

**CITY OF CEDARBURG
COMMON COUNCIL
June 12, 2017**

**CC20170612-1
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, June 12, 2017, at City Hall, W63 N645 Washington Avenue, second floor, Council Chambers. Mayor Kinzel called the meeting to order at 7:00 p.m.

ROLL CALL: Present - Common Council – Mayor Kip Kinzel, Council Members John Czarnecki, Jack Arnett, Dick Dieffenbach, Rick Verhaalen, Mitch Regenfuss, Patricia Thome, Mike O’Keefe

Also Present - City Administrator/Treasurer Christy Mertes, City Attorney Michael Herbrand, Deputy City Clerk Amy Kletzien, Director of Engineering and Public Works Tom Wiza, Planner Jon Censky, Police Chief Thomas Frank, Wastewater Superintendent Eric Hackert, Parks, Recreation & Forestry Director Hilvo, interested citizens and news media

STATEMENT OF PUBLIC NOTICE

At Mayor Kinzel’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 O’Keefe, to approve the minutes from the May 8, 2017 meeting. Motion carried without a negative vote. Council Member Dieffenbach stated that he did ask the auditors when they did their presentation whether or not the City was within the contract. This is not true because there was an additional billing and there needs to be a follow-up conversation with the auditors about the additional billing.

COMMENTS & SUGGESTIONS FROM CITIZENS - None

PUBLIC HEARING – CONSIDER ORDINANCE NO. 2017-13 AMENDING SEC. 13-1-55 OF THE ZONING CODE TO PERMIT THE LANDMARKS COMMISSION AND PLAN COMMISSION TO APPROVE OUTDOOR PATIOS ENCLOSED BY A PERGOLA OR SIMILAR FENCE STRUCTURE IN THE REAR YARD SETBACK AREA FOR PROPERTIES IN THE B-3 CENTRAL BUSINESS DISTRICT; AND ACTION THEREON

Mayor Kinzel opened the public hearing to consider Ordinance No. 2017-13 amending Sec. 13-1-55 of the Zoning Code to permit the Landmarks Commission and Plan Commission to approve outdoor patios enclosed by a pergola or similar fence structure in the rear yard setback area for properties in the B-3 Central Business District at 7:02 p.m. and verified with Deputy Clerk Kletzien that this public hearing was properly noticed.

City Planner Censky explained that Fiddleheads Coffee Shop is proposing to install a seasonal patio enclosed by a pergola structure in the rear yard of their business at W62 N605 Washington Avenue. Staff’s review of their site plan revealed that there is insufficient room in their rear yard for the proposed pergola enclosure to meet the

required 15 foot rear yard setback. As a result, Fiddleheads Coffee is requesting a Zoning Code text amendment to allow the Landmarks Commission and Plan Commission to consider, on a case-by-case basis, outdoor patios enclosed by a pergola or similar fence structure in the rear yard setback area for sites in the B-3 Central Business District. City staff feels that this request is following the policy of encouraging outdoor activity in the downtown area of Cedarburg and recommend approval. The Landmarks and Plan Commissions also approved this amendment to Sec. 13-1-55 of the Zoning Code.

In answer to Council Member Arnett's question, Planner Censky stated that this plan will have to go back to the Plan Commission after Common Council approval, to complete the process.

In answer to Council Member Dieffenbach's question, Planner Censky stated that the Landmarks Commission reviews all structures in the downtown area.

Motion made by Council Member Thome, seconded by Council Member Czarnecki, to close the public hearing at 7:05 p.m. Motion carried without a negative vote.

Motion made by Council Member Thome, seconded by Council Member Arnett, to approve Ordinance No. 2017-13 amending Sec. 13-1-55 of the Zoning Code to permit the Landmarks Commission and Plan Commission to approve outdoor patios enclosed by a pergola or similar fence structure in the rear yard setback area for properties in the B-3 Central Business District. Motion carried without a negative vote.

CONSIDER RESOLUTION NO. 2017-12 HONORING SUMMER SOUNDS; AND ACTION THEREON

Mayor Kinzel presented Resolution No. 2017-12 for Common Council approval.

Motion made by Council Member O'Keefe, seconded by Council Member Arnett, to approve Resolution No. 2017-12 honoring Summer Sounds. Motion carried without a negative vote.

CONSIDER 2016 COMPLIANCE MAINTENANCE ANNUAL REPORT (CMAR) FOR THE WASTEWATER TREATMENT PLANT AND RESOLUTION NO. 2017-13 ACCEPTING THE REPORT; AND ACTION THEREON

Wastewater Superintendent Hackert explained that the Compliance Maintenance Annual Report (CMAR) is a DNR summary report used to determine the effectiveness of the sewerage system to meet DNR permit limits and to indicate areas of the system that may need improvement. In 2016, no points were deducted from any categories in the report. No action for improvement in the system is needed. With the plant producing quality effluent, they did not exceed the 90% design criteria; however, they are close (upper 80's) and it may show next year. They continue to receive less holding tank waste at the treatment plant, due to a trucking issue. As a result, they are approximately \$40,000 under the budgeted amount for 2016 and this trend appears to be continuing for 2017. A couple of sections were added this year by the DNR, including energy usage and energy audits. They were not graded on these sections this year; however, they will be in the future. Superintendent Hackert has scheduled an energy audit. He asked the Council to accept the report and adopt Resolution No. 2017-13.

In answer to Council Member Dieffenbach's question, Superintendent Hackert explained that the loss in holding tank waste revenue is due to the Town of Cedarburg's weight restriction on Hamilton Road. There is no easy way for haulers to reach the plant. The haulers have most likely been going to Jackson or Grafton.

Motion made by Council Member Arnett, seconded by Council Member Czarnecki, to accept the 2016 Compliance Maintenance Annual Report (CMAR) for the Wastewater Treatment Plant and approve Resolution No. 2017-13 accepting the report. Motion carried without a negative vote.

PRESENTATION OF ADLAI HORN PARK RESTORATION PLAN; AND ACTION THEREON

Director Hilvo explained that after Mercury Marine has completed the creek cleanup they are required to restore Adlai Horn Park to its original condition. Several public meetings were held to discuss the future of the park with input from residents, neighbors of the park, and Cedarburg Select Baseball. He presented a drawing of the final result for the park as approved by the Parks, Recreation & Forestry Board. The plan includes the following:

- One additional parking space
- Restored island
- Kayak and canoe launch
- Picnic areas
- Regulation tennis courts
- New and improved baseball field
- Existing bleachers reinstalled
- New one story concessions, restroom and storage building
- Refurbish subgrade throughout the park and plant grass
- Council ring/outdoor classroom
- Unobstructed view to gazebo shelter from parking area
- Bio-stabilization & habitat creation along entire creek bank and island
- 8' wide asphalt-paved walking/vehicular service path
- Variety of hardwood trees (minimum 3" caliper)
- 20' diameter gazebo or structure
- Wood fishing platforms
- Regulation size pitching practice & warmup alleys
- Baseball infield, outfield and fireworks launch area
- Landscape screening
- Park benches on concrete slabs at creek bank
- Removable outfield fence

In answer to Council Member Czarnecki's question, Director Hilvo stated that the baseball field will remain the same size.

Director Hilvo stated that pickleball has grown in popularity and one option to consider would be to eliminate the tennis courts at Adlai Horn Park and put in four pickleball courts at Zeunert Park with lighting.

In answer to Council Member Thome's questions, Director Hilvo stated that he will apply for grants once the park plan is approved. In regard to lighting at Zeunert Park bothering neighbors, he stated that it would be near the Public Works facility with more space and lighting has improved as far as effects on the neighbors.

In answer to Council Member Arnett's questions, Director Hilvo stated that the pickleball courts can only support the quick start tennis program for early youth. It would be advantageous for the tennis courts to be in one area so the instructors do not have to travel between them.

Council Member Verhaalen stated that this plan was not preferred by the Select Baseball Program; however, they will work with this plan. No changes can be made to the elevation of the park. Ideally the group wanted more open space to warm up and they felt that the tennis courts posed some safety issues.

In answer to Council Member O'Keefe's question, Director Hilvo stated that there are safety concerns with the tennis courts; however, netting could be put in place.

In answer to Council Member Thome's question, Council Member Verhaalen stated that if the tennis courts were removed the area would only be used as a warm-up area and no organized practice field would be added.

In answer to Council Member Arnett's question regarding a new plan that came forward, Director Hilvo stated that it was too late to consider the plan at this stage.

Director Hilvo stated that the park plan discussions started in June 2015 and restoration needs to begin in November.

Mayor Kinzel agreed that the Council needs to make a decision on this plan.

