

**CITY OF CEDARBURG
SPECIAL MEETING OF COMMON COUNCIL
December 21, 2020 – 7:15 P.M.**

A special meeting of the Common Council of the City of Cedarburg, Wisconsin, will be held on **Monday, December 21, 2020 at 7:15 p.m.** The meeting will be held online utilizing the zoom app. Information on how to access the meeting is attached to the meeting packet or can be requested by emailing: mhilvo@ci.cedarburg.wi.us.

AGENDA

1. CALL TO ORDER - Mayor Mike O'Keefe
2. MOMENT OF SILENCE
3. PLEDGE OF ALLEGIANCE
4. ROLL CALL: Present – Common Council – Mayor Mike O'Keefe, Council Members Sherry Bublitz, Jack Arnett, Kristin Burkart, Rick Verhaalen, Robert Simpson, Patricia Thome and Barbara Lythjohan
5. STATEMENT OF PUBLIC NOTICE
6. COMMENTS AND SUGGESTIONS FROM CITIZENS** Comments from citizens on a listed agenda item will be taken when the item is addressed by the Council. At this time individuals can speak on any topic not on the agenda for up to 5 minutes, time extensions at the discretion of the Mayor. No action can be taken on items not listed except as a possible referral to committees, individuals or a future Council agenda item.
7. NEW BUSINESS
 - A. Discussion and possible action regarding the 5th District Alderman appointment; and action thereon*
 - B. Consider funding garbage cart change from 96-gallon to 64-gallon at residents request; and action thereon*
 - C. Consider one garbage cart per address in residential areas instead of one cart per tax key; and action thereon*
 - D. Consider City Hall staff as liaison between citizens and Waste Management; and action thereon*
8. ADJOURNMENT

Individual members of various boards, committees, or commissions may attend the above meeting. It is possible that such attendance may constitute a meeting of a City board, committee or commission pursuant to State ex. rel. Badke v. Greendale Village Board, 173 Wis. 2d 553, 494 NW 2d 408 (1993). This notice does not authorize attendance at either the above meeting or the Badke Meeting but is given solely to comply with the notice requirements of the open meeting law.

* *Information attached for Council; available through City Clerk's Office.*

** *Citizen comments should be primarily one-way, from citizen to the Council. Each citizen who wishes to speak shall be accorded one opportunity at the beginning of the meeting and one opportunity at the end of the meeting. Comments should be kept brief. If the comment expressed concerns a matter of public policy, response from the Council will be limited to seeking information or acknowledging that the citizen has been understood. It is out of order for anyone to debate with a citizen addressing the Council or for the Council to take action on a matter of public policy. The Council may direct that the concern be placed on a future agenda. Citizens will be asked to state their name and address for the record and to speak from the lectern for the purposes of recording their comments.*

*** *Information available through the Clerk's Office.*

City of Cedarburg is an affirmative action and equal opportunity employer.
All qualified applicants will receive consideration for employment without regard to race, color, religion, sex, disability, age, sexual orientation, gender identity, national origin, veteran status, or genetic information.
City of Cedarburg is committed to providing access, equal opportunity and reasonable accommodation for individuals with disabilities in employment, its services, programs, and activities.

To request reasonable accommodation, contact the Clerk's Office,
(262) 375-7606, email: cityhall@ci.cedarburg.wi.us.



CITY OF CEDARBURG PUBLIC MEETING POLICY DURING COVID-19

The City of Cedarburg will begin utilizing [zoom](#), an online meeting tool, to conduct City meetings. This includes all public meetings. We are cancelling all non-essential meetings and limiting agenda items but there are items that do require decisions to be made so that projects throughout the City can continue or get completed in a timely manner. We will continue to adhere to open meeting laws as set forth by the State of Wisconsin.



Most recently the Wisconsin Department of Justice issued an advisory on March 16, 2020, addressing this issue and stating that: "Governmental bodies typically can meet their open meetings obligations, while practicing social distancing to help protect public health, by conducting meetings via telephone conference calls if the public is provided with an effective way to monitor such calls (such as public distribution, at least 24 hours in advance, of dial-in information for a conference call)." The advisory emphasizes that "When an open meeting is held by teleconference or video conference, the public must have a means of monitoring the meeting. DOJ concludes that, under the present circumstances, a governmental body will typically be able to meet this obligation by providing the public with information (in accordance with notice requirements) for joining the meeting remotely, even if there is no central location at which the public can convene for the meeting.

CITY OF CEDARBURG MEETING PROCEDURES DURING COVID-19 FOR PUBLIC

To download [zoom](#) on your mobile device, click on one of the following:



Here are the procedures for public to be able to view a meeting live through [zoom](#).

