

**CITY OF CEDARBURG  
COMMON COUNCIL  
October 11, 2021**

**CC20211011-1  
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, October 11, 2021 at City Hall, W63 N645 Washington Avenue, second floor, Council Chambers and online utilizing the Zoom app.

Mayor O’Keefe called the meeting to order at 7:00 p.m.

Roll Call:           Present - Mayor Michael O’Keefe, Council Members Sherry Bublitz, Jack Arnett, Kristin Burkart, Rick Verhaalen, Robert Simpson, Patricia Thome, Barbara Lythjohan

Also Present - City Administrator Mikko Hilvo, City Attorney Michael Herbrand, Deputy City Clerk Amy Kletzien, City Clerk Tracie Sette, Finance Director/Treasurer Christy Mertes, Light & Water General Manager Dale Lythjohan, Parks, Recreation, and Forestry Director Danny Friess, Director of Engineering and Public Works Mike Wieser, Police Chief Thomas Frank, Captain Michael McNerney, Library Director Linda Pierschalla, Fire Chief Jeff Vahsholtz, Public Works Superintendent Joel Bublitz, Water Recycling Center Superintendent Eric Hackert, Water Recycling Center Lead Operator Dennis Grulkowski, Water Superintendent Tim Martin, Forrester Kevin Westphal, interested citizens and news media

**STATEMENT OF PUBLIC NOTICE**

At Mayor O’Keefe’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. Citizen’s present were welcomed and encouraged to provide their input during the citizen comment portion of the meeting.

**COMMENTS AND SUGGESTIONS FROM CITIZENS** - None

**APPROVAL OF MINUTES**

Motion made by Council Member Thome, seconded by Council Member Bublitz, to approve the September 27, 2021 Common Council minutes. Motion carried without a negative vote.

**NEW BUSINESS**

**DISCUSSION AND POSSIBLE ACTION ON MAYORAL APPOINTMENT TO LANDMARKS COMMISSION**

Motion made by Council Member Burkart, seconded by Council Member Thome, to approve Mayor O’Keefe’s appointment of Elizabeth Krimmel to the Landmarks Commission (term to expire 4/2022). Motion carried without a negative vote.

**DISCUSSION AND POSSIBLE ACTION ON RESOLUTION NO. 2021-17**  
**REDISTRICTING OF WARD BOUNDARIES**

City Clerk Sette explained that as a result of the 2020 Census, Ozaukee County recently approved a tentative map containing new Supervisory District lines. As a result of those changes, new City Aldermanic District/Wards have been redrawn utilizing Wisconsin Legislative Bureau standards. Those standards include keeping Wards compact, utilizing whole census blocks, composition of contiguous territory, and complying with the population ranges. Upon approval of tentative Municipal plans, the County will hold a public hearing and have one final approval of the Supervisory Districts. Afterward, an ordinance will be brought to the Council for final approval of the Aldermanic Districts. She added that Ward 9 was absorbed into Ward 2 and Ward 8 was absorbed in Ward 4.

Motion made by Council Member Thome, seconded by Council Member Arnett, to adopt Resolution No. 2021-17 Redistricting of Ward Boundaries. Motion carried without a negative vote.

**DISCUSSION ONLY ON LEAD WATER SERVICE LATERAL REPLACEMENT PROGRAM**

Light & Water General Manager Lythjohan explained that approximately 1000 homes in the older neighborhoods of Cedarburg have customer owned lead service piping that brings water into their homes. The water utility is required to test for and remain in compliance for lead and copper in our drinking water by the DNR/EPA. The water utility must test a prescribed number of homes once every three years for the presence of lead and copper in the drinking water (at the point of use) which normally is the kitchen sink. Testing started about 25 years ago, and the utility remains in compliance with all the current rules. Compliance has been obtained through a utility corrosion control program that adds an ortho-phosphate that deposits a thin film on the inside of the service pipes.

