

**CITY OF CEDARBURG
COMMON COUNCIL
April 8, 2019**

**CC20190408-1
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, April 8, 2019, at City Hall, W63 N645 Washington Avenue, second floor, Council Chambers. Mayor O’Keefe called the meeting to order at 7:00 p.m.

Roll Call: Present - Mayor Michael O’Keefe, Council Members Jack Arnett, Kristin Burkart, Rick Verhaalen, Garan Chivinski, Patricia Thome

Excused – Council Member Rod Galbraith

Vacant - 1st District Council Member

Also Present - City Administrator/Treasurer Christy Mertes, City Attorney Michael Herbrand, Deputy City Clerk Amy Kletzien, Police Chief Tom Frank, City Planner Jon Censky, Water Recycling Center Superintendent Eric Hackert, Police & Fire Commission Members Linda Krieg and Jim Salp, Patrol Officer Jacob Boldt, interested citizens and news media

STATEMENT OF PUBLIC NOTICE

At Mayor O’Keefe’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 Burkart, to approve the minutes of the March 25, 2019 meeting as presented. Motion carried without a negative vote with Council Member Galbraith excused and Aldermanic District 1 vacant.

COMMENTS AND SUGGESTIONS FROM CITIZENS

Amber Psket, N28 W6360 Alyce Street, expressed frustration in regard to the Common Council not addressing the possible elimination of fluoride in the City’s water and implored them to look into the matter.

NEW BUSINESS

OATH OF OFFICE – PATROL OFFICER JACOB F. BOLDT

After an introduction by Police Chief Frank, Deputy City Clerk Kletzien administered the oath of office to Patrol Officer Jacob Boldt.

CONSIDER CONTRACT PROPOSAL FROM SYMBIONT ENGINEERS FOR PRELIMINARY COMPLIANCE ALTERNATIVES PLAN FOR THE CEDARBURG WATER RECYCLING CENTER; AND ACTION THEREON

Superintendent Hackert explained that Symbiont has submitted a proposal for completion of the Preliminary Compliance Alternatives plan for total phosphorus in accordance with the Wisconsin Pollutant Discharge Elimination System permit Total Phosphorus Compliance Schedule to be submitted to the WDNR by March 31 2020. Superintendent Hackert reviewed the scope of work and the schedule to be performed by Symbiont.

In answer to Council Member Arnett's questions, Superintendent Hackert confirmed that it would be difficult to change companies after this work is done because it would cost more to bring another company up-to-speed. However, Superintendent Hackert explained that he has been tracking the hours worked and will look at multiple proposals to do the end work.

Motion made by Council Member Thome, seconded by Council Member Chivinski, to approve the contract proposal from Symbiont Engineers for the Preliminary Compliance Alternatives plan for the Cedarburg Water Recycling Center in an amount not to exceed \$29,970. Motion carried without a negative vote with Council Member Galbraith excused and Aldermanic District 1 vacant.

CONSIDER REQUEST TO HIRE A REPLACEMENT POLICE OFFICER AND TO PROMOTE A PATROL SERGEANT; AND ACTION THEREON

Chief Frank explained that veteran Sergeant Spaeth plans to retire on May 30, 2019. He is requesting permission to hire an officer to replace this vacancy and also to promote an officer to Patrol Sergeant to take his place in that role, to maintain the authorized staffing level of 21.

Motion made by Council Member Burkart, seconded by Council Member Arnett, to approve the request to hire a replacement police officer and to promote a patrol sergeant. Motion carried without a negative vote with Council Member Galbraith excused and Aldermanic District 1 vacant.

CONSIDER OUTDOOR ALCOHOL BEVERAGE LICENSE FOR THE AMERICAN LEGION PETER WOLLNER POST 288 AT W57 N481 HILBERT AVENUE; AND ACTION THEREON

Planner Censky explained that the American Legion is requesting an Outdoor Alcohol Beverage license to serve alcohol on their recently constructed deck located off the southeast corner of their building. The American Legion received Plan Commission approval of their renovation and expansion plans on June 5, 2017. Now that the construction is complete, they are requesting an Outdoor Alcohol Beverage License to be able to serve alcohol beverages with food on the deck. The deck has the wall of the building on two sides and a steel rail on the opposing sides.

