

**CITY OF CEDARBURG
COMMON COUNCIL
June 10, 2019**

**CC20190610-1
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, June 10, 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 Sherry Bubnitz, Jack Arnett, Kristin Burkart, Rick Verhaalen, Garan Chivinski, Patricia Thome, Rod Galbraith

Also Present - City Administrator/Treasurer Christy Mertes, City Attorney Michael Herbrand, Deputy City Clerk Amy Kletzien, City Clerk Claire Woodall-Vogg, Director of Engineering and Public Works Tom Wiza, City Planner Jon Censky, Police Chief Thomas Frank, Patrol Officer Dominic Andrews, Light & Water General Manager Dale Lythjohan, 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 May 13, 2019 meeting as presented. Motion carried without a negative vote.

COMMENTS AND SUGGESTIONS FROM CITIZENS

Amber Psket, N28 W6360 Alyce Street, distributed an information sheet on water fluoridation. She wants to stop the fluoridation process in Cedarburg. Her past attempts have been less than effective and she is looking forward to a meeting with the City. She said that 91% of older Americans have experienced one or more cavities, showing that fluoridation is not working.

PUBLIC HEARING – CONSIDER ORDINANCE NO. 2019-10 AMENDING SEC. 13-1-55 OF THE ZONING CODE TO ALLOW CBD DISPENSARIES AS A PERMITTED USE OR AS A CONDITIONAL USE IN THE B-3 CENTRAL BUSINESS DISTRICT; AND ACTION THEREON

Mayor O'Keefe opened the public hearing at 7:04 p.m. to consider Ordinance No. 2019-10 amending Sec. 13-1-55 of the Zoning Code to allow CBD Dispensaries as a permitted use or as a Conditional Use in the B-3 Central Business District.

Planner Censky stated that while it has been advertised that the ErthScent Dispensary store is “coming soon” to Cedarburg, staff notes that this announcement preceded a determination that the proposed use is not permitted in our downtown business district. More specifically, without first asking staff whether her use was allowed by Code, the applicant mailed in her application for an occupancy permit, began to move her CBD Dispensary use into the existing building at W61 N510 Washington Avenue (former Glad Rags), covered the front windows and placed a “coming soon” sign in the front window. Upon receipt of the occupancy permit application, staff reviewed the B-3 Central Business District language and determined that since the use was not listed as either permitted by right or as a conditional use in the B-3 District, is not allowed. The applicant was then notified of this and advised that she could pursue a zoning text amendment to have the Plan Commission and Common Council consider adding CBD Dispensaries to the list of permitted uses. There is a two-step process required for considering zoning text amendments; first the Plan Commission must review the proposed change and then offer a recommendation to the Common Council. The second step requires the Council to hold a public hearing, consider the recommendation of the Plan Commission and then take into account public comment before rendering a decision.

Planner Censky explained that the Plan Commission considered this request at their May 6 meeting and they felt this use better fit the purpose and intent of the B-2 Community Business District which is located along South Washington Avenue and; therefore, recommended denial of this request. At the June meeting of the Plan Commission they also considered a draft ordinance prepared by City Attorney Herbrand with the understanding that they were leaning toward adding CBD Dispensaries to the list of uses by conditional use in the B-2 District.

Planner Censky said that tonight, the Common Council is only considering whether or not to add CBD Dispensaries to permitted uses in the B-3 District, with a negative recommendation from the Plan Commission.

Mayor O’Keefe asked if there was an occupancy permit issued by the City. Planner Censky said the application was received in the mail. A receipt was mailed back to the occupant and they mistook the receipt for the permit. Before an occupancy permit can be issued, the Building Inspector and Fire Inspector must inspect the site and they must pass that inspection. Neither Inspector has been in the building; therefore, an occupancy permit has not been issued.

City Attorney Herbrand explained that when the Plan Commission considered this item they took into consideration the fact that the downtown is in proximity to schools and churches, the confusion in enforcement with some of the CBD products that are sold, and that children congregate in the downtown.

In answer to Council Member Arnett’s question, Planner Censky explained that the Plan Commission has considered allowing, and are generally in support of, this use in the B-2 District. They want to fine tune the ordinance and it will be considered again at the Plan Commission meeting in July and then it will come before the Common Council.

In answer to Council Member Thome’s question, Planner Censky confirmed that the B-2 District is on both sides of south Washington Avenue from Lincoln Blvd. to Pioneer Rd. There is also a small commercial node at the intersection of Bridge Street and Columbia Road and then a small area further north on Washington Avenue near the Fairground entrance.

Council Member Arnett confirmed with Planner Censky that there is CBD available in Cedarburg; however, it is through retailers with less than 51% of their sales are for CBD products. The City is not denying access of the product to citizens.