Council Member Czarnecki stated that Adlai Horn Park is a highly used park in the City and he likes to see families using it.

Discussion ensued in regard to retaining or eliminating the tennis courts in Adlai Horn Park.

Council Member O'Keefe asked if adding one parking space was adequate. Director Hilvo stated that some people say it is adequate.

Council Member Verhaalen stated that he likes the green space between the road and the parking lot. He would like to see the lot extended to the east to create a circular flow.

Mary Jo Wirth, N61 W5987 Columbia Road, stated she was privileged to speak on behalf of her grandparents who gifted the park property to the City in 1977. She explained the pronunciation of Adlai (Adlee) who was named after Adlai Stevenson who ran for President. She read Resolution No. 77-22 stating that Adlai S. Horn and Lenore Horn dedicated to the City of Cedarburg approximately three acres of land between Columbia Road and Cedar Creek for park purposes.

Paul Hayes, N63 W5795 Columbia Road, stated that he has been active in keeping the neighbors informed and telling them in an objective way what has been happening at Adlai Horn Park. He stated that the land for the park was donated for park purposes meant the park to be a multi-use park. Mr. Hayes reviewed the history of what has been proposed in planning the future of Adlai Horn Park this past year, beginning June 30, 2016. He stated that the people of Columbia Road may not agree on everything, however, they are overwhelming in agreement that Adlai Horn Park should be a multi-use open space park with one youth baseball diamond, tennis courts, fishing opportunities, trees, wildlife, picnic tables and the modest parking lot. That is the essence of the plan that is before the Common Council for consideration. It was approved by the Parks, Recreation & Forestry Board after intense negotiations among Board Member Paul Rushing, Mary Kay Bourboulas, Simon Fast, and himself with Director Hilvo and Council Member Thome attending as observers. It was preceded by three contentious public hearings where the Parks, Recreation & Forestry Board heard from Columbia Road neighbors, as well as Cedarburg Select Baseball. The plan essentially restores the park to its condition before Mercury Marine's PCB cleanup began last fall. It is the plan that has the strong support of most Columbia

Road neighbors and their supporters from other parts of the City. It is the plan that they would like the Common Council to approve tonight. He urged the Common Council to not delay this action any further. He is not in favor of lighting in the park which is so close to neighboring homes. He stated that the lawn can be used for practice. He stated that it has been very dispiriting to hear the debate going on in front of the Columbia Road neighbors without a word about the effects on them. He closed by reading a portion of the City of Cedarburg Ethics Code relating to Conflict of Interest Sec. 2-5-5(c)(3)(d) No local public official or employee may use his or her office or position in any way that produces or assists in producing a substantial benefit, either directly or indirectly, for the official or employee, any members of his or her immediate family, or an organization with which the official or employee is associated.

Brad Bartkus, 741 Cresthill Court, stated that he lived on Hillcrest Avenue up until one year ago. His home is farther away but is connected by a common bond which is the river. He was happy to hear that it was going to be cleaned up and was perplexed that children were allowed to play next to a body of water filled with PCBs. He was also perplexed to only hear about America's pastime and not the rest of the use of the river. He would like to see more use of the actual river for fishing opportunities. He approves of the baseball diamond but he would like to hear about other uses beside baseball.

Mary Kay Bourbulas, N67 W5389 Cedar Ct., stated that she has not heard anything in the discussions regarding the fact that Mercury Marine built the City one baseball diamond in anticipation of the creek cleanup several years ago. This baseball diamond is located on the High School grounds. She stated that there has not been a concerted effort between the School Board and the City of Cedarburg to work together to fully utilize all of the facilities that we have. It is her understanding that the high school baseball diamond has been restricted in usage and/or fees have been charged. She said that the City is using Mercury Marine funds to rebuild a City park for the benefit of City of Cedarburg residents, not for a private organization. This has been a problem for her all along with the plans that the Parks, Recreation & Forestry Department has pushed through. In regard to moving the tennis courts, other than the two courts at Zeunert Park, courts located on School Board property have a limited time available for public use. She asked the Council to look at the total baseball facilities and tennis courts within the City that can be used by city residents. She supports baseball for the youth and appreciates that there is a little baseball diamond nearby. The baseball field has grown over the years and its usage has increased, causing traffic issues on Columbia Road. She also supports soccer, hockey, football, and lacrosse; however the City of Cedarburg is being asked to subsidize baseball. No City organized baseball league has a need for the ball field that they are being asked to build with City of Cedarburg funds. It is being built solely for the use of a private single sex select organization. In this era of tight and over stretched budgets, she finds it incredible that the City is even considering this option. What is not being discussed is, what this private organization is going to pay to rent this park in prime summer months. The City charges other organizations to use facilities. She questioned why the City does not charge this organization the market rate. If it were strictly City of Cedarburg children, it may be a different issue but it is not only Cedarburg taxpaying children using the ballfield. It is not the best use of the funds available to the City to rebuild Adlai Horn Park. The land belongs to the City of Cedarburg citizens. If the City is going to rent out the park to use the gazebo and other features, then they should talk about what the rent is going to be for baseball. It should be fair for all citizens. In regard to safety, the baseball organization has indicated that it is not safe to have the tennis courts in this park. This is a multi-use park and if they discover that safety is an issue then the safety and liability needs to be on the shoulders of the organization that is renting the facility from the City. It does not need to be on the shoulders of the City of Cedarburg if something goes wrong.

Brian Weidner, N61 W5935 Columbia Road, asked what happened with the lighting (including the sanders and transformers) in Adlai Horn Park before it was removed. He was told by Cedarburg Light & Water that the lights were junk. He questioned why the City was asking Mercury Marine to pay for junk. If lights are erected

in Adlai Horn Park they will attract insects. Mayor Kinzel told Mr. Weidner that lights were not being considered. He continued by saying that a practice field did not exist in Adlai Horn park prior to 1983. He stated that Cedarburg Select Baseball stripped all the grass and laid their own surface and a batting cage appeared without any approval or permits. The tennis courts are used in Adlai Horn park by senior citizens and students. He is encouraged that the creek will be utilized. He asked the Common Council to make a decision.

Simon Fast, N62 W5948 Columbia Road, stated that he sent an email to the Common Council Members on Friday that details research that he has done regarding the tennis courts in Adlai Horn Park. He stated that if the tennis courts are removed the vacant space will only be used for baseball and the residents will not be able to use it for any other purpose. He noted that Council Member Verhaalen is a coach for Cedarburg Select Baseball and he is proposing the removal of the tennis courts to open the space. He referenced the Ethics Code that was read by Paul Hayes.

Mayor Kinzel stated that he was not concerned about any of the Council Members not following the rules and Mr. Fast's innuendos were inappropriate.

Simon Fast stated that he was against removing the tennis courts from Adlai Horn Park and moving them to Zeunert Park because there have been false facts presented. It is not true that pickleball courts can be used for tennis camps through the Recreation Department. They can only be used when there is a temporary net placed sideways and can only be used by small tots. Once they hit three or four years of age, they are using the full court. He spoke with Athletic Director Dave Pentek at the School District about their actual use and when the residents can reasonably expect to use the courts. He presented a summary showing that it ends up to be 1 hour and 20 minutes per weekday and an unknown amount of time on the weekends that the School District tennis courts are available. The District always has first priority. Some of numbers get higher toward the end of June; however, it never exceeds 6 hours and 40 minutes of public use per day. He stated that it is not true that the City has 18 tennis courts available for public use. During school hours the district courts cannot be used, period. The City has four courts for 11,000 residents, which is in line with area communities. Mr. Fast stated that Adlai Horn Park is a multi-use park and should include tennis courts. All City parks should be multi-use and park diversity benefits the residents the most. The Council should consider what benefits will the residents have not just an individual group or what makes financial sense. Removing the tennis courts from Adlai Horn Park would leave two tennis courts for 11,000 residents. Mr. Fast agreed that pickleball is an up and coming sport; however, they should not be built at the expense of Adlai Horn Park just because someone is paying for them. It should be a standalone item with its own funding and plan. He does not believe that Mercury Marine will pay dollar for dollar for new lighting at Zeunert Park. He stated that tennis and pickle ball are not compatible on the same surface and he described the differences. In closing, it has been two years that this park has been discussed. The plan that is being presented tonight is an acceptable compromise made by many parties in this whole process. It should remain largely intact and it should not become a victim to other people trying to reinvent the wheel because they think that they have something better for the park. He urged the Common Council to keep Adali Horn Park as multi-use and to keep the tennis courts. This would be the fairest to everyone involved.

