

**CITY OF CEDARBURG
COMMON COUNCIL
February 13, 2017**

**CC20170213-1
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, February 13, 2017, 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, Jack Arnett, Dick Dieffenbach, Rick Verhaalen, Mitch Regenfuss, Patricia Thome, Mike O’Keefe

Also Present - City Administrator/Treasurer Christy Mertes, City Attorney Michael Herbrand, Director of Engineering and Public Works Tom Wiza, Police Chief Thomas Frank, Deputy City Clerk Amy Kletzien, 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 Dieffenbach, to approve the minutes from the January 30, 2017 meeting.

Council Member Arnett stated these minutes contain a quote from Ms. Brissman; whereby, she accuses him of “verbal assault.” Because that term can be construed “to threaten physical violence,” he requested that the minutes reflect his objection to that term. Specifically, he asked the following to be added to the minutes: “Alderman Arnett objects to Ms. Brissman’s use of the term “verbal assault” and refers readers to the minutes from the January 9, 2017 Council meeting where it is clear that no physical violence was threatened.”

Motion carried without a negative vote.

COMMENTS AND SUGGESTIONS FROM CITIZENS

Bill Bujanovich, W61 N459 Washington Avenue, stated the following: The St. Francis Borgia (SFB) Rectory is an example of a Grand Bungalow design, compared to a Standard Bungalow; the SFB Rectory features an open staircase to a full second floor. Most bungalows are 1 ½ storied. The SFB Rectory is the only Grand Bungalow in our Historic District. This particular version is finished in a full stucco exterior typical of the 1920-1930 period. While many of the structures in the Historic District are vernacular (made of locally sourced sand/lime stone and/or cream city brick and of a utilitarian design) this Grand Bungalow is historic not only for its architectural design and representation as an institutional dwelling for the Catholic Priests that lead our Parish, it forms a compound with the church and school and lends credence to the fact that in the church's high point, the parish priests lived on site, serving the community at all hours of the day and night.

This Rectory offered a place to meet with parishioners outside of the formality of the Church and housed the Catholic leaders of our community.

Unlike today where many priests like Father Tom live in properties other than the Rectory provided for by the Church, once this structure is removed, students of history and architecture will not be afforded an example of the Grand Bungalow style nor will they be able to appreciate the importance beholden of a parish priest that works AND lives in the community they serve. This structure IS important to the city not only as an example of the Grand Bungalow Architecture it represents, but also its inclusion in the Historic District is paramount to the way Catholic priests and their congregation used to interact.

As a Catholic schooled student I remember numerous dinners with my family and our Parish priests that were shared in the confines of the parish rectory. I am sure there exist many examples of community activities associated with the Rectory. The compound created by the Church, Rectory and School is characteristic of the importance that Catholic, Lutheran and other religious organizations played in the development of our city. It is sad enough that the school believed it necessary to move out to the suburbs and abandon this tradition in the city. It would be even more sad should the city and the Planning Commission turn its eyes and conscience to the Historic nature of this compound and the importance it means to the city of Cedarburg for over 100 years.

I live in the former parsonage for First Immanuel Lutheran Church on Washington Ave, just across the street from SFB. My home and the SFB Rectory served the community not as places of religious meetings, but as the homes of the religious leaders of our community. I would suspect that my home if offered for sale, being in the historic district as it is, would not be allowed to be razed if the then owner decided it did not serve their purpose anymore. My house was not so nice when I bought it, however, I believe it is today and as such was featured on the Cedarburg Cultural Centers Architectural Treasures Tour and has been with the addition of a Coach House Garage and Studio, also a stop on the Fall Studio Tour. I believe that while a current owner of a Contributing Historic Property in our district may not have a use for a particular asset, it does not mean the city does not have an interest in her for the benefit of the community and visitors alike, the SFB Rectory I believe should remain in the district and not be razed.

Dan Carr, W59 N397 Hilbert Avenue, stated the following: I asked for an open records request regarding the City of Cedarburg and the SFB project. I was notified promptly and I walked into the City Clerk's office. I was given the emails connected with the City and HSI. I received three emails from this request. One of the emails was from a gentleman from the County who was doing the records search. The other two were from Mr. DeRosa giving Mitch Regenfuss options for a meeting in November at a Starbucks in Wauwatosa. I find this interesting that the only emails regarding this project comes down to just two no descript documents. Given the importance of this project, it is amazing that there isn't more communication. The City should have full exposure of all communication for clear and fair government.

A friend of mine sent me a copy of the St. Francis Borgia church newsletter. In the letter a priest, named Tom Eichenberger is asking his group to come down and support the project during the next Planning Commission and Council meetings. He is asking the group to bring green signs for support. In a free society that is only fair. However, in the letter and attachment he has misled the group.

It is true the neighborhood would like the land to be developed; however, not with the current proposal. The neighborhood is not ok with the three story proposal if it exceeds height ordinances. Finally, we are still not happy with the apartment proposal if it forces the City to change the parking ordinances and reduces the number spots for the church or exceeds the smart growth plan. Given the church does have a right to sell their property however as a non-taxed entity they should not be involved in the decision.