Council Member Burkart asked City Attorney Herbrand if this would be an adult only store, where purchases can only be made by adults 18 and over. City Attorney Herbrand said that is the recommendation for any future ordinance. He believes the applicant intends to restrict access to 18 years and older but it is not a State law.

Jennifer Kawczynski, business owner, stated that she received a receipt for an occupancy permit on March 8. The paper said occupancy permit on the top with a Post-it note that said "Call me when you are ready to open." She assumed it was okay to go ahead. She is grateful for consideration in the B-2 District but that is not what she is here for. Ms. Kawczynski wants to offer a positive contribution to the historic district. They have been very transparent with the products they plan to carry and it does not include the hemp flower or smokeable products. Some items they agreed not to carry are being sold in some of the downtown stores. She felt that the list of conditional uses were too restrictive to justify any store in this area to thrive and would be a dis-service for any business and the community. She asked if the list is being enforced for other businesses in the B-3 District that already carry these products.

City Attorney Herbrand explained that Ms. Kawczynski is referring to the draft ordinance that the Plan Commission considered for the B-2 District with a list of limitations of products that could be sold. Many of those limitations were based on current laws that are in place. Federal law prohibits the combination of CBD with food products, the same as medication. The State has a prohibition on the use of the drugs in pet products. There are laws that set those limitations. A CBD Dispensary Use is being considered where a certain percentage of CBD sales would qualify as this type of business. If a store sells many other products with only an endcap of CBD products, it would not qualify as a CBD Dispensary.

Jennifer Kawczynski said that CBD is federally legal. She has support to bring this product to the downtown district for the residents of Cedarburg. They are hands-on and want to become part of the community.

Attorney Jeffrey A. Cormell said that from the beginning, the Cedarburg store never had the intent to carry paraphernalia, flower, or smokeable products. A raise in the 51% standard is proposed and is irrelevant to this discussion. In regard to other stores selling CBD products, they are acting in the same manner that the City is trying to restrict. If Ms. Kawczynski were to be selling hemp clothing with only an endcap of CBD products, she would be opening. He opined that this is becoming arbitrary. The idea that the average store owner should have known the restrictions in the B-3 District is not a reasonable perspective to take. He said that the Zoning Code was established many years ago and it is reasonable to think that today, a CBD Dispensary would have been a piece of the zoning ordinance explicitly. Attorney Cormell said that zoning is meant to be taken in broad terms. He said that four categories listed in the current B-3 District (boutique, gift store, specialty retail and variety store) would be easy to fit just about any store into one of those four categories. When you don't allow something in one of those categories, and the reasons are that it does not explicitly list that use, you enter an arbitrary territory. An arbitrary decision is being made based on an individual in front of you rather than a category. Attorney Cormell said that it can be a dangerous territory to be in. The second item of concern for him is creating language for a B-2 District. No

one asked for this and it is a solution to a problem that no one has raised and it feels like an appeasement. He said the current problem is that an occupancy permit was denied based upon language in the zoning ordinance. Also, the community currently has four stores that are selling CBD products. His concern is that this store is being inadvertently discriminated against. He asked the Common Council to keep an open mind before making their decision.

Mayor O'Keefe asked Ms. Kawczynski why she chose to not sell certain products. She stated that she is choosing a different atmosphere for Cedarburg.

Council Member Galbraith expressed concern for posters with marijuana leafs on them. Ms. Kawczynski responded that they were hemp flowers and that is part of their logo. In reference to the 420 opening, it is known as a national cannabis holiday. It is not linked directly to marijuana, as hemp is also cannabis. The message Council Member Galbraith got when he drove by was marijuana and the article in the News Graphic referencing 420 is very much in the marijuana, illegal drug culture. Also, the article referred to Grandma Bud and he asked what Bud meant. Ms. Kawczynski said that every employee is called a budtender and they are knowledgeable staff.

In answer to Council Member Thome's question, City Planner Censky said that no building permit was applied for. The City has no idea what activity has taken place within the building.

City Planner Censky stated that he has received a call from another person who wants to open a CBD Dispensary store to compete. While Ms. Kawczynski is saying that she will not carry certain products in her store, the City could easily have other stores carrying the products that she has chosen not to carry.

Council Member Thome explained that the City is not looking at a specific store, only a zoning issue.

Council Member Verhaalen expressed concern for the products that ErthScent Dispensary has agreed not to sell and if there is anything legally binding to a later introduction. City Attorney Herbrand said if the City wants to limit the product they could look at the ordinance that the Plan Commission is considering in the B-2 District. The only way to limit the products is by drafting them into an ordinance.

