

CITY OF CEDARBURG
COMMON COUNCIL
September 30, 2019

CC20190930-1
UNAPPROVED

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, September 30, 2019, at City Hall, W63 N645 Washington Avenue, second floor, Council Chambers. Mayor O'Keefe called the meeting to order at 7:03 p.m.

Roll Call: Present - Mayor Michael O'Keefe, Council Members Sherry Bubnitz, Jack Arnett, Kristin Burkart, Rick Verhaalen, Garan Chivinski, Patricia Thome and Rod Galbraith

Also Present - City Administrator/Treasurer Christy Mertes, City Attorney Michael Herbrand, Assistant City Administrator/Parks, Recreation and Forestry Director Mikko Hilvo, City Clerk Claire Woodall-Vogg, Director of Engineering and Public Works Tom Wiza, Public Works Superintendent Joel Bubnitz, Police Chief Tom Frank, City Planner Jon Censky, Sergeant Brian Emmrich and retired Canine Officer Jake, Light and Water Utility General Manager Dale Lythjohan, Parks and Recreation Supervisor/Office Manager Danny Friess, Library Director Linda Pierschalla, Public Works Secretary Kim Esselmann, Department of Public Works employees Jason Sheer and David Schwantes, TID No. 4 Developer DJ Burns, GHD Consultants Chris Bonniwell and Nikki Dudei, interested citizens and news media

STATEMENT OF PUBLIC NOTICE

At Mayor O'Keefe's request, City Clerk Woodall-Vogg 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.

APPROVAL OF MINUTES

Motion made by Council Member Thome, seconded by Council Member Bubnitz, to approve the minutes of the September 9, 2019 meeting as presented. Motion carried without a negative vote.

COMMENTS AND SUGGESTIONS FROM CITIZENS

Citizens present were welcomed and encouraged to provide their input during the citizen comment portion of the meeting. No comments or suggestions were received.

NEW BUSINESS

CONSIDER RESOLUTION NO. 2019-02 COMMENDING RETIRING CANINE OFFICER JAKE; AND ACTION THEREON

The Council expressed their sincere appreciation to Jake for his dedicated service as Police Canine. He made the community safer and was also a wonderful liaison for the Department. The Council wished him a long and happy retirement.

Motion made by Council Member Thome, seconded by Council Member Burkart, to adopt Resolution No. 2019-02 commending retiring Canine Officer Jake. Motion carried without a negative vote.

PRESENTATION – TID NO. 4 AMCAST UPDATE

Developer DJ Burns of Oliver Fiontar LLC provided a brief overview of his clean-up and redevelopment efforts of TID No. 4, an 8-acre contaminated site where the former Amcast factory was located. Mr. Burns took possession of the property in October of 2018 and began demolition and asbestos abatement work immediately. Eighty percent of the 160,000 square foot northern facility has been demolished. Mr. Burns hopes to occupy the office building space by the first or second quarter of 2020. The Environmental Protection Agency (EPA) issued a letter to the City recently about their time frame to cleanup the surrounding area over the coming years. Mr. Burns is hopeful that his clean-up and redevelopment will have a positive impact on the surrounding areas, generating a \$10-12 million investment of Superfund money from the EPA.

In response to Mayor O’Keefe’s question, Mr. Burns said that over 100 cars would be able to park in the underground parking structure that is planned.

Mayor O’Keefe asked Mr. Burns if there had been any unforeseen hiccups or delays. Mr. Burns stated that there was an administrative delay in terms of acquiring the property, specifically a 6-8 month delay in 2018 because of the County processing the paperwork and addressing overdue taxes. Much of his work is subject to EPA approval, which did delay things some this Spring with the Federal government shutdown.

In response to Council Member Arnett’s inquiry as to when the southern-facing wall will be brought down, Mr. Burns stated that he hopes it will be removed within the next eight weeks. There was a delay in its deconstruction because of the amount of asbestos testing that had to be completed when disassembling the heat treating vats and quench tanks.

Council Member Arnett asked Mr. Burns to explain the \$250,000 draw request for Apple Valley Orchards and where that money was spent. Mr. Burns explained that he had to give Apple Valley a deposit in November of 2018 in order to get the project on their schedule. They have been at the site on a number of occasions over the last 9 months; work is either in performance or has already been completed. Council Member Arnett asked Mr. Burns to clarify whether his firm has been doing the demolition or whether it has been Apple Valley. He asked Mr. Burns if he is willing to inform the City and Council how much of the \$250,000 remains. Mr. Burns said he would absolutely report on that and that the money will be spent either by Apple Valley or another firm for demolition.

Council Member Arnett pointed out that Mr. Burns was obligated to create \$275,000 in assessed value in the office building space by January 1, 2020 and stated that it was clear that he would not reach that benchmark. Mr. Burns disputed this, and said it was still possible.

Council Member Thome asked how many people are working on the site on an average day. Mr. Burns estimated four to six people per day. Because it is a blighted, contaminated property, he said they must go through a selective demolition process and can only have one operator demolishing a portion at a time and must have an observer watching.

General Manager Lythojohan provided clarification that the EPA's timeline in their letter was for off-site projects, separate from Amcast, such as Wilshire Pond and the quarry. He did not want the 2022 dates to startle Council Members.

