

**CITY OF CEDARBURG
COMMON COUNCIL
August 31, 2015**

**CC20150831-1
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, August 31, 2015, at City Hall, W63 N645 Washington Avenue, second floor, Council Chambers. Mayor Kip 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, Director of Engineering and Public Works Tom Wiza, Light & Water General Manager Dale Lythjohan, Director of Parks, Recreation and Forestry Mikko Hilvo, City Clerk Constance McHugh, Assistant to the City Attorney Tim Schoonenberg, Light & Water Commissioner Jim Coutts, Economic Development Board Members Peter Welch and DJ Burns; interested citizens and news media

STATEMENT OF PUBLIC NOTICE

At Mayor Kinzel's request, City Clerk McHugh 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 Filter, seconded by Council Member Arnett, to approve the minutes of the August 10, 2015 meeting as presented. Motion carried unanimously.

COMMENTS AND SUGGESTIONS FROM CITIZENS

Robin Paradis Kent, N66 W6432 Cleveland Street, said she is representing her neighborhood regarding the proposed change to the outdoor alcohol beverage license (beer garden) ordinance that would permit amplified sound and music at the Cedarburg Art Museum. She questioned whether or not the Art Museum is allowed to have amplified music or sound. She said the Museum had a wedding in the beer garden on July 11, a dance and band on July 25, has the beer garden open every Thursday night from 5:00 p.m. to 9:00 p.m., and has a Shakespeare theater in the beer garden. She asked what the fire code for outdoor seating is and whether there is a limit on the number of people allowed in backyards.

Ms. Paradis Kent said neighbors have adjusted to festivals because they are good for the community. She said the Council needs to draw the line on the Art Museum's proposal to change the ordinance to allow amplified sound and music in beer gardens. She said the fence that was

erected is not as high as planned and patrons of the beer garden can look into her backyard. She said there has been an increase in noise since the beer garden has opened. She said neither her or her neighbors are cranky, but are all bothered by the additional encroachment by the Museum and the Museum not paying attention to the rules.

Ms. Paradis Kent said she believes her property has been devalued because of the bar next door. She said the Museum is not considerate of the neighbors, with the exception of nine free drink tickets that were given out. She said the neighbors cannot tolerate additional encroachments.

Jan Chart, W64 N645 Hanover Avenue, said she also has concerns about amplified music for non-profit organizations. She said residential neighborhoods do not benefit from amplified music. She said this does not sound like an appropriate thing to allow. She said music and sound from the Museum is loud - she lives down the street and is not an immediate neighbor. She questioned how the Museum morphed into a beer garden. She said having weddings at the Museum does not further the arts. There are other ways to generate funds. Allowing amplified sound or music adds another layer of sound pollution. She said the neighbors cannot accept additional encroachments on the peace and quiet of the neighborhood.

Paul Teman, N65 W649 Hanover Avenue, said the beer garden at the Art Museum is an annoying thing. He said he does not appreciate being woken up at midnight or 1:00 a.m. by drunks in the beer garden. He said the Museum is exceeding what they said they were going to do, and asked what recourse the neighbors have.

Mayor Kinzel encouraged residents with noise complaints to contact the Police Department.

Ruth Cook, W64 N649 Hanover Avenue, said she read the proposed ordinance allowing amplified music and sound and has several questions, including what constitutes a non-profit organization, how many organizations this ordinance would apply to, what is considered a low key event, and what is meant by 15 events per year. She said the neighborhood bears the brunt of a lot of music, bands, parades, and events each year. She said the civic band practices in the gym during the summer with the doors and windows open and the 4th of July bands practice at the high school and a nearby church parking lot and noise from that can be heard if the wind blows in the right direction. In addition there is Strawberry Festival, Wine & Harvest Festival, Oktoberfest, Summer Sounds, and a homecoming parade. She said the neighbors do not object to what the festivals bring to the City, but consideration must be given to the residents.

Nancy Pipkorn, N66 W6466 Cleveland Street, said she did not consider herself buying a home in the downtown when she purchased her home 39 years ago. She said Cedarburg is a wonderful City, but there is a limit. She said the beer garden is in the backyards of the neighbors, not on the street side, and all noise can be heard. She said it can be uncomfortable. She said the sound is amplified to the east and often times bounces off the brick Museum building into the neighboring backyards. She said the turn of events at the Museum puts up a red flag. She asked the Council to consider these things.

Mayor Kinzel said the proposed ordinance amendment will be discussed at the September 14th Council meeting. Notification will be mailed to the neighbors.