I am concerned with talk among the community about connections between the developers of this project and members of the Plan Commission and Common Council. The citizens of Cedarburg put their trust in members of these bodies to act with impartiality and without outside influence or conflicting associations.

I asked the City Clerk for disclosures from members of the Common Council and Plan Commission and was shocked that such disclosures are voluntary and not a requirement. It's don't ask, don't tell and the public is expected to rely on blind trust. This leads to uncertainty about the process and whether or not the elected and appointed officials are working in our interest or in service to other associations. There's no way for citizens to know how the outside interests of members of the City Council and appointed commissions intersect with the decisions on which they are lobbied.

I ask that the members of the Common Council and appointed commissions promptly disclose any of the following with reference to this project:

- a) Whether they serve in advisory or leadership positions at St. Francis Borgia church or school or represent financial interests of the current property holder.
- b) Whether they have had business relationships or other associations with any member of the proposed investor group for this project, either through HSI or individually.
- c) Whether they have business relationships or other associations with the architect of this project.
- d) Whether they have business relationships or other associations with builders or contractors associated with any of the HSI projects cited in presentations to the City of Cedarburg.
- e) Whether they or any other family members own property or live in the area immediately adjacent to this project.

Members of the neighborhood have been outspoken about the need for full and accurate information about the proposed apartment development at the SFB site. I hope you will support them and my call for transparency.

Donna McElligott, W59 N380 Hilbert Avenue, thanked Mayor Kinzel for working really hard at the last Council meeting to call upon everyone to speak and she thanked Council Member Regenfuss for taking an hour out of his time to call and talk to her. She stated that there is a saying coming from Texas, "Dancing with the one that brung ya," in terms of Cedarburg, means the Cedarburg brand. When a person comes from the outside, and has had experience with other large and small communities because they lived in both, it really stands out in Cedarburg. She

recently read in the *News Graphic* that Mayor Kuerschner compared the opposition now to Piggly Wiggly's past construction. His comparison is apples and oranges. Piggly Wiggly is in a business district setting and is separated from all homes. She is happy that the store is there; however, there is an esplanade, there is separation, it is not on top of these other homes. Piggly Wiggly offers affordable necessary products. HSI's apartments are projected to cost between \$1,200 - \$2,000/monthly as reported in the *News Graphic* and that is a healthy cost; however, it has been presented as a project for seniors. Seniors look for fixed costs. As a former landlord, you know that there is a profit incentive and that rents cannot stay the same. It seems that it is presented for the millennials or it is presented for seniors. What she has not seen is what the need for this project is? Have there been any studies saying that Cedarburg needs this scale of project? What she sees over and over are lots and lots of projects. She will not argue that this is a wonderful luxurious experience. What she is asking is for the developers to look at the tons of opportunities to buy existing properties, fix them up, and make them luxurious. Again, for those in the landlord business, that makes sense because you want to buy cheap and sell high. She mentioned that in the January 2 edition of the *Milwaukee Journal Sentinel*, the article noted that while there is a strong apartment inventory statewide there is not transitional housing such as town homes. Donna McElligott asked that the Council look at the fact that the City has a successful brand and should be building on this brand. Had former Mayor Fischer not had the foresight, many people would not be moving here and visiting here. The City should keep things in perspective. What she continues to hear over and over is the location and scale of the project more than anything else. So referencing the article, she asked why the City is not looking at building more diverse housing, such as town homes, condos and cottages to offer long term opportunities in Cedarburg and the iconic American dream. Finally, she lived in Houston for a very long time and it is a wonderful place. They saw neighborhoods transition tremendously and they also saw apartment complexes built, deteriorate sometimes, remodeled into condos, and then sometimes they were torn down. She is asking questions: Is there a need and is there a need for this scale of project?

Vera Brissman, W58 N432 Hilbert Avenue, stated the following:

1. At the last Common Council meeting, on Jan. 30th, I had spoken during the Public Comments time and had read a rebuttal that I had written regarding the behavior and the comments of two aldermen, Mr. John Czarnecki and Mr. Jack Arnett. Two days later I had called the City Clerk and asked her to please include my statements in the public record and to send them to all of the aldermen. This was on Wednesday, February 1st, at approximately 4:00 p.m. By 4:30 p.m., I received confirmation from the City Clerk that it had been done.

By 6:20 p.m. I received an email from Mr. Arnett:

“Dear Ms. Brissman,

Thank you for submitting to the written public record your comments from the January 30th, 2017 Common Council meeting as a response to my comments made on January 9th.

Before I proceed, I feel obligated to correct one comment made publicly at the meeting. In your first paragraph you state, referring to me:

'It is, in this City of Cedarburg, without precedent, that Common Council members, our elected aldermen, our very representatives in municipal government should verbally assault peaceful, law-abiding citizens of this Community.' "

Mr. Arnett continues, "Being in the education field, I am sure you are aware that the definition of verbal assault is a threat of physical violence.