Corey Kaminsky, N62 W5972 Columbia Road, thanked Director Hilvo and the Parks, Recreation & Forestry Board for hearing the residents and considering the current plan. She has lived on Columbia Road since 2004 and has two boys. Her family is involved in baseball and Adlai Horn has enhanced their lives greatly. She appreciates a space to warm up before a game. Ninety percent of the time the park is used for all around enjoyment. She is looking forward to the restoration of the park and thanked the people involved for protecting this gem and keeping it a multi-use park. Baseball is good for four or five months but is also great to walk the paths, play tennis and use the open spaces.

In answer to Council Member Verhaalen's question, City Attorney Herbrand said the he was asked for an advisory opinion on whether Council Member Verhaalen's involvement was evidence of trying to act in an unethical manner. It was his opinion that this was not a conflict for Council Member Verhaalen because under the ethics code there are two main methods of conflicts (financial or personal interest). In his opinion the personal interest has to arise to a unique or special interest that is unique from other people in the community. Just because someone coaches or his children play in the baseball program that does not arise to a conflict. He compared it to holding a library card, if his family frequents the library, should they not be precluded from participating or supporting programs at the library as a Council Member.

Council Member Verhaalen confirmed with Director Hilvo that the current practice field in Adlai Horn Park did go before the Parks, Recreation & Forestry Board for approval at least five years ago. He stated that he appreciates the nature of the park; however, half of Adali Horn Park was deeded to the City by the Gruhl Realty Company as a memorial to Frederick D. Gruhl and their stipulation was similar for park and recreation activities in the park.

Council Member Dieffenbach stated that he was deeply disappointed in the plan, process, and the comments expressed this evening. The City is missing a tremendous opportunity to work towards intergovernmental cooperation. Kasten Field at the Town of Cedarburg is one of the finest fields in the area. The High School courts are unused during the summer months. He counted approximately ten different baseball fields. He is not against baseball; however, this is an opportunity to look at some other plans and come back to fruition talking about non-baseball options. He thought the Parks, Recreation & Forestry Board should look at this and cover all bases. Cedarburg is greater than just the City. The Town is talking about building eight or ten new baseball fields. Grafton is discussing a new baseball complex and the City needs to look at the big picture to see what can be done. Many people have put a lot of time and effort into the proposed plan but there are plans out there that present a different perspective. He stated that the Parks, Recreation & Forestry Board should review it again and cover all of the options. Inter-governmental cooperation is so important.

In answer to Council Member Verhaalen's question, Council Member Dieffenbach stated that there are non-baseball plans for Adlai Horn Park that should be looked at. He did not agree with using the same footprint as before.

Council Member Verhaalen stated that if the City loses the baseball field at Adlai Horn Park, the City will never get another field in the City.

Mayor Kinzel stated that alternate plans eliminate all uses except for a walking path.

Council Member Thome stated that she has no issues with a baseball field in Adlai Horn Park and she thought the bulk of the residents feel the same way. She recognizes that at some point in time there may be a greater opportunity for Cedarburg Select to become a part of a larger complex; however, in the meantime they need a place to go. She stated that there always will be and should be baseball in this park such as recreation programs. Council Member Thome said that she does not want baseball to be the only use for her neighborhood park. She is an advocate of the tennis courts because her family and friends will use the courts in that location. In the long run she thought it was better spending the money to provide programs and services to the people who live in a particular spot. Her concerns over the practice fields are the expanded use.

Council Member O'Keefe stated that it is important to keep the park's multi-use. When subdivisions are added, the City requires them to allow some acreage for a park and it is not for any single purpose. He stated that the proposed plan was excellent, even though it is similar to what was has always been there. It is a beautiful park

and will always be utilized, if not by Cedarburg Select then some other baseball entity. He is in favor of the tennis courts and has seen them being used. It is a majestic area with the creek and the island, along with fishing opportunities being added. The park has a unique location and he was in favor of the proposed plan.

In answer to Council Member Verhaalen's question, Mayor Kinzel explained that the proposed park is being approved in concept this evening and there may be some small changes or tweaking to the plan.

Director Hilvo stated that if the plan is approved tonight, he will have discussions with Mercury Marine in regards to their funding and the City costs. Architectural drawings will need to be done and the process may take another four or six months to have the plan completed.

Mayor Kinzel stated this is the first step to using the creek more and adding fishing opportunities.

Director Hilvo will work with the DNR to restore the area for fishing.

Motion made by Council Member Verhaalen, seconded by Council Member Czarnecki, to approve the Adlai Horn Park restoration plan in concept as presented with the exception of moving the tennis courts to Zeunert Park. Motion failed on a roll call vote with Council Members Czarnecki and Verhaalen voting in favor and Council Members Arnett, Dieffenbach, Regenfuss, Thome and O'Keefe opposed.

Motion made by Council Member Thome, seconded by Council Member O'Keefe, to approve the Adlai Horn Park restoration plan in concept as presented with some minor changes as needed. Motion carried on a roll call vote with Council Members Czarnecki, Arnett, Verhaalen, Regenfuss, Thome and O'Keefe in favor and Council Member Dieffenbach opposed.

ACCEPT AND REFER TO PLAN COMMISSION THE REZONING PETITION FROM S. DUANE STROBEL, JR. TO REZONE THE 18.70 ACRE PARCEL LOCATED ON THE EAST SIDE OF SHEBOYGAN ROAD APPROXIMATELY 506' SOUTH OF HIGHWAY 60 FROM RS-1 TEMPORARY SINGLE FAMILY DISTRICT TO RM-2 (PUD) RESIDENTIAL MULTIPLE FAMILY AND PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT; AND ACTION THEREON

City Attorney Herbrand stated that this action is similar to the St. Francis Borgia site, where the Council accepts the petition and refers it to the Plan Commission for their review and recommendation and then it will return to the Council for final rezoning.

In answer to Council Member Czarnecki's question, City Administrator/Treasurer Mertes explained that the Council is not approving the density of the plan tonight.

Motion made by Council Member Arnett, seconded by Council Member Thome, to accept and refer to the Plan Commission the rezoning petition from S. Duane Strobel, Jr. to rezone the 18.70 acre parcel located on the east side of Sheboygan Road approximately 506' south of Highway 60 from RS-1 temporary Single Family District to RM-2 (PUD) Residential Multiple Family and Planned Unit Development Overlay District. Motion carried without a negative vote.

CONSIDER CLOSING PORTLAND ROAD BETWEEN MILL STREET AND HILBERT AVENUE FROM 5:00 A.M. TO 3:00 P.M. ON JULY 29, 2017 FOR THE WOMEN'S CENTURY BIKE RIDE AND DEMONSTRATIONS; AND ACTION THEREON

Cindy Petted, Chief Soigneur for the Wisconsin Women Cycling organization, stated that they are having their Wisconsin Bike Festival on July 29 and 30. They are requesting this closure time period to allow for the beginning of the race at 6:00 a.m. and for ongoing children's activities and bike rodeo, sponsored by the Wisconsin Bicycle Federation.

In answer to Mayor Kinzel's question, Ms. Petted stated that this is the second year for this event in Cedarburg and this same area was approved for closure last year.

Ms. Petted explained the procedure that was used last year, they blocked off three quarters of the road with cones and tape, allowing access for the residents to come and go if needed. They also distributed letters with a dispatch phone number if the residents needed to speak with her.

In answer to Mayor Kinzel's question, Director Hilvo confirmed that there were no issues with the event last year.

Motion made by Council Member Regenfuss, seconded by Council Member Thome, to approve closing Portland Road between Mill Street and Hilbert Avenue from 5:00 a.m. to 3:00 p.m. on July 29, 2017 for the Women's Century Bike Ride and demonstrations. Motion carried without a negative vote.

CONSIDER CLOSING PORTIONS OF PORTLAND ROAD, MILL STREET, WASHINGTON AVENUE AND COLUMBIA ROAD FOR A FOOT CYCLING EVENT FROM NOON TO 2:00 P.M. ON JULY 29, 2017 IN CELEBRATION OF THE 200TH ANNIVERSARY OF THE INVENTION OF THE BICYCLE; AND ACTION THEREON

Ms. Petted stated the purpose of the foot race is to celebrate the 200th anniversary of the invention of the bicycle. The first bicycle did not have pedals and people used their feet to shuffle along. She is not requesting a closure for this event; it would only require a marshalling. One lap around this route would take less than 5 minutes. A men's and women's race would be finished in 20 minutes. She envisioned that the men's race could go first and then the traffic would be allowed through and then the women's race would go second to complete the event.

Council Member Verhaalen stated that the Fire Department expressed concern for closing Columbia Road between Washington Avenue and Portland Road restricting their access out of the Fire Department building in an emergency. They would need to go north for all emergencies, adding more time to get to an incident.

