

**CITY OF CEDARBURG
COMMON COUNCIL
August 10, 2015**

**CC20150810-1
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, August 10, 2015, 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 Czarniecki, Jack Arnett, Art Filter, Rick Verhaalen, Mitch Regenfuss, Patricia Thome, Mike O’Keefe

Also Present - City Administrator/Treasurer Christy Mertes, Assistant to the City Attorney Tim Schoonenberg, Deputy City Clerk Amy Kletzien, Planner Jon Censky, 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 Regenfuss, to approve the minutes of the July 27, 2015 meeting as presented. Motion carried without a negative vote.

COMMENTS AND SUGGESTIONS FROM CITIZENS - None

PUBLIC HEARING

CONSIDER RESOLUTION NO. 2015-16 AMENDING THE CITY OF CEDARBURG COMPREHENSIVE LAND USE PLAN – 2025 FOR THE VACANT PARCELS ALONG THE EAST SIDE OF SHEBOYGAN ROAD APPROXIMATELY 1,300 FEET SOUTH OF HIGHWAY 60; AND ACTION THEREON

Mayor Kinzel declared the public hearing to consider Resolution No. 2015-16 amending the City of Cedarburg Comprehensive Land Use Plan – 2025 for the vacant parcels along the east side of Sheboygan Road approximately 1,300 feet south of Highway 60 open at 7:01 p.m.

Planner Censky explained that the Smart Growth Comprehensive Land Use Plan – 2025 needs to be amended from the “Low Density Detached Urban Residential (20K to 40K sf) lot size classification to the Medium Density Residential (8.4K to 12K sf) classification for the proposed “The Glen at Cedar Creek” single-family condominium style project. This is part of a two-step process which will be followed by rezoning this property to reflect the plan.

He further explained that this parcel is sandwiched between lands that are classified as “High Density Residential” (Elderly Housing) to the north and lands classified as “Medium Density Residential” to the south. The Medium Density classification, in fact, extends all the way south along both sides of Sheboygan Road to Washington Avenue. Accordingly, it makes good planning sense to maintain the same residential density classification along the entire length of Sheboygan Road to where the higher density elderly housing begins, as opposed to maintaining the existing lower density classification separating the two density classifications.

Planner Censky stated that Plan Commission recommended amending the Comprehensive Land Use Plan, as explained, by a unanimous vote at their July 6 meeting.

In answer to Council Member Filter’s question, Planner Censky stated that the homes will not be built close to the maximum size allowed.

In answer to Council Member Czarnecki’s question, Planner Censky stated this property was part of the annexed property from the Town and typically lands farther away from the center of the City are zoned at a lower density.

Motion made by Council Member Filter, seconded by Council Member Thome, to close the public hearing.

Motion made by Council Member Thome, seconded by Council Member Czarnecki, to adopt Resolution No. 2015-16 amending the City of Cedarburg Comprehensive Land Use Plan – 2025 for the vacant parcels along the east side of Sheboygan Road approximately 1,300 feet south of Highway 60. Motion carried without a negative vote.

NEW BUSINESS

CONSIDER APPLICATION FOR TWO CRAFTY CHICKS, LLC KATHLEEN HARTZHEIM, AGENT, FOR A CLASS “B” BEER AND “CLASS C” WINE LICENSE FOR BOARD AND BRUSH, W61 N506 WASHINGTON AVENUE; AND ACTION THEREON

Jacqueline Ertl, W61 N506 Washington Avenue, explained that they will be teaching 2 – 3 hour classes aimed at Mom’s Night Out. They are the third location for this type of business that is also located in Hartland and Elm Grove. They are applying for a Class “B” beer and “Class C” wine licenses to supplement the art experience. To qualify for the “Class C” wine license they will be licensed as a “Pre-packaged Restaurant,” which will allow them to sell reheated frozen pizzas and other reheated frozen foods. They submitted a business plan outlining that the sale of alcohol beverages will account for less than 50% of its gross receipts.

In answer to Council Member Filter’s questions, Ms. Ertl explained that they will not be open for regular retail hours. They will plan classes between 10:00 a.m. – 1:00 p.m. and 6:00 p.m. – 10:00 p.m. weekdays and weekends. In terms of parking, the owners are cognizant of the church’s wish for customers not parking in their lot and will post other parking options.