1. Contact the City Administrator, Mikko Hilvo, 2 hours in advance of the meeting you wish to attend via [zoom](#) by emailing him at mhilvo@ci.cedarburg.wi.us.
2. In your email Subject line please put down the meeting that you wish to attend (example: Common Council Meeting on 3-30-20 at 7:00pm).
3. Provide your Name, Address, Email, Phone Number to him via email with a request to join the meeting.
4. You will receive an invite to the meeting via email. Click on the invite prior to the meeting being held. The meeting will be open 10 minutes prior to the scheduled meeting start time so you can check your microphone and camera setup.
5. All public participants will have their microphone muted.
6. If, during public comment, anyone wishes to talk they should request to do so through the chat feature or by using the "hand" to wave at the meeting organizer. The administrator of the meeting will unmute you at the appropriate time and ask you to make your comments.

If you are unable to utilize a computer, iPad, or tablet to view the meeting you can call or email ahead of time and a phone number will be given to you to call in on. If you do call in, we ask that you put your phone on mute when you are not talking. If you need an agenda, we can email one to you.

Contact Info: Mikko Hilvo, City Administrator, mhilvo@ci.cedarburg.wi.us, (262) 375-7917.



CITY OF CEDARBURG MEETING PROCEDURES DURING COVID-19 – FOR STAFF & BOARD MEMBERS

The City of Cedarburg will be utilizing the [zoom](#) app to hold public meetings starting March 23, 2020 until April 30, 2020. All meetings will adhere to Wisconsin Open Meetings Law. The [zoom](#) app provides an option for the public to join the meeting via computer, iPad, tablet, or phone. Meetings will also be recorded and made available through our Clerks office for viewing at a later time.

Here are the procedures for staff and board members to utilize [zoom](#).

1. The City Administrator, Mikko Hilvo, will email a meeting invite to each staff and board member 24 hours prior to the meeting.
2. If another staff member, council member, or presenter needs access to the meeting and the ability to discuss an item they should request to get a meeting invite by emailing mhilvo@ci.cedarburg.wi.us at minimum 6 hours prior to the meeting.
3. In your email Subject line please put down the meeting that you wish to attend. (Example: Common Council Meeting on 3-30-20 at 7:00pm)
4. Provide your Name, Address, Email, Phone Number and reason for attending the meeting to the administrator.
5. All agendas and documents that need to be shared during the meeting will be sent to members ahead of time and also provided electronically to the meeting organizer (City Administrator).
6. All meetings will be open 10 minutes prior to the scheduled meeting start time so you can check your microphone and camera setup.
7. All staff and/or board members will have their microphones on unless they mute it themselves. All public participants will have their microphone muted except during public comments or if they use the chat feature asking the administrator for permission to speak.
8. All Votes will be done through roll call.

If you are unable to utilize a computer, iPad, or tablet to participate in the meeting you can call or email ahead of time and a phone number will be given to you to call in on. If you do call in, we ask that you put your phone on mute when you are not talking. If you need an agenda, it can be emailed to you.

Contact Info: Mikko Hilvo, City Administrator, mhilvo@ci.cedarburg.wi.us, (262) 375-7917.

CITY OF CEDARBURG

MEETING DATE: 12/21/2020

ITEM NO: 7.A.

TITLE: Discussion and possible action regarding the 5th District Alderman appointment; and action thereon*

ISSUE SUMMARY: On June 8, 2020, the Common Council, following City Policy, appointed Robert Simpson as 5th District Alderperson. As you are aware, in Cedarburg, odd numbered Districts are elected in even numbered years, and vice versa. Therefore, the 5th District seat will come up for election in 2022. The motion and action to appoint Mr. Simpson did not state or order that a special election for the 5th District be held in April, 2021, to elect an alderperson to serve until the next regular election (2022). The City's written policy to fill an alderperson vacancy closely mirrored state law (Section 17.23 Wis. Stats.). That law was amended in March 2020, and became effective prior to Mr. Simpson's appointment. The new law removes any timing requirements from the appointment procedure, and merely states that a vacancy "may be filled by the common council, by majority vote, appointing a successor to serve for the residue of the unexpired term or until a special election is held, as ordered by the common council under [s. 8.50](#), or an office may remain vacant until an election is held." In our opinion, this new law would usurp any conflicting language in the existing City policy, and states that an appointed alderperson will serve out the remaining term, unless a special election is ordered by the Common Council. Such a special election would, of course, require the City Clerk and Mr. Simpson to take appropriate actions, and make the necessary state filings, by dates certain.