State Senator Lena Taylor distributed information on State and Federal law regarding CBD. She lives in the district that she represents and she understands wanting to protect the community. Senator Taylor said that Cedarburg has a history with hemp and Wisconsin was a leader in hemp until it became prohibited and put on the drug controlled substance list which is no longer on this list. She provided some background on the difference between cannabis hemp and cannabis marijuana. CBD is only one component of what hemp can do and there are 50,000 different ways that hemp products can be used. Senator Taylor explained that in 2014, the State Farm bill was passed and she served on the Ad Committee. There is a bipartisan piece of legislation in regards to hemp, known as the comeback crop, which received a unanimous vote. Since then, the Federal government passed legislation in 2018 making it legal across the nation. She agrees that there is an enforcement challenge because hemp and marijuana look the same. Senator Taylor said that Wisconsin had approximately 1800 people apply for a grower's license and approximately 700 people applied for a processors license. This billion dollar industry will be coming to Cedarburg and she wants the City to be informed. Marijuana has THC of 20 percent or more, hemp's THC level is

not even a half percent. Hemp is beneficial for many people and can reduce opiate addiction. When visiting different stores she said that you may not even know that they were connected to cannabis. Senator Taylor concluded that she is a resource and is available for any questions.

Diane Johnson, W71 N1042 Hampton Avenue, said that Cedarburg has a special feeling to it and is a family community. The Plan Commission discussed that “perception is reality” when making their decision and she believes in that statement.

Phillip Scott, 6105 Gateway, Monona, WI, said that he is the President and Founder of Wisconsin Hemp Farmers and Manufacturers Association. They have been trying to educate and reform across the State. He has a 20% disability on the left side of his body and without the product he would not be able to stand. He questioned how the City can allow the product to be sold in part of the community and not another. He hoped the Council listens to the people in attendance and allows economic growth.

David Todd, 438 E. Warnimont Avenue, stated he lives near ErthScent Dispensary in Bayview and is a former employee of the Medical College of Wisconsin, which employs Wisconsin’s leading cannabis researcher. He presented a list of benefits of CBD. CBD has helped him overcome his medical conditions including an addiction to K2 products. He is proud of Wisconsin’s heritage and history. He thought CBD should be a part of Cedarburg’s historic district and be a leader.

Jean Leebow, 715 Riverview Drive, Thiensville, said that she would come to the Cedarburg store because she knows that the owner would educate her patrons. It is up to parents to raise their children and not up to her business. The building is still historical and it is everyone’s choice whether to visit the store.

Jay Wolf, 7926 N. Sherman, Brown Deer, stated that he was a long-time resident of Cedarburg and was a chef in Cedarburg. He said that he is a licensed grower and processor in the Wisconsin Hemp program and has a Master’s in Marijuana degree. Mr. Wolf said there is a huge green rush right now. A trustworthy product is important and ErthScent Dispensary is professional, secure and has the most knowledgeable staff. Many stores don’t know the product that they are carrying because they don’t specialize in it. Erth Dispensary provides trustworthy information. There is a stigma of marijuana and cannabis and they are two different things. He provided further information on drug interaction with CBD. It is legal to take CBD on planes. There have not been many studies because it is a whole new frontier.

Doris Deputy, building owner for 30 years, takes CBD oil and her cholesterol and blood pressure have stabilized. She researched the products and the business before she rented to ErthScent Dispensary and she is 100% in favor of them being in her building.

Jill Nehmer, W67 N404 Grant Avenue, said CBD is coming and it is here throughout the United States. She asked the Common Council to develop a plan for it to be sold in Cedarburg and to use ErthScent Dispensary as a stepping stone and build off of their knowledge. Most businesses do not know what they are buying and selling; whereas, ErthScent Dispensary is educated. She hopes the Common Council considers this opportunity for CBD in the community. She questioned the number of bars that children are exposed to in Cedarburg. Parents need to educate their children that they are not allowed in certain businesses.

Alan Block, W53 N551 Highland Drive, spoke as a business owner, stating that it is the owner's obligation to know what is required before starting a business. He presented an update from Attorney's Godfrey & Kahn on Wisconsin Industrial Hemp. He stated that CBD can increase the effects of prescription medications and should be considered. As a longtime resident he sees it as a stepping stone, especially if marijuana is legalized and he is not in favor of approving the zoning in the B-3 District.

Patrick McClain, W55 N737 Cedar Ridge Drive is an attorney, resident and father of two children in grade school. His research showed that the benefits of CBD are overblown and there is virtually no regulatory standard governing the product. When CBD is used with common medications they cannot be metabolized properly and can reach toxic levels. This is not an arbitrary decision for him. The B-3 District is the heart of the City. The intent of the district is to provide for the preservation of Cedarburg's historic downtown. The ordinance states that overall development shall be compatible with the City's community character. He is a patron of downtown businesses and enjoys the parks. He believes that he lives in the best city on earth and this use is not compatible with the nature and character of downtown Cedarburg. He asked the Council to deny the request.

