

**CITY OF CEDARBURG
COMMON COUNCIL
February 22, 2021**

**CC20210222-1
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held online on Monday, February 22, 2021, utilizing the Zoom app.

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

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

Also Present - City Administrator Mikko Hilvo, Attorney Michael Herbrand, City Clerk Tracie Sette, Engineering & Public Works Director Mike Wieser, Treasurer/Finance Director Christy Mertes, news media and interested citizens.

STATEMENT OF PUBLIC NOTICE

At Mayor O'Keefe's request, City Clerk Sette 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.

COMMENTS AND SUGGESTIONS FROM CITIZENS – None

APPROVAL OF MINUTES

A motion was made by Council Member Thome, seconded by Council Member Bublitz, to approve the February 8, 2021 Common Council minutes. Motion carried without a negative vote.

NEW BUSINESS

CONSIDER ORDINANCE NO 2021-08 APPROPRIATING FUNDS IN GENERAL FUND TO TRANSFER TO OTHER FUNDS AND TO DEBT SERVICE TO ACCOMMODATE THE PAYOFF OF STATE TRUST FUND LOAN; AND ACTION THEREON

At the February 8, 2021 Common Council meeting, the Council recommended paying off the State Trust Fund loan using General Fund fund balance. The budgeted payment for 2021 was \$36,073 (principal and interest). The remaining balance of \$220,558.31 will be paid from the General Fund fund balance. Notice of the payoff was given to the Board of Commissioners of Public Lands. There are no penalties for prepayment and the fund balance is still estimated to be greater than the balance required by City policy.

A motion was made by Council Member Bublitz to approve Ordinance No. 2021-08 to appropriate funds in the General Fund to transfer to other funds and to the Debt Service to accommodate the payoff

of the State Trust Fund Loan and was seconded by Council Member Lythjohan. Motion carried without a negative vote.

CONSIDER AGREEMENT WITH BAKER TILLY FOR AN IMPACT FEE STUDY; AND ACTION THEREON

The previous impact fee study conducted in the City was completed in 2012 by Baker Tilly. The impact fees for the Police Department and Library were based on the debt financed for the building construction. In 2020, the City collected the maximum allowable fees for the Police Department. Instead of refunding any fees collected in excess of the allowable amount, Staff is recommending a new study be completed to evaluate the needs of the Police Department and other departments due to the continuing growth of the City. An impact fee study is statutorily required and must show the impact of the development on the community and requirement for fees. The study would cover the Parks, Police, Library, and Water Recycling Reserve Capacity impact fees.

Council Member Arnett expressed concerns with the total cost of this study. Council Member Verhaalen had many questions to be answered before moving forward.

A motion was made by Council Member Arnett to postpone this topic to the next meeting and was seconded by Council Member Thome. Motion carried without a negative vote.

CONSIDER ORDINANCE NO 2021-07 APPROPRIATING FUNDS IN THE GENERAL FUND FOR AN IMPACT FEE STUDY; AND ACTION THEREON

No action was taken by the Council.

CONSIDER ORDINANCE NO. 2021-09 APPROPRIATING FUNDS IN GENERAL FUND FOR TRANSFER TO OTHER FUNDS FOR CAPITAL IMPROVEMENT PROJECTS; AND ACTION THEREON

The City budgeted for the following projects to begin in 2021: City Hall file server (\$13,800), accounting software (\$70,000), street projects (\$100,000), storm sewer projects (\$200,000) and dam repairs (\$100,000). Ordinance No. 2021-09 provides for the transfer of funds to allow these projects to begin.

A motion was made by Council Member Burkart to approve Ordinance No 2021-09 appropriating funds in the General Fund for Transfer to other funds for Capital Improvement projects and was seconded by Council Member Simpson. Motion carried without a negative vote.

CONSIDER ORDINANCE NO. 2021-06 APPROPRIATING FUNDS FOR THE 2020 SWIMMING POOL OPERATIONS; AND ACTION THEREON

Funds for swimming pool operations were appropriated to the Revenue Fund with the adoption of the 2020 budget. Even though the pool was closed, additional funding is necessary to balance the accounts for 2020. The additional funding is provided from the Special Revenue Fund Recreation Programs fund balance. This fund balance currently carries a balance of \$101,579.

