

**CITY OF CEDARBURG
COMMON COUNCIL
August 25, 2014**

**CC20140825-1
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, August 25, 2014, 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, Ron Reimer, Art Filter, Paul Radtke, Mitch Regenfuss, Patricia Thome

Excused - Council Member Mike O'Keefe

Also Present - City Administrator/Treasurer Christy Mertes, City Clerk Constance McHugh, Police Chief Tom Frank, City Attorney Michael Herbrand, 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

Council Member Filter requested that page 6 of the August 11, 2014 minutes reflect that he voted nay on the motion establishing a date and time for Trick or Treat.

Motion made by Council Member Radtke, seconded by Council Member Thome, to approve the minutes of the August 11, 2014 meeting as corrected. Motion carried unanimously with Council Member O'Keefe excused.

CONSIDER RESOLUTION NO. 2014-12 AUTHORIZING THE SALE OF THE FORMER COMMUNITY LIBRARY, COMMONLY IDENTIFIED AS W63 N583 HANOVER AVENUE

City Attorney Herbrand said a resolution needs to be adopted by the Council authorizing the sale of the former library building and authorizing the Mayor and City Clerk to sign the closing documents.

Motion made by Council Member Reimer, seconded by Council Member Czarnecki, to adopt Resolution No. 2014-12 authorizing the sale of the former Community Library building at W63 N583 Hanover Avenue and authorizing the Mayor and City Clerk to sign the closing documents. Motion carried unanimously with Council Member O'Keefe excused.

CONSIDER POLICIES CC-20A & B: FILLING ALDERMANIC AND MAYORAL POSITION VACANCIES

Attorney Herbrand said the policies relating to the filling of aldermanic and mayoral position vacancies have been revised to include a provision that all candidates for appointment must complete and sign a Declaration of Qualifications for Office statement. This is similar to the Declaration of Candidacy candidates must complete when running for office. The statement basically states that the candidate meets all the requirements to hold office and has not been convicted of a felony.

Motion made by Council Member Reimer, seconded by Council Member Thome, to adopt revised Policies CC-20A & B: Filling Aldermanic and Mayoral position vacancies. Motion carried unanimously with Council Member O'Keefe excused.

CONSIDER REQUEST OF THE CEDARBURG ART MUSEUM & SOCIETY, INC. TO AMEND THE PREMISE DESCRIPTION OF THE CLASS B BEER AND LIQUOR LICENSE OF CEDARBURG ART MUSEUM AT W63 N675 WASHINGTON AVENUE TO SELL AND SERVE ALCOHOL IN THE REAR GARDEN AREA ON SEPTEMBER 6, 2014 AND IN THE REAR GARDEN AREA AND THE FRONT OF THE MUSEUM DURING STRAWBERRY AND WINE AND HARVEST FESTIVALS

Motion made by Council Member Filter, seconded by Council Member Thome, to amend the premise description of the Class B combination alcohol license of the Cedarburg Art Museum at W63 N675 Washington Avenue to sell and serve alcohol in the rear garden area on September 6, 2014 from 4:00 p.m. to 8:00 p.m. for a special event and in the rear garden area and the front of the Museum during Strawberry and Wine and Harvest Festivals, subject to meeting all licensing requirements. Motion carried unanimously with Council Member O'Keefe excused.

Council Member Radtke said the Festivals Committee put together a committee a few years ago to address alcohol related issues at the Festivals. He said the Festivals Committee and bar and restaurant owners have done a good job policing the consumption of alcohol at these events.

CONSIDER REQUEST OF CEDARBURG MERCHANTS ORGANIZATION TO PLACE LUMINARIES TO LINE WASHINGTON AVENUE ON FIVE FRIDAY EVENINGS BEGINNING NOVEMBER 14

Anna Armbruster of the Cedarburg Merchants Organization (CMO) discussed CMO plans to line Washington Avenue from Western Road to Sheboygan Road with luminaries on five Friday evenings beginning November 14 and going until December 12. Approximately 1,000 luminaries in plain paper bags will be placed about 2' from the curb with battery-operated, flameless candles so they pose no risk of fire and do not include any kind of open flame. The luminaries will be up from 4:00 p.m. to 10:00 p.m. and will not block any driveways, crosswalks, or garbage cans.

Motion made by Council Member Filter, seconded by Council Member Thome, to approve the request of the CMO to line Washington Avenue from Western Road to Sheboygan Road with luminaries on five Friday evenings beginning November 14 in accordance with the written request

included in the Council packet and as explained above. Motion carried unanimously with Council Member O'Keefe excused.

PAYMENT OF BILLS

Motion made by Council Member Radtke, seconded by Council Member Czarnecki, to approve payment of bills for the period 08/07/14 through 08/07/14, ACH transfers for the period 08/09/14 through 08/22/14, and payroll for the period 08/03/14 through 08/22/14. Motion carried unanimously with Council Member O'Keefe excused.

LICENSE APPLICATIONS

Motion made by Council Member Radtke, seconded by Council Member Thome, to authorize the issuance of new Operators' licenses for the period ending June 30, 2015 to: Keyante A. Grant, Jennifer P. Smith, and Julie M. Streicher. Motion carried unanimously with Council Member O'Keefe excused.