Over the last 25 years, the water utility has been replacing the utility owned portion of any water service lateral when they are replacing the water main in the street. Since the portion of the lateral behind the sidewalk is owned by the homeowner, a very limited number (less than 10) of customer owned laterals have been replaced by the owner even after informing them of the issue/potential concern. Cost is a factor as it cost \$5,000 - \$10,000 to replace the customer lateral and connect it to the internal plumbing.

While the Utility is fully compliant, there will most likely come a time when the City will fail the testing due to the number of services still in use that are lead. For several years the State has offered grants to communities that can apply to “get the lead out.” Cedarburg has not received any grants in the past due to one of the higher scoring elements being community “affluence.” That has changed recently so Cedarburg will hopefully be eligible for a grant. One of the higher scoring “categories” for the grants is if there is an ordinance in place that requires/mandates a customer owned service replacement when determined by the City. General Manager Lythjohan stated that since there currently is not such an ordinance in place the Utility is approaching the City Council for feedback on their willingness to consider such an ordinance.

In answer to Council Member Arnett's question, General Manager Lythjohan answered that the City will not be able to eliminate the addition of ortho-phosphate until all the laterals have been replaced. Once the test fails, the City will have to replace all lead pipes.

The Common Council discussed the pros and cons of mandating customer owned service replacement when determined by the City. If the City fails the testing in 2023, the City will be required to replace all lead pipes at that time. It would be helpful to have a policy in place beforehand to address responsibility.

General Manager Lythjohan's presentation was for information purposes only to start discussions on a possible mandate.

**DISCUSSION AND POSSIBLE ACTION ON CONTINUING TO ALLOW BUSINESSES TO SET UP TEMPORARY TENTS ON THEIR PREMISES**

City Administrator Hilvo explained that businesses are still recovering from the effects of COVID-19 and the local restaurants/businesses are looking to provide additional space for their patrons during the colder months. Lime Cantina and Stagecoach Inn have setup tents for the season. Union House has submitted a request for a tent. Stilt House has submitted and received an approval from November 1, 2021 to January 2, 2022 for their tent. Last winter the City allowed Brandywine and Anvil to set up smaller temporary tents as well.

At the February 22, 2021 Council meeting a decision was made to allow temporary tents until the end of 2021. At the June 2, 2021 Plan Commission meeting, the Union House was granted an outdoor alcohol beverage license with the condition that they use a black aluminum fence instead of a tent. At the August 2 Plan Commission meeting, the Stilt House was granted approval for a tent to be set up from November 1, 2021 to January 2, 2022.

The City's Administrative Policy on Temporary Use permits allows staff to approve temporary uses for up to two (2) weeks. The City's Zoning Ordinance allows temporary uses, but it requires Landmarks Commission ( in the Historic District) and Plan Commission approval. The current ordinance does not specify temporary use of tents since it has not been an issue until COVID-19. Prior to COVID-19, The Stilt House was the only restaurant requesting a tent and they have come to the Plan Commission annually for approval. City Administrator Hilvo explained that the Common Council can decide to allow tents for temporary use to assist businesses through COVID-19 recovery or they can deny the use and have the businesses go through the application process as outlined in the City's Ordinances and Policies.

Staff recommends allowing temporary use of tents until the end of the year. A business would still be required to fill out a Temporary Use permit, pay the fee (\$27.50), and be subject to a building and fire inspection. He recommends that the Plan Commission work on revising the City's Temporary Use Ordinance/Policy to be implemented on January 1, 2022.

Council Member Arnett was in favor of the use of tents during the shoulder season.

Council Member Thome expressed concern for increased dining in tents creating a greater need for parking and restrooms. It is the City's responsibility to look at all the parameters.

BJ and Payton Homayouni of The Union House stated that they are looking for consistency across the board. They spent \$2,000 for a fence because they were told that tents were not allowed in the Historic District and were “going away.” If tents will be allowed, they will need to spend an additional \$2,000 for a tent, to be competitive. Their space is small, and it would help their business year-round to have a tent.