Council Member Bublitz questioned why the balance is so high, to which, Administrator Hilvo explained it is due to the ever-changing number of participants in Recreation programs. Council Member Bublitz would like to utilize Recreation Fund balance to offset future costs.

A motion was made by Council Member Bublitz to approve Ordinance No 2021-06 appropriating funds for the 2020 Swimming Pool operations and was seconded by Council Member Thome. Motion carried without a negative vote.

CONSIDER ORDINANCE NO. 2021-10 INCREASING THE ALLOCATED FUNDS IN THE GENERAL FUND AND CAPITAL IMPROVEMENT FUND FOR THE 2021 BUDGET TO ACCOMMODATE ENCUMBRANCES FROM 2020; AND ACTION THEREON

There were various projects budgeted in 2020 that are not scheduled to be completed until 2021. In order to properly account for these projects from 2020, an appropriation of funds in the General Fund and Capital Improvement Fund should be approved.

A motion was made by Council Member Burkart to approve Ordinance No. 2021-10 increasing the allocated funds in the General Fund and Capital Improvement Fund for the 2021 budget to accommodate encumbrances from 2020 and was seconded by Council Member Lythjohan. Motion carried without a negative vote.

CONSIDER PLACEMENT OF TWO (2) RADAR FEEDBACK SPEED SIGNS ON WESTERN ROAD TO ADDRESS SPEEDING COMPLAINTS; AND ACTION THEREON

The Cedarburg Police Department completed a speed study in November 2020 on Western Road and found the average speed to be 29.3 miles per hour and the 85th percentile speed to be 32.5 miles per hour. These numbers suggest positive compliance with the current speed limit. However, it was discovered there were forty-five (45) vehicles traveling at 40 miles per hour or higher. The Police Department has been heavily enforcing the area. In 2020, officers utilized radar 368 times and conducted 275 traffic stops on Western Road.

Staff proposed the use of two radar feedback speed signs as a solution. These signs would collect speed data without the issuance of any speeding tickets.

Council Member Burkart has been working on this issue for the last year and one half and would like to do more than utilize the radar feedback signs.

Engineering and Public Works Director Wieser will research the mobility of the signs. If they may be moved, the signs could potentially rotate between Western Road, Sheboygan Road, and Hamilton Road. Perhaps placing the signs close to schools will be most effective. He will also research the ability of the signs to be in ghost mode where the signs are not illuminated but still collecting data.

Mayor O'Keefe opened the discussion of speed signs to the public for comments.

Heather Cain – N50 W6890 Western Road, Cedarburg:

Ms. Cain has noticed speeds increasing on Western Road over the years. She feels visual reminders of speed are most effective at reducing speeds. If the radar feedback signs are going to be mobile, she

sees this as an opportunity for damage. She also explained the Police Chief is not in favor of a four (4) way stop sign at Western Road and Evergreen Boulevard.

Gary Reck – 4949 Timbercrest Drive, Cedarburg:

Mr. Reck moved to Cedarburg from another community which had a similar issue and suggested more police presence could be a deterrent to excessive speeds.

Engineering and Public Works Director Wieser explained the cost of these new radar signs could potentially hinder the purchase of future signs. He explained the City could utilize armadillos, already owned by the city, to collect traffic data.

A motion was made by Council Member Burkart to approve the purchase and placement of two (2) radar feedback speed signs with Bluetooth data collectors and was seconded by Council Member Thome. After a discussion, Council Member Arnett motioned to amend the original motion to put the signs up citing that if Bluetooth is not an integral part of the sign purchase, then the City should use existing armadillos. The amended motion was seconded by Council Member Verhaalen. Upon a roll call vote, the motion failed with Council Members Lythjohan, Burkart, Bublitz and Thome voting nay, and Council Members Arnett, Simpson and Verhaalen voting aye (4-3).

Mayor O’Keefe called the original motion made by Council Member Burkart, seconded by Council Member Thome, to approve the purchase and placement of two (2) radar feedback speed signs with Bluetooth data collectors. Motion carried by roll call vote with Council Members Lythjohan, Burkart, Bublitz, Thome, Arnett, Simpson and Verhaalen voting aye (7-0).

