (1st National Bank Chetek) and we need to know what will happen if we are not able to pay the grant. Would you please contact me either by phone at [715-735-1111](tel:715-735-1111) or at this email or my home email, debra.nelson@centurytel.net

Thank you,
Jeff and Debra Nelson

Ordinance 758A

The Common Council of the City of Chetek do ordain as follows:

- Section 1 - DIVISION 8. - AIRPORT COMMITTEE is revised to read:
- Sec. 2-400. - Members.

The Airport Committee shall consist of five (5) persons, two of whom may reside outside the City limits, and all of whom shall be appointed by the Mayor, annually. All such appointments are subject to Common Council confirmation.

Section 2

This ordinance shall take effect on its passage and publication as provided for by law.

CITY OF CHETEK

By: _____
Jeff Martin, Mayor

Attest: _____
Carmen Newman, Clerk/Treas.

Date passed: September 13, 2016

Date published: September 21, 2016

ORDINANCE NO. 759 A

**CITY OF CHETEK
RIGHT-OF-WAY**

The Common Council of the City of Chetek do ordain as follows:

Chapter 90 of the City of Chetek Code of Ordinances is amended as follows:

Statutory Authority

This chapter is adopted pursuant to §§ 66.045, 66.048, 86.16, 182.017, 196.58(1), and 196.499(1) Wis. Stats.

Purpose

The purpose of this ordinance is to provide the City a legal framework within which to regulate and manage the public rights-of-way, and to provide for recovery of costs. This ordinance promotes the health, safety, and general welfare of this community and its residents as they use the rights-of-way of the City, as well as to ensure the structural integrity of the public rights-of-way.

It is further the purpose and intent of this ordinance to regulate the placement of facilities, equipment, and structures in rights-of-way and minimize the number of excavations for the same to ensure the rights-of-way remain available for public use. In recognition that City taxpayers bear the financial burden for the maintenance and upkeep of rights-of-way, under this ordinance, all Persons who excavate, obstruct, and/or occupy the public rights-of-way will reimburse the City for a fair share of the administrative, management, and rehabilitation costs associated with Person's actions.

The following section is amended as follows:

Sec. 90-199 – Required; City work excluded

Subsection (a) is amended by inserting “, right-of-way” after “public sidewalk”.

The following section is amended as follows:

Sec 90-226 – Opening frozen ground prohibited

Is amended by inserting “, right-of-way” after “sidewalks”.

Within Chapter 90, Article XII is created and titled “Rights-of-Way” and the following sections are created thereunder:

Sec. 90-463 Administration

The Common Council, or its designee, is responsible for the administration of the rights-of-way, and the permits and ordinances related thereto.

Sec. 90-464 Street Opening Permit Requirement

(a) Except as provided in this Chapter or other Chapters of the City Code, no Person shall excavate any right-of-way or place facilities or equipment in a right-of-way without first having obtained a Street Opening permit from the Director of Public Works as set forth in Sections 90-200, 90-201.

(b) No Person shall excavate the right-of-way or maintain an excavation in the right-of-way beyond the date or area specified in the permit unless such Person makes a Supplementary Application for a renewal of permit before the expiration of the initial permit.

(c) A copy of any permit issued under this Chapter shall be made available at all times by the Permittee at the indicated work site and shall be available for inspection by the Department.

(d) Each Person who occupies, uses, or seeks to occupy or use, the right-of-way or any facility, equipment, or structure in the right-of-way, including by lease, sublease, or assignment, or who has, or seeks to have, facilities or equipment located in any right-of-way shall register the name and contact information of a designated point of contact with the Department of Public Works and keep and maintain the accuracy of such registration until the use of the right-of-way ceases.

(e) No Person may construct, install, repair, remove, relocate, or perform any other work on, or use any facilities or equipment in any right-of-way or any part thereof without first registering with the Department of Works. A further application and permit shall also be required for the addition of equipment or materials or other item to any existing pole or structure located in the City right of way or on City owned real estate.

Sec. 90-465 Permit Fee

(a) The Permit Fee for excavating in a right-of-way shall be established from time to time by the Common Council in an amount sufficient to recover the costs incurred by the City. This fee shall recover costs incurred by the City for each of the following categories as provided herein:

- (1) Administrative;
- (2) Repair;
- (3) Degradation.

(b) Notwithstanding Subsection (a) of this Section, the City and its contractors shall not pay degradation fees.

(c) No Permit to excavate in a right-of-way shall be issued without payment of the applicable fee, as calculated and set forth in Subsection (a) of this Section.