Ms. Petted stated that they would not need the entire road, she is only requesting the lane that snugs the inside of the route.

Council Members Czarnecki and Verhaalen expressed concern for closing the road entirely and asked for a revised plan.

Ms. Petted stated that an alternate route could be used, using the footpath in Cedar Creek Park; however, that would not be as enjoyable because there is no hill to challenge the riders.

The Council requested that Ms. Petted work with the Police and Fire Departments on a revised plan for this event.

Motion made by Council Member Arnett, seconded by Council Member O'Keefe, to deny closing portions of Portland Road, Mill Street, Washington Avenue and Columbia Road for a foot cycling event from noon to 2:00 p.m. on July 29, 2017. Motion carried without a negative vote.

CONSIDER CLOSING PORTLAND ROAD BETWEEN MILL STREET AND HILBERT AVENUE FROM 5:00 A.M. – 7:30 A.M. ON JULY 30, 2017 FOR THE WOMEN'S CENTURY BIKE RIDE; AND ACTION THEREON

Motion made by Council Member Czarnecki, seconded by Council Member O'Keefe, to approve closing Portland Road between Mill Street and Hilbert Avenue from 5:00 a.m. – 7:30 a.m. on July 30, 2017 for the Women's Century Bike Ride. Motion carried without a negative vote.

CONSIDER REQUEST OF THE SHINERY LLC, ELIZABETH REISSMAN, AGENT, TO AMEND THE PREMISES DESCRIPTION OF THE "CLASS A" LIQUOR LICENSE OF THE SHINERY AT W63 N706 WASHINGTON AVENUE TO SELL ALCOHOL AND PROVIDE LIMITED WINE SAMPLING ON THE PATIO CONNECTED TO THE BUILDING THEY ARE LOCATED IN DURING STRAWBERRY FEST AND WINE AND HARVEST FEST; AND ACTION THEREON

Troy Reissman, owner of The Shinery, stated that their business is located on the second floor of the building with Buddy Squirrel. They want to lower the congestion in the building by utilizing the deck included in their lease. They will focus on selling their bottles of wine only and offering limited wine sampling on the patio. They will sell their liquor in the store only and will be putting a seal on those products informing patrons that they cannot consume that product on the street.

Executive Director Hamayouni of Festivals agreed with Mr. Reissman's proposal.

Mayor Kinzel asked Mr. Reissman to reiterate to consumers that they cannot drink the moonshine liquor on the streets.

Motion made by Council Member Thome, seconded by Council Member Czarnecki, to approve the request of the Shinery LLC, Elizabeth Reissman, Agent, to amend the premise description of the "Class A" liquor license of the Shinery at W63 N706 Washington Avenue to sell alcohol and provide limited wine sampling on the patio connected to the building they are located in during Strawberry Fest and Wine and Harvest Fest. Motion carried without a negative vote.

CONSIDER AWARD OF ENGINEERING SERVICES CONTRACT FOR THE 2017 NR216 STORM WATER COMPLIANCE REPORTING; AND ACTION THEREON

Director Wiza stated that this is an annual contract that has been awarded to AECOM in the past for NR 216 storm water compliance reporting. The DNR requires an on-going Illicit Discharge Detection Program to test for storm water pollutants in various outfalls. The program involves dry weather flow sampling and lab testing to search for specific pollutants. If the test reading comes back positive, a follow-up investigation to determine the source is required. At the request of the Common Council, he obtained a second proposal this year from Ruekert & Mielke for \$7,255. AECOM's proposal is \$8,425; however, when he inquired about the required storm sewer mapping and exhibits, Ruekert & Mielke advised this would add another \$3,000 to their proposal.

Therefore, based on the total cost to complete the reports required by the DNR, he is recommending the City award the contract to AECOM for \$8,425.

In answer to Council Member Arnett's question, Director Wiza explained that dry weather sampling resulted in finding a broken sewerage pipe last year and it was fixed promptly.

Motion made by Council Member Arnett, seconded by Council Member Thome, to award the engineering services contract for the 2017 NR216 Storm Water Compliance reporting to AECOM for \$8,425. Motion carried without a negative vote.

CONSIDER ORDINANCE NO. 2017-14 REPEALING SEC. 10-1-13(a)(1) OF THE CODE OF ORDINANCES DEALING WITH ONE-WAY TRAFFIC OPERATIONS ON HAMILTON ROAD FROM ½ HOUR BEFORE TO ½ HOUR AFTER CHURCH SERVICES AT ST. FRANCIS BORGIA CHURCH; CONSIDER ORDINANCE NO. 2017-15 REPEALING SEC. 10-1-57(a) OF THE CODE OF ORDINANCES WHICH ALLOWS THE CLOSURE OF HAMILTON ROAD BETWEEN WASHINGTON AVENUE AND HILGEN AVENUE FOR PLAY ACTIVITIES; CONSIDER ORDINANCE NO. 2017-16 REPEALING SEC. 10-1-29(n) OF THE CODE OF ORDINANCES WHICH ESTABLISHED A NO PARKING ZONE DURING SCHOOL HOURS TO ALLOW FOR SAFE AND EFFICIENT LOADING AND UNLOADING OF SCHOOL BUSES IN FRONT OF ST. FRANCIS SCHOOL ON HAMILTON ROAD; AND ACTION THEREON

Director Wiza explained that these are housekeeping items that were specific to St. Francis Borgia School operations and are not necessary any longer and should be eliminated from the ordinance.

Motion made by Council Member Regenfuss, seconded by Council Member O'Keefe, to adopt Ordinance No. 2017-14 repealing Sec. 10-1-13(a)(1) of the Code of Ordinances dealing with one-way traffic operations on Hamilton Road from ½ hour before to ½ hour after church services at St. Francis Borgia Church, Ordinance No. 2017-15 repealing Sec. 10-1-57(a) of the Code of Ordinances which allows the closure of Hamilton Road between Washington Avenue and Hilgen Avenue for play activities, and Ordinance No. 2017-16 repealing Sec. 10-1-29(n) of the Code of Ordinances which established a no parking zone during school hours to allow for safe and efficient loading and unloading of school buses in front of St. Francis School on Hamilton Road. Motion carried without a negative vote.

CONSIDER ORDINANCE NO. 2017-17 REPEALING SEC. 10-1-34(a)(4) WHICH ESTABLISHED A LOADING ZONE IN FRONT OF THE FORMER LIBRARY ENTRANCE ON THE WEST SIDE OF HANOVER AVENUE AND REPEALING SEC. 10-1-34(a)(5) WHICH ESTABLISHED A LOADING ZONE ON THE SOUTH SIDE OF ZEUNERT STREET; AND ACTION THEREON

Director Wiza explained that this refers to two different loading zones that are not actively used any longer and the signs were removed at some point; however, they remain in the Municipal Code of Ordinances and should be repealed. One loading zone was in front of the former library entrance for handicapped and easy accessibility to drop off patrons.

In answer to Council Member Dieffenbach's question, Director Wiza stated that the curbing is no longer painted yellow.

The other loading zone was located on the south side of Zeunert Street and was used by the Russ Darrow dealership when unloading the car carrier trucks. That business no longer exists at that location.

Motion made by Council Member Arnett, seconded by Council Member Czarnecki, to approve Ordinance No. 2017-17 repealing Section 10-1-34(a)(4) which established a loading zone in front of the former library entrance on the west side of Hanover Avenue, and repealing Section 10-1-34(a)(5) which established a loading zone on the south side of Zeunert Street. Motion carried without a negative vote.

CONSIDER REVISED POLICY FC-10 – FUNDING BALANCE POLICY; AND ACTION THEREON

City Administrator/Treasurer Mertes explained that this revision to Policy FC-10 was initiated by the auditors to add a statement to indicate what fund balances were recognized as committed under Section 3, Committed Fund Balance; which reflects the current practice.

Motion made by Council Member Dieffenbach, seconded by Council Member Regenfuss, to adopt revised Policy FC-10 – Funding Balance Policy. Motion carried without a negative vote.

CONSIDER POLICY CC-31 – CONTACTING THE CITY ATTORNEY; AND ACTION THEREON

City Administrator/Treasurer Mertes stated that this issue arose at the April 25, 2017 Common Council meeting. In an effort to control costs and allocate costs correctly a policy was drafted by City Administrator/Treasurer Mertes, City Attorney Herbrand and City Clerk McHugh for the Council's consideration.

In answer to Council Member Czarnecki's question, City Administrator/Treasurer Mertes confirmed that this procedure was understood but it was not in writing.

Motion made by Council Member Dieffenbach, seconded by Council Member Arnett, to adopt Policy CC-31 – Contacting the City Attorney. Motion carried without a negative vote.