Patrick, W61 N508 Washington Avenue, said that the FDA has approved medications that many American's are addicted to but they do not approve vitamins that help people. He is familiar with opioid abuse and he wished that CBD was more available.

Aaron Gresch, W57 N517 Hilbert Avenue, is not in favor of CBD in the B-3 District. He expressed concern for children going into the store and wanting to buy the product. He is okay with the product in the B-2 District.

Chief Frank said that CBD can potentially raise some enforcement issues for the officers. The legal and illegal products look similar and if they are burnt, smell similar. The proximity to the schools is a concern because they have had vaping problems at the High School.

Mayor O'Keefe was a former police officer and said he understands that the Duquenois-Levine test used for marijuana use could be triggered by CBD use. Chief Frank confirmed that officers will not be able to distinguish the difference between the two. The only way to distinguish the two is to send it to the crime lab, which requires a criminal charge.

Council Member Arnett asked City Attorney Herbrand if zoning can prevent a headshop. He is hearing tonight that the applicant runs a good operation, but if it is allowed in the downtown area there could be others that won't run the best operation. City Attorney Herbrand said if the Council allows it as a conditional use it would be hard to control the products being sold. He said that the ordinance being considered for the B-2 District has been carefully written, specific to the south commercial district.

Council Member Bublitz questioned the additional enforcement that will be necessary to monitor this type of business over and above the bars downtown. City Attorney Herbrand said that bars are licensed and can lose those licenses if the law is not being enforced; whereas, a CBD store does not require a license. City Attorney Herbrand said that enforcement was discussed at the Plan Commission level. The historic district has more of a retail and residential mix, higher density of people, less parking, and many people at festival time. The concern was that enforcement would be more difficult in the downtown district.

Council Member Galbraith has knowledge and experience in this area. He does not oppose CBD as he understands the legality and benefits and is not here to judge whether the product should be used. He spent many years with the Ozaukee Sheriff's Department and saw the culture of drugs in Ozaukee County during this time period. He saw the challenges of the 1990's turn into the opioid addiction in 2000's. He does not mistake CBD oil with marijuana and THC, but he knows that there is a culture around 420 and the marijuana/hemp leaf. When the citizens see this symbol they see it as a marijuana leaf and that is the perception. The reviews of the Bayview store would be very problematic from the Ozaukee County Drug Taskforce viewpoint because it is unknown what is being sold in the store and it is difficult to enforce what may be in oil. Marijuana is being marketed by extracting the THC and putting it in other products. He worked as an Assistant Director of Campus Safety for a University and when students were vaping he had no idea they were using marijuana except for the symptoms they displayed because they could not test for it. The use of a K9 was the only tool they could use for probable cause. What is sold from the store can be very problematic because it is unrecognizable. The opening announcement by the store sent a mixed message to the community. He is not opposed to CBD but he is concerned about enforcement around a culture that the ownership is asking to put in a store in the downtown district. Council Member Galbraith said that this does not mix with what the community expects or wants in this zoning district. It would be an enforcement issue to determine if the store is selling what they are supposed to be or not.

Council Member Thome said she understands the credibility that ErthScent Dispensary is promoting but when the ordinance is created it won't pertain to just their store; it will include any store of this type.

Council Member Chivinski echoed what he heard from the Council. It is very exciting as a public servant to see a full room and hear debate. Everyone has a different point of view on this subject and it is changing very fast. He said that the historic district is the one place the City has preserved and it won't engage in experiments. He said that the City would need to go out of their way to amend the language in the B-3 District to allow CBD. Future generations may have the opportunity to change this, but he has a responsibility to maintain the historic district because it is the most precious thing that has held Cedarburg together for so many years.

Motion made by Council Member Arnett, seconded by Council Member Galbraith, to close the public hearing at 8:38 p.m. Motion carried without a negative vote.

Council Member Burkart thanked the audience for being so respectful and she appreciated the activism. She represents her constituents and the feedback has all been that they are comfortable with CBD; they just don't want it in the historic district. People leave other communities to come to Cedarburg for the schools and to raise their families here. It is a community type effort to raise children and her constituents are opposed to a CBD store downtown. There are great businesses on South Washington Avenue and you don't have to be downtown to be great stewards of the community.

In answer to Council Member Verhaalen's question, City Administrator/Treasurer Mertes said that no other business owners have voiced their opinion either way to her about the store possibly locating downtown.

Council Member Thome said that she spoke to one business owner that was very protective of the historic district and was concerned about more like businesses following.