Council Member Thome opined that the fence would have been needed anyway because every outdoor serving area is required to be completely enclosed with a fence or other measures, and some businesses are not complying.

Council Member Bublitz was in favor of allowing tents through 2021 with the Plan Commission designing a revised Temporary Use Ordinance/Policy that is pro-business.

Michelle Tietz, owner of Lime Cantina, explained that their tent was a major investment, and they want to use it through the winter. She asked if their current permit would allow that.

City Administrator Hilvo explained that their permit is valid through December 31, 2021. The City will need an Ordinance to regulate tents in the future.

Motion made by Council Member Arnett to direct the Plan Commission to draft rules to accommodate temporary tents subject to inspection by the City and approved by the Plan Commission and Landmarks Commission, if in the Historic District, between October 1 and May 30. Motion was seconded by Council Member Simpson. Motion carried with Council Members Arnett, Verhaalen, Simpson and Lythjohan voting aye and Council Members Bublitz, Burkart and Thome voting nay.

## **DISCUSSION AND POSSIBLE ACTION ON REVIEW OF MUNICIPAL CODE CHAPTER 2 FOR CODIFICATION**

City Clerk Sette explained that Municode prepared a preliminary copy of the City Code for review. As each Department Head reviews their respective sections, any changes made are brought to the Council for review. The Water Recycling Center changes are minimal; however, a couple fees have changed. All changes are updated in red. Once approved by the Common Council, they will be returned to Municode for finalization. A complete final Code will be brought to the Council for one final approval at a future date.

Motion made by Council Member Verhaalen, seconded by Council Member Thome, to approve the changes to Chapter 2 of the Municipal Code for codification. Motion carried without a negative vote.

## **DISCUSSION AND POSSIBLE ACTION ON LICENSE/PERMIT APPLICATIONS**

Motion made by Council Member Verhaalen, seconded by Council Member Bublitz, to approve new Operator License applications for the period ending June 30, 2022 for Daniel M. Christ, Parker J. Dolphin, John Feiertag, Patrick J. Wise. Motion carried without a negative vote.

**CONSIDER PAYMENT OF BILLS DATED 09/18/2021 THROUGH 10/07/2021, TRANSFERS FOR THE PERIOD 09/24/2021 THROUGH 10/06/2021 AND PAYROLL FOR PERIOD 09/19/2021 THROUGH 10/02/2021; AND ACTION THEREON**

Motion made by Council Member Burkart, seconded by Council Member Thome, to approve payment of bills dated 09/18/2021 through 10/07/2021, transfers for the period 09/24/2021 through 10/06/2021 and payroll for period 09/19/2021 through 10/02/2021. Motion carried without a negative vote.

**DISCUSSION AND POSSIBLE ACTION ON REQUEST FOR EXTENSION OF ALCOHOL PREMISE DESCRIPTION FOR THE SHINERY, W63 N678 WASHINGTON AVENUE, CEDARBURG, WI 53012, TROY REISSMAN, AGENT, FOR AN OUTDOOR TENT LOCATED IN THE DRIVEWAY ON THE NORTHSIDE OF THE SHINERY DURING THE BLOODY MARY WALK ON OCTOBER 23, 2021**

Motion made by Council Member Bublitz, seconded by Council Member Lythjohan, to approve the extension of the alcohol premise description for The Shinery, W63 N678 Washington Avenue, Cedarburg, WI 53012, Troy Reissman, agent, for an outdoor tent located in the driveway on the northside of The Shinery during the Bloody Mary Walk on October 23, 2021 Motion carried without a negative vote.