CONSIDER CLAIM RECEIVED FROM ANITA R. CLARK FOR AN INCIDENT ON FEBRUARY 17, 2017; AND ACTION THEREON

City Administrator/Treasurer Mertes stated that the accident occurred near the Gem Shop. The City was not aware of any prior problems with this area prior to the incident and when notified the sidewalk issue was placed on the saw cutting program for this year. The claim was reviewed by CVMIC and they recommended that it be denied.

Motion made by Council Member Arnett, seconded by Council Member O'Keefe, to deny the claim received from Anita R. Clark for an incident on February 17, 2017. Motion carried without a negative vote.

CONSIDER MAYOR KINZEL'S REAPPOINTMENT OF JAMES SCHARA TO THE PARKS, RECREATION AND FORESTRY BOARD (04/30/19) AND APPOINTMENT OF CHARLES WHITEHOUSE TO THE PUBLIC ART COMMISSION (04/30/18); AND ACTION THEREON

Council Member Czarnecki stated that he received an email from Charles Whitehouse stating that he wanted to meet with Mayor Kinzel to discuss his views on the future of the Public Art Committee prior to his reappointment.

Motion made by Council Member O'Keefe, seconded by Council Member Thome, to approve Mayor Kinzel's reappointment of James Schara to the Parks, Recreation & Forestry Board and to delay the appointment of Charles Whitehouse to the Public Art Commission. Motion carried without a negative vote.

ANNUAL REVIEW AND CERTIFICATION OF CODE OF ETHICS

The Common Council acknowledged their review and certified the Code of Ethics.

CONSIDER PAYMENT OF BILLS DATED 05/04/17 THROUGH 06/06/17, TRANSFERS FOR THE PERIOD 05/03/17 THROUGH 06/09/17, AND PAYROLL FOR THE PERIOD 04/23/17 THROUGH 06/03/17; AND ACTION THEREON

Motion made by Council Member Regenfuss, seconded by Council Member Thome, to approve payment of bills dated 05/04/17 through 06/06/17, transfers for the period 05/03/17 through 06/09/17, and payroll for the period 04/23/17 through 06/03/17. Motion carried without a negative vote.

CONSIDER LICENSE APPLICATIONS

Motion made by Council Member O'Keefe, seconded by Council Member Thome, to approve new Operators License applications for the period ending June 30, 2017 for James P. Dennis, Marilyn S. Fisher, Chad L. Heidewaid, Madissen M. Homayouni, Christian M. Hurt, Blake D. Klug, Daniel S. Kneiss, Jeffrey O. Peterson, Rebecca R. Schroeder, and James W. Zipter. Motion carried without a negative vote.

Motion made by Council Member O'Keefe, seconded by Council Member Thome, to approve renewal Operators License applications for the period ending June 30, 2017 for Candace A. Burger, Sarah J. Niewinski, and Kenneth W. Reid II. Motion carried without a negative vote.

Prior to the consideration of the alcohol, operator and cigarette licenses City Attorney Herbrand stated that the City grants annual liquor licenses; however, if an applicant applies for their renewal before April 15, by State law the Council is to act on that license for approval or denial by June 15. He stated that the Council Members received a petition from a group of people regarding the August Weber Haus. Also, in the packet is a memo from Police Chief Frank recommending the approval of the August Weber Haus license. The Department is currently conducting an investigation related to that license holder and the petition that has been filed. To summarize, the Council received a qualified recommendation from Police Chief Frank, given the time constraint and the need to act on this license by June 15, to approve the license but making everyone aware that there is an open investigation. It is possible the investigation will not change his recommendation; however, it may come back to the Common Council if he changes his recommendation.

In answer to Council Member Thome's question, City Attorney Herbrand stated that depending on the outcome of the investigation the August Weber Haus license could be revoked this year, if that is the Police Chief's recommendation. He stated that the hearing is similar to denying an operator license.

In answer to Council Member Czarnecki's question, Police Chief Frank stated this is a new investigation and that they received information one and half weeks ago. As a result, they have been meeting with witnesses, identify witnesses and gathering statements.

In answer to Council Member O'Keefe's question, Police Chief Frank stated that the investigation should be done within a month.

In answer to Council Member Arnett's question, City Attorney Herbrand stated if the Council denies the license now a hearing would be set. This would be hard to accomplish by June 15 and is the reason for the qualified recommendation. The Police Department needs more time to complete the investigation.

In answer to Mayor Kinzel's question, City Attorney Herbrand stated that the same procedural rights apply to a non-renewal or a mid-license revocation.

In answer to Council Member O'Keefe's question, City Attorney Herbrand stated that the Council would need to hold a hearing before the license terminates, if it is denied tonight.

Antonio Ranurez, 5343 W. Montrose, Chicago, IL, stated that he started the petition eight months ago. Even though he heard there are procedural considerations in renewing the August Weber Haus license, he urged the Council not to renew their "Class B" liquor license based on the following reasons:

- There are unanswered questions about the allegations against August Weber Haus employees.
 - Did their previous manager, Jacob Banas, drug and sexually assault multiple women over many years while an employee?
 - Did he commit multiple crimes, violent acts that victimized multiple women in Cedarburg and get away with it?
 - If these allegations are true, how many victims were there? Several women came forward with alleged drugging's and assaults in 2014.
 - Last year, four women who never met each other, told Fox 6 News almost identical stories about their experience with Jacob Banas.
 - If these allegations are true, likely there are other women who may have been assaulted but were too afraid to come forward.
 - No fewer than nine individuals in the petition indicated that they were, or knew someone who was a victim of Jacob Banas.
 - The scope of the situation is horrifying and demands action from citizens and elected officials.
- If the license is renewed, Cedarburg residents most likely will not patronize August Weber Haus because of the allegations.
 - Most residents have participated in a year-long informal boycott of the restaurant. He asked the Council to give the license to a business that represents the best of Cedarburg.
- Beyond the informal boycott of the August Weber Haus, almost 900 people have signed a petition asking the Council to revoke this license. With a population of 11,000 people, this is 1 in 10 residents that signed the petition.
- August Weber Hause is the only "Class B" license holder that advertises as an eatery but serves food inconsistently.
 - It is the only restaurant in Cedarburg that informs customers when it will open and close at the very moment that it does so, with sporadic and unpredictable hours.
 - They will likely only be open a few minutes past the four hours required to fulfill the most basic requirements for the license.

This is not a business that deserves one of Cedarburg's rare "Class B" liquor licenses. He urged the Council to consider a final question before making their decision: If a women comes forward to say that she was sexually assaulted in Cedarburg in the future, can she trust an elected official to believe her, to bravely stand up for her, to make sure justice is served? Or after seeing multiple women come forward to accuse Jacob Banas and see him walk free of punishment, can we blame her for deciding to keep silent about sexual assault? He asked the Council to vote against renewing the August Weber Haus license.