In light of the prior City Council action in June, and the law change applicable to this matter, it is our opinion that Mr. Simpson has been appointed to serve out the remainder of the 5th District Alderperson term, unless the Common Council orders a special election, which should be done as soon as possible to allow for the necessary preparations and filings. Furthermore, it is our opinion that Staff and my office should revisit the current City policy on filling vacancies, so that it complies with the amended state law.

In summary, no action need be taken by the Council unless it wants to order a special election in April for the 5th District.

STAFF RECOMMENDATION:

BOARD, COMMISSION OR COMMITTEE RECOMMENDATION:

BUDGETARY IMPACT: No impact to the budget unless a special election is held.

ATTACHMENTS: June 8, 2020 Common Council minutes,
Sec. 2-2-2 of City Code, City Policy CC-20A, Filling Aldermanic Position Vacancies

INITIATED/REQUESTED BY: Tracie Sette, City Clerk

FOR MORE INFORMATION CONTACT: Tracie Sette, City Clerk or Mikko Hilvo, City Administrator

**CITY OF CEDARBURG
POLICY/PROCEDURE MANUAL**

SUBJECT: FILLING ALDERMANIC POSITION VACANCIES

CC-20A

General: In order to provide the citizens of the City of Cedarburg with appropriate representation, a uniform procedure shall be used by the Common Council to fill vacancies in the elected position of alderperson.

- Procedures:
1. Whenever an aldermanic position becomes vacant under the conditions listed in Sec. 17.03, Stats., the vacancy is filled by Common Council appointment, except when a recall election is held. An alderperson shall be chosen from interested candidates residing within the affected district. A person so appointed shall hold office until a successor is elected and qualified.
 2.
 - a) If a vacancy occurs on or before December 1, and the term does **not** expire the following April, unless otherwise ordered by the Council, a successor is chosen at the spring election.
 - b) If the vacancy occurs after December 1 preceding the first Tuesday in April, a successor is appointed and the election is held in April of the second year following the December cutoff date.
 - c) If a vacancy occurs between January 1 and May 31 of the second year of the unexpired term, Council appoints a person to fill the vacancy and has the option to order a special election concurrent with the November election.
 3. The City Clerk shall advertise the vacant position through a news release and/or paid advertisement in the City's official newspaper.
 4. Resumes from interested candidates shall be submitted to the City Clerk in accordance with a stipulated deadline and interviews scheduled before the Common Council. Candidates may submit references from individual citizens within their district. Prior to being considered by the Council, all candidates shall complete and sign a Declaration of Qualifications, in a form deemed acceptable to the City Attorney, and as provided by the City Clerk.
 5. Interviews and voting are conducted in Open Session Common Council meetings. As with all open sessions, interested news media and public will be present throughout the entire process. No public input will be taken during the interview or voting process.
 6. Written questions which have been prepared by Council Members will be provided to each candidate in advance of the oral

interviews. Candidates will provide oral responses to these questions during the interview process.

7. Interviews will be conducted with questions presented alternately to candidates. All candidates may be present throughout the interview process.
8. After all interviews have concluded, the Council may discuss qualifications of candidates. The Council may recall individual candidates to clarify any issue previously discussed.
9. Each Council Member votes for one candidate. The individual receiving the least number of votes on the first ballot will no longer be considered a candidate and additional balloting continues using the same process until only one candidate receives a majority of votes cast. There may be additional discussion by Council Members between each vote. A candidate must receive a majority of votes from the Council, but not less than three, to be elected. An abstention by a Council Member during the voting process is not considered a vote.
10. In the case of a tie vote for the final two candidates for an aldermanic position, the mayor will break the tie.
11. Following the completion of balloting, a formal motion is in order to appoint the selected candidate to complete the unexpired term of office.
12. Council voting is done by paper ballot and the voting results are announced. Ballots must contain the name of the person voting, as well as the name of the person voted for, so that the vote of each member can be ascertainable.
13. The oath of office is administered by the City Clerk and the responsibilities and term of office are assumed.

