

**CITY OF CEDARBURG
COMMON COUNCIL
January 13, 2020**

**CC20200113-1
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, January 13, 2020, 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 Sherry Bublitz, Jack Arnett, Rick Verhaalen, Garan Chivinski, Patricia Thome, Rod Galbraith

Excused - Council Member Kristin Burkart

Also Present - City Administrator Mikko Hilvo, City Attorney Michael Herbrand, Deputy City Clerk Amy Kletzien, Director of Engineering and Public Works Tom Wiza, Light & Water General Manager Dale Lythjohan, Police Chief Thomas Frank, City Clerk Claire Woodall-Vogg, City Planner Jon Censky, Public Works Superintendent Joel Bublitz, Water Recycling Center Superintendent Eric Hackert, Glenn Lindberg, Scott Miller, Pete Wegner, 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. 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 Thome, seconded by Council Member Bublitz, to approve the minutes of the December 9, 2019 meeting. Motion carried without a negative vote with Council Members Burkart excused.

COMMENTS AND SUGGESTIONS FROM CITIZENS - None

NEW BUSINESS

CONSIDER RESOLUTION NO. 2020-01 HONORING POLICE CAPTAIN GLENN LINDBERG; AND ACTION THEREON

Motion made by Council Member Verhaalen, seconded by Council Member Galbraith, to adopt Resolution No. 2020-01 honoring Police Captain Glenn Lindberg. Motion carried without a negative vote with Council Member Burkart excused.

CONSIDER RESOLUTION NO. 2020-02 HONORING PATROL SERGEANT SCOTT MILLER; AND ACTION THEREON

Motion made by Council Member Galbraith, seconded by Council Member Thome, to adopt Resolution No. 2020-02 honoring Patrol Sergeant Scott Miller. Motion carried without a negative vote with Council Member Burkart excused.

CONSIDER RESOLUTION NO. 2020-03 HONORING PETE WEGNER; AND ACTION THEREON

Motion made by Council Member Thome, seconded by Council Member Galbraith, to adopt Resolution No. 2020-03 honoring Pete Wegner. Motion carried without a negative vote with Council Member Burkart excused.

CONSIDER ACCEPTANCE FROM CEDARBURG SCHOOL DISTRICT OF A 0.0525-ACRE TRIANGULAR PARCEL OF LAND LOCATED IN AN AREA SURROUNDED BY CITY OWNED LAND DIRECTLY SOUTH OF THE LINCOLN BUILDING AT W63 N643 HANOVER AVENUE; AND ACTION THEREON

Planner Censky explained that the Cedarburg School District recently discovered that they own a small landlocked triangular shaped parcel located in the middle of the City's parking lot/drive directly south of the Lincoln Building. Staff believes that this parcel was inadvertently created years ago when the District transferred ownership of their property to the City. Out of concerns for liability, the School District is now seeking to transfer title of this parcel to the City to have it combined with the adjacent City owned property. To accomplish this, City Attorney Herbrand has drafted a Quit Claim Deed which, when recorded, will serve to combine the parcel with the adjacent City owned property. The Plan Commission recommended approval by unanimous vote on December 2, 2019.

Motion made by Council Member Verhaalen, seconded by Council Member Thome, to accept from Cedarburg School District of a 0.0525-acre triangular parcel of land located in an area surrounded by City owned land directly south of the Lincoln building at W63 N643 Hanover Avenue. Motion carried without a negative vote with Council Member Burkart excused.

CONSIDER APPROVAL OF A CERTIFIED SURVEY MAP TO SPLIT A 1.49-ACRE PARCEL FROM THE 57-ACRE PARENT PARCEL AT W74 N1204 WASHINGTON AVENUE; AND ACTION THEREON

Planner Censky explained that the applicant is requesting Certified Survey Map approval to split a 1.49 acre parcel, with the family home, from the 57-acre parent parcel located at W74 N1204 Washington Avenue. While this property was annexed into the City in 2008 along with the City's Business Park lands and adjacent lands, sanitary sewers have yet to be extended to this site. Consequently, this home is one of a few in the City that is not served by the City's public sanitary sewer system. Staff notes that once the sanitary sewer system becomes available the future homeowner will have one year to connect. Since this land division results in the dedication of the ultimate road right-of-way for Washington Avenue, Common Council approval is required. The Plan Commission recommended approval by unanimous vote on January 6, 2020.

Motion made by Council Member Thome, seconded by Council Member Arnett, to approve a certified survey map to split a 1.49-acre parcel from the 57-acre parent parcel at W74 N1204 Washington Avenue. Motion carried without a negative vote with Council Member Burkart excused.