(d) Permit Fees paid under this Chapter are non-refundable.

Sec. 90-466 Right-of-Way Repair

(a) The work to be done under the street opening permit, and the repair of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the Permittee or when work was prohibited as unseasonable or unreasonable as set forth in Sections 90-226 – 90-232.

(b) The Permittee, as a condition to receiving the street opening permit, must repair its own work in addition to repairing the general area of the work and the surrounding areas including the paving and its foundations, to the specifications and standards set forth by the Department. The Department shall inspect the area of the work and accept the work when it determines that proper repair has been made, per the specifications set forth in the street opening permit.

(c) If the Permittee fails to repair the right-of-way in the manner and to the condition required by the Department, or fails to satisfactorily and timely complete all repair required by the Department, the Department may at its option complete such work. In that event the Permittee shall pay to the City, within thirty (30) days of billing, the cost of repairing the right-of-way. If the Permittee fails to pay as required, the City may exercise its rights under the bond pursuant to Section 90-201.

Sec. 90-477 Restoration in Lieu of Repair and Degradation

The Permittee may elect to restore the excavation and surrounding pavement in lieu of the repair and degradation fee. If restoration is elected, the Department shall specify the area to be restored, and the methods and materials to be used for the restoration.

Sec. 90-478 Inspection

(a) When the work under any permit hereunder is commenced and also upon its completion, the Permittee shall notify the Department.

(b) Permittee shall make the work site available to the Department and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

(c) At the time of inspections the City may order the immediate cessation or correction of any work which poses a threat to the life, health, safety or well being of the public. The City may issue an order to the Permittee for any work that does not conform to the applicable standards, conditions or codes. The order shall state the failure to correct violation will be cause for revocation of the permit. Within ten (10) days after issuance of the order, the Permittee shall present proof to the Department that the violation has been corrected. If such proof has not been presented within the required time, the Department may revoke the permit pursuant to Sec. 90-482.

(d) All work and/or restoration required shall be completed within thirty (30) days of the commencement of the work at the site.

Sec. 90-479 Ongoing Management Fees

(a) Fees shall reflect the ongoing or long-term costs to the City of managing the access to the right-of-way. These costs are exclusive of Administrative costs collected under Right-of-Way Street opening permit Fees. Fees shall be initially set, and may be annually re-computed, to recover the costs incurred by the City in ongoing management of the right-of-way. Ongoing management costs include, but are not limited to, inventory maintenance, facility tracking, GIS, tree trimming, grass mowing, right-of-way maintenance, location marking, and general inquiries related to public right-of-way users. The fee shall be based on the number of feet of right-of-way occupancy by a Telecommunications Right-of-Way User.

The per foot management fee shall be calculated as follows: Annual management fee per foot = Total annual management cost / Total ROW occupancy feet.

(b) Ongoing management fees shall be subject to adjustment and correction at the conclusion of the calendar year. Such fees shall be paid for all and any part of a calendar year, prorated on a daily basis, during any time period in which the said Person:

(1) Uses or occupies the right-of-way to furnish Telecommunications Service, or Place, maintains or uses the Person's wires, mains, pipes, or any other facilities or equipment in the right-of-way.

Sec. 90-480 Supplementary Application

(a) A street opening permit is valid only for the area of the right-of-way specified in the permit. No Permittee may perform any work or excavate outside the area specified in the permit, except as provided herein. Any Permittee which determines that an area greater than that specified in the permit must be excavated must, before working in the greater area (1) make application for a permit extension and pay any additional fees required thereby, and (2) be granted a new permit or permit extension.

(b) A Right-of-Way Street opening permit is valid only for the dates specified in the permit. No Permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a Permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit.

(c) A Permittee shall pay administration costs for any additional permits, but shall not be required to pay an additional degradation fee for the same excavation, if one has already been paid on the original permit.

Sec. 90-481 Other Obligations

(a) Obtaining a permit to excavate and/or occupy the right-of-way does not relieve Permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by any other City, County, State, or Federal rules, laws, or regulations. A Permittee shall comply with all requirements of local, state and federal laws. A Permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.

(b) Except in an Emergency, or with the approval of the Department, no right-of-way excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.

Sec. 90-482 Revocations, Suspensions, Refusals to Issue or Extend Permits

(a) The Department may refuse to issue a permit or may revoke, suspend or refuse to extend an existing permit if it determines that the application submitted is insufficient or the issuance, reissuance, or extension would be contrary to the purpose of this Article XII.