Approved: 3/14/94

Adopted: 3/28/94

Revised: 1/26/98

Revised: 2/23/98

Revised: 6/14/04

Revised: 12/8/08

Revised: 8/25/14

CHAPTER 2

Mayor; Common Council

| | |
|--------|--|
| 2-2-1 | Common Council |
| 2-2-2 | Council Members |
| 2-2-3 | Mayor |
| 2-2-4 | President of the Council |
| 2-2-5 | Standing Committees; Action on Committee Reports |
| 2-2-6 | General Powers of the Common Council |
| 2-2-7 | Cooperation with Other Municipalities |
| 2-2-8 | Internal Powers of the Council |
| 2-2-9 | Salaries |
| 2-2-10 | Meetings |
| 2-2-11 | Special Meetings |
| 2-2-12 | Open Meetings |
| 2-2-13 | Quorum |
| 2-2-14 | Presiding Officers |
| 2-2-15 | Order of Business |
| 2-2-16 | Introduction of Business, Resolutions and Ordinances; Disposition of Communications |
| 2-2-17 | Publication and Effect of Ordinances |
| 2-2-18 | Conduct of Deliberations |
| 2-2-19 | Reconsideration of Questions |
| 2-2-20 | Call for the Previous Question |
| 2-2-21 | Amendment of Rules |
| 2-2-22 | Suspension of Rules |

SEC. 2-2-1 COMMON COUNCIL.

The Council Members of the City shall constitute the Common Council. The Common Council shall be vested with all the powers of the City not specifically given some other officer, as well as those powers set forth elsewhere throughout this Code.

State Law Reference: Section 62.11, Wis. Stats.

SEC. 2-2-2 COUNCIL MEMBERS. (Ord. 94-19)

- (a) **Election, Term, Number.** The City shall have seven (7) Council Members in addition to the Mayor, who is a member of the Common Council by virtue of his office as Mayor. The seven (7) Council Members shall constitute the Common Council. There shall be one (1) Council Member elected from each of the even-numbered aldermanic districts at the annual spring election in the odd-numbered years. There shall be one (1) Council Member elected from

each of the odd-numbered aldermanic districts in the even-numbered years at the annual spring election. The regular term of office of Council Member shall be two (2) years and shall commence on the third Tuesday of April following their election. No person shall be eligible to be appointed or elected to the office of Council Member in an aldermanic district if that person previously held such office for four (4) or more full consecutive terms, unless there is no candidate that files the required ballot access documents or a vacancy occurs during the subsequent term. (Charter Ordinance 95-15) (Charter Ordinance 2008-24)

- (b) **Appointment as Mayor.** A Council Member shall be eligible for appointment as Mayor to fill an unexpired term.

State Law Reference: Sec. 62.09, Wis. Stats.

SEC. 2-2-3 MAYOR.

- (a) **Election.** The regular term of the Mayor shall be three (3) years. No person shall be eligible to be appointed or elected to the office of Mayor if that person previously held the office of Mayor for three (3) or more full consecutive terms, unless there is no candidate that files the required ballot access documents or a vacancy occurs during the subsequent term. (Charter Ordinance 95-16) (Charter Ordinance 2008-24)
- (b) **Duties.**
- (1) The Mayor shall be the Chief Executive officer of the City. He shall take care that City ordinances and the State Statutes are observed and enforced and that all City officers and employees discharge their duties.
 - (2) The Mayor shall, from time to time, provide the Council such information and recommend such measures as he may deem advantageous to the City. - When present, he shall preside at the meetings of the Council.
 - (3) The Mayor shall review the development of the City budget.
 - (4) The Mayor shall provide direction for the City's economic development and other long-range plans.
 - (5) The Mayor shall analyze and interpret federal, state and county legislation to determine its impact on the City.
 - (6) The Mayor shall have such other duties and responsibilities as are prescribed in the Wisconsin Statutes and this Code of Ordinances.
- (c) **Veto Power.** He shall have the veto power as to all acts of the Council except such as to which it is expressly or by necessary implications otherwise provided. All such acts shall be submitted to him by the City Clerk and shall be enforced upon his approval, evidenced by his signature, or upon his failing to approve and disapprove within five (5) days, which fact shall be certified thereon by the Clerk. If the Mayor disapproves, he shall file his objection with the Clerk, who shall present it to the Council at its next meeting. A two-thirds (2/3) vote of all the members of the Council shall be necessary to make the act effective, notwithstanding the objection of the Mayor.

State Law Reference: Sec. 62.09(8), Wis. Stats.

Department's motto, it needs to include integrity and respect. She thanked the Council for allowing her to make her statement. She hopes the community recognizes these recent events as impotence to improve the civic and human responsibilities and that there is never another situation where a person is begging for his life from the police. "Please, I can't breathe."