I made no such threat.

Your statement certainly meets the definition of slander.

And I do not appreciate it.

At a subsequent meeting, I am asking that you take the opportunity to publicly correct the record.

And if you do not, I will."

Now that this is on public record, I am here to correct the record.

"Verbal assault" does not mean physical violence. "Verbal" is just that Words.

In the dictionary, the meaning of the word "assault" is "a sudden, violent attack, onslaught;" such as "*an assault upon tradition.*" *That is hardly a physical assault upon tradition.*

It is a shame that Mr. Arnett has become hung up on these words and has chosen not to take my suggestions in the rest of my statement and represent the city with integrity.

Instead, Mr. Arnett has accused me of slander. I would like to know what the City of Cedarburg plans to do about that. Mr. Herbrand, what shall happen?

At the least, Mr. Arnett should recuse himself or *be* recused from this matter of voting on the SFB/HSI development issue. He can no longer vote without incorporating his personal conflicts. He has proven this by intimidating and threatening me, a constituent and law-abiding resident and business owner of Cedarburg. I am sure this will be taken up by my attorney as well.

I have come here, certainly not to cause trouble, as some of you may think, but to stand up correctly, peacefully, and democratically for what I believe. I am not over-turning cars, looting, or burning down stores. *I am just asking you to think - not about the money - but about the long-term implications for our beautiful, one-of-a-kind City of Cedarburg, that your own Legacy strives to proclaim.* As you see, it is not just me It is most of the residents of the city of Cedarburg. How can so many of us be wrong?

2. *Which brings me to the point of CLARIFICATION:*

First of all, What Former Mayor John Kuerschner said about the development of Piggly Wiggly has absolutely nothing to do with the SFB property. It is null and void. *It has nothing to do with the heart of our Historic Downtown.*

The News Graphic, St. Francis Borgia, and Father Tom Eichenberger have all stated and continue to state *wrongly* that the "neighbors" will agree to apartments being on the property.

Clarification #1: We are *NOT ok* with apartments. We will agree with home ownership. We want home ownership in the form of condos, townhouses, or the best option for that very special parcel of land - cottage housing.

Clarification #2: We are *NOT ok* with anything that is 3 stories. That is a fabrication. Again, we want something that will be the *BEST FIT* for our unique, Historic Downtown Cedarburg - *we want something that will enhance the church and downtown, not detract from it.*

3. Which brings me now to the point of the Landmarks Commission:

Someone once asked about other Landmarks Commissions throughout the state of Wisconsin, "Considering all of the other Landmarks Commissions around the state, to whom do they look for example, knowledge, quality, and leadership?"

The answer was simple, "US! They look to US!"

Landmarks Commissions all over the state of Wisconsin look to Cedarburg. "What is Cedarburg doing?"

Well the latest and greatest is that the Cedarburg Planning Commission has already once ignored the recommendations of the Cedarburg Landmarks Commission.

Against the Cedarburg Landmarks Commission's recommendations, the Cedarburg Planning Commission has voted to move the line of demarcation of the Historic District so that an important architectural building - the only one of its kind in Ozaukee County - could be torn down.

It gets worse, most members of the *Cedarburg Common Council* have also been ready to ignore the recommendations of the Cedarburg Landmarks Commission.

The Cedarburg Landmarks Commission is held in high esteem across the big state of Wisconsin and in all places but its own city which it is designated to protect.

The Cedarburg Landmarks Commission is comprised of women and men who are extremely intelligent, knowledgeable, and formally educated in the ways of architecture and history. It is not to anyone's advantage to discredit the well-thought, studied recommendations of the esteemed Cedarburg Landmarks Commission.

On the contrary, it is wiser to inquire of them their reasoning and research their recommendations.

Our municipal governmental bodies are to work with one another, not against the other.

4. Lastly, the two points as opposed to the three points - we did NOT have a hearing on the Historic District. If so, why do we have a scheduled hearing on Institutional zoning, etc.?

NEW BUSINESS

CONSIDER MAYOR KINZEL'S APPOINTMENT OF BLAINE GIBSON TO THE PUBLIC ART COMMISSION (TERM TO EXPIRE 04/30/17); AND ACTION THEREON

Motion made by Council Member Thome, seconded by Council Member O'Keefe, to accept Mayor Kinzel's appointment of Blaine Gibson to the Public Art Commission (term to expire 04/30/17). Motion carried without a negative vote.