(b) Notwithstanding Subsection (a), the Department may issue a permit where issuance is necessary (i) to prevent substantial economic hardship to a customer of the Permittee or applicant, or (ii) to allow such customer to materially improve its utility service, or (c) to allow the Permittee or applicant to comply with state or federal law or city ordinance or an order of a court or administrative agency.

(c) Any Person aggrieved by a decision of the Department revoking, suspending, refusing to issue or refusing to extend a permit may file a request for review with the Common Council. A request shall be filed within ten (10) days of the decision being appealed. Following a hearing, the Common Council may affirm, reverse, or modify the decision of the Department.

Sec. 90-483 Unauthorized or Un-Permitted Work

(a) *Emergency Situation.* Each Permittee shall immediately notify the City by verbal notice on an emergency phone number provided by the City of any event regarding its facilities that it considers to be an Emergency. The Permittee may proceed to take whatever actions are necessary to respond to the Emergency. Within two (2) business days after the cessation of the Emergency the Permittee shall apply for any necessary permits, pay the fees associated therewith and otherwise fully comply with the requirements of this Chapter.

If the City becomes aware of an Emergency regarding a Permittee's facility, the Department may attempt to contact the Permittee. The City may take whatever actions it deems necessary to protect the public safety as a result of the Emergency, the cost of which shall be borne by the Permittee whose facility occasioned the Emergency.

(b) *Non-Emergency Situation.* Except in an emergency under Subsection (a), any Person who, without first having obtained the necessary permit, excavates a right-of-way must subsequently obtain a permit, and shall in addition to any penalties prescribed by Ordinance, pay double the normal fee for said permit, pay double all other fees required by this Chapter or other Chapters of the City Code, deposit with the Department the fees necessary to correct any damage to the right-of-way and comply with all of the requirements of this Chapter.

Sec. 90-484 Supplemental Notification

If the excavation of the right-of-way begins later or ends sooner than the date given on the permit, Permittee shall notify the Department of the accurate information as soon as this information is known.

Sec. 90-485 Location of Facilities

(a) The Department may assign specific corridors within the right-of-way, consistent with Wisconsin Public Service Commission Standards. All excavation or other permits issued by the Department involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue consistent with the Wisconsin Public Service Commission's corridor selection standards.

(b) The Department may prohibit or limit the placement of new or additional equipment or facilities within the right-of-way if:

- (1) there is insufficient space to accommodate all of the current and reasonably anticipated requests to occupy and use the right-of-way. In making such decisions, the Department shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but may prohibit or limit the placement of new or additional equipment or facilities when required to protect the long term interests of the public, health, safety or welfare;
- (2) the proposed pole, equipment, or structure would exceed the reasonable height limitations imposed on building or other structures in the immediately abutting zoning district and/or airport height limits established elsewhere in this Code;
- (3) the number of poles, equipments, or other structures in a given area exceeds a density that is reasonable for the area in question in light of surrounding current and planned uses and in light of the public and adjoining property owners' health, safety or welfare; and
- (4) the proposed poles, equipment, structures or additions to such poles or infrastructure would materially, and adversely impact the aesthetics of the area and/or the adjoining property owners' health, safety or welfare.

(c) Except as prohibited by State or Federal law, a Permittee must promptly and at its own expense, with due regard for seasonal working conditions, permanently remove and relocate its facilities in the right-of-way whenever the Department requests such removal and relocation, and shall restore the right-of-way to the same condition it was in prior to said removal or relocation. The Department may make such request to prevent interference by the facilities with:

- (1) a present or future City use of the right-of-way;
- (2) a public improvement undertaken by the City;
- (3) an economic development project in which the City has an interest or investment;
- (4) when the public health, safety and welfare require it; or
- (5) when necessary to prevent interference with the safety and convenience of ordinary travel over the right-of-way, including air-travel.

Notwithstanding the foregoing, a Person shall not be required to remove or relocate its facilities from any right-of-way which has been vacated in favor of a non-governmental entity unless and until the reasonable costs thereof are first paid to the Person therefore.

Sec. 90-486 Interference with Other Facilities during Municipal Construction

When the City performs work in the right-of-way and finds it necessary to maintain, support, shore, or move a Permittee's facilities, the City shall notify Permittee. The Permittee shall meet with the City's representative within 24-hours and coordinate the protection, maintenance, supporting, and/or shoring Permittee's facilities. The Permittee shall accomplish the needed work within 72-hours, unless the City agrees to a longer period. In the event that the Permittee does not proceed to maintain, support, shore, or move its facilities, the City may arrange to do the work and bill the Permittee, said bill to be paid within thirty (30) days.