**DISCUSSION AND POSSIBLE ACTION ON REVIEW OF 2022 BUDGET**

City Administrator Hilvo thanked Finance Director/Treasurer Mertes and the Department Heads for their work on the budget and making some tough designs. He presented the following proposed 2022 Budget information to the Common Council:

The proposed budget requires a \$0.07 rate increase. This equates to an increase of \$19.60 on an average property valued at \$280,000. The rate increase is due to the City's tax incremental districts. Without the TID levy, the tax rate would be going DOWN \$0.01. The levy limit allows for an increase up to \$834,349 but to qualify for future expenditure restraint funding we are limited to an increase of \$537,564. This allows a max rate increase of \$0.21. The priorities for 2022 are Public Safety (Fire/EMS) and Public Works Operations.

Year	Rate/\$1000 of assessed value	City Taxes to Avg. Homeowner*	Rate Increase from Prior Year	Increase in Taxes to Avg. Homeowner
2022	7.94	\$2,223.20	\$0.07	\$19.60
2021	7.87	\$2,203.60	\$0.01	\$2.80

\*Average home price is \$280,000

\*\*Increase/decrease of \$13,863 increases/decreases the tax rate by \$0.01

\*\*\*Equalized value is \$1,683,699,600. Assessed value is \$1,386,253,770. Assessment Ratio of 82.41%

The Tax Levy History page shows the levy increase by fund. The general fund tax levy support is increasing by \$397,227 (6.4%). The TIF District Levy is increasing by \$15,254 (17.4%). The debt service levy is increasing by \$64,708 (3.4%). To offset the increases mentioned we have decreased the capital improvement levy by \$155,000 (-9.5%) and kept the library and pool levy the same as 2021.

The following spreadsheet shows the amount of Increase/(Decrease) in revenues. \*Includes only major changes or revenue sources. Additional information is included in the budget document.

Revenue	Amount Receiving	Increase/(Decrease) from 2021
State Shared Revenue	\$204,113	\$127
Expenditure Restraint Grant	\$188,372	(\$11,892)
State Transportation Aids	\$930,510	\$30,297
State Aid Cable Franchise Fees	\$29,585	\$0
State Computer Aids	\$21,048	(\$3000)
State Grants – DOT/Police	\$3,360	\$0
Fire Operating Town	\$221,210	\$31,030

The following spreadsheet shows the amount of Increase/(Decrease) in Department Budgets.

\*Variances explained below the spreadsheet.

Department	Amount of Increase/(Decrease)	% of Increase/(Decrease)
Mayor/Elected Officials/Attorney	\$0	-
City Administration/Employee Relations	\$22,813	11%
City Clerk	\$8,428	3%
Elections	\$8,571	21%
Assessor Services	\$0	-
Finance Department	\$2,723	1%
Police Department	\$166,463	4%
Fire Department	\$78,536	10%
Building Inspection	\$5,637	3%
Auxiliary Police (EM)	(\$276)	(1%)
Engineering/PW Admin	(\$51,415)	(46%)
Public Works	\$54,594	7%
Senior Center	(\$9,624)	(11%)
Parks, Recreation, & Forestry	\$43,128	5%
Pool	\$0	-
Recreation Programs	Self-Supporting	-
Library Services	\$0	-
Water Recycling Operations	Self-supporting	-
Cemetery Fund	Self-supporting	-
Planning	\$0	-

### **Budget Variances**

Salaries – 3% COLA for City Employees. 2.25% increase for Police and Police Union employees per Union contract.

Health Insurance – Increase of 8.43% for a \$3,000/\$6,000 high deductible plan. \*This is an increase of \$1,000 for single and \$2,000 for family contribution from employees towards their deductible.

An employee can remain at the \$2,000/\$4,000 deductible and pay 8% of their premium. The increase for the lower deductible is 19.43% which is offset by employee's contribution towards the premium.

Police Department sworn personnel will remain at the \$2,000/\$4,000 deductible with no premium contribution per Union contract.

City Administration – Increase per renewed contract.

Clerk's Office – Increase for more elections in 2022.

Assessor Services – Use of fund balance for revaluation.

Finance/Treasurers Office – Savings from hiring part-time employee for accounts payables. Slight increase for salaries and benefits.