Council Member Arnett understands the products that will be offered at ErthScent Dispensary and believes it works for many people. He serves on the Economic Board and thinks it would be good for tourism. He approves of CBD products being sold in the B-2 District. Council Member Arnett said the third definition of Dispensary in a Google search is “a facility that prepares and sells medical marijuana.” He is not here to judge the legality of the effectiveness of the product but he believes that there is a perception with this type of store. This applicant may run a nice store; however, on the other hand, the City regulates paint colors in the historic district. Washington Avenue is like the City’s Eiffel Tower. In the recent branding effort, Washington Avenue was the number one attraction for residents, visitors, employers and festivals. He visits Colorado and many of the dispensaries are in an industrial commercial type of area. Council Member Arnett said it is not arbitrary to keep an eye on the historic district.

Council Member Bublitz worked hard to talk to people in the community about this proposed store. She has vacillated back and forth and uses the product for her dog and believes in CBD. However, this is not about whether they do or don’t believe in CBD. Most people have mimicked what has been said by the Council. There is something special about Cedarburg and that little tiny section of town is an area that we do not experiment with. She is not as conservative as some; however people move to this City so they can live in a little part of nirvana, which is the downtown district. This decision is about zoning and protecting what the City has been asked to protect and to be good stewards with law enforcement by not putting more responsibility on them. She works at a school and is aware of some of the problems with vaping and it is about being good stewards with all involved. It is not about CBD.

Mayor O’Keefe thanked everyone for their input and the passion that was displayed. The Historic District is the City’s bread and butter. The Mill on Bridge Street was saved by Mayor Fischer because he refused to sign an agreement for a gas station/convenience store on that corner. The Historic District is what sets Cedarburg apart from other municipalities. As a result, the City is very protective and works to preserve and protect the historic downtown. There are no franchise stores allowed in this district. In regard to enforcement, it is very hard for law enforcement to distinguish the difference in product. The Landmarks Commission is notorious for maintaining the historic downtown district. He expressed concern for the precedent it would set if THC is legalized in any form, as the dispensary would already be existing for it.

Motion made by Council Member Arnett, seconded by Council Member Galbraith, to reject Ordinance No. 2019-10 amending Sec. 13-1-55 of the Zoning Code to allow CBD Dispensaries as a Permitted Use or as a Conditional Use in the B-3 Central Business District. Motion carried without a negative vote.

The Common Council took a break (8:49 p.m. – 9:00 p.m.).

PRESENTATIONS

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

Motion made by Council Member Burkart, seconded by Council Member Verhaalen, to approve the appointment of Claire Woodall-Vogg as City Clerk. Motion carried without a negative vote.

Deputy City Clerk Kletzien administered the oath of office to City Clerk Woodall-Vogg.

NEW BUSINESS

CONSIDER PROPOSAL RECEIVED FROM GRAEF FOR ENGINEERING DESIGN SERVICES ASSOCIATED WITH THE REHABILITATION OF THE WOOLEN MILLS DAM; AND ACTION THEREON

Director Wiza explained that Graef provided an engineering services proposal to modify their plans for rehabilitating the Woolen Mill Dam, to include repairing and activating the abandoned mill race. The mill race work would include a weir gate which would allow the City to dewater the spillway for future maintenance, which would increase the hydraulic capacity of the dam. The work would include a legal survey and easement description of the lands the City would have access to complete the mill race work. Repair work is currently being done on the Columbia Mills Dam, and if the City is able to acquire the necessary easement and complete the engineering and permitting, construction could begin this fall on the Woolen Mill Dam. The cost of this construction could be in the \$600,000 range, but such specialized construction is difficult to estimate. The City had applied to DNR for a 50% Municipal Dam Grant for the Woolen Mills Dam, but the scope and cost of the work has significantly increased so the grant request would have to be amended.

Director Wiza said if the Common Council wishes to evaluate the removal of the Woolen Mills Dam, then the Council should not proceed with this contract, and possibly look to place this item on a future referendum.

In answer to Council Member Thome's question regarding a grant, Director Wiza explained that the City will apply for a grant; however, the design work and bidding needs to occur first.

In answer to Council Member Arnett's question regarding deadlines, Director Wiza said that the deadline is past and the City needs to either fix or take out the dam.

Council Member Verhaalen said that the appearance of the water changes once the dam is removed, making it unclear who owns the receded area.

Council Member Thome explained that she has received overwhelming feedback to keep the dam. Director Wiza has worked closely with regulators to come up with a solution to repair the dams, which could be a viable end to the hurdles with the project. She said the City should move forward to repair the dams.

In answer to Council Member Arnett's question, Director Wiza believes that the proposed work on the Woolen Mills Dam will be accepted by the DNR because of their approval on the Columbia Mills Dam and the grant that was issued to the City. This work is the same.

Director Wiza confirmed to the Common Council that this work is in the City Budget.

Motion made by Council Member Verhaalen, seconded by Council Member Galbraith, to accept Graef's proposal for engineering design services associated with the rehabilitation of the Woolen Mills Dam in an amount not to exceed \$34,250. Motion carried without a negative vote.