DISCUSSION – CURRENT LOCATION OF MUNICIPAL SEWER AND WATER IN RELATION TO VACANT CONTIGUOUS LAND

Director Wiza stated that this discussion is a result of a conversation with Council Member Czarnecki. He showed a map to the Council explaining that the white areas are the current limits; the purple areas are in Mequon and are not available; the green areas belong to the Village of Grafton and are not available; and the brown areas are the only areas that might be available for expansion, however, it will depend upon how they are platted out. He further explained that Town properties off Sherman Road would be impossible to extend services to, because of the distance to the homes. As for the Douglas Lane properties, there is a slim to no chance that services could be extended into that area. The low density to the west is not feasible and does not work well for a gravity sewer system and a good percentage of the land to the west is not developable. There is some farmed and vacant land to the north; however, they have no interest in being part of the City.

Council Member Czarnecki found this information useful and wanted to share it with the Common Council. He assumed that the City was surrounded by farmlands and more options were available.

Director Wiza stated that Bridge Road and Western Road are dead ends. Any development in that direction would require annexation and the sewer and water would need to tunnel under to reach the service area, which would be extremely costly.

Council Member Czarnecki stated that Racine is in a position that they can no longer grow and Cedarburg is looking at this same position into the future. The City land to the north Hwy. 60 is owned by one family and they have no interest in developing the property in the City at this time. Council Member Czarnecki shared a 1987 map from SEWRPC that was provided to him by John (Scott Sidney of the Java House?) showing options for suggested areas of growth; however, the laws have changed and this is no longer is an option for the City.

In answer to Council Member Thome's question, Director Wiza confirmed that the new lift station on Sheboygan Road is sized to serve the area north of Hwy. 60 but the parties are unwilling to connect and that is a challenge.

In answer to Council Member Regenfuss' question, Director Wiza stated that it is doable to extend services to the west near the Seidler pond subdivision however, the City would get no payback from one side of the road and would be paying double to extend to the other side, plus it would be extended a half mile just to reach these lands, some of which are wetlands. After Topview Trails, it is one mile to vacant land which would not be practical for the City or a developer to extend these services.

Director Wiza said that there are lands for the City to expand to; however, they are not nearly as broad as one might think.

Mayor Kinzel stated that land is not unlimited.

CONSIDER APPROVAL OF A CHANGE ORDER WITH ADVANCE CONSTRUCTION TO INSTALL TWO STAINLESS STEEL SLIDE GATES IN THE SHEBOYGAN ROAD LIFT STATION; AND ACTION THEREON

Director Wiza explained that Advance Construction is currently under contract to construct the new Sheboygan Road regional sanitary sewer lift station. Their work is 97% complete and the station is currently operational. Although it was not included in their contract, the design called for two stainless steel flow control gates which allow flow to be directed to one of two wet well chambers. It was anticipated that these gates would be installed in the future, but staff is recommending these gates be installed now because it will be much more difficult and costly to install the gates under future wastewater flow conditions. This would involve the installation of two universal joints at a cost of \$3,218 which would be paid for by the contractor. The City cost for the stainless steel slide gates and installation would be \$23,453.

In answer to Council Member Arnett's question, Director Wiza stated that the funds will come from the undesignated reserves and is paid by rate payer income.

In answer to Council Member Dieffenbach's question, Director Wiza explained that stainless steel gates are needed because it is a corrosive environment.

Motion made by Council Member Dieffenbach, seconded by Council Member O'Keefe, to approve the change order with Advance Construction to install two stainless steel slide gates in the Sheboygan Road lift station. Motion carried without a negative vote.

CONSIDER REQUEST FROM WASTE MANAGEMENT TO ADD A FRIDAY REFUSE AND RECYCLING ROUTE AND MAKE LIMITED MODIFICATIONS TO EXISTING ROUTES TO BALANCE DAYS; AND ACTION THEREON

Director Wiza explained that the Public Works and Sewerage Commission tabled this item at their February 9 meeting because they want more information regarding the holiday pick up schedule.

Motion made by Council Member Thome, seconded by Council Member O'Keefe, to postpone action on the request from Waste Management to add a Friday refuse and recycling route and make limited modifications to existing routes to balance days until more information is available. Motion carried without a negative vote.

CONSIDER REQUEST FROM THE ECONOMIC DEVELOPMENT BOARD TO FUND THE REFURBISHING OF GARBAGE CANS IN THE HISTORIC DISTRICT; AND ACTION THEREON

Economic Development Coordinator Sheffield explained that the beautification arm of the Economic Development Board asked that the garbage cans in the historic district be refurbished. This item was put on the unfunded list for 2017. In light of receiving a new quote at \$6,000 less than the original quote, the Board is asking for Council approval to have them done this year.

Mayor Kinzel explained that the difference in price is that the City will transport the cans back and forth from the company to the City.

Coordinator Sheffield explained that the City does not have to commit to refurbishing all 36 cans this year. It will cost \$285 per can to refurbish and the Economic Development Board would like to get as many done this year as possible.

In answer to Council Member Regenfuss' question, Director Wiza said that the cans were installed in 2000.

In answer to Council Member O'Keefe's question, Director Wiza stated that it would cost approximately \$25,000 to replace the cans.

Council Member Dieffenbach asked if there was another funding source available. He is uncomfortable funding this project two months after it was decided not to.