Police Station Administration – Salary and Benefits Increases. Sick payout for Chief upon retirement.

Police Patrol – Salary and Benefits Increases.

Fire Department – Increase of additional full-time staff. Department will have a part-time Chief, full-time Fire Inspector/Firefighter/AEMT, Full-time Deputy Chief, 1 full-time Firefighter/AEMT. An additional Firefighter/AEMT is budgeted to start in July 2022.

Building Inspection – Salary and Benefits Increases.

Engineering/PW – Sick payout for retired engineer was budgeted in 2021. No retirements in 2022 resulting in a decrease to the budget.

Public Works – Increase of one (1) full-time Crew member is budgeted for 2022 to accommodate ongoing growth in the City.

Parks, Recreation, & Forestry – Increase for salaries and benefits. Additional increase in salaries based on position changes within the Public Works/Parks Departments.

Recreation Programs – Recreation fund will be used to pay for any pool, some general Parks and Forestry fund increases, and fixing of the Zeunert Tennis Courts. Amount of fund balance used in 2022 will be \$69,727. Recreation fund balance at the end of 2022 is expected to be \$40,273.

Library Services – No increase in tax levy. Library will use fund balance in 2022 to offset increases. Amount of fund balance use will be \$15,791. Library Fund Balance at the end of 2022 is expected to be \$51,106

Water Recycling Center – An increase of \$1.00/1000 gallons is proposed to the sewer use rate. Increase is used to fund capital costs and future Water Recycling Center Facility.

**Department Head initial budget requests removed from the budget**

- 1) Library Capital Fund
  - a. Removed \$7,500 for server room A/C
  - b. An increase of \$24,784 in funding from the tax levy for salary and benefits increases. (Utilizing Library fund balance)
- 2) Fire Department Capital Improvements
  - a. Removed \$70,000 from station #1 and \$50,000 from station #2 floors
- 3) Police Department
  - a. Removed \$20,000 for interior/exterior painting
- 4) Building Inspection
  - a. Borrowing \$160,000 for A/C unit replacement.
- 5) Public Works
  - a. Borrowing \$230,000 for Plow Truck
- 6) Parks, Recreation, & Forestry Department
  - a. \$40,000 for Zeunert Tennis Court repairs
  - b. \$29,727 for parks and pool salary and benefits increases. (Utilizing rec program fund balance)

**Use of fund balance for 2022**

Total Estimated Fund Balance at the end of 2021: \$3,329,356

Policy: "A general fund unassigned fund balance shall be maintained as of December 31 of each year equal to a minimum of 20% and a maximum of 35% of the ensuing year's general operating budget."

Minimum required unassigned fund balance per City policy: \$2,035,229

Maximum unassigned fund balance per City policy: \$3,561,651

- 1) \$72,500 use of fund balance for revaluation. (Funds have been specifically assigned to this during the last 10 years.)

Total use of fund balance in 2022: \$72,500

Proposed Ending Fund Balance in 2022

Unassigned: \$2,752,407

\*Unassigned fund balance is the residual classification for the General Fund. This is fund balance that has not been reported in any other classification. The General Fund is the only fund that can report a positive unassigned fund balance. Other governmental funds would report deficit fund balances as unassigned.



**Debt Service**

Total Current Debt: \$22,185,000

Total Levy for 2022: \$1,982,178

Increase from 2021: \$64,708

Tax Rate (Equalized): 1.24

***Recommended Borrowing for 2022 Projects:***

- 1) Plow Truck - \$230,000
- 2) City Hall A/C System - \$160,000

**Library Building**

2022: \$633,525

Final Payment Year: 2026

**2015, 2016, 2017 Refinance**

2022: \$445,000

Final Payment Year: 2025

**Public Works Building**

2022: \$538,588

Final Payment Year: 2036

**Capital Projects Streets**

2022: 140,125

Final Payment Year: 2028

**Capital Projects Monopole**

Paid in full in 2021

**Capital Projects Swimming Pool**

2022: 30,800

Final Payment Year: 2030

**Sewer Utility**

2022: \$62,675

Final Payment Year: 2036

**TID #4 Amcast**

2022: \$244,160

Final Payment Year: 2038

TID #6 HWY 60 Business Park

2022: \$128,000 (Paid with borrowing proceeds for first 3 years)

2021 borrowing of \$1.1 million for remainder of project

Final Payment Year: 2040\*

\*Will change with additional borrowing.