Attorney Tim Algiers, of the O'Meara Law Firm in Hartford, spoke on behalf of his clients, Steve and Diane Banas who have live at W58 N438 Hilbert Avenue for more than 35 years as taxpaying residents of Cedarburg. He looked at the petition that was filed along with the addresses (801 people signed, 298 from Cedarburg including the Town) and found that 63% of the petitioners were non-taxpayers of Cedarburg. The Council represents the City of Cedarburg. He provided a background stating that the Banas' are 35 year residents, good community people for many years, nine year owners of the August Weber Haus without a violation. In 2014, allegations were made against Jacob Banas who is no longer an employee. That investigation has been with authorities who have the qualifications to decide whether a crime has been committed. It has been reviewed by the Police and possibly the District Attorney and there is no criminal charges to-date; however the man who spoke previously is asking the Council to take on the role of these authorities and make a decision. They are also asking the Council to condone a mob mentality in his opinion, to punish this man and woman who have done nothing wrong. They are trying to run a business, doing the best they can when there has been a sort of social media mobster organization that has been encouraging the boycott of the restaurant and whose response almost shut them down. They took advantage of the then existing ordinances which allowed them to be open one day per month to keep their license and then they operated during the festivals. Then the Community for Safe Cedarburg encouraged the boycott and then the Common Council to change the ordinance. Since then his clients have been compliant with the letter of law by being open the requisite number of hours trying to get a clientele. However; they have been essentially put out of business, although they will remain in business. Basically, the City is condoning a group of people to harass and intimidate and try to put out an established business that is not associated with the person who has been charged. This person is still presumed innocent and has not been charged. A complaint was issued in February this year by the Community for Safe Cedarburg to take away or revoke their license. The City sent a letter to the group stating that they have not complied with the statutory requirements and the City could not take any action. The complaint needed to be issued by a citizen of Cedarburg and it needed to be a sworn complaint. The City did not let the Banas' know that no action would be taken, instead, the City sent a letter stating that the August Weber Haus had 14 days to show why they are not compliant and how they will get back into compliance. Attorney Tim Algiers and the Banas' replied with a rebuttal showing that they are in full compliance, resulting in no action taken. On May 25, virtually the same complaint was filed with a few minor changes but it was still flawed from a statutory standpoint. There was no sworn statement and it was not submitted by a citizen of Cedarburg. The next step was to file a petition with 801 signatures and only 298 people are from Cedarburg. There are 55 people outside the State of Wisconsin that signed the petition including one person from Hawaii. He asked the Common Council if they represent the taxpaying citizens of Cedarburg or if they are being asked to do more than they are capable of doing or qualified to do. Are they being asked to be judge and jury. He questioned the current investigation of a petition after the two failed attempts at a complaint because they were not in statutory compliance with the law. He asked if the investigation was based on the petition (with 63% non-residents) and asked who the Council represents. This mob mentality is the danger with social media because they jump right in without having all of the facts. The facts in this case are that they are two good citizens who have a business that they are trying to run. They are contributing members of this community for over 35 years and there are allegations out there that one of their employees may have done something criminal. There is an investigation with the proper authorities but there are no charges and it has been three years. Attorney Algiers understands that this individual is filing a defamation suit going on the offensive because he feels so strongly against the charges. If the City's policy is allowed to be set by people on the internet filing petitions, is that what the Council wants Cedarburg to be, by having policies driven by non-taxpayers. This seems to be a dangerous thing to get out of control. They can do their jobs responsibly and look at the law which says if there have been no violations, the license should be approved along with the rest of the applicants. The Council's responsibility is to the taxpayers. They were not elected to be a judge, prosecutor, or detective. They should not be forced to be those things. He asked the Council to renew this license and if something comes out of the investigation and action is taken to revoke, then the Council will see him again.

Charlotte Giuffre, N46 W7355 Moldenhauer Ct., stated that she did not plan on speaking. In regard to future scheduling, she is miffed that she sat through this meeting and this agenda line item was scheduled today and there is this time crunch. It is awkward and it seems that the item should have been on an agenda before tonight. It is unfair to everyone.

Mayor Kinzel stated that this is the first meeting the Council was able to address licenses.

Ms. Giuffre asked if the licenses could not be reviewed at an earlier meeting in case the City was considering not renewing a license. If someone wants to oppose a liquor license at this point it would require having a hearing in two days, which would be difficult.

A citizen heard that all licenses were applied for by April 15 so the City would have known that the August Weber Haus applied for a license and it could have been addressed at the May meeting.

Ms. Giuffre agreed that May would have been a more appropriate time to review the licenses and this is unacceptable to review the licenses two days before the deadline. She stated that she has no affiliation with the Stilt House; however, her husband never wants to go there because he cannot get a cocktail. There are more appropriate places the people could benefit from by going to everyday to utilize this license. She asked the Council to think about this but there is a time crunch.

Sharon Dane, 1657 Sherwood Drive, Cedarburg, stated that she has been a resident for over 15 years, she supports the local businesses and thinks that it is important. She stated that she has been a victim of Jacob Banas; therefore, she will not go to the August Weber Haus nor will her family and friends. Unfortunately, she believes there are many other Cedarburg residents who have either been victims, or know victims, such as family or friends and they also will not go to the August Weber Haus. She stated this license should be given to an establishment that all Cedarburg residents would feel comfortable and safe going to. Ms. Dane felt their license should be given to an establishment that would make a positive statement about Cedarburg and make a positive place for people to go to in Cedarburg.

David Caban, 3177 S. Howell Avenue, Milwaukee, questioned why the City of Cedarburg would rubber stamp the August Weber Haus along with the other licenses when none of them have the same issues of operation. Speaking for the taxpayers of Cedarburg, what good is it having a business that the lights are off 95% of the time. This does not help the taxpayers.

In answer to Mayor Kinzel's question regarding possible non-renewals, City Attorney Herbrand stated that the City owes the due process to the license holder and that is why the Chief of Police is doing a complete investigation. The City is making a record that they are approving the license but it is qualified by the fact that there is an investigation currently undertaken. That is his recommendation to go forward vs. acting before you know the results of the investigation.

In answer to Council Member Verhaalen's question as to what warrants a public hearing, City Attorney Herbrand stated when the item is on the agenda it offers people a chance to speak. His recommendation is to wait for the Police Chief's investigation to make an informed decision.

Mayor Kinzel stated that this has turned into a pseudo hearing and it was not meant to be. You cannot ask for a hearing until something is denied first. Frankly, he has an issue with something that has been under investigation and has been discussed this much to this point, he questioned why the City could not deny the license and see how the investigation turns out.

City Attorney Herbrand stated that if the City denies the license they have to state the reasons for the denial and that cannot accurately be done without the outcome of the investigation and determining the facts.

Council Member O'Keefe asked how the revocation process begins.

City Attorney Herbrand stated that it would often begin with a complaint. If the license is approved tonight and in a month the Police Chief elects to change his recommendation for revocation or suspension, he would often file a complaint that would come before the Common Council and served on the applicant to start the procedure for setting a date for a full-fledged hearing. Much like an operator license denial, witnesses are called, testimony is given, and then the Council will be asked to deliberate and make a decision. This is the due process that the applicant is entitled to under the law.

Council Member O'Keefe asked since the Chief of Police is conducting an investigation, the Council can safely assume that a complaint has been made and the City is working through the process. City Attorney Herbrand stated that the Council is aware that a petition has been filed and has been submitted and that the Police Chief is doing an investigation.

In answer to Council Member Dieffenbach's question, City Attorney Herbrand stated that an internet petition has been submitted to the City.

In answer to a citizen question whether a hearing could be held in two days, Council Member O'Keefe explained that it is not enough time for the Police Department to conduct their investigation. The citizen stated that they do not know if the Police Chief's investigation has anything to do with their petition. The hours are not a criminal issue, so the Police would only investigate something that is criminal, which would be a whole new complaint.

City Attorney Herbrand stated that the Police Chief can investigate civil matters as well as criminal matters, this includes any matters related to licensing.

Attorney Algiers stated that licensing is certainly a right to investigate statute, which would have other means of review besides this Board and due process could be obtained in a real hearing with actual evidence and that is the problem with a hearing in two days. The due process lies in the person that is having something taken away from them.

Council Member Thome stated that because she lives in the area she drives or walks by August Weber Haus multiple times per day. As a Council Member involved in modifying the ordinance, she tries to pay attention as to whether a person can walk in or not. Her perspective is that it is sporadic but she wants to make certain as to whether they are in compliance or not. The Police Chief and City Attorney are hired to give the very best advice to act in a law abiding manor. At this point in time, she wants Police Chief Frank to finish the investigation because she wants accurate and factual information on the time ordinance. She wants anyone who holds a license in the community to be using it to the very best advantage possible. Council Member Thome does not want to shirk a responsibility, but she wants to be certain the Council is doing the very best job they can to be sure that a decision is made with accurate information. To be sure the decision that is made lives.

Council Member Arnett addressed some comments that Attorney Algiers made:

- The Common Council is not taking over the role of the Police Chief or District Attorney. This is about a liquor license and not convicting an individual.
- He does not agree that the business owners are doing the best that they can to run a business.

City Attorney Herbrand reiterated that this is not a hearing, even though there has been a lot of public comment the Council would make a decision after the investigation, depending on what becomes of that investigation. Council Member Arnett said that he represents his neighbors and the citizens and he does not appreciate Attorney Algier's threat.

Mayor Kinzel stated that he is not allowed to vote and his role in this position is to oversee what is best for the entire City. In a City that has no liquor licenses available, if there was another new restaurant coming into Cedarburg and would want a license, one is not available. He apologized to the Banas' because he knows they have been part of the community for a long time; however, he didn't think the liquor license is being used in the way the City would like to see it used. Liquor licenses are available to make a city more vibrant and to provide a certain service. He asked City Attorney Herbrand why the City cannot hold off on renewing the license for the August Weber Haus until a proper investigation has been completed. On the other hand, he understands from an attorney and the Police Chief standpoint that they want to see the investigation through first.

Council Member Arnett cited Section 7-2-14 (Conditions of License) that states all retail Class A, B and C licenses granted hereunder shall be granted subject to the following conditions, and all other conditions of this Section, and subject to all other Ordinances and regulations of the City applicable thereto. Condition item C – Disorderly Conduct Prohibited. Each licensed premises shall, at all times, be conducted in an orderly manner, and no disorderly, riotous or indecent conduct shall be allowed at any time on any licensed premises. He believes the Chief of Police is investigating the times the business is open, are there other reasons the Council could deny a license independent of the Chief's investigation?