Council Member Czarnecki asked if the Friends of Historic Cedarburg were willing to fundraise for the project.

Council Member Thome explained that City organizations are asked to fund projects continually. In this case, it would not be a waste of taxpayer money to keep the City looking nice.

In answer to Council Members Verhaalen and Arnett, City Administrator/Treasurer Mertes stated that the funds could come from the fund balance and it will not make much of a difference. The City has more than the required amount put aside.

Mayor Kinzel stated that it is important to keep the downtown looking nice. The City is funding the flower baskets because they want to continue the program.

In answer to Council Member Verhaalen's question, Director Wiza stated that the cans are a heavy gauge metal and they could be blasted clean repeatedly with no problem.

Motion made by Council Member Thome, seconded by Council Member Arnett, to fund the refurbishing of garbage cans in the historic district.

Council Member Czarnecki stated that he would be more comfortable funding the project next year.

Mayor Kinzel explained that the cans are City property that serves a purpose and it does not reflect well when they are in poor condition.

Council Member Regenfuss asked how many of the cans were in bad shape and maybe the worst ones could be done this year.

Director Wiza asked for a percentage or dollar amount that the Council is willing to agree on and he would work within those parameters.

Council Member Thome stated that the cans are 17 years old and should be the responsibility of the City to refurbish them.

Mayor Kinzel opined that it will cost more to replace the cans.

In answer to Council Member Verhaalen's question, Director Wiza stated that it would not be an issue to wait five years. The cans are made of a heavy metal and they could be fixed by blasting the surface to bare metal and then applying an epoxy primer and a second coat of paint.

In answer to Council Member Verhaalen's question, Coordinator Sheffield stated that she would need to find out how long the quote will be good at that price.

Motion failed with Council Members Thome, O'Keefe and Arnett in favor and Council Members Czarnecki, Dieffenbach, Verhaalen and Regenfuss opposed.

**CONSIDER REQUEST TO FILL BUILDING MAINTENANCE SUPERVISOR POSITION;
AND ACTION THEREON**

Director Wiza explained that a long term City employee is retiring. John Oswald has tendered his resignation effective May 1, 2017. He asked the Council to approve filling the building and grounds maintenance/custodian position as soon as possible to ensure adequate training of all job duties and equipment to perform such duties. The position has changed over time and he wants to change the job category to a standard crewperson to get the employees on the same level.

Motion made by Council Member Dieffenbach, seconded by Council Member Thome, to fill the Building Maintenance Supervisor position. Motion carried without a negative vote.

CONSIDER REVISED POLICY CC-22: PURCHASING; AND ACTION THEREON

City Administrator/Treasurer Mertes explained that the purchasing policy has not been reviewed or updated since August 2007. In the auditor's preliminary audit it was suggested that the threshold for a purchase order be increased, staff is suggesting a change from \$500 to \$5,000. Other changes are also being suggested at this time to represent current needs to include: increasing the threshold for public bidding to match State Statutes, and changing the maximum allowance of petty cash from \$20 to \$35.

In answer to Council Member Czarnecki's question, City Administrator/Treasurer Mertes confirmed that the City will still get competitive quotes for anything over \$5,000.

Motion made by Council Member O'Keefe, seconded by Council Member Thome, to approve revised Policy CC-22: Purchasing. Motion carried without a negative vote.

**CONSIDER ORDINANCE NO. 2017-05 CREATING SEC. 7-18 OF THE CODE OF
ORDINANCES: REGULATION OF MOBILE FOOD VENDORS AND
ESTABLISHMENTS; AND ACTION THEREON**

City Attorney Herbrand explained that he was directed to create an ordinance regarding food trucks based on comments from the Economic Development Board and the Common Council. This is a draft for review and comment with the intent to bring back a revised version at a future meeting.

City Attorney Herbrand highlighted parts of the ordinance. A permit will not be required for food trucks operating during Festivals, Summer Sounds, Farmers Market and Firemen's Park.

In answer to Mayor Kinzel's question, Attorney Herbrand stating that having food trucks at private parties could be permitted in the process. The current draft states: Licensed mobile food establishments may operate on private property, with the written permission of the private property owner, except for private property that is located in the Historic Preservation Overlay District or on private property located less than 100 feet from the front door of any business selling a similar food product, subject to an exception allowing the Plan Commission to grant a temporary use permit.

There was concern from the Council Members regarding the 100 feet from the front door of any business selling similar food products. This would be difficult for anyone to enforce.

Council Member O'Keefe was in favor of having variety and other options for lunch for business people who don't have time to sit down for an hour lunch. He suggested that they be allowed on side streets off of Washington Avenue. This may also promote competition for restaurants to change their menus.

Council Member Czarnecki stated that the food trucks get an unfair advantage over the downtown restaurants in that they do not have the costs and restrictions involved in having a brick and mortar business.

Council Member O'Keefe stated that Amazon could be considered competition then. People could buy from the local toy store or from Amazon.