CONSIDER PUBLIC ART COMMISSION GUIDELINES/CONSIDER ORDINANCE NO. 2015-12 AMENDING SEC. 2-4-19 OF THE CODE OF ORDINANCES MODIFYING THE COMPOSITION OF THE PUBLIC ART COMMISSION

Director Hilvo presented the Public Art Commission guidelines the Commission has been working on for the past several months. At a past Council meeting the Council was concerned about being able to remove public art in the community if necessary. He said he felt this authority is best placed in the ordinance governing the Public Art Commission. The guidelines also say that the Council has the final approval over the placement of all public art.

Council Member Filter suggested the ordinance be changed to say the Council has the authority to “remove any public art”, rather than the Council has the authority to “request removal of any public art”. The Council agreed to this change.

Motion made by Council Member Thome, seconded by Council Member Czarnecki, to adopt Ordinance No. 2015-12 amending Sec. 2-4-19 of the Code of Ordinances modifying the composition of the Public Art Commission as amended above, and to adopt the Public Art Commission guidelines as presented. Motion carried unanimously.

CONSIDER AWARD OF CONTRACT FOR 2015 ASPHALT PAVEMENT REPAIR PROGRAM

Director Wiza said staff advertised and received bids for the 2015 asphalt repair program. The program this year is larger than usual as it includes spot street repairs on Hanover Avenue and Spring Street, the repaving of the City Hall parking lot, and also, bid as alternates, the repaving of the Zeunert Park parking lot as well as portions of the asphalt park trail.

A total of five bids were received. The lowest responsive bid was from Parking Lot Maintenance, Inc. The base bid for the City Hall parking lot and street repairs totaled \$82,965, well under budget. The alternate bids for the Zeunert parking lot (\$42,228.75) and Zeunert walking path (\$20,782.00) were also well under the estimate. The total contract award including the base bid and alternates 1 and 2 is \$145,975.75. Staff recommends awarding the 2015 asphalt pavement repair contract to Parking Lot Maintenance, Inc., including alternates 1 and 2.

Council Member Arnett said the Council is facing \$8 million to construct a new Public Works facility. He suggested some savings be found to help pay for this, such as putting off some paving.

Mayor Kinzel said the City is falling behind in terms of paving. He discouraged taking money from paving to put towards construction of the Public Works facility.

Motion made by Council Member Filter, seconded by Council Member O’Keefe, to award the 2015 asphalt pavement repair contract to Parking Lot Maintenance, Inc., including alternates 1 and 2 in the total amount of \$145,975.75. Motion carried with Council Members Czarnecki, Filter, Verhaalen, Regenfuss, Thome and O’Keefe voting aye and Council Member Arnett voting nay.

\$14,185 is to come from the 2015 Street Repairs Capital Budget, \$68,780 is to come from the City Hall Complex Capital Budget, and \$63,010.75 is to come from the Parks and Recreation Capital Budget.

CONSIDER APPLICATION OF RUSTIC PALATE, LLC, FOR A CLASS “A” BEER AND “CLASS A” LIQUOR LICENSE FOR THE RUSTIC PALATE, W63 N712 WASHINGTON AVENUE

Motion made by Council Member Czarnecki, seconded by Council Member O’Keefe, to approve the application of Rustic Palate, LLC, Michelle L. Taraboi, agent, for a Class “A” beer and “Class A” liquor license for the Rustic Palate, W63 N712 Washington Avenue. Motion carried unanimously.

The Rustic Palate is a culinary store that will sell alcohol for off-premise consumption.

WPPI ENERGY’S PRESENTATION ON CEDARBURG’S MEMBERSHIP IN WPPI AND A PROPOSED EXTENSION OF THE CURRENT MEMBERSHIP CONTRACT

General Manager Lythjohan introduced Pat Connors, Senior Vice-President of WPPI Energy Power Supply.

Mr. Connors said WPPI Energy was formed in 1980. Cedarburg is a charter member of the group. WPPI will be celebrating its 35th anniversary on September 17th. WPPI Energy consists of 51 members: 41 in Wisconsin, seven in the Upper Peninsula of Michigan, and 3 in Iowa. WPPI provides power supply and related services to its members and customers. An all-requirements power supply contract is what secures these benefits for Cedarburg.

WPPI Energy has a proven track record and has paved the way for generation ownership. WPPI has 12 major resources for energy. The Boswell Energy Center in Minnesota was the first owned generation of power supply. This was made possible with member contracts signed in 1989.

Services and support from WPPI Energy includes provision of distribution system support, including joint purchasing of electric materials; development of electric rate cases and assistance with filings; support with metering and customer billing/accounting systems; delivery of energy services and programs to retail customers; and assistance with customer education and outreach.

Mr. Connors said ownership of WPPI Energy provides shared strength and preserves and enhances the value of the Cedarburg Light and Water Utility for the long term. He said the current contract between WPPI Energy and the City expires 2037. Now is the time for contract extension. The end of 2015 is the target date for completion of new contracts with member municipalities. Contracts are to be extended to 2055.