APPROVAL OF MINUTES

Motion made by Council Member Thome, seconded by Council Member Bublitz, to approve the May 11 and May 19, 2020 Common Council minutes with the following corrections:

- City Attorney Herbrand asked that the following motion from May 19, 2020 reflect approval of the Right-of-Way license in addition to the extension of the alcohol premise description as shown: Motion made by Council Member Arnett, seconded by Council Member Burkart, to approve extension of alcohol premise description for Brandywine LLC, W61 N480 Washington Avenue, to include W61 N486 Washington Avenue, and a Right-of-Way license for and outdoor seating consisting of two tables along Spring Street in the public right-of way (~~contract~~), three tables along Washington Avenue on their property, and one table on the porch attached to W61 N486 Washington Avenue.
- City Attorney Herbrand asked that the motion for approving the Stantec Phase I work be added to the May 19, 2020 minutes as recalled by Deputy City Clerk Kletzien: Motion made by Council Member Verhaalen, seconded by Council Member Thome, to approve the Phase I Environmental Study by Stantec in an amount not to exceed \$4,200. Motion carried without a negative vote with Aldermanic District 5 vacant.
- Council Member Burkart asked that approval of the May 11, 2020 minutes reflect that she recused herself from voting to approve the 2020-2021 operators' licenses, as she was listed as a new Operator License applicant.
- Council Member Burkart asked that the May 11, 2020 minutes reflect that she was opposed to the following motion: Motion made by Council Member Arnett, seconded by Council Member Lythjohan, to encourage the Cedarburg Police Department to use reasonable discretion in enforcement of the Safer at Home directive (subject to Supreme Court decision), recommending that only six people be allowed at tables and expiring when order is lifted in 14 days. Motion carried with Council Member Bublitz, Arnett, Verhaalen, Thome, and Lythjohan voting aye, Council Member Burkart opposed and Aldermanic District 5 vacant.

PRESENTATION

CONSIDER APPLICATIONS/CONDUCT INTERVIEWS/CONSIDER APPOINTMENT TO FILL 5TH DISTRICT ALDERPERSON VACANCY; AND ACTION THEREON

One individual applied for the 5th District Aldermanic vacancy; Robert Simpson, W62 N326 Hanover Avenue. After an introduction, the candidate was interviewed by the Council and provided answers to questions submitted to him in advance of the meeting.

Motion made by Council Member Thome, seconded by Council Member Burkart, to appoint Robert Simpson as 5th District Alderperson. Motion carried on a roll call vote with Council Members Bublitz, Arnett, Burkart, Verhaalen, Thome and Lythjohan voting aye.

OATH OF OFFICE

Deputy City Clerk Kletzien administered the Oath of Office to Robert Simpson.

NEW BUSINESS

CONSIDER RESOLUTION NO. 2020-12 HONORING LIBRARY ASSISTANT NANCY SCHEFFLER; AND ACTION THEREON

Motion made by Council Member Bublitz, seconded by Council Member Lythjohan, to approve Resolution No. 2020-12 honoring Library Assistant Nancy Scheffler. Motion carried without a negative vote.

Mayor O'Keefe and the Common Council presented Resolution No. 2020-12 commending Nancy Scheffler for her years of service to the City.

DISCUSS TIMEFRAME FOR ALLOWING DIRECT SELLERS PERMITS; AND ACTION THEREON

City Administrator Hilvo explained that until COVID-19 becomes less of a concern, the City may want to extend the issuance of Direct Seller permits until September 1, 2020.

Police Chief Frank explained that due to COVID-19, many citizens with pre-existing health conditions may be placed at risk if Direct Seller permits are allowed. Many of these seller's travel from city to city and currently are not under restrictions or health monitoring from public health. Police Chief Frank and Fire Chief Vahsholtz recommended suspending Direct Seller permits until COVID-19 becomes less of a concern for at risk individuals.

Motion made by Council Member Bublitz, seconded by Council Member Thome, to suspend allowing Direct Seller permits until September 1, 2020. Motion carried on a roll call vote with Council Member Bublitz, Arnett, Burkart, Verhaalen, Simpson, Thome and Lythjohan voting aye.

CONSIDER OUTDOOR ALCOHOL BEVERAGE LICENSE FOR LIME CANTINA LLC AT W62 N550 WASHINGTON AVENUE; AND ACTION THEREON

Planner Censky explained that the applicant is in the process of converting the former Stonewall Pub at W62 N550 Washington Avenue into the Lime Cantina Mexican Restaurant. As part of that conversion, he is proposing to section off an area in the rear yard for outdoor dining where he will also be serving alcohol beverages; therefore, the applicant is requesting an Outdoor Alcohol Beverage License. The applicant will be installing a concrete pad that extends back from the rear of the building about 60 feet where they will be placing thirteen to fourteen tables with chairs and an outdoor bar. The area will be enclosed by a combination of arborvitae plantings and a trellis system with access to this area being gained from the building or the opening near the outdoor bar area. He added that this

CITY OF CEDARBURG

MEETING DATE: 12/21/20

ITEM NO: 7.B.