In answer to Council Member Thome's question, Ms. Ertl explained that they do not plan to have classes for children. They will visit this option after the first of the year and will not have alcohol in the proximity of the classroom. The classes are in front of the building and the alcohol will be stored in the back of the building.

Motion made by Council Member Filter, seconded by Council Member Arnett, to approve the application of Two Crafty Chicks, LLC, Kathleen Hartzheim, agent, for a Class "B" beer and "Class C" wine licenses for Board and Brush, W61 N506 Washington Avenue, contingent upon receipt of a restaurant license and occupancy permit. Motion carried without a negative vote.

CONSIDER MAYOR KINZEL'S APPOINTMENTS OF MICHAEL PAHL (TERM EXPIRES 4/30/17) AND JOE KASSANDER (TERM EXPIRES 4/30/18) TO THE ECONOMIC DEVELOPMENT BOARD AND LEANN BOYEA TO THE AD HOC MAYOR'S ENHANCEMENT AWARD COMMITTEE; AND ACTION THEREON

Motion made by Council Member O'Keefe, seconded by Council Member Thome, to approve Mayor Kinzel's appointments of Michael Pahl (term expires 4/30/17) and Joe Kassander (term expires 4/30/18) to the Economic Development Board and Leann Boyea to the ad hoc Mayor's Enhancement Award Committee. Motion carried without a negative vote.

CONSIDER ORDINANCE NO. 2015-11 AMENDING SEC. 7-2-17 OF THE CODE OF ORDINANCES CREATING AN EXCEPTION TO THE PROHIBITION ON AMPLIFIED MUSIC OR SOUND IN AN OUTDOOR ALCOHOL BEVERAGE SEATING AREA; AND ACTION THEREON

Attorney Steve Cain spoke on behalf of the Cedarburg Art Museum. He stated that the Museum obtained an Outdoor Alcohol License before Strawberry Festival and it has become quite popular. To enhance the experience of some of their entertainment, they are seeking an ordinance that would allow an exception to the prohibition on amplified music or sound in outdoor alcohol beverage seating areas (beer gardens). For instance, last year a speaker was unable to speak effectively to 75 people.

Attorney Cain explained that the proposed ordinance is just a starting point for discussion and can be tweaked or reworked. This ordinance was drafted to allow Outdoor Alcohol Beverage License holders whose underlying "Class B" liquor license was granted to a club, society or lodge holding a current 501(3) status, to apply for an annual permit allowing outdoor amplified sound and music subject to limitations. This was done in effort to control the amount of amplified music in the downtown area. Their intent is to use the amplification for low key events, such as speaking and limiting those events to 15 per year. It contains a limit for amplified sound or music measured 20 feet from the source, which may not exceed 100 decibels.

In answer to Council Member Filter's question, Attorney Cain explained that he was not acting in the capacity of Municipal Judge and would be unable to sit on any case involving this issue.

Council Member Filter added that residents are concerned about amplified music.

Attorney Cain replied that the proposed ordinance requires notice of permitted events be given to the Cedarburg Police Department and all property owners within 150 feet of the outdoor seating area at least 24 hours prior to the event.

Council Member Czarnecki opined that the proposed ordinance will only help a few businesses and provide a competitive advantage to a certain group.

In answer to Council Member O'Keefe's question, Attorney Cain stated that this proposed ordinance may only apply to possibly one or two other businesses.

In answer to Mayor Kinzel's question, Attorney Schoonenberg stated that the Police Department does not have a device that measures decibels.

In answer to Council Member Filter's question, Attorney Schoonenberg stated that State Statutes allow exceptions for licenses granted to a club, society or lodge; however, it does not mean that the City cannot allow all businesses the same opportunity.

Council Member Czarnecki questioned the fact that other businesses trying to make a living will not be given this opportunity and it should be open to everyone.

Council Member Thome stated that Cedarburg is a very well rounded community. There is a variety of for-profit entities, but the City also has a very large non-profit contingent within the community. She stated that the City has a responsibility to help support the non-profits as well because they lend so much to the community. This is a way to help them accomplish their mission without asking for dollars from citizens.

Council Member Arnett stated that the Museum helps bring traffic to downtown and encourages people to visit other businesses.