Council Member Chivinski asked if any comments were received from the surrounding neighbors. Planner Censky stated that no one came forward with any comments at the Plan Commission meeting.

Motion made by Council Member Burkart, seconded by Council Member Thome, to approve an Outdoor Alcohol Beverage license for the American Legion Peter Wollner Post 288 at W57 N481

Hilbert Avenue. Motion carried without a negative vote with Council Member Galbraith excused and Aldermanic District 1 vacant.

CONSIDER OUTDOOR ALCOHOL BEVERAGE LICENSE FOR BRANDYWINE RESTAURANT AT W61 N480 WASHINGTON AVENUE; AND ACTION THEREON

Planner Censky explained that the Common Council granted approval last June to serve alcohol beverages outside within a seating area along the south and west side of their building. While that outdoor use proved to be an attractive asset to their restaurant business during comfortable weather, it became uncomfortable when the weather turned hot. To address that issue, they are now proposing to install an outdoor patio on the grassy area in the rear of the building for six tables and chairs and will then discontinue the use of the seating along the south side. They do want to continue the use of three tables on the west side. Access to the patio will be directly from the dining room through new French patio doors that will be installed along the entire length of the north wall of that room. The outside seating area will be enclosed by a 6-foot high Western Red Cedar Lattice Top fence.

In answer to Council Member Chivinski's question, Planner Censky stated that he did not hear anything from surrounding neighbors who might be in favor or against the outdoor patio. Council Member Chivinski explained that he heard from a constituent down the street who expressed sensitivity to parking and the added noise.

Council Member Verhaalen explained that snow significantly narrowed Spring Street and it may worth considering a right turn only from Spring Street to Washington Avenue in the future.

Council Member Arnett stated that the eight-foot enclosed fence will help eliminate any noise.

Council Member Thome explained that an eight-foot fence is higher than is required.

Planner Censky agreed that the fence will help; however, if any issues crop up the license can be reviewed.

City Attorney Herbrand explained that Brandywine had a right-of-way license agreement for the south side of the building only and there will be no further need for this agreement with the elimination of seating on the south side.

Motion made by Council Member Thome, seconded by Council Member Arnett, to approve an Outdoor Alcohol Beverage license for Brandywine Restaurant at W61 N480 Washington Avenue. Motion carried without a negative vote with Council Member Galbraith excused and Aldermanic District 1 vacant.

CONSIDER THE PROCESS THE COUNCIL WISHES TO USE TO DEVELOP QUESTIONS FOR THE 1ST DISTRICT ALDERMANIC VACANCY AND HOW THE COUNCIL WISHES TO USE THE QUESTIONS; AND ACTION THEREON

City Administrator/Treasurer Mertes explained that the Common Council was given a list of questions to review that were used for a past vacancy. After some discussion, a few changes were made and additional questions were added.

It was the consensus of the Common Council to accept the questions as developed at this meeting.

CONSIDER ORDINANCE NO. 2019-06 INCREASING ALLOCATED FUNDS IN THE GENERAL FUND; AND ACTION THEREON

City Administrator/Treasurer Mertes explained that this ordinance is to allocate funds from 2018 into the 2019 budget as encumbrances. These projects or purchases were not completed in 2018 so the funds were carried over into 2019.

Motion made by Council Member Verhaalen, seconded by Council Member Burkart, to adopt Ordinance No. 2019-06 increasing allocated funds in the General Fund. Motion carried without a negative vote with Council Member Galbraith excused and Aldermanic District 1 vacant.

CONSIDER RESOLUTION NO. 2019-04 TRANSFERRING FUNDS FROM THE CONTINGENCY RESERVE TO TRANSFER TO OTHER FUNDS AND ON TO THE CAPITAL IMPROVEMENT FUND FOR THE 2019 STREET IMPROVEMENT PROJECT; AND ACTION THEREON

City Administrator/Treasurer Mertes explained that this resolution is to transfer the funds from the contingency reserve and fund balance in General Fund to Capital Improvements street and storm sewer accounts for the 2019 Street Improvement project. The bid was awarded at the March 25, 2019 meeting with this transfer as the funding source for the amount over budget.

Motion made by Council Member Burkart, seconded by Council Member Thome, to adopt Resolution No. 2019-04 transferring funds from the Contingency Reserve to transfer to other funds and on to the Capital Improvement Fund for the 2019 Street Improvement project. Motion carried without a negative vote with Council Member Galbraith excused and Aldermanic District 1 vacant.