TITLE: Consider funding garbage cart change from 96-gallon to 64-gallon at residents request until year end; and action thereon

ISSUE SUMMARY: Waste Management had promised to provide a smooth rollout with the new garbage cans and had stated that adequate information would be given to residents in a timely manner so they could get a smaller garbage can. Based on citizen complaints many residents did not receive the mailer or did not receive it in time to send it back to Waste Management. Waste Management continues to state that they will not waive the \$25 fee for replacing garbage cans for residents who did not send in a card. They were out last week replacing cans for people that did send in a card but did not receive the correct can. Currently, we have a list of ten (10) homes that would like the smaller can but do not think they should pay the \$25 fee.

- 1) If Waste Management does not waive the fee should the City pay it for the residents that have requested a change?
- 2) Should the City establish a deadline to submit a request for a replacement can?

STAFF RECOMMENDATION: Staff recommends that we assist residents that request a smaller cart during the rollout of the new carts. If WM does not waive the fee then the City would pay it. City staff will work with the residents to get them a smaller cart. Last day to make changes would be January 30th. After this date all requests should be done directly with WM and would not include any waived fees.

BOARD, COMMISSION OR COMMITTEE RECOMMENDATION: none

BUDGETARY IMPACT: Less than \$1000

ATTACHMENTS: email from Waste Management

INITIATED/REQUESTED BY: Mikko Hilvo, City Administrator

FOR MORE INFORMATION CONTACT: Mikko Hilvo, City Administrator

Email From Tony Knoeck - Waste Management

Mikko,

Sorry I'm in a truck again today. We will not charge the \$25 if the resident sent in the reply card that was with the mailer and were mistakenly delivered a 96g cart instead of the 64g trash cart. We will swap those out at no charge as they sent back the request for the smaller cart.

For those that are claiming they did not receive the mailer, everyone on the list was sent one. We have had people that called in stating the same yet their neighbors did send one in.

For those who state they did send one in, we can easily verify that, and I've shared the list w Kim to help with any calls she might get as well. If we did not receive a reply card back from that address they did not send one in, even late (we accepted any of them through November 13th) as I have those marked as well.

In our meetings earlier this year, we discussed that there would be people who claim they did not receive the mailer after the fact. 99% of the time they did receive it but tossed it as junk mail. We also discussed the fact there would be people who claim they did, but either they didn't or we did not receive one. In either of these cases, as discussed, they will have to pay the swap fee, as the new cart alone will cost us at least \$50.

Sent from my Verizon, Samsung Galaxy smartphone

Get [Outlook for Android](#)

CITY OF CEDARBURG

MEETING DATE: 12/21/20

ITEM NO: 7.C.

TITLE: Consider one garbage cart per address in residential areas instead of one cart per tax key; and action thereon

ISSUE SUMMARY: Our new contract with Waste Management allows only one trash cart and one recycle cart per tax key resulting in one stop/pickup per tax key. Our old contract also provided for only one stop per tax key but allowed a maximum of 6 bags per stop.

Because most duplexes did not generate over 3 bags per address or 6 bags per stop, this was adequate service for the two units on one tax key. (For example, unit #1 could put out 1 to 3 bags, and later that day, unit #2 could put out 1 to 3 bags, and all would be picked up.)

The new contract requires that all bags be put into one cart. And because carts are typically kept inside the garage, one tenant will generally not have access to the cart throughout the week. A request has been made to consider providing one cart per address or two carts per duplex which would allow each tenant to have access to their own cart.

The new contract requires the resident or landlord to contract directly with Waste Management for that extra cart. The annual charge would be \$60 per garbage cart and \$24 per recycle bin for a total of \$84 per year or \$7.00 per month.

For each address the city adds, the contracted cost is \$169.32 per year or \$14.11 per month.

At an estimated 142 duplexes, the cost to the city to add 142 new addresses would be $(142 \times \$169.32 = \$24,043.44)$

Adding another 78 addresses from 4-unit buildings = $(\text{estimated } 26 \text{ buildings} \times 3 \text{ additional units per building} = 78 \text{ addresses} \times \$169.32 = \$13,206.96)$

*Any update would require a change in the contract with Waste Management and be included in the updated ordinance staff is currently working on.

Option 1 would be to pay for the additional service starting in 2021.