Sec. 90-487 Indemnification

Permittee expressly acknowledges and agrees, by acceptance of the permit, to indemnify, defend, and hold harmless the City, its officers, boards, committees, commissions, elected officials, employees and agents, from and against all loss or expense (including liability costs and attorney's fees) by reason of any claim or suit, or of liability imposed by law upon the City or its agents or employees for damages because of bodily injury, including death at any time resulting therefrom, sustained by any Person or Persons or on account of damages to property, including loss of use thereof, arising from, in connection with, caused by or resulting from the Permittee's acts or omissions in the exercise of its rights under this permit, whether caused by or contributed to by the City or its agents or employees.

Sec. 90-488 Abandoned Facility

(a) *Discontinued Operations.* A Permittee who has determined to discontinue its operations in the City must either:

- (1) Provide information satisfactory to the Department that the Permittee's obligations for its facilities under this Chapter have been lawfully assumed by another Permittee; or
- (2) Submit to the Department a proposal and instruments for dedication of its facilities to the City. If a Permittee proceeds under this clause, the City may, at its option:
 - A. accept the dedication for all or a portion of the facilities; or
 - B. require the Permittee, at its own expense, to remove the facilities in the right-of-way at ground or above ground level; or
 - C. require the Permittee to post a bond or provide payment sufficient to reimburse the City for reasonably anticipated costs to be incurred in removing the facilities.

However, any Permittee who has unusable and/or abandoned facilities in any right-of-way shall remove it from that right-of-way within two years, unless the Department waives this requirement.

(b) *Abandoned Facilities.* Facilities of a Permittee who fails to comply with Subsection (a), and which, for two (2) years, remains unused shall be deemed to be abandoned. Abandoned facilities are deemed to be a nuisance. In addition to any remedies or rights it has at law or in equity, the City may, at its option (i) abate the nuisance, (ii) take possession of the facilities, or (iii) require removal of the facilities by the Permittee, or the Permittee's successor in interest.

(c) *Public Utilities.* This section shall not apply to a public utility as defined by WI. Stats. 196.01(5).

Sec. 90-489 Reservation of Regulatory and Police Powers

The City, by the granting of a permit to excavate, obstruct and/or occupy the right-of-way, or by registering a Person under this Chapter does not surrender or to any extent lose, waive, impair, or lessen the lawful powers and rights, which it has now or maybe hereafter granted to the City under the Constitution and statutes of the State of Wisconsin to regulate the use of the right-of-way by the Permittee; and the Permittee by its acceptance of a permit to excavate, obstruct and/or occupy the right-of-way or of registration under this Chapter agrees that all lawful powers and rights, regulatory power, or police power, or otherwise as are or the same may be from time to time vested in or reserved to the City, shall be in full force and effect and subject to the exercise thereof by the City at any time. A Permittee or Permittee is deemed to acknowledge that its rights are subject to the regulatory and police powers of the City to adopt and enforce general ordinances necessary to the safety and welfare of the public and is deemed to agree to comply with all applicable general law, and ordinances enacted by the City pursuant to such powers.

Sec. 90-490 Severability

If any section, subsection, sentence, clause, phrase, or portion of this Chapter is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Sec. 90-491 Definitions

- “Degradation” The accelerated depreciation of the right-of-way, caused by excavation of the right-of-way, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation did not occur.
- “Department” The Department of Public Works of the City of Chetek.
- “Emergency” A condition that (1) poses a clear and immediate danger to life or health, or of a significant loss of property; or (2) requires immediate repair or replacement in order to restore service to a customer.
- “Excavate” To dig into or in any way remove or physically disturb or penetrate any part of a right-of-way.
- “Facilities” All equipment owned, operated, leased or subleased in connection with the operation of a service or utility service, and shall include but is not limited to poles, wires, pipes, cables, underground conduits, ducts, manholes, vaults, fiber optic cables, lines and other structures and appurtenances.
- “In” or “On” When used in conjunction with “right-of-way,” means over, above, in, within, on or under a right-of-way.

This ordinance shall become effective upon its passage and publication as provided for by law.

CITY OF CHETEK

By: _____
Jeff Martin, Mayor

Attest: _____
Carmen Newman, clerk/treasurer

Date passed: 9/13/16
Date published: 9/21/16