Motion made by Council Member Thome, seconded by Council Member Radtke, to authorize the issuance of a renewal Operators' license for the period ending June 30, 2015 to: John O. Baker. Motion carried unanimously with Council Member O'Keefe excused.

Motion made by Council Member Radtke, seconded by Council Member Thome, to authorize the issuance of a Festival Celebration Permit to Festivals of Cedarburg, Inc., for Wine & Harvest Festival to be held on Saturday, September 20, 2014 from 10:00 a.m. to 6:00 p.m. and on Sunday, September 21, 2014 from 10:00 a.m. to 5:00 p.m. Motion carried unanimously with Council Member O'Keefe excused.

Motion made by Council Member Czarnecki, seconded by Council Member Thome, to authorize issuance of a Festival Celebration Permit to Festivals of Cedarburg, Inc., for Oktoberfest to be held on Saturday, October 11, 2014 from 11:00 a.m. to 8:00 p.m. and Sunday, October 12, 2014 from 10:00 a.m. to 5:00 p.m. Motion carried unanimously with Council Member O'Keefe excused.

RECONSIDERATION OF THE APPLICATION OF CHRISTOPHER R. HICKEY FOR AN OPERATOR'S LICENSE THAT WAS DENIED BY THE COUNCIL ON JULY 28, 2014

Christopher Hickey requested the Council reconsider the denial of his operator's license application; however, was not in attendance at the meeting.

Attorney Herbrand said the Council could take no action on the matter or could make a motion to deny the request for reconsideration.

There being no other action, the denial of July 28, 2014 stands.

Attorney Herbrand advised the Council he is working with staff to modify the portion of the City Code that deals with reconsideration of applications for new operator licenses that have been denied. He said that according to State Statutes, if an application for a new operator's license is denied by the Council the Clerk must send a letter to the applicant explaining the reasons for denial

and the matter ends there. The City Code requires that applicants that are denied a license be allowed to ask the Council for a reconsideration. The revision to the Code will eliminate this reconsideration option for new operator license applicants that have been denied. This will save time and eliminate inefficiencies. The applicant will be notified their license will be considered and will have an opportunity to speak on the same night.

CITY ADMINISTRATOR'S REPORT

Attorney Herbrand said he realizes that Council Members receive email correspondence from members of the public on a regular basis. He warned the Council about the concept of a walking quorum and that all meetings should be noticed and conducted in an open forum. He cautioned Council Members against responding to the whole group. He said Council Members do not want to engage in a group discussion that is outside of a public meeting. Individual responses are acceptable.

Council Member Thome asked if it is acceptable to forward emails she receives from citizens to the City Administrator for distribution to staff and other Council Members.

Attorney Herbrand said this is acceptable.

Council Member Thome asked if it is acceptable for Council Members to send emails to the Mayor and City Administrator with questions.

Attorney Herbrand said this is also acceptable.

COMMENTS AND ANNOUNCEMENTS FROM COUNCIL MEMBERS

Council Member Filter suggested that Council Members be notified when there are block parties in their neighborhood.

ADJOURNMENT - CLOSED SESSION

Motion made by Council Member Radtke, seconded by Council Member Thome, to adjourn to closed session at 7:23 p.m. pursuant to State Statutes 19.85(1)(e) to deliberate or negotiate the purchase of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session, and State Statutes 19.85(1)(g) to confer with legal counsel who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved, more specifically, to discuss the proposed TID #3 developer's agreement and to discuss the Darlene Dehling claim against the City for a fall that occurred on February 11, 2014. Approval of closed session minutes of August 11, 2014. With Council Members Czarnecki, Reimer, Filter, Radtke, Regenfuss, and Thome voting aye, and Council Member O'Keefe excused, the motion carried unanimously on a roll call vote.

RECONVENE TO OPEN SESSION

Motion made by Council Member Radtke, seconded by Council Member Thome, to reconvene to open session at 8:25 p.m. Motion carried unanimously with Council Member O'Keefe excused.

CONSIDER APPROVAL OF THE TID #3 DEVELOPER'S AGREEMENT

Motion made by Council Member Filter, seconded by Council Member Thome to approve the TID #3 Developer's Agreement with a change in Section 7. A. 2. granting either party a 30 day grace period to cure any defaults, if the defaults cannot be cured in the 30 day period, the developer has the right to request an extension and the Council can grant or deny the extension at its sole discretion, and to add Section K to the Agreement that requires a warranty from the developer that Member Greg Zimmerschied is authorized to sign on behalf of Cedarburg Land & Cattle, LLC. Motion carried with Council Members Reimer, Filter, Radtke, Regenfuss, and Thome voting aye, Council Member Czarnecki voting nay, and Council Member O'Keefe excused.

CONSIDER THE DARLENE DEHLING CLAIM AGAINST THE CITY FOR A FALL THAT OCCURRED ON FEBRUARY 11, 2014

Motion made by Council Member Reimer, seconded by Council Member Radtke, to deny the claim of Darlene Dehling against the City for a fall that occurred on February 11, 2014. Motion carried unanimously with Council Member O'Keefe excused.

ADJOURNMENT

Motion made by Council Member Filter, seconded by Council Member Radtke, to adjourn the meeting at 8:27 p.m. Motion carried unanimously with Council Member Radtke excused.

Constance K. McHugh, MMC/WCPC
City Clerk