Option 2 would be to evaluate the service level in 2021 and if needed make the changes for 2022. This allows the City to budget accordingly.

STAFF RECOMMENDATION: Staff recommends that we evaluate the service level in 2021, get a better understanding of how many duplexes or multi-family units are requesting additional carts, and budget accordingly for 2022.

BOARD, COMMISSION OR COMMITTEE RECOMMENDATION: none

BUDGETARY IMPACT: Estimated \$37,250 annually.

ATTACHMENTS: Current Waste Management Contract

INITIATED/REQUESTED BY: Mikko Hilvo, City Administrator

FOR MORE INFORMATION CONTACT: Mikko Hilvo, City Administrator

CITY OF CEDARBURG

MEETING DATE: 12/21/20

ITEM NO: 7.D.

TITLE: Consider City Hall staff as liaison between citizens and Waste Management; and action thereon

ISSUE SUMMARY: With resident concerns in dealing with Waste Management directly a request has been made to have only one City department work with Waste Management on behalf of the residents. This would include any changes to cart size, ordering of additional carts, and payment of additional services. The current Waste Management contract has the residents calling and paying them directly. If we were to make a change it would require residents to call the Public Works Department with any issues and pay the City for any added services. The City would then be billed by Waste Management for those services as part of the monthly bill.

*This would require a change in the contract with Waste management. Current contract has Waste Management customer service staff handling both garbage and recycling questions, issues, and payments including any missed garbage pickups.

STAFF RECOMMENDATION: Staff recommends that we evaluate the service in 2021 and make changes for 2022 if needed. City staff will assist during the initial rollout of the new carts and will continue to assist residents as needed if issues come up.

BOARD, COMMISSION OR COMMITTEE RECOMMENDATION: none

BUDGETARY IMPACT: Staff time.

ATTACHMENTS: None

INITIATED/REQUESTED BY: Mikko Hilvo, City Administrator

FOR MORE INFORMATION CONTACT: Mikko Hilvo, City Administrator

CITY OF CEDARBURG
MUNICIPAL RECYCLING AND WASTE AGREEMENT

This Municipal Recycling and Waste Agreement (the "Agreement") is entered into on September 28, 2020 (the "Effective Date"), by and between the City of Cedarburg, a municipal corporation created under the laws of the State of Wisconsin ("City"), and **Waste Management of Wisconsin, Inc.** ("WM"), a Wisconsin corporation.

Recitals

- A. The City desires to provide its citizens with environmentally sound solid waste collection and disposal and recyclable materials collection;
- B. WM and its affiliates have extensive experience in providing solid waste and recyclable materials collection, disposal and processing; and
- C. The City has determined that it would be in the best interests of its citizens to contract with WM for the collection of its residential solid waste and recyclable materials according to the terms and conditions contained herein.

Agreements

I. DEFINITIONS

- a. Acceptable Waste – shall mean all non-hazardous solid waste generated by households in the ordinary course including food wastes and discarded papers, cardboard, plastics, cloth, glass and metal materials, but excluding Excluded Waste as defined herein. Waste shall be considered "Acceptable Waste" only if properly contained in WM provided 64 or 96-gallon Carts placed at the curbside on the proper weekly collection day. As used herein, the term "waste" shall mean Acceptable Waste unless the context demonstrates otherwise. Title to Acceptable Waste shall transfer to WM upon collection in WM vehicles.
- b. Excluded Waste – shall mean, without limitation, any regulated quantity of a Hazardous Waste or Hazardous Substance as defined by federal, state or local laws or regulations; containerized wastes, the contents of which are not able to be identified; sludges; waste from a pollution control process or cleanup of a spill of a chemical substance or commercial product; waste tires; biohazards or regulated medical waste; friable asbestos; construction and demolition waste; soil, sod, tree branches and stumps; paint; motor oil; excessive storm debris or debris resulting from weather events such as hurricanes or tropical storms; or any item too large or heavy to be contained within a 96-gallon Cart; or any waste or material that is prohibited from being received, managed or disposed of at the disposal facility. Title to and liability for Excluded Waste shall remain with the resident that generated the Excluded Waste at all times.
- c. Recyclables or Recyclable Materials – are defined in Exhibit A. Title to Recyclable Materials shall transfer to WM upon collection in WM vehicles.
- d. Bulk Items – are defined in Exhibit C.
- e. Residential Unit – shall mean a dwelling within the corporate limits of the City. Apartment or condominium buildings with four (4) or more individual dwellings shall not be considered Residential Units and are, therefore, not covered by this Agreement.