City Attorney Herbrand urged the Council to allow the investigation work its course to see where it might lead. It is hard for him to answer Council Member Arnett's question without allowing the Police Chief to interview witnesses and find out what is going on.

Council Member Thome stated that she does not want to undermine the opportunity to move forward with the recommendation by doing something that feels good. She needs to make a decision based on the fact that whatever is decided will hold to the legal test.

A citizen asked if the Council cannot deny a license for whatever reason they want to.

Council Member Regenfuss asked if the Council is supposed to not renew any license because they receive a petition. The business would lose a liquor license for a week and that is lost revenue. It is not just this business it is all businesses.

City Attorney Herbrand stated this is not a hearing and he appreciates the comments. These meetings are the greatest form of democracy there is. On this decision, however, he urged the Council to accept the qualified recommendation of the Police Chief and approve all of the licenses in front of them with the understanding that there is an investigation underway. As to the renewal of the August Weber Haus license, that matter may or may not come back before the Common Council.

Motion made by Council Member Regenfuss, seconded by Council Member O'Keefe, to approve the following list of 2017-2018 alcohol, operator, and cigarette licenses for the period ending June 30, 2018 as presented.

Class “A” fermented malt beverage and “Class A” cider only (off-premise consumption only):

Speedway LLC, PO Box 1580, Springfield, OH 45501, Michael R. Weber, Agent, premises to be licensed: W63 N121 Washington Avenue, known as Speedway 4203.

“Class A” intoxicating liquor (off-premise consumption only):

The Shinery LLC, W63 N706 Washington Avenue, Cedarburg, WI 53012, Elizabeth Reissmann, Agent, premises to be licensed: W63 N706 Washington Avenue, known as The Shinery.

Class “A” fermented malt beverage and “Class A” intoxicating liquor (off-premise consumption only):

Bonus Inc., dba Olsen’s Piggly Wiggly, W61 N286 Washington Avenue, Cedarburg, WI 53012, Ryan L. Olson, Agent, premises to be licensed: W61 N286 Washington Avenue, known as Olsen’s Piggly Wiggly.

Toto’s Inc., 4600 W. Brown Deer Road, Brown Deer, WI 53223, John M. Striepling, Agent, premises to be licensed: W63 N157 Washington Avenue, known as Otto’s Wine and Spirits.

Super Sales USA Inc., PO Box 493, Cedarburg, WI 53012, Douglas Gall, Agent, premises to be licensed: W62 N174 Washington Avenue, known as Citgo Super Sales Cedarburg.

Wisconsin CVS Pharmacy, LLC, One CVS Drive, M/C 1160, Woonsocket, RI 02895, Dione Jeffery, Agent, premises to be licensed: W63 N152 Washington Avenue, known as CVS Pharmacy #8775.

Walgreen Co., P.O. Box 901, Deerfield, IL 60015, Brett D. Zingsheim, Agent, premises to be licensed: W62 N190 Washington Avenue, known as Walgreens #13620.

Class “B” fermented malt beverage and “Class B” intoxicating liquor (on or off-premise consumption):

Ernie’s Wine Bar LLC, N49 W5471 Portland Road, Cedarburg, WI 53012, Benjamin M. Grade, Agent, premises to be licensed: N49 W5471 Portland Road, known as Ernie’s Wine Bar.

Stagecoach 520 LLC, W61 N520 Washington Avenue, Cedarburg, WI 53012, Anne M. Conley, Agent, premises to be licensed: W61 N520 Washington Avenue, known as Stagecoach Inn/The Five 20.

RCB Group Inc., W63 N699 Washington Avenue, Cedarburg, WI 53012, Richard C. Buser, Agent, premises to be licensed: W63 N699 Washington Avenue, known as Maxwell’s.

C. Wieslers Inc., W61 N493 Washington Avenue, Cedarburg, WI 53012, Mike G. Jackson, Agent, premises to be licensed: W61 N493 Washington Avenue, known as C. Wieslers.

Kowloon Chinese Restaurant Inc., W63 N145 Washington Avenue, Cedarburg, WI 53012, Henry A. Liang, Agent, premises to be licensed: W63 N145 Washington Avenue, known as Kowloon Chinese Restaurant.

Fineco LLC, W63 N140 Washington Avenue, Cedarburg, WI 53012, Daniel S. Pals, Agent, premises to be licensed: W63 N140 Washington Avenue, known as **Grapes and Tastes**.

Steven Walter Banas, W58 N438 Hilbert Avenue, Cedarburg, WI 53012, premises to be licensed: W63 N678 Washington Avenue, known as **August Weber Haus**.

North 48 Inc., W62 N599 Washington Avenue, Cedarburg, WI 53012, Peter A. Olds, Agent, premises to be licensed: W62 N599 Washington Avenue, known as **North 48**.

Morton's Wisconsin LLC, N56 W6339 Center Street, Cedarburg, WI 53012, Chris Morton, Agent, premises to be licensed: N56 W6339 Center Street, known as **Mortons Wisconsin Inn**.

Thomas Restaurant, LLC, W63 N688 Washington Avenue, Cedarburg, WI 53012, Nicole Thomas, Agent, premises to be licensed: W63 N688 Washington Avenue, known as **Tomaso's**.

Dreblow Jr. and Weidmann, N50 W5586 Portland Road, Cedarburg, WI 53012, premises to be licensed: N50 W5586 Portland Road, known as **L&G Express**.

Peter Wollner Post No. 288 of the American Legion, W57 N481 Hilbert Avenue, Cedarburg, WI 53012, James A. Lee, Agent, premises to be licensed: W57 N481 Hilbert Avenue, known as **Peter Wollner Post No. 288 of the American Legion**.

Cedarburg Cultural Center Inc., W62 N546 Washington Avenue, Cedarburg, WI 53012, Stephanie Hayes, Agent, premises to be licensed: W62 N546 Washington Avenue, known as **Cedarburg Cultural Center**.

RCB Group Inc., W62 N550 Washington Avenue, Cedarburg, WI 53012, Richard C. Buser, Agent, premises to be licensed: W62 N550 Washington Avenue, known as **The Stonewall Pub**.

Cedars III LLC, W53 N404 Park Lane, Cedarburg, WI 53012, Michael F. Kowalkowski, Agent, premises to be licensed: W53 N404 Park Lane, known as **Cedars III**.

MacBeebs LLC, Owned by Catherine Heebner, 3041 N. 75th Street, Milwaukee, WI 53210, Catherine Heebner, Agent, premises to be licensed: W62 N238 Washington Avenue, known as **Farmstead**.

Anvil Pub & Grille LLC, N70 W6340 Bridge Road, Cedarburg, WI 53012, Donna M. Taylor, Agent, premises to be licensed: N70 W6340 Bridge Road, known as **Anvil Pub & Grille**.

Settlers Inn LLC, W63 N657 Washington Avenue, Cedarburg, WI 53012, Joan D. Dorsey, Agent, premises to be licensed: W63 N657 Washington Avenue, known as **Settlers Inn**.

Silver Creek Brewpub LLC, N57 W6172 Portland Road, Cedarburg, WI 53012, Todd Schneeberger, Agent, premises to be licensed: N57 W6172 Portland Road, known as **Silver Creek Brewpub**.

Easy Street Pub & Grill LLC, W62 N559 Washington Avenue, Cedarburg, WI 53012, Daniel W. Brush, Agent, premises to be licensed: W62 N559 Washington Avenue, known as Easy Street Pub & Grill.

Cedarburg Art Museum & Society, Inc., W63 N675 Washington Avenue, Cedarburg, WI 53012, Jill Hepburn, Agent, premises to be licensed: W63 N675 Washington Avenue, known as **Cedarburg Art Museum**.

Phoa Brothers, Inc., W62 N547 Washington Avenue, Cedarburg, WI 53012, Jimmy Phoa, Agent, premises to be licensed: W62 N547 Washington Avenue, known as **New Fortune**.

Class “B” fermented malt beverage (on or off-premise consumption) and “Class C” wine (on-premise consumption):

Morales Restaurants LLC, 2550 Country Aire Drive, Cedarburg, WI 53012, Debra A. McQuaid, Agent, premises to be licensed: W63 N674 Washington Avenue, known as **Vintage Café & City Deli**.

Donna M. Taylor, 1441 Keup Road, Grafton, WI 53024, premises to be licensed: N70 W6340 Bridge Road, known as **Cream & Crepe Café**.