Council Member Thome stated that she understands both sides. She said that food trucks should be allowed on private property but it should not be limited to that. She is in favor of trucks parking in a designated area off of Washington Avenue. She questioned whether limiting the permits to three per year is correct. Council Member Thome agreed to the 100 feet requirement.

Council Member O'Keefe offered suggestions for selecting certain days of the week for food trucks or not allowing them to park in front of restaurants.

Karen Leonard, N91 W5939 Dorchester Drive, stated that the proposed permit does not address clothing, jewelry, spices or other types of businesses from a truck.

Attorney Herbrand stated that the permit can be expanded to cover other merchandise vendors.

Christian Leonard, W61 N502 Washington Avenue, is against food trucks being allowed in the historic district. The brick and mortar businesses have laws to follow that should apply to the food trucks also.

Joan Dorsey, W65 N705 St. John Avenue, stated that restaurants offer plenty variety in Cedarburg. The businesses do change their menus throughout the year and are not getting stagnant. People eat breakfast, lunch and dinner out once in a day for \$10. Brick and mortar businesses should have the first chance at that \$10 because they pay so much more to run their business. Ms. Dorsey stated that her taxes increased from remodeling her business. Those businesses that have been here for 25 years have made Cedarburg what it is. Why are food trucks so anxious to get into Cedarburg? Because we have the people and a beautiful city along with great streets and parking. She asked the Council Members if they had any questions.

In answer to Council Member Czarnecki's question, Joan Dorsey said that some businesses notice a drop in business more than others when there are food trucks on the street.

In answer to Council Member O'Keefe's question, Joan Dorsey said that she can serve a customer in 10 minutes, in the same time as a food truck.

Christian Leonard stated that food trucks have a definite impact on his business because he has experienced a 30% drop in business on Friday lunch hour when Yellow Bellies is vending in Cedarburg. He said that food trucks have an advantage because they do not have any restrictions to their signage or color of their truck. He is limited because he cannot sell from the curb or through his window. He did not agree that food trucks should be allowed to use public property for free while he has many more costs associated with his brick and mortar business. There are open spaces in Cedarburg for more restaurants and the food vendors should open a business if they are interested in Cedarburg. Christian Leonard also stated that he needs five or six sinks and has had to go through renovations to be compliant to operate his business. Port Washington, Mequon and Thiensville have banned food trucks. People do not come to the area for food trucks; they come to the area for the ambience. The local businesses are in the community year round and are donating to the schools. He thought Cedarburg looked out for their own.

Kent Wuebben, N74 W7730 Harvest Lane, asked for a happy medium. He works at an office in Grafton and finds it convenient to have lunch from the Yellow Bellies food truck. There is a food truck in Grafton also that is convenient. He enjoys the variety and finds it challenging to park for lunch in Cedarburg. It is refreshing to be outside while his food is being prepared.

Tony Roy, W3565 Belgium Kohler Road, Fredonia, WI, stated that he operates his food truck in Grafton and Port Washington. These communities welcome him and like the variety, he even serves restaurant owners. He stated that he spent \$90,000 to renovate his operation to meet State requirements. He stated that food trucks need a place to clean and prep their truck and businesses can make money, if they are willing to help a food truck. If nobody wanted the food this would not be an issue.

Ryan Knppendorf, N87 W6891 Evergreen Ct., has been a member of this community, on and off, for the past 13 years and is curious why the food truck is a hot topic in Cedarburg. He enjoys the food trucks and going to local businesses because they are all amazing. The inability as a community to find a compromise has caused him to read articles from other communities (Huffington Post, Metro Jacksonville, Mobile Cuisine and two studies by the Ohio State University and National Restaurant Association). He compared what he read with the City's proposed food truck ordinance. He expressed concern for how extremely restricted it is. He stated that for the businesses saying that they don't want competition, it is just business. There will always be competition. According to the National Restaurant Association, 30% of new restaurants fail the first year and of those that survive another 30% will continue to close every two years. That is just the nature of the restaurant business. In regard to restaurants wanting to be protected more, he did further research on how owners feel and he found this quote, "If you are good at what you do, food trucks do not represent competition. If you are not so good at what you do, food trucks should spur you to do better." Of the local restaurants, most of the restaurants have less than 400 followers on Facebook with no other social media outreach. Yellow Bellies (whose owner is a Cedarburg High School graduate), has over 1,000 followers and make multiple posts throughout the year. He knows of countless people who come from out of the area to get food from them and while they are here, they visit local businesses. The Stilthouse has over 3,500 followers and they are one of the most active restaurants and they are not here arguing against food trucks. New Fortune also has more

followers than most of the restaurants on Washington Avenue and they are posting daily and promoting themselves. Which made him think, is this a food truck issue or is it a marketing issue? His concerns over the proposed ordinance include: Why are we limiting the licenses to three per year? What happens if a business located off Washington Avenue starts a food truck so they can be on Washington Avenue on Fridays and Saturdays? He felt the location restrictions were extremely harsh and it felt like a ban. He asked the Council, if communities like Sheboygan and Plymouth can have a food truck night, surely Cedarburg can organize something and find a compromise to benefit the brick and mortar restaurants and food trucks.