CONSIDER APPLICATIONS OF SUNSHINE WINERY, W63 N631 WASHINGTON AVENUE, AND THE SHINERY NEENAH LLC, W63 N706 WASHINGTON AVENUE, FOR A CLASS “B” FERMENTED MALT BEVERAGE AND “CLASS B” INTOXICATING LIQUOR (ON OR OFF-PREMISE CONSUMPTION) LICENSE; AND ACTION THEREON

City Clerk Woodall-Vogg explained that the City has one available “Class B” Liquor License and the City has great discretion in issuing this license. Attorney Herbrand added that a reserve “Class B” license is also available but requires a \$10,000 one-time fee. Two businesses have applied for this license and are present at this meeting for consideration.

Tim Schelwat of Sunshine Winery explained that they will be opening a new business at W63 N631 Washington Avenue and will be taking occupancy of the building on February 1. They will be selling fruit wines, champagnes and smoothie mixes along with retail items associated with their product. The City has an unlimited number of “Class A” licenses for off-premise consumption only, which would be adequate for selling their product. The problem is that they would only be able to offer two 3-oz samples between 11a.m. – 7 p.m., which would limit a person to the number of products they could sample prior to purchasing the bottles for off-premise consumption. The “Class B” liquor license would enable the business to sell glasses of wine for a broader experience and to help increase sales. If the “Class B” liquor license is not approved tonight, the applicant has also applied for a “Class A” license to get the business up and running in March.

Troy Reisman of The Shinery explained that they have had a business in the City for four years. They also feel that the restrictive sampling is limiting their sales. They were able to obtain “Class B” Liquor licenses for their two other stores in Appleton and Green Bay and sales have increased dramatically. He also explained that they are leasing the former August Weber Haus building and will be moving their business to that location in three to four months. They will also have an Airbnb on the second floor. The deciding factor for this location was that it is more centrally located, and they would be able to sell their product during Festivals.

Mayor O'Keefe stated that it would benefit the City to have an available license for a new restaurant that may want to open in Cedarburg. Not having an available license without a \$10,000 cost, would limit negotiations for a full-service restaurant.

Mr. Schelwat explained that their business will be in a prime location with a very unique product.

In answer to Council Member Verhaalen's question, Mr. Schelwat explained that Sunshine Winery will be open for business Tuesday – Sunday; Mr. Reisman explained that The Shinery is open Wednesday – Sunday. Council Member Verhaalen opined that the Council should not hold a license for a potential business.

Council Member Arnett expressed concern for not receiving any information in advance; he does not know enough.

Council Member Chivinski stated that the Common Council's decisions are the long-term strategic voice for the City.

After discussion by the Common Council, it was the consensus that more information would be helpful in making this decision. The Council requested that each business submits a business plan with more details for the utilization of the license.

Motion made by Council Member Thome, seconded by Council Member Chivinski, to postpone the consideration of applications of Sunshine Winery, W63 N631 Washington Avenue, and the Shinery Neenah LLC, W63 N706 Washington Avenue, for a Class "B" Fermented Malt Beverage and "Class B" Intoxicating Liquor (on or off-premise consumption) license to the January 27 Council meeting to review plans of operation with an explanation of the utilization for the license before a decision is made. Motion carried without a negative vote with Council Member Burkart excused.

CONSIDER APPLICATION OF SUNSHINE WINERY, W63 N631 WASHINGTON AVENUE, FOR A "CLASS A" INTOXICATING LIQUOR (OFF-PREMISE CONSUMPTION ONLY) LICENSE; AND ACTION THEREON

Motion made by Council Member Thome, seconded by Council Member Galbraith, to approve the application of Sunshine Winery, W63 N631 Washington Avenue, for a "Class A" Intoxicating Liquor (off-premise consumption only) license. Motion carried without a negative vote with Council Member Burkart excused.

CONSIDER ORDINANCE NO. 2020-01 AMENDING SECTIONS 15-1-32 THROUGH 15-1-34 OF CEDARBURG'S ELECTRICAL CODE; AND ACTION THEREON

City Clerk Woodall-Vogg explained that the Wisconsin Department of Safety and Professional Services (WDSPS) requires that the City adopt SPS 316 in its entirety in order to maintain jurisdiction over commercial electrical permitting and inspection. The Common Council passed an ordinance in August of 2019 and staff was under the impression that it was compliant. However, WDSPS notified the City in December that the City's ordinance did not meet the requirements, identifying three sections that were in conflict with SPS 316. Building Inspector Baier and Clerk Woodall-Vogg have again revised the Code in order to comply with SPS 316. WDSPS has provided conditional approval for the City of Cedarburg to keep commercial inspection authority, contingent upon the Council adopting this ordinance to receive unconditional approval.

Motion made by Council Member Arnett, seconded by Council Member Bublitz, to adopt Ordinance No. 2020-01 amending Sections 15-1-32 through 15-1-34 of Cedarburg's Electrical Code. Motion carried without a negative vote with Council Member Burkart excused.