Council Member O’Keefe asked if there are efforts to increase the membership of WPPI Energy.

Mr. Connors said WPPI does not aggressively seek members because members must believe in what WPPI Energy is doing. Membership has increased from 30 municipalities in 1980 to 51 municipalities today.

General Manager Lythjohan said the proposed contract extension will be presented to the Council at the last meeting in September.

CONSIDER ORDINANCE NO. 2015-13 AMENDING SEC. 2-5-4(b) OF THE CODE OF ORDINANCES RELATING TO SEEKING SPONSORSHIPS FOR CITY PROGRAMMING AND CONSIDER PROPOSED AMENDMENT TO SEC. 2-12(d) OF THE CITY'S PERSONNEL MANUAL REGARDING THE SAME

Director Hilvo said an ordinance has been drafted that would allow City Departments to seek sponsorships for City programming. Attorney Schoonenberg said the ordinance has a narrow exception that would allow fundraising for purposes of raising money for City departmental programming, equipment, or capital projects.

Motion made by Council Member Filter, seconded by Council Member O'Keefe, to adopt Ordinance No. 2015-13 amending Sec. 2-5-4(b) of the Code of Ordinances relating to seeking sponsorships for City programming and to approve an amendment to Sec. 2-12(d) of the City's Personnel Manual regarding the same. Motion carried unanimously.

CONSIDER REQUESTS TO DECORATE THE LARGER TREE IN FRONT OF CITY HALL FOR THE HOLIDAYS

Director Hilvo said there have been requests to decorate the larger tree in front of City Hall for the holidays, rather than the smaller tree that was planted for this purpose a few years ago. He said this can be done with no problems, although additional lights may need to be purchased.

Mayor Kinzel said he thinks the City can do better in terms of the tree decorating.

Council Member O'Keefe said the City of Festivals deserves a better lit tree during the holidays.

Motion made by Council Member O'Keefe, seconded by Council Member Czarnecki, to direct the Parks, Recreation and Forestry Department to light the larger tree in front of City Hall for the holidays. Motion carried unanimously.

CONSIDER ADP SERVICES CONTRACT FOR AFFORDABLE CARE ACT REPORTING COMPLIANCE

City Administrator/Treasurer Mertes said with the Affordable Health Care Act (ACA) there is newly required annual reporting of employee health insurance information to the Federal government. She said staff is requesting to purchase ADP's services for 2015 and then the software in 2016. ADP is the City's current processor of payroll. This will help to eliminate any penalties imposed by the government for non-compliance or incomplete or inaccurate reporting.

With this agreement in 2015, the City will receive a worksheet template to set up the current year records. At the end of the year, the information will be transferred over to the ADP for printing, distribution and filing of the forms. This process will make transition easier in 2016 if the software is purchased. The template cost for 2015 is \$168.50. The cost in 2016 would be \$8,403.60. ADP is requiring the City to sign up for 2015 and 2016 services at this time.

Motion made by Council Member Regenfuss, seconded by Council Member Thome, to approve the ADP services contract for the Affordable Health Care Act reporting compliance. Motion carried unanimously.

CONSIDER STRATEGIC PLAN

The Strategic Plan was presented to the Council. City Administrator/Treasurer Mertes said this is something the Council usually talks about during budget time. She said she wanted to bring it to the Council in advance of budget discussions so Council's comments can be provided to staff and staff can address the comments during budget presentations.

City Administrator/Treasurer Mertes discussed the eight goals and accompanying objectives with the Council. The eight goals included:

- Goal #1: Responsiveness to citizen concerns and needs by involving citizens and providing sufficient staff levels to meet service standards through effective recruitment, training and retention of qualified employees, supplemented by a network of volunteers and contract providers.
- Goal #2: Promote sound fiscal management that seeks to minimize debt, pre-fund significant expenditures, maximize non-tax revenues, shared revenues and expenses with other government entities when feasible.
- Goal #3: Provide opportunities for business growth, foster historic perseverance in historical areas, preserve quality of life and continue the vitality of the local economy.
- Goal #4: Proactively maintain public facilities while planning and improving infrastructure with growth.
- Goal #5: Preserve and enhance quality of life by providing cultural, education, leisure, and recreational activities for all generations to enjoy.
- Goal #6: Protect life and property by establishing an atmosphere of safety, trust and well-being.
- Goal #7: Conduct the City operations in a manner that reduces risk exposure in the most cost effective manner possible through ongoing training concerning policies, procedures and safety practices.
- Goal #8: Improve efficiency and productivity between City departments, residents and businesses through technology.

Several Council Members suggested that the development of smart growth areas be added as an objective under Goal #3.