Michael Maher, 397 W. Thornapple Lane, Grafton, stated that the proposed permit is very restrictive. He spoke to various people at meetings and on the phone and streets and appreciates the open dialogue. The Council has a hard decision to follow through on. He stated that he represents a larger group who want to be heard. He asked that the Council listen to the people who live and work here who want multiple options. He stated that he enjoys going out for dinner with his family and he gives plenty of business to Sal's and Settler's Inn. He asked that the food truck option not be taken away. He said the Council is not in the position to pick winners and losers in the business world. Mr. Maher explained that the Economic Development Board had a good start at rectifying what is wrong with the process; however, he was shocked when the City Attorney was encouraged by the Council to ban food trucks from the City. He is not the only person with this opinion. He started a Facebook page and has over 300 followers who value alternatives. He asked that food trucks be allowed in Cedarburg.

Council Member Thome stated that not all the Council Members were leaning in the direction of "banning" food trucks, some members were in the middle.

Mr. Maher stated that he would stand behind his comment.

Kent Wuebben, N74 W7730 Harvest Lane, stated that the south end of Cedarburg offers fast food and they bring what they bring. Is it possible to have food trucks available in the Cultural Center parking lot or near the baseball diamond? There is always enough traffic downtown and he would like a happy medium by having an area for trucks to vend. He stated that he follows social media to find out when the Yellow Bellies truck is in Cedarburg.

Christian Leonard stated that restaurant owners in Cedarburg are not afraid of competition. He would appreciate it if the food trucks were on the same playing field. He is not allowed to serve through a window and his marketing is different. There are so many more rules for the brick and mortar business to operate. He would like food trucks to have to play by the same rules and not get a free pass. He is against seeing three or four food trucks parking in the historic district; this would change his view of Cedarburg.

Jeff Starks, N54 W6031 Portland Road, stated that people should have a choice and do not like to eat the same things. He went to Le Cordon Blue Culinary School, one of the top two in the world. If food trucks are banned he needs to look harder for food that is not dumped into a fryer. This country was built on free enterprise. The City should have some place available for food trucks in the community. He has lived here for 18 years and would like to see food trucks in Cedarburg and not be so restricted. Jeff Starks said that food trucks have a place and can be positive. He concluded by saying that banning food trucks is not the American way.

Council Member Czarnecki reiterated Michael Maher's comment that it is not the Council's job to pick winners or losers. At the end of the end of the day, that is exactly what they do as an alderperson. Issues finally come down to a debate. The Council has already picked winners and losers because the City of Cedarburg puts people in certain areas and they have restrictions and guidelines to meet the Zoning Code and City ordinances. Businesses are required to follow certain rules when making changes to their buildings. He stated that if we want food trucks then we should get rid of all the historic designation rules.

Mayor Kinzel stated that he is aware of the restrictions on businesses and that is what makes the downtown historic district so good and they benefit from this.

Council Member Czarnecki stated that the City does not require these type of restrictions on food trucks and it is a competitive advantage that the City is allowing. It is picking a winner if we don't provide certain guidelines to follow. It is not a fair playing field.

A food truck owner from West Allis, WI, stated the City is not giving an unfair advantage to food trucks but giving the same advantage to a local restaurant. There is no reason that a local business cannot come up with an inexpensive truck, do all the prep work at their restaurant, and vend on the street. Food trucks need to meet requirements. He does not bring his truck to Cedarburg.

Council Member Verhaalen is against food trucks with a moving sign in the historic district. Businesses are restricted with their signage. He asked how Attorney Herbrand should be directed to move forward.

Council Member O'Keefe listed items of common ground on the Council:

- Agree with separate license
- Agree with background check
- Applicants should go through a committee for approval

Council Member Verhaalen stated that he is not against food trucks and that people will find them if they are off the beaten path. Tourists are not looking for food trucks when they visit Cedarburg.

Mayor Kinzel stated that food trucks will police themselves and timing should be considered when a food truck application is received.

Council Member Arnett suggested distributing a map where food trucks could vend.

Council Member Verhaalen stated that people will know where they are and tourists won't run across them.

Council Member Thome stated that she does not want to take away from the Cultural Center and the Art Center's ability to do fundraising.

Mayor Kinzel stated that food trucks should be allowed only on private property in the historic district.

Council Member Czarnecki said that food trucks should be allowed only on private property and then the City won't need to define what street is good and what street is bad.

Council Member Verhaalen stated that he would agree with vending on private property and not on the road in the historic district.

In answer to Joan Dorsey's question regarding the 100 foot rule and the property next door (where she could have a food truck directly next door within 6 feet of to her building), Attorney Herbrand stated that he would include a distance restriction to meet this type of situation for all applicable businesses downtown.