CONSIDER MAYORAL APPOINTMENT TO THE COMMUNITY DEVELOPMENT AUTHORITY; AND ACTION THEREON

Mayor O’Keefe appointed Mark O’Neill to the Community Development Authority and commented how he will be a great addition to the Board.

A motion was made by Council Member Thome to approve the Mayor’s appointment to the Community Development Authority and was seconded by Council Member Arnett. Motion carried without a negative vote.

DISCUSS CITY CODE SEC. 7-2-17 (E) OUTDOOR AMPLIFIED SOUND AND MUSIC PERMIT; AND ACTION THEREON

City policy currently only allows for 501(3)c non-profits to apply for an outdoor amplified music permit. The fee for this is \$250 and allows them six (6) events per year. Most recently the Council approved to allow the Cultural Center and the Art Museum additional days to help during the COVID-19 crisis. There are currently two local businesses (Lime Cantina & The Stagecoach Inn) that have amplified music in their outdoor seating areas on a regular basis. Based on City policy this is not permitted. Both businesses have requested that the City allow it this year based on lost revenue due to COVID-19 regulations. They have also requested that the City consider waiving the \$250 fee.

A few Council Members requested and/or received feedback from constituents in their respective districts regarding the music permits. Many people expressed concerns with amplified music and would be happy with fewer amplified music events. Volume of the music was also a concern.

Many Council Members agreed the number of events for allowable amplified music should be restricted.

Council Member Arnett commented that controlling the music could be exercised through volume regulation, limiting the number of hours and dates.

Mayor O’Keefe opened the conversation to the public:

Michelle Tietz – owner of Lime Cantina

Ms. Tietz explained how their customers have enjoyed the outdoor music and how these events have brought people to the City of Cedarburg supporting other businesses as well. She expressed how conscious they are of their neighbors and volume of their music. They also work closely with neighboring businesses and the Cultural Center not to overlap events.

Maggie Dobson – Chamber of Commerce Executive Director

Ms. Dobson held a round table discussion with 20 business owners in the area to find out their thoughts on the loosened restrictions on amplified music. More than 50% felt it was helpful for local business, while an additional 20% had not noticed.

Gary Reck – 4949 Timbercrest Drive, Cedarburg

Mr. Reck suggested those who break the rules with amplified music would not have their permits renewed. He also suggested limitations placed on loud truck noise.

Samantha Landry – Cedarburg Art Museum

Ms. Landry expressed appreciation for the extra dates received last year and wonders if an amplifier for a guest speaker qualifies as one of their ‘amplified dates’.

Heather Cain – N50 W6890 Western Road, Cedarburg

Ms. Cain requested clarification of the ordinance. She questioned what the interim fix will be before the ordinance is changed.

Alex Uhan – W64 N625 Hanover Avenue., Apt 204

Mr. Uhan suggested the City address volume of music and allowable times. He feels music has brought more business to the City. The businesses utilizing outdoor music are working well together. He expressed thanks to the City for relaxing the rules during the pandemic.

Janice Chart – W64 N645 Hanover Avenue, Cedarburg

Ms. Chart suggested the City monitor decibels. Music with overflowing boundaries should be addressed.

Stephanie Hayes – Cultural Center

Ms. Hayes commented that during this Covid pandemic all businesses and nonprofits have been in crisis. She works with other businesses to not overlap events. Wednesday events worked well last year.

Outside shows have become their bread and butter and have kept the Cultural Center from shutting down.

Ann Denk – Wyndrose Jewelry

Ms. Denk explained how she has had to shut the door on the jewelry store in order to help customers, due to the volume of music. She would welcome time limit restrictions on music.

Bill Conley – Stagecoach Inn

The music program has kept the Stagecoach Inn open this past year. They have been very conscious of volume and have always ended by 10:00 p.m. He feels each venue should be handled separately in terms of size, space and volume. Music has become an integral part of their business and we need to continue to offer activities for Cedarburg to remain a vibrant community.