CONSIDER RESOLUTION NO. 2019-08 APPROVING THE APPOINTMENT OF INTERIM JUDGE FOR THE MID-MORaine MUNICIPAL COURT; AND ACTION THEREON

City Administrator/Treasurer Mertes explained that Judge Steven Cain was elected as the Ozaukee County Circuit Court Judge in April. His term with the Mid-Moraine Municipal Court does not end until April 2020; however, his term with the County begins on August 1, 2019. As a result, the Administrative Committee of the Mid-Moraine Municipal Court accepted applications, interviewed three final candidates, and appointed Christine Ohlis as interim Judge. All members are being asked to adopt a resolution to accept the appointment.

Motion made by Council Member Thome, seconded by Council Member Burkart, to adopt Resolution No. 2019-08 approving the appointment of Interim Judge Christine Ohlis for the Mid-Moraine Municipal Court. Motion carried without a negative vote.

CONSIDER ESTABLISHING HOURS FOR THE NORTH 48 OUTDOOR ALCOHOL BEVERAGE LICENSE AT W62 N599 WASHINGTON AVENUE; AND ACTION THEREON

Tom Shippen spoke as co-owner of North 48 and referenced a letter that he sent to the Common Council. He wants to work with the community and is asking for an 11 p.m. closing time for weeknights and a midnight closing time on weekends for their Outdoor Alcohol Beverage License. He referenced some noise complaints from a former tenant above North 48 that have been resolved. Mr. Shippen explained that they are in a business district with no buildings zoned as residential within his block. His patio is in the back of North 48 and is surrounded by other buildings. Any other noise may be coming from his front door, rather than the patio. He wants to continue his business as it was before the 10 p.m. closing time that was imposed by the Police Department last year. It is expensive to do business in downtown Cedarburg. North 48 donates to the community and gets involved in projects.

Chief Frank explained that the Police Department has been called to North 48 a number of times. The owners have always been willing to work with the officers when they respond. Last year, the Department received 12 noise complaints and not all of them were from the former tenant. As a result, the Police Department asked them to close at 10:00 p.m. rather than 2:00 a.m. The noise level escalates as the weather warms up and windows are open. He suggested a 10:00 p.m. closing time during the week and a midnight closing time on weekends.

In answer to Council Member Bublitz's question in regard to other businesses and their hours of operation outdoors, Chief Frank looked up the records for Stilt House, Maxwell's and C. Wiesler's and there were no complaints for Stilt House, and Maxwell's and C. Wiesler's had one complaint each. Other businesses seem to be closing earlier and North 48 is popular later in the evenings.

Council Member Chivinski worked as a patrolman during bar hours and 50% of the crime took place between 10 p.m. and 2 a.m. It took the entire resources of the Department during the summer

season to contain it. He is concerned about other establishments asking for a later closing time on their outdoor licenses and creating a problem.

Council Members Burkart and Bublitz were in favor of extending the time on a trial basis.

Ann Denk, W62 N598 Washington Avenue, corrected Mr. Shippen because there are residents living within a block of North 48. She can hear noise from North 48 every night and she is being more than patient. To be a good neighbor, she suggested closing the front doors at 10 p.m. She had an intoxicated individual enter on to her private property over the weekend. He created a disturbance and it is something that is happening more often. She asked the Common Council to consider not allowing a later time on their patio.

Motion made by Council Member Arnett, seconded by Council Member Burkart, to establish an 11 p.m. closing time on Sunday through Thursday and 12 a.m. closing time on Friday and Saturday for the North 48 Outdoor Alcohol Beverage License at W62 N599 Washington Avenue.

After further discussion, Mayor O’Keefe concluded that it will be up to the owners and staff at North 48 to watch their crowd and contain their noise. The ball is in their court and the closing time can be revisited, if needed.

Motion carried with Council Members Bublitz, Arnett, Burkart, Verhaalen and Thome voting in favor and Council Members Chivinski and Galbraith opposed.

CONSIDER APPLICATION OF LE’S PHO LLC, LY Q LE, AGENT, FOR A “CLASS B” LIQUOR LICENSE FOR LE’S PHO AT W63 N146 WASHINGTON AVENUE; AND ACTION THEREON

Gus Wirth, owner of Echo Plaza, explained that this property has been denied twice for an available “Class B” Liquor License in the past and the license was given to another business.

Ly Le said that his customers are asking for more than beer and wine and it would be nice to have the “Class B’ license.

Mayor O’Keefe complimented Mr. Le on his unique business and it being a nice alternative for Cedarburg.

Mayor O’Keefe stated that he does not know why the State limits liquor licenses; it may have something to do with the Tavern League. For a tourist community such as Cedarburg, he questioned why the City should be limited to the number of “Class B” Liquor Licenses.