CONSIDER ORDINANCE NO. 2019-07 PERTAINING TO THE REGULATION OF MOBILE VENDORS AND MOBILE FOOD ESTABLISHMENTS; AND ACTION THEREON

City Attorney Herbrand explained that this ordinance is a proposed amendment to the original regulation of Mobile Vendors and Mobile Food Establishments ordinance that was adopted by a prior Council. The two themes of change to this license are to change the approval authority from the Plan Commission to the City Clerk after review by City staff and the Police Department and to add an exemption for City fundraising activities.

City Administrator/Treasurer Mertes explained that the exemption would allow fundraising for the Cedarburg Friends of Parks & Recreation at the Community Pool and Cedar Creek Park.

Council Member Verhaalen said that he does not want to prohibit a child from selling lemonade from a stand in their yard. City Attorney Herbrand said that the City has no interest in regulating this type of stand. There is also an exemption for private parties to include food trucks.

Council Member Arnett said that the license is not used much. Council Member Verhaalen stated that it was adopted to restrict mobile vendors from competing with brick and mortar restaurants.

Council Member Arnett would like to see more mobile vendors downtown because it adds vibrancy. This amendment will speed up the application process.

Motion made by Council Member Arnett, seconded by Council Member Thome, to adopt Ordinance No. 2018-07 pertaining to the regulation of mobile vendors and mobile food establishments. Motion carried without a negative vote with Council Member Galbraith excused and Aldermanic District 1 vacant.

CONSIDER LICENSE/PERMIT APPLICATIONS; AND ACTION THEREON

Motion made by Council Member Burkart, seconded by Council Member Verhaalen, to approve new Operator License applications for the period ending June 30, 2019 for Gia M. Fazal and Sarah F. Prasser. Motion carried without a negative vote with Council Member Galbraith excused and Aldermanic District 1 vacant.

Motion made by Council Member Verhaalen, seconded by Council Member Thome, to approve issuance of a 6-month Class "B" Beer license to GG & KR LLC, Gordon M. Goggin, Agent, for The Stilt House Concessions, N52 W5925 Portland Road, from May 1, 2019 to October 31, 2019. Motion carried without a negative vote with Council Member Galbraith excused and Aldermanic District 1 vacant.

CONSIDER PAYMENT OF BILLS DATED 03/22/19 THROUGH 03/29/19, TRANSFERS FOR THE PERIOD 03/16/19 THROUGH 04/03/19; AND PAYROLL FOR THE PERIOD 03/16/19 THROUGH 04/03/19; AND ACTION THEREON

Motion made by Council Member Thome, seconded by Council Member Burkart, to approve payment of bills dated 03/22/19 through 3/29/19, transfers for the period 3/16/19 through 4/3/19; and payroll for the period 3/16/19 through 4/3/19. Motion carried without a negative vote with Council Member Galbraith excused and Aldermanic District 1 vacant.

ADMINISTRATOR'S REPORT

City Administrator/Treasurer Mertes reported that Sandy Welch began full-time employment.

City Administrator/Treasurer Mertes and City Attorney Herbrand had a recent conference call with AT&T regarding a lease agreement on the monopole. The plan is to present it to the Common Council at the May 13 meeting.

COMMENTS AND SUGGESTIONS FROM CITIZENS - None

COMMENTS & ANNOUNCEMENTS BY COUNCIL MEMBERS

Council Member Thome reported that the Fire Department Award night was impressive and expressed appreciation for the Department's work.

Council Member Burkart heard that the Cedarburg Fire Department was involved in mutual aid for the fire in Bayside. The Department worked all day and did very well.

MAYOR'S REPORT

Mayor O'Keefe presented three Proclamations:

- Municipal Treasurer's Week – April 14-20, 2019
- Municipal Clerk's Week – May 5-11, 2019
- National Library Week – April 7-13, 2019

ADJOURNMENT

Motion made by Council Member Arnett, seconded by Council Member Verhaalen, to adjourn the meeting at 7:46 p.m. Motion carried without a negative vote with Council Member Galbraith excused and Aldermanic District 1 vacant.

Amy D. Kletzien, MMC/WCPC
Deputy City Clerk