Council Member Arnett summarized all of the comments thus far and suggested we create a structure that works for everyone. He suggested each Council Member send their thoughts to Administrator Hilvo regarding number of days, times and volume control. City staff will be tasked with creating a document to be discussed at the next Council Meeting.

Council Member Arnett motioned to postpone this item until the next Council meeting with the agreement that whatever is decided is temporary (for the 2021 summer season) and that music ends at 9:00 p.m., seconded by Council Member Thome. Motion carried without a negative vote.

CONSIDER CHANGE IN ENFORCEMENT OF TEMPORARY SIGN ORDINANCE; AND ACTION THEREON

Due to the Covid 19 pandemic, the City relaxed enforcement efforts of temporary signage rules for businesses. The result has been various public rights-of-way becoming blocked by the signs.

A motion was made by Council Member Verhaalen to allow temporary signage, limited to calendar year 2021, provided the City Building Inspector does not have an issue with the signage and was seconded by Council Member Lythjohan. Motion carried without a negative vote.

CONSIDER CONTINUING ALLOWING BUSINESSES TO SET UP TEMPORARY TENTS ON THEIR PREMISES; AND ACTION THEREON

The Fire Inspector and Building Inspector began conducting inspections of temporary tents at various businesses throughout the City. Heat sources and carbon dioxide output were found to be the main concern. The carbon dioxide levels were not high, however, having a permit process would provide a framework for enforceable safety rules. The tents could be enforced through fire codes, however, a permitting process would help business owners to be proactive when designing outdoor space.

A motion was made by Council Member Arnett to continue to allow businesses to set up temporary tents subject to establishment of a permitting process as directed by City staff for 2021 only and was seconded by Council Member Thome. Motion carried without a negative vote.

CONSIDER LICENSE/PERMIT APPLICATIONS; AND ACTION THEREON

A motion was made by Council Member Verhaalen to approve the Operator License applications for the period ending June 30, 2021 for Nicole A. Anderson, Hadley W. Campbell, and Anastasiia Pylypiuk and was seconded by Council Member Bublitz. Motion carried without a negative vote.

CONSIDER PAYMENT OF BILLS DATED 01/16/2021 THROUGH 01/29/2021, TRANSFERS FOR THE PERIOD 02/01/2021 THROUGH 02/12/2021 AND PAYROLL FOR PERIOD 01/24/2021 THROUGH 02/06/2021; AND ACTION THEREON

A motion was made by Council Member Burkart to pay the bills dated 01/16/2021 through 01/29/2021, transfers for the period 02/01/2021 through 02/12/2021, and payroll for period 1/24/2021 through 02/06/2021 and was seconded by Council Member Thome. Motion carried without a negative vote.

ADMINISTRATOR'S REPORT - None

COMMENTS AND SUGGESTIONS FROM CITIZENS – None

COMMENTS AND ANNOUNCEMENTS BY COUNCIL MEMBERS

Council Member Bublitz thanked Clerk Sette for a successful primary election. And also wished to make a public service message encouraging people to become involved by volunteering to be on a committee.

MAYOR'S REPORT – None

ADJOURNMENT - CLOSED SESSION

A motion was made by Council Member Thome, seconded by Council Member Verhaalen to adjourn to closed session at 10:10 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. Specifically discussed was the vacant land offer to purchase from Dorada, LLC, tax key No 13-034-14-024.00 C715 and approval of the February 8, 2021 closed session minutes. Motion carried unanimously on a roll call vote with Council Members Bublitz, Arnett, Burkart, Verhaalen, Simpson, Thome and Lythjohan voting aye. (7-0)

RECONVENE TO OPEN SESSION

Open Session reconvened at 10:19 p.m.

DISCUSSION AND POSSIBLE ACTION ON VACANT LAND OFFER TO PURCHASE FROM DORADA, LLC.

A motion was made by Council Member Burkart to approve the vacant land offer to purchase from Dorada and was seconded by Council Member Thome. Motion carried without a negative vote.

ADJOURNMENT

Motion made by Council Member Arnett, seconded by Council Member Bublitz, to adjourn the meeting at 10:23 p.m. Motion carried without a negative vote.

Tracie Sette, City Clerk