II. TERM

The initial term of this Agreement shall be for seven (7) years commencing on January 1, 2021, and ending on December 31, 2027, and thereafter shall automatically renew for successive renewal terms of one-year each, unless either Party gives the other Party written notice of its intention to terminate the Agreement at least ninety days prior to the end of the then-current term. All notices shall be served by certified mail, return receipt requested, or by a nationally recognized overnight courier service.

III. SERVICES

- a. WM shall furnish the labor, equipment, licenses, permits, and other requirements necessary to provide Acceptable Waste and Recyclable Materials collection to all Residents Units of the City, which currently consists of approximately 4172 Residential Units (the "Service"). As part of the Service, WM shall:
- i. Cart Supply. Each Residential Unit will be provided a 96-gallon Cart for Acceptable Waste. WM shall provide each Residential Unit the opportunity to request a 64-gallon Cart before WM delivers all Carts prior to January 1, 2021. Approximately three (3) months before this Agreement begins WM will send each Residential Unit a postcard by regular mail detailing the option to have a 64-gallon Cart delivered instead of a 96-gallon Cart. The postcard will outline the due date for Residential Units to respond to WM in order to receive a 64-gallon Cart. After WM delivers the Carts, if a Residential Unit requests to swap a Cart for a different size at any other time during the Agreement, they will be directly charged a \$25.00 Cart exchange fee. Each Residential Unit has already been provided a cart for Recyclable Materials. New Residential Units will be provided a 96-gallon Cart for Acceptable Waste and a separate 64-gallon Cart for Recyclable Materials as Units are added to the City. The Carts and equipment WM furnishes Residents and the City shall remain WM's property.
- ii. Additional Carts. Residential Units may request one (1) additional 96-gallon Cart for Acceptable Waste from WM. Residential Units must contact WM directly. WM will provide the Cart to the Residential Unit and the Residential Unit will directly pay WM an annual fee of \$60.00 for the additional Cart. Residential units may have a maximum of two (2) residential waste carts at any time during this contract. Residential Units may request one (1) additional 96-gallon Cart for Acceptable Residential Recycling Material from WM. Residential Units must contact WM directly. WM will provide the Cart to the Residential Unit and the Residential Unit will directly pay WM an annual fee of \$24.00 for the additional Cart. Residential units may have a maximum of two (2) residential recycle carts at any time during this contract.
- iii. Acceptable Waste Collection Frequency, Days and Times. Acceptable Waste shall be collected from the curbside once per week from each Residential Unit on a weekday or weekdays to be agreed by WM and City. Collections shall occur during ordinary hours but in no instance earlier than 6:30 a.m. All Acceptable Waste must be placed in the provided residential waste cart, at the curb for collection no later than 6:30 a.m. on scheduled day of collection. Any waste

Exhibit B
PRICING

City of Cedarburg Curbside Trash & Recycling Services

| Carted Service | Rates |
|--|-------------------------------|
| Weekly Trash (64 or 96-gallon WM provided Cart) | \$9.70/month/Residential Unit |
| Every Other Week Recycling | \$4.41/month/Residential Unit |

All above rates are subject to a fuel surcharge in accordance the Fuel Surcharge Table if fuel goes above \$4.00/gallon.

Fuel Surcharge Table

The published index for determining monthly diesel fuel prices will be the Department of Energy's (DOE) "Weekly Retail On-Highway Diesel Prices" for the Midwest region. The price published for the first Monday of the month will be used as that month's diesel fuel price. The prices can be viewed at the DOE's website: ("[EIA/DOE](#)"). If diesel fuel is below \$4.00 per gallon, the fuel surcharge will be 0 percent. If diesel fuel is at or above \$4.00 per gallon, the following percentages will apply to Waste Management's base rate.

| Diesel Fuel Price per Gallon | Fuel Surcharge |
|--|----------------|
| <\$4.00 | 0 Percent |
| \$4.00 to \$4.24 | 1 Percent |
| \$4.25 to \$4.49 | 2 Percent |
| \$4.50 to \$4.75 | 3 Percent |
| For every \$0.25 per gallon increase above \$4.75, the fuel surcharge will increase by 1 Percent. | |

Beginning January 1, 2022, and each January 1 thereafter, the above monthly trash and recycling rates shall be adjusted by the US City Average - Water, Sewer and Trash Collection Services – Garbage and Trash Collection Consumer Price Index (CPI) with a minimum three percent (3%) and maximum four percent (4%) adjustment each year. In addition, the rates shall be adjusted to reflect any applicable new or increases in federal, state, county, or local taxes or fees.