Council Member Czarnecki questioned whether the cost projections for the outdoor sports complex (\$500,000) and the indoor multi-purpose gymnasium (\$4 million to \$6 million) should be eliminated from the plan. He said his concern is that if these numbers are in the Plan it means that the Council will automatically approve the projects at this level.

City Administrator/Treasurer Mertes said the Plan is a strategic tool for planning purposes. The numbers can be removed, or the cost projections could be listed as "TBD" (to be determined).

Director Hilvo said the costs are not what is important. What is important is that these items are included in the Strategic Plan because there is a definite need for them. He said this allows him to talk to various organizations to determine if there may be possible donors. This lets these organizations know that the idea or a plan is out there.

Council Member Thome said she has reviewed the Plan thoroughly. She said there are some items in the Plan that need to be dealt with and some items that are perhaps more of wish list items. She suggested that perhaps the items in the Plan be prioritized. City Administrator/Treasurer Mertes said she can try to do this.

REVIEW SECOND QUARTER FINANCIAL REPORT

The second quarter financial report was distributed prior to the meeting.

PAYMENT OF BILLS

Motion made by Council Member Filter, seconded by Council Member Regenfuss, to approve the payment of the bills for the period 08/07/15 through 08/20/15, ACH transfers for the period 08/09/15 through 08/25/15, and payroll for the period 08/02/15 through 08/15/15. The motion carried unanimously.

LICENSE APPLICATIONS

Motion made by Council Member O'Keefe, seconded by Council Member Czarnecki, to authorize the issuance of new Operator licenses for the period ending June 30, 2016 to:

Shane R. Cassidy
Jordan H.W. Watson
Dawn M. Herrick

David L. Magnusson, Jr.
Jessica M. Wallace

Motion made by Council Member O'Keefe, seconded by Council Member Czarnecki, to authorize the issuance of renewal Operator licenses for the period ending June 30, 2016 to:

John O. Baker

Josh P. McCutcheon

Motion carried unanimously.

Motion made by Council Member O'Keefe, seconded by Council Member Czarnecki, to authorize issuance of a Festival Celebration Permit to Festivals of Cedarburg, Inc., for Wine & Harvest Festival to be held on September 19, 2015 from 10:00 a.m. to 9:00 p.m. and September 20, 2015 from 10:00 a.m. to 5:00 p.m., with extended hours on September 19 to allow for a band to play on the main stage in the City Hall parking lot and for the beer/wine garden to be open during this time. Motion carried unanimously.

Motion made by Council Member Arnett, seconded by Council Member Czarnecki, to authorize issuance of a Festival Celebration Permit to Festivals of Cedarburg, Inc. for Oktoberfest to be held

on October 11, 2015 from 11:00 a.m. to 8:00 p.m. and October 11, 2015 from 10:00 a.m. to 5:00 p.m. Motion carried unanimously.

CITY ADMINISTRATOR'S REPORT

City Administrator/Treasurer Mertes asked if there is any interest in starting the September 28th Council meeting at 6:00 p.m. or 6:30 p.m., due to the Packer game at 7:30 p.m.

It was the consensus of the Council to start the meeting at 6:00 p.m. Council Members O'Keefe and Czarnecki will be excused.

Council Member Verhaalen asked how the cut-outs of dogs are working at Willowbrooke Park to deter the geese.

Director Hilvo said the cut-out dogs have been very successful. In fact, he has ordered several more for other parks.

Director Hilvo said Sal's Pizza will be subleasing the green area next to the building from the City to be used as an outdoor seating area. U.S. Bank owns this area and has allowed the City to sublease to Sal's. No beer will be served or consumed outdoors. He said this is a temporary arrangement to see how things go.

COMMENTS AND ANNOUNCEMENTS BY COUNCIL MEMBERS

Council Member Filter said the Council heard testimony from residents tonight about amplified sound and music in the beer garden at the Cedarburg Art Museum. He suggested a certified letter be sent stating this is in violation of the City's current ordinance.

Attorney Schoonenberg said he would discuss this matter with representatives of the Art Museum.

Council Member Arnett said as a member of the Light and Water Commission he has arranged a tour of the facilities with General Manager Lythjohan. He encouraged other Council Members to attend.

MAYOR'S REPORT

Mayor Kinzel issued the following proclamations:

- National Assisted Living Week – September 3-19
- National Senior Center Month – September 2015

ADJOURNMENT

Motion made by Council Member Filter, seconded by Council Member O'Keefe, to adjourn the meeting at 9:00 p.m. Motion carried unanimously.

COMMON COUNCIL
August 31, 2015

CC20150831-9
UNAPPROVED

Constance K. McHugh, MMC/WCPC
City Clerk