P.J. Piper LLC, W61 N514 Washington Avenue, Cedarburg, WI 53024, Judith Fergadakis, Agent, premises to be licensed: W61 N514 Washington Avenue, known as **P.J. Piper Pancake House**.

J.L. Joyce Enterprises Inc., W63 N144 Washington Avenue, Cedarburg, WI 53024, James P. Joyce, Agent, premises to be licensed: W63 N144 Washington Avenue, known as **Jim’s Grille**.

Otte Restaurants LLC, W63 N540 Hanover Avenue, Cedarburg, WI 53012, John M. Otte, Agent, premises to be licensed: W63 N540 Hanover Avenue, known as **Romano’s Pizzeria**.

GG & KR LLC, W62 N630 Washington Avenue, Cedarburg, WI 53012, Gordon M. Goggin, Agent, premises to be licensed: W62 N630 Washington Avenue, known as **Stilt House**.

Two Crafty Chicks LLC, W61 N506 Washington Avenue, Cedarburg, WI 53012, Kathleen Hartzheim, Agent, premises to be licensed: W61 N506 Washington Avenue, known as **Board & Brush Cedarburg**.

Java House Café & Micro Roaster LLC, W63 N653 Washington Avenue, Cedarburg, WI 53012, Scott A. Sidney, Agent, premises to be licensed: W63 N653 Washington Avenue, known as **Java House Café & Micro Roaster**.

Deelish LLC, W61 N635 Washington Avenue, Cedarburg, WI 53012, Christian T. Leonard, Agent, premises to be licensed: W63 N635 Washington Avenue, known as **Sal’s Pizza**.

Class “B” fermented malt beverage (on or off-premise consumption):

Messina II Inc., 1759 Hillside Court, Grafton, WI 53024, Dominic J. Raffaele, Agent, premises to be licensed: W67 N866/890 Washington Avenue (Pavilion/Columbia St. Mary’s Center), known as **Messina II**.

Baehmann’s Golf Center Inc., W73 N1122 Washington Avenue, Cedarburg, WI 53012, Kurt Baehmann, Agent, premises to be licensed: W73 N1122 Washington Avenue, known as **Baehmann’s Golf Center**.

JW’s 19th Tee LLC, 4720 Hwy I, Saukville, WI 53080, Jodi L. Wisnefske, Agent, premises to be licensed: W67 N866/890 Washington Avenue (Pavilion/Columbia St. Mary’s Center), known as **Crave Catering**.

“Class B” winery license (on or off-premise consumption):

Wollersheim Winery Inc., 7876 Hwy 188, PO Box 87, Prairie Du Sac, WI 53578, Constance J. Niebauer, Agent, premises to be licensed: N70 W6340 Bridge Road, known as **Cedar Creek Winery**.
The Chiselled Grape Winery LLC, W64 N713 Washington Avenue, Cedarburg, WI 53012, Harald Tomesch, Agent, premises to be licensed: W64 N713 Washington Avenue, known as **The Chiselled Grape Winery**.

Authorize issuance of Cigarette Licenses for period ending June 30, 2018:

Bonus Inc. (Olsen’s Piggly Wiggly) W61 N286 Washington Avenue	Super Sales USA, Inc. (Citgo) W62 N174 Washington Avenue
Fineco, LLC (Grapes & Tastes) W63 N140 Washington Avenue	Toto’s Inc. (Otto’s Wine & Spirits) W63 N157 Washington Avenue
Speedway, LLC (#4203) W63 N121 Washington Avenue	Walgreen Co. (#13620) W62 N190 Washington Avenue

Authorize issuance of new Operator’s Licenses for period ending June 30, 2018

Tara L. Beyer	James J. Levine
Naina R. Dallas	Scott R. May
Scott R. Galaszewski	Joseph K. Meador
Paul G. Goetz	Patrice J. Renfrow
Elizabeth C. Jaffke	Tori L. Schone
Shaya L. Leamon	Robin L. Seidel
Cassandra M. Lee	

Authorize issuance of renewal Operator’s Licenses for period ending June 30, 2018

Walter H. Alverson	Gina A. Heidemann	Christine L. Pope
Eric J. Amenda	Catherine A. Hilgart	John W. Riege
Stephanie J. Baldwin	Sam D. Hoffmann	Elizabeth F. Riley
Diane M. Banas	BJ Homayouni	Zachary R. Ringel
Patricia M. Bartlein	Christopher M. Homayouni	John Robertson
Dena C. Baule	Katherine A. Jackson	Deborah A. Sajdak
Nicholas L. Behling	Brian M. Jackson	James M. Salp
Roger E. Behling	Christine M. Jackson	Erin E. Scammell
Karla M. Biermann	Dennis F. Jaeger	Eric L. Siudak
Martha K. Boehlke	Lori E. Josephson	Kyle J. Smith
Michael A. Bourbonais	MaryLee Katzka	Neil P. Soukup
Daniel A. Brisley	Mark A. Kennedy	Ann M. Speirs
Jody L. Brzezinski	Randall H. Kison	Kim K. Stroessner
Daniel M. Burback	Keri L. Klemann	Suzanne L. Stubblefield
Candace A. Burger	Kristen M. Klug	Michelle L. Taraboi

Christine A. Capelle
Jordan Z. Cole
Callen L. Cummings
Ashley J. Daley
Eva M. Danner
Steven F. Danner
James P. Dennis
Shirley A. DeVona
Thomas M. Dorsey
Jacqueline J. Ertl
Arthur E. Filter
Jeanette L. Gabrys
Steven R. Gratz
Carren L. Gratz
David B. Haberman
Angela L. Habermann
Christine M. Habich
H. Michael Hagerman
Dustin J. Halyburton
Chad E. Hamblin
Joseph B. Hebda

Daniel S. Kniess
Stacy J. Kowalkowski
Mark L. Kowalkowski
Benjamin A. Kraft
Angela M. Kroner
Meredith E. Kuhn
Edmund A. Kwaterski Jr.
James D. Lake
Kathy A. Lanser
Mary C. Lever
David L. Magnusson Jr.
Bradley J. Mayer
Jeff D. Mayer
Nathan Micha
Paul V. Micha
David B. Myers
Sarah J. Niewinski
Courtney C. Owrey
Allen W. Parnell
Cynthia M. Petted
Sharleen M. Pokora

Spencer D. Thomas
David L. Vahsholtz
Chris R. Velnetske
Stephan L. Venturini
Jeanne M. Venturini
Jessica M. Wallace
Kenneth L. Weintraub
Michelle L. Welch
Lauren A. Welch
John A. Welk
Kendall R. White
Troy A. White
Jennifer E. Wilcox
Joseph P. Willbrandt
Captola R. Wolfe-Bacher
Kristine R. Wuenne
Douglas E. Yip
James W. Zipter

Council Member O'Keefe stated that this is one of the toughest second motions that he has made and that time will provide a stronger case.

In answer to Council Member Thome's question, Chief Frank stated that the investigation will be completed within a month.

The Common Council agreed to meet on call at any time regarding this issue.

Motion carried with Council Members Czarnecki, Dieffenbach, Verhaalen, Regenfuss, Thome and O'Keefe voting in favor and Council Member Arnett opposed.

In answer to a citizens' question, City Attorney Herbrand stated that the result of the investigation on the August Weber Haus will be addressed at a noticed public meeting.

ADMINISTRATOR'S REPORT

City Administrator/Treasurer Mertes explained that the City of Cedarburg in the spirit of intergovernmental cooperation hosted an employee meeting on Gratitude that was presented by an EAP speaker, and invited the Town of Cedarburg, City of Port Washington, Village of Grafton and the Village of Saukville and only the Village of Saukville attended. Diversity training will be held in August with the Village of Saukville.

The City will be severing their relationship with Agilex, due to a change in management and collection difficulties.

COMMENTS AND SUGGESTIONS FROM CITIZENS - None

COMMENTS AND ANNOUNCEMENTS BY COUNCIL MEMBERS

In answer to Council Member Dieffenbach's question, City Administrator/Treasurer Mertes stated that the Council will be updated at the next meeting on the HSI development.

Council Member Dieffenbach stated that Mercury Marine has invited the Council to view the cleanup site from afar, on a date to be determined during the first two weeks in July.

Council Member Arnett stated that the first branding meeting will be held tomorrow and he encouraged the Council Members to give him their thoughts about the goals and objectives that they have for the project.

MAYOR'S REPORT - None

ADJOURNMENT

Motion made by Council Member Arnett, seconded by Council Member Thome, to adjourn the meeting at 10:20 p.m. Motion carried without a negative vote.

Amy D. Kletzien, MMC/WCPC
Deputy City Clerk