Motion made by Council Member Verhaalen, seconded by Council Member Burkart, to approve the application of Le’s Pho LLC, Ly Q Le, Agent, for a “Class B” Liquor License for Le’s Pho at W63 N146 Washington Avenue. Motion carried without a negative vote.

CONSIDER MAYOR O'KEEFE'S APPOINTMENT OF JOYCELYN RUSSO TO THE LIBRARY BOARD AND REAPPOINTMENT OF GREG ZIMMERSCHIED TO THE ECONOMIC DEVELOPMENT BOARD; AND ACTION THEREON

Council Member Bublitz corrected the spelling of Ms. Russo's first name, which is Joycelyn.

Motion made by Council Member Thome, seconded by Council Member Arnett, to approve Mayor O'Keefe's appointment of Joycelyn Russo to the Library Board and his reappointment of Greg Zimmerschied to the Economic Development Board. Motion carried without a negative vote.

CONSIDER MAYOR O'KEEFE'S COUNCIL MEMBER APPOINTMENTS OF SHERRY BUBLITZ TO THE PUBLIC ART COMMISSION AND RICK VERHAALLEN TO THE MID-MORAINES LEGISLATIVE COMMITTEE (ALTERNATE); AND ACTION THEREON

Motion made by Council Member Arnett, seconded by Council Member Galbraith, to approve Mayor O'Keefe's Council Member appointments of Sherry Bublitz to the Public Art Commission and Rick Verhaalen to the Mid-Moraine Legislative Committee (alternate). Motion carried without a negative vote.

CONSIDER RESOLUTION NO. 2019-09 DESIGNATING AND AUTHORIZING SIGNATURES FOR THE CITY OF CEDARBURG CHECKING AND SAVINGS ACCOUNTS FOR THE ENSUING YEAR AND CONSIDER RESOLUTION NO. 2019-10 DESIGNATING LIGHT & WATER CHECKING AND SAVINGS ACCOUNTS FOR THE ENSUING YEAR; AND ACTION THEREON

Motion made by Council Member Arnett, seconded by Council Member Burkart, to approve Resolution No. 2019-09 designating and authorizing signatures for the City of Cedarburg checking and savings accounts for the ensuing year and Resolution No. 2019-10 designating Light & Water checking and savings accounts for ensuing year. Motion carried without a negative vote.

CONSIDER LICENSE/PERMIT APPLICATIONS; AND ACTION THEREON

Motion made by Council Member Galbraith, seconded by Council Member Thome, to approve the 2019-2020 alcohol and operator licenses as presented:

"Class A" Intoxicating Liquor (Off-Premise Consumption Only):

The Shinery Neenah, LLC, P.O. Box 128, Larsen, WI 54947, Elizabeth A. Reissmann, Agent, premises to be licensed: W63 N706 Washington Avenue, known as *The Shinery*.

Class "B" Fermented Malt Beverage and "Class B" Intoxicating Liquor (On or Off-Premise Consumption):

Peter Wollner Post #288 of the American Legion, W57 N481 Hilbert Avenue, Cedarburg, WI 53012, James A. Lee, Agent, premises to be licensed: W57 N481 Hilbert Avenue, known as *Peter Wollner Post No. 288 of the American Legion*.

Morton's Wiscons Inn LLC, N56 W6339 Center Street, Cedarburg, WI 53012, Chris Morton, Agent, premises to be licensed: N56 W6339 Center Street, known as **Morton's Wiscons Inn.**

New Operator License applications for the period ending June 30, 2019 for:

Samuel T. Bolgert	Michael D. Johnson
Whitney H. Dobson	Gary W. Rogahn
Madissen Homayouni	Cynthia Sayles-Albers
Payman Homayouni	

New Operator License applications for the period ending June 30, 2020 for:

Timothy J. Biloff	Sandra L. Oesterreich
Jennifer A. Kaltenbrun	Emily S. Schaefer
Mallory R. Madison	

Renewal Operator License applications for the period ending June 30, 2020 for:

Lucas A. Allen	Christine A. Krause
Carol A. Ameen	Audrey L. Krick
Stephanie J.L. Baldwin	Angela M. Kroner
Deborah Bath	Pamela S. LaBouve
Dena C. Baule	Kelly Langerman
Tamara J. Behling	Cynthia M. Larson
Michael C. Besaw	Mark E. Larson
Samuel T. Bolgert	James J. Levine
Jody L. Brzezinski	David L. Magnusson
Daniel M. Burback	Kayla M. Matter
Candace A. Burger	Josh McCutcheon
Annette L. Chiddister-Woods	Kari S. Midtbo Schwartz
Callen L. Cummings	Brenda L. Mueller
Brady S. Curtis	Carrie G. Mueller
Eva M. Danner	Judith A. Murphy
Steve F. Danner	Annette M. Mytko-Kennedy
Benjamin J. Dereszynski	Shelby L. Neelis
Whitney H. Dobson	Jamie N. Nevins
Chad A. Doedens	Nicholas M. Nevins
Adam S. Dykema	Debra M. Newell
Kimberly R. Eggleston	Jakob P. Pedersen
Christina N. Gabrielson	David J. Polacek
Jeanette L. Gabrys	Christine Pope
Scott R. Galaszewski	Martha K. Ray
Daniel J. Gogin	Michael J. Reimer
Julie B. Gottfried	Deborah A. Sajdak
Elizabeth R. Grade	Cynthia M. Sayles-Albers
David B. Haberman	Tori L. Schone
Angela L. Habermann	Jeannette M. Schupp

Christine M. Habich
H. Michael Hagerman
Carina R. Heckert
Gina A. Heidemann
Terri J. Heidtke
Andrew G. Henning
Catherine A. Hilgart
Madilyn M. Hill
James M. Hintz
Elizabeth N. Hoffman
BJ Homayouni
Christopher M. Homayouni
Madissen Homayouni
Payman Homayouni
Brian M. Jackson
Christine M. Jackson
Sarah N. Jellen
Michael D. Johnson
Lori E. Josephson
MaryLee Katzka
Mark A. Kennedy
Randall H. Kison
Keri Klemann
Scott A. Kosidowski
Stacy J. Kowalkowski
Mark C. Kowalkowski

Logan T. Sheckles
Megan N. Shodeen
Jean M. Snow-Lambo
Ann M. Speirs
Scott W. Steffen
Becky A. Steliga
Laura M. Struebing
Suzanne L. Stubblefield
Michelle L. Taraboi
Kerry K. Tharp
Kaylyn T. Thomas
Robert R. Vanderloop
Jessica M. Wallace
John C. Wallus
Stacey L. Wedereit
Larry D. Weidmann
Michelle L. Welch
John A. Welk
Patrick R. Weyer
Amy L. Whitney
Jennifer L. Wilhelm
Joseph P. Willbrandt
Stephen R. Wilson
Heather L. Zimel

CONSIDER PAYMENT OF BILLS DATED 05/06/19 THROUGH 05/31/19, TRANSFERS FOR THE PERIOD 05/11/19 THROUGH 06/07/19; AND PAYROLL FOR THE PERIOD 05/11/19 THROUGH 06/07/19; AND ACTION THEREON

Motion made by Council Member Burkart, seconded by Council Member Verhaalen, to approve payment of bills dated 05/06/19 through 05/31/19, transfers for the period 05/11/19 through 06/07/19; and payroll for the period 05/11/19 through 06/07/19. Motion carried without a negative vote.

ADMINISTRATOR'S REPORT

City Administrator/Treasurer Mertes said that the Police Department hosted a two day event on ALICE training with 70 attendees.

City Administrator/Treasurer Mertes asked to hold a budget workshop meeting, as suggested by Mayor O'Keefe, on July 15 at 6:30 p.m. and asked the Council Member's for their availability. It was determined that all of the Common Council Members are available to attend and the meeting will be scheduled.

COMMENTS AND SUGGESTIONS FROM CITIZENS - None

COMMENTS & ANNOUNCEMENTS BY COUNCIL MEMBERS - None

MAYOR'S REPORT – None

ADJOURNMENT – CLOSED SESSION

Motion made by Council Member Thome, seconded by Council Member Verhaalen, to adjourn to closed session at 9:49 p.m. pursuant to State Statutes 19.85(1)(g) to confer with legal counsel for the Common council who is rendering oral or written advice concerning strategy to be adopted with respect to litigation in which it is or is likely to become involved and 19.85(1)(e) to deliberate or negotiate the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever, competitive or bargaining reasons require a closed session, more specifically to discuss the Prochnow Landfill, discuss the Highway 60 Business Park and approve the May 13, 2019 closed session minutes. Motion carried on a roll call vote with Council Members Bublitiz, Arnett, Burkart, Verhaalen, Chivinski, Thome and Galbraith voting in favor.

RECONVENE TO OPEN SESSION

Motion made by Council Member Arnett, seconded by Council Member Burkart, to reconvene to open session at 10:34 p.m. Motion carried on a roll call vote with Council Members Bublitiz, Arnett, Burkart, Verhaalen, Chivinski, Thome and Galbraith voting in favor.

ADJOURNMENT

Motion made by Council Member Thome, seconded by Council Member Arnett, to adjourn the meeting at 10:34 p.m. Motion carried without a negative vote.

Amy D. Kletzien, MMC/WCPC
Deputy City Clerk