City Administrator Hilvo opened his presentation to questions from the Common Council.

Council Members expressed concern and asked questions regarding borrowing \$230,000 for a plow truck.

City Administrator Hilvo explained that leasing is not a good fit at this time because the rates are better to borrow now than to go through a leasing program.

Council Member Bublitz asked where the money goes that is received on vehicles that are sold at a surplus auction? City Administrator Hilvo explained that the proceeds go into the equipment reserve. Council Member Bublitz suggested that the Finance Committee look at the best use for the proceeds from the sale of a vehicle.

In answer to Council Member Arnett's question, Finance Director/Treasurer Mertes explained that Ehlers is recommending borrowing from the State Trust Fund or a local bank because it will only be a 5 – 10-year loan and not long term.

In answer to Council Member Bublitz's question, Finance Director/Treasurer Mertes said that the City has always paid for vehicles in full at time of purchase.

Council Member Arnett opined that the City could use the Fund Balance.

Council Member Thome stated that the City may be joining the State insurance plan and that will require a buy-in of \$400,000 in 2023 and \$200,000 in 2024 and this may have to come from the Fund Balance.

Council Member Arnett explained that the City is at their peak debt now and will see relief as the debt is paid.

Department Heads did not have any comments at this time.

City Administrator Hilvo asked the Common Council if they wanted any changes made to the proposed 2022 Budget.

Mayor O'Keefe stated that he was not okay with a \$0.07 tax rate increase; however, it is necessary as the City is looking at peak debt and moving to the State Health Insurance program in the future. The Finance Committee has done a phenomenal job of looking at various opportunities and the City as at the mercy of the current situation. The City needs to provide services that are important to the residents.

It was the consensus of the Common Council that Department Heads and Staff did a remarkable job of maintaining current services without adding any extraordinary expenses to the proposed 2022 Budget. No changes were suggested by the Mayor and Common Council.

**ADMINISTRATOR'S REPORT** – No further discussion.

**COMMENTS AND SUGGESTIONS FROM CITIZENS** - None

**COMMENTS AND ANNOUNCEMENTS BY COUNCIL MEMBERS**

Council Member Burkart expressed concern for people driving on Washington Avenue after the mesh has been installed. She encouraged people to adhere to the signage and also patronize the downtown businesses.

**MAYOR REPORT** – None

**ADJOURNMENT – CLOSED SESSION**

Motion made by Council Member Thome, seconded by Council Member Verhaalen, to adjourn to closed session at 9:01 p.m. pursuant to State Statute 19.85 (1)(g) conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved, more specifically, discussion on Prochnow Landfill. Approval of September 27, 2021 closed session minutes. Motion carried on a roll call vote with Council Members Bublitz, Arnett, Burkart, Verhaalen, Simpson, Thome, and Lythjohan voting aye.

**RECONVENE TO OPEN SESSION**

Motion made by Council Member Bublitz, seconded by Council Member Lythjohan, to reconvene to open session at 9:21 p.m. Motion carried on a roll call vote with Council Members Bublitz, Arnett, Burkart, Verhaalen, Simpson, Thome, and Lythjohan voting aye.

**ADJOURNMENT**

Motion made by Council Member Arnett, seconded by Council Member Bublitz, to adjourn the meeting at 9:22 p.m. Motion carried without a negative vote.

Amy D. Kletzien, MMC/WCPC  
Deputy City Clerk