CONSIDER CHANGES TO COMMON COUNCIL POLICIES CC-13 (PERFORMANCE EVALUATION), CC-19 (MERIT PAY BONUSES) AND CC-30 (EMPLOYEE EVALUATIONS); AND ACTION THEREON

City Administrator Hilvo explained the three evaluation procedures, dependent upon the employee's job responsibilities and position, that have been created and clarified by him and the Personnel Committee on January 7, 2020. City Administrator Hilvo followed up with a summary of the

changes. He further explained that evaluations for all staff other than the City Administrator will be conducted by April 1 annually. The City Administrator will be reviewed by August 1 annually. All pay increases will be presented annually during the budget process, subject to Common Council approval.

City Administrator Hilvo said that training is critical to the success of these policies and this will be done with each department.

The Common Council discussed the pros and cons to the proposed changes in the policies.

Mayor O'Keefe said the policies are very innovative.

Motion made by Council Member Arnett, seconded by Council Member Bublitz, to approve the changes to Common Council Policies CC-13 (Performance Evaluation), CC-19 (Merit Pay Bonuses) and CC-30 (Employee Evaluations). Motion carried without a negative vote with Council Member Burkart excused.

CONSIDER LICENSE APPLICATIONS; AND ACTION THEREON

Motion made by Council Member Verhaalen, seconded by Council Member Bublitz, to approve new Operator License applications for the period ending June 30, 2020 for Mohammed Sethi, Ryan Schoonover, Thomas Fay, Timothy Schelwat, Brecken Dudzek, and Hunter Bensing-Radtke. Motion carried without a negative vote with Council Member Burkart excused.

CONSIDER PAYMENT OF BILLS DATED 12/6/19 THROUGH 1/3/20, TRANSFERS FOR THE PERIOD 12/7/19 THROUGH 1/10/20; AND PAYROLL FOR THE PERIOD 12/1/19 THROUGH 12/28/19; AND ACTION THEREON

Motion made by Council Member Arnett, seconded by Council Member Thome, to approve payment of bills dated 12/6/19 through 1/3/20, transfers for the period 12/7/19 through 1/10/20; and payroll for the period 12/1/19 through 12/28/19. Motion carried without a negative vote with Council Member Burkart excused.

ADMINISTRATOR'S REPORT –None

COMMENTS AND SUGGESTIONS FROM CITIZENS - None

COMMENTS & ANNOUNCEMENTS BY COUNCIL MEMBERS

Council Member Verhaalen attended the Mid-Moraine Legislative Committee meeting this month and he encouraged others to attend.

MAYOR'S REPORT

Mayor O'Keefe welcomed City Administrator Hilvo to his first Council meeting in his new position.

ADJOURNMENT – CLOSED SESSION

Motion made by Council Member Bublitz, seconded by Council Member Thome, to adjourn to closed session at 8:35 p.m. pursuant to State Statute 19.85(1)(e) to deliberate or negotiate the purchasing of public properties, the investing of public funds, or conducting other specified public business whenever competitive or bargaining reasons require a closed session, more specifically, to discuss Hwy. 60 Business Park and State Statutes 19.85(1)(g) to confer 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, to discuss insurance claim, 1838 Pioneer Road city-owned property and potential holding tank replacement and update on Prochnow Landfill. Approve closed session minutes from December 9, 2019. Motion carried on a roll call vote with Council Members Bublitz, Arnett, Verhaalen, Chivinski and Thome and Galbraith voting aye and Council Member Burkart excused.

RECONVENE TO OPEN SESSION

Motion made by Council Member Arnett, seconded by Council Member Galbraith, to reconvene to open session at 9:47 p.m. Motion carried unanimously on a roll call vote with Council Members Bublitz, Arnett, Verhaalen, Chivinski, Thome, and Galbraith voting aye and Council Member Burkart excused.

NEW BUSINESS – CONTINUED

CONSIDER \$6,311.44 CLAIM FROM AMERICAN FAMILY INSURANCE REGARDING AN INCIDENT ON JULY 31, 2019; AND ACTION THEREON

Motion made by Council Member Arnett, seconded by Council Member Bublitz, to deny the \$6,311.44 claim from American Family Insurance regarding an incident on July 31, 2019. Motion carried without a negative vote with Council Member Burkart excused.

CONSIDER THE HOLDING TANK REPLACEMENT AT CITY-OWNED PROPERTY 1838 PIONEER ROAD; AND ACTION THEREON

No action was taken on this item.

ADJOURNMENT

Motion made by Council Member Arnett, seconded by Council Member Thome, to adjourn the meeting at 9:48 p.m. Motion carried without a negative vote with Council Member Burkart excused.

Amy D. Kletzien, MMC/WCPC
Deputy City Clerk