Council Member Regenfuss stated that he was in favor of food trucks vending on private property east or west of Washington Avenue. He does not want them on any public street in Cedarburg. He is in favor of a designated area.

In answer to Council Members Dieffenbach and Arnett's question regarding the limit of three licenses and the requirements, Attorney Herbrand stated that a limit could be used for any area other than a designated area and there will be a process to meet vending requirements.

Council Member Regenfuss suggested a lottery or restricting the period of time allowed.

Council Member O'Keefe suggested they be restricted to a number of days on private property and designated areas.

Council Member Arnett is in favor of food trucks vending on public streets with the exclusion of Washington Avenue.

Council Member Czarnecki stated that the vending on private property in the downtown historic district should be tied to commercial use only and not private individuals. It would involve an existing business trying to improve their business.

Council Member Thome would like the food trucks to not have to be associated with private property but have an opportunity to locate off Washington Avenue.

Council Member Regenfuss stated that other areas will need to be enforced also because food trucks should not be allowed to sit in front of the Library all day, as an example.

In answer to Council Member O'Keefe's question, Mayor Kinzel stated that the consensus is that Food trucks could vend in parking lots such as Bella Lei and the Cultural Center. Commercial and private property not on Washington Avenue is acceptable.

Jeff Starks suggested Mill Street as a possible area for food trucks.

Attorney Herbrand will consider the following, based on tonight's discussion, when revising the proposed food truck ordinance to bring back at a future Council meeting.:

- Any limit on number of licenses
- Distance allowed on private property
- Will consult with the City Planner to determine commercial areas on Washington Avenue where food trucks would be allowed
- The cost of the license based on what the law will allow
- Renewal/Administrative process

- Allowing for private events where the food is not being sold
- Allowing on public streets or a designated area off of Washington Avenue.

CONSIDER PAYMENT OF BILLS FOR THE PERIOD 01/27/17 THROUGH 02/03/17, TRANSFERS FOR THE PERIOD 01/25/17 THROUGH 02/13/17, AND PAYROLL FOR THE PERIOD 01/15/17 THROUGH 01/28/17; AND ACTION THEREON

Motion made by Council Member Thome, seconded by Council Member Arnett, to approve payment of bills for the period 01/27/17 through 02/03/17, transfers for the period 01/25/17 through 02/13/17, and payroll for the period 01/15/17 through 01/28/17. Motion carried without a negative vote.

CONSIDER LICENSE APPLICATIONS; AND ACTION THEREON

Motion made by Council Member O'Keefe, seconded by Council Member Czarnecki, to approve new Operators License applications for the period ending June 30, 2017 for Patrick A. Brown, George T. Hayman, and Jennifer Sullivan. Motion carried without a negative vote.

ADMINISTRATOR'S REPORT - None

COMMENTS AND SUGGESTIONS FROM CITIZENS - None

COMMENTS & ANNOUNCEMENTS BY COUNCIL MEMBERS

In answer to Council Member Dieffenbach's question, Mayor Kinzel stated that the March 13 Council meeting will be conducted in the Community Gym.

In answer to Council Member Verhaalen's question, City Attorney Herbrand stated that the rectory rezoning will not come back to the Common Council for a public hearing but it will come back to the Council for a vote.

Council Member Czarnecki stated that as a commentary from the last Council meeting given by the Vote No group, he noted that the Council Members received Ellen Wilde's email of January 9 and the next day he sent her an email inviting her for coffee the following Friday and she did not respond to his email. Last week he reached out to City Staff for Dan Carr's phone number, the wording of his request has an undertone of suspicion regarding who is talking to who, who is dealing with who, and who is benefiting from what. From what he heard tonight, Mr. Carr is basing his thoughts on banter he has heard in the coffee shops. In his voicemail to Mr. Carr, he offered to meet for a cup of coffee and he did not respond. Regarding Ms. Brissman's comment (Mr. Czarnecki was rude to one of the citizens when she simply asked him to speak into the microphone, where he said "I am not reading this again you can read it in the minutes" he arrogantly proclaimed) as I am doing now, I am taking the opportunity during comments & announcements by Council Members at the end of each meeting. The last couple of months he has taken this opportunity to go on the record with his thoughts related to the St. Francis Borgia development, as opposed in private conversation with people. This is the reason he does this and he is not just venting. His comments are directed at the Council Members but he shares these thoughts of these meetings so his views can be placed on the record. In January when he was asked to repeat what he had said, it was at the end of his two minute talk and he did not want to waste the Council Members time with a reread of his

comments. It was not an arrogant dismissal of a resident. Note, it was Ellen Wilde who asked him to repeat his comments and he offered her a cup of coffee the next day.

MAYOR'S REPORT - None

ADJOURNMENT

Motion made by Council Member O'Keefe, seconded by Council Member Thome, to adjourn the meeting at 9:37 p.m. Motion carried without a negative vote.

Amy D. Kletzien, MMC/WCPC
Deputy City Clerk