Mayor Kinzel questioned whether the Museum was in direct competition with other businesses stating that people go into Cedarburg for an event and then may visit other businesses in the area.

Attorney Cain stated that the Museum is sensitive in that they do not want to draw from other businesses. Many families attend their events that probably would not go to the Stilthouse, for instance.

Ann Denk, W62 N600 Washington Avenue, expressed concern for the proposed ordinance; specifically, the number of events (15) allowed in the downtown area and the notification process that will occur after the event is advertised. She stated that the proposed ordinance required more thought.

Council Member O'Keefe questioned the decibel level at 100 and provided a demonstration. Using a boom box and an app to measure the decibels at 20 feet, resulted in the music being very loud at 87 decibel's in the Council Chambers.

Attorney Cain stated that the Museum wants the amplification for voice rather than music, in most cases.

Mayor Kinzel suggested that Police Chief Frank be consulted about the acceptable decibel level.

Attorney Cain stated that the proposed ordinance is for the point of discussion.

Ann Denk asked that the Museum consider that amplified entertainment could take place in people's backyards and near bedrooms on a regular basis.

In answer to Council Member Czarnecki's question, Attorney Cain stated that it would be helpful to have amplified music.

Karen Johnson, N68 W5671 Bridge Commons Ct., stated that she is a retired event planner and past experience has shown that the band will turn the music up unless you put a governor on the amplifier. She expressed concern for opening a can of worms by allowing amplified music downtown.

Council Member Regenfuss stated that amplified events twice a month can be a lot for neighbors to accept.

Attorney Cain said that he welcomed the Council's input and how they felt about amplified voices over amplified music.

Council Member Czarnecki opined that a 10 p.m. end time during the week could be problematic for families with children. It may also be a detriment to people trying to run a business.

Council Member Thome stated that Cedarburg has a diverse downtown where people do live above businesses; however, these are choices that people make.

Ann Denk explained that she has watched Summer Sounds grow over the years to last longer and be louder than when it began. She tries to be patient and is pro-growth and pro-business; however, it can be difficult for people living downtown.

Council Member Thome stated that the proposed ordinance could be tweaked to allow only voice amplification and limit the number of events.

Council Member Verhaalen stated that if the permit is extended to other businesses that could mean 15 events per business.

Attorney Tim Schoonenberg stated that the draft allows the City to grant the permit upon conditions.

It was the consensus of the Common Council to review the proposed ordinance for the decibel level, time of events, number of events, voice vs. music, and who should be allowed to apply for the permit.

Motion made by Council Member Czarnecki, seconded by Council Member O'Keefe, to table the consideration of Ordinance No. 2015-11 amending Sec. 7-2-17 of the Code of Ordinances creating

an exception to the prohibition on amplified music or sound in an outdoor alcohol beverage seating area. Motion carried without a negative vote.

CONSIDER PAYMENT OF BILLS FOR THE PERIOD OF 7/23/15 THROUGH 7/30/15, ACH TRANSFERS FOR THE PERIOD 7/25/15 THROUGH 8/8/15, AND PAYROLL FOR THE PERIOD 7/19/15 THROUGH 8/1/15; AND ACTION THEREON

Motion made by Council Member Thome, seconded by Council Member O'Keefe, to approve the payment of bills for the period 7/23/15 through 7/30/15, ACH transfers for the period 7/25/15 through 8/8/15, and payroll for the period 7/19/15 through 8/1/15. Motion carried without a negative vote.

CONSIDER LICENSE APPLICATIONS; AND ACTION THEREON

Motion made by Council Member Czarnecki, seconded by Council Member Arnett, to approve the renewal Operator's License application for the period ending June 30, 2016 for Robert A. Kitzerow. Motion carried without a negative vote.

ADMINISTRATOR'S REPORT - None

COMMENTS AND SUGGESTIONS FROM CITIZENS - None

COMMENTS & ANNOUNCEMENTS BY COUNCIL MEMBERS - None

MAYOR'S REPORT

Mayor Kinzel issued a Proclamation to Eagle Scout Alexander Hildebrand.

ADJOURNMENT

Motion made by Council Member Filter, seconded by Council Member Arnett, to adjourn the meeting at 7:59 p.m. Motion carried without a negative vote.

Amy D. Kletzien, MMC/WCPC
Deputy City Clerk