

**VILLAGE OF PLEASANT PRAIRIE
PLEASANT PRAIRIE VILLAGE BOARD
PLEASANT PRAIRIE WATER UTILITY
LAKE MICHIGAN SEWER UTILITY DISTRICT
SEWER UTILITY DISTRICT "D"**

**9915 39th Avenue
Pleasant Prairie, WI
May 27, 2008**

Immediately following the 5 p.m. Plan Commission Meeting

A Special Meeting of the Pleasant Prairie Village Board was held on Tuesday, May 27, 2008. Meeting called to order at 6:05 p.m. Present were Village Board members John Steinbrink, Monica Yuhas, Steve Kumorkiewicz, Clyde Allen and Mike Serpe. Also present were Mike Pollocoff, Village Administrator; Jane Romanowski, Village Clerk and Kevin Long, Village Attorney.

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. CITIZEN COMMENTS**

John Steinbrink:

Anybody wishing to speak? Hearing none, we'll close citizens' comments.

- 5. VILLAGE BOARD COMMENTS**

John Steinbrink:

We'll open it up to Village Board comments.

- 4. NEW BUSINESS**

- A. Consider Time Warner's Cable Application for a State-Issued Certificate of Franchise Authority.**

Mike Pollocoff:

Mr. President, under the new cable regulations that were adopted by the State, of course, the Village franchise goes away and we haven't entered into one with AT&T. And our existing franchise with Time Warner Cable is still intact until they made a change in their corporate structure. Time Warner released Time Warner Cable and they've restructured their unit. So once they did that it became a new company. The Department of Financial Institutions indicated they needed to apply for a statewide franchise at that point so that's what they've done.

Under the new statute this is the window of time, and they give us ten days to do it, in order to make a determination for the franchise fee plus being able to keep the public access channels we have, Channel 25, Channel 14 and Channel 20. So the issue before the Board tonight is to indicate that we do want to continue to have the public access channels and establish the franchise

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fee, and I'm recommending we establish that at 5 percent which is the ceiling that's permitted by statute. Franchise fee is different than it was before in the sense that at this time under the State law anything that we charge to Time Warner or to AT&T the permits are in essence free, and if we don't collect the money for the work we do that they regulate, monitor and evaluate what they do in the public right of way, if we don't collect a franchise fee then it's the responsibility of the general fund to pay for those bills to do that.

We had budgeted for a 5 percent franchise fee in our last two budgets, and Time Warner in particular was not willing to pay that fee because it would put them at a competitive disadvantage with AT&T. AT&T even before the new law was adopted they placed a 5 percent franchise fee for the Village. So I'm recommending that we adjust our franchise fee to 5 percent and that we continue to provide the three access channels that we currently do. Those channels are the Village's under the agreement, it's just that we allow Channel 14 to be for community service and Channel 20 is for Kenosha Unified and ours will be Channel 25. If you have any questions.

Mike Serpe:

Mike, the franchise fee covers the access channels, but doesn't that franchise fee now have to cover repairs in right of ways and damages done by—

Mike Pollocoff:

They have access to the right of way under the new legislation. And they have to have a permit. We give them a permit, but if we charge them for the permit then they deduct it from the franchise. And if we don't have a franchise fee they just don't pay.

Mike Serpe:

Now, we're going to charge a 5 percent franchise fee for a Time Warner customer. What are we going to do for AT&T customers?

Mike Pollocoff:

Theirs is already under a 5 percent fee.

Mike Serpe:

Theirs is already there?

Mike Pollocoff:

Right. That was a fee that was established by the Board in the budget. It's just that we needed Time Warner to be in a position where they were going to honor it and they didn't need to convert their franchise until they did just recently. The other thing that we would use this money for is to eventually cover cable, the IT Department's operations for cable TV, and at some point we would generate enough money to fund televising the meetings or the services we provide

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through IT as it relates to video. I'm not recommending we use this as a plug into the general fund budget, but I am recommending that we not use general fund money to fund cable operations or video operations when we have the opportunity to have those people to have access to see Channel 25, have them be the ones to pay for it rather than the general taxpayer.

Mike Serpe:

In the event that there is significant damage done by Time Warner workers or AT&T workers and it expends the funds that we've collected to make those repairs, do we have any recourse towards either one of these companies?

Mike Pollocoff:

If it was negligence I think we could probably go after them. Not with Time Warner but with AT&T we have a couple real significant issues we're working on, and basically we've got them to agree to pay \$1,500 to make the site look better but that's it. They're basically saying we're taking because there's a threshold in the statute if you can't come up with a permit or an agreement within 60 days then they can do what they want.

Mike Serpe:

I don't see much of a choice here but to approve the franchise agreement.

Monica Yuhas:

Second.

John Steinbrink:

Motion by Mike, second by Monica. Further discussion, Steve?

Steve Kumorkiewicz:

Yes, I'd like to see that as a fee for the fact that there aren't too many people in the Village who other than myself don't have cable TV so I feel I shouldn't be paying the particular fee. I don't use the service so that's it.

Mike Serpe:

You're not paying the fee.

Steve Kumorkiewicz:

I know, that's what I said. That's what I like about it, I don't have to pay that fee. So people have to understand why we're doing that. Thank you.

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John Steinbrink:

Further comment or questions?

SERPE MOVED TO ACCEPT TIME WARNER'S CABLE APPLICATION FOR A STATE-ISSUED CERTIFICATE OF FRANCHISE AUTHORITY AND TO ESTABLISH THE VILLAGE'S FRANCHISE FEE AT FIVE PERCENT; SECONDED BY YUHAS; MOTION CARRIED 5-0.

John Steinbrink:

Before we move on to Item B, a housekeeping item, I should have asked for approval to move Item 5 behind Item 3. Do we have a motion and a second to move Village Board Comments up?

Steve Kumorkiewicz:

So moved.

Monica Yuhas:

Second.

John Steinbrink:

Motion by Steve, second by Monica.

KUMORKIEWICZ MOVED TO CONSIDER ITEM 5 VILLAGE BOARD COMMENTS AFTER CITIZEN COMMENTS AND BEFORE NEW BUSINESS; SECONDED BY YUHAS; MOTION CARRIED 5-0.

B. Consider Whether to Enter into Closed Session Under Wis. Stat. Section 19.85(1)(e) to Discuss Negotiation of Specific Issues Involving the Cooperative Agreement between the Village of Pleasant Prairie and the Town of Bristol, because Competitive or Bargaining Reasons Require a Closed Session.

John Steinbrink:

We need a roll call vote on this.

Steve Kumorkiewicz:

I make a motion to go to Executive Session.

Monica Yuhas:

Second.

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John Steinbrink:

Motion by Steve, second by Monica. Any question or comments on this.

KUMORKIEWICZ MOVED TO ENTER INTO EXECUTIVE SESSION AS ANNOUNCED; SECONDED BY YUHAS; ROLL CALL VOTE – STEINBRINK – YES; YUHAS – YES; KUMORKIEWICZ – YES; ALLEN – YES; SERPE – YES; MOTION CARRIED 5-0.

John Steinbrink:

The Board will return to open session for reason of adjournment only. No other business will be conducted.

6. ADJOURNMENT

After discussions were held in closed session, **SERPE MOVED TO RETURN TO OPEN SESSION; SECONDED BY KUMORKIEWICZ; ROLL CALL VOTE – STEINBRINK – YES; YUHAS – YES; KUMORKIEWICZ – YES; ALLEN – YES; SERPE – YES; MOTION CARRIED 5-0.**

SERPE MOVED TO ADJOURN THE MEETING; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 5-0 AND MEETING ADJOURNED AT 7:40 P.M.