NEW BUSINESS – CONTINUED

CONSIDER REQUEST TO BEGIN THE PROCESS TO HIRE UP TO TWO ENTRY-LEVEL POLICE OFFICERS, DUE TO ANTICIPATED RETIREMENTS; AND ACTION THEREON

Chief Frank informed the Council that Captain Lindberg and likely Sergeant Miller will retire in January of 2020. With these two anticipated retirements, the Cedarburg Police Department will be two officer positions below the authorized staffing level of 21. He requested permission to begin the process to hire one entry-level Police Officer and possibly a second officer, contingent upon Sergeant Miller's retirement. The process to hire an officer will run six to nine months in length.

In response to Council Member Arnett's question, Chief Frank explained that the lengthy hiring process is controlled by the Police and Fire Commission.

Motion made by Council Member Arnett, seconded by Council Member Thome, to approve the request to begin the process to hire up to two entry-level Police Officers, due to anticipated retirements. Motion carried without a negative vote.

CONSIDER APPROVAL OF SARA DUNSTONE'S REQUEST FOR LAND DIVISION AND DEVELOPMENT AGREEMENT FOR A THREE-LOT DEVELOPMENT AT N50 W7404 WESTERN ROAD; AND ACTION THEREON

City Planner Jon Censky explained that the applicant is requesting approval of the Certified Survey Map that will serve to divide her recently annexed parcel located at the northeast corner of Webster Avenue and Western Road into three separate lots of 12,000 square feet each in size. She is also requesting review and approval of the Development Agreement which will serve as the contract between the City and the applicant and summarizes the City's commitment and the Developer's responsibilities. In August, Council approved rezoning the site to the Rs-3 District, paving the way for the applicant to request approval to divide her property into the three separate lots being proposed herein.

As part of this project, the applicant will be required to extend public sewer and water utilities to each lot and to pave Webster Avenue. Because this is a unique situation where the west half of Webster Avenue is in the Town of Cedarburg and the east half is in the City and since this road will never be extended to the north as it dead-ends at the High School's athletic fields, the proposed

improvements will not reflect all City roadway standards. More specifically, Planner Censky explained that the development agreement as drafted will require that Webster Avenue be improved only to the applicant's north property line using a rural cross section with the asphalt pavement being 5" thick, 24' wide and with two-foot crushed stone shoulders. Planner Censky noted that because of the rural cross-section, sidewalks and curb and gutter are not feasible and instead, the draft agreement requires roadside ditches and a drainage collection system that will tie into the stormwater pipe in Western Road. Street trees will only be required along the Western Road frontage and the only street light addition will be an extension arm added to the existing light pole at the corner of Western Road and Webster Avenue.

In response to Council Member Burkart's question, Director Wiza confirmed that the City currently plows Webster Avenue and that the street would remain a public road despite Ms. Dunstone paying for the paving of the street.

Planner Censky and Director Wiza both reiterated that the City is extremely pleased that Ms. Dunstone is taking the lead and tackling some big hurdles in order to pursue this development. It will be a great benefit and improvement. The Plan Commission unanimously approved the request at their September 10, 2019 meeting.

Motion made by Council Member Thome, seconded by Council Member Bublit, to approve Sara Dunstone's request for land division and development agreement for a three-lot development at N50 W7404 Western Road. Motion carried without a negative vote.

CONSIDER ORDINANCE NO. 2019-14 PROHIBITING PARKING FOR 1,035 FEET ON THE EAST SIDE OF SHEBOYGAN ROAD FROM WASHINGTON AVENUE NORTH AND REPEALING RESTRICTED PARKING HOURS; AND ACTION THEREON

Director Wiza explained that parking on Sheboygan Road is presently prohibited on the east side of the street from Washington Avenue to a point 264 feet north of Washington Avenue. Continuing from that point north to Willowbrooke Drive, parking is restricted from 8:00 AM to 6:00 PM. Due to the narrow width of Sheboygan Road at this location, the City has received a number of traffic complaints about the street parking, especially during Maxwell Street Days and some of the downtown events. The Police Department also expressed concerns.

Prior to the Public Works and Sewerage Commission meeting on September 12, 2019, the City contacted all residents on the east side of Sheboygan Road and no one opposed the proposed restrictions; several residents expressed strong favor for it. The Public Works and Sewerage Commission unanimously approved the proposed ordinance.

Council Member Bublit expressed her support for this ordinance.

Motion made by Council Member Burkart, seconded by Council Member Thome, to pass Ordinance No. 2019-14 prohibiting parking for 1,035 feet on the east side of Sheboygan Road from Washington Avenue north and repealing restricted parking hours. Motion carried without a negative vote.

CONSIDER PROPOSAL FROM SYMBIONT FOR A NEW CEMETERY RECORDS/GIS AGREEMENT; AND ACTION THEREON

Director Wiza explained that Symbiont has provided a proposal to convert the City's existing cemetery records and mapping to a mobile ArcGIS Online platform. The City has converted to this format for all other GIS mapping, and this should reduce annual software subscription costs, and make the information more available and usable for staff and the public. Staff would be able to update records when on-site, which is extremely efficient.

Director Wiza explained that the City currently uses a GIS program through Ruekert Mielke with an annual subscription fee of \$9,300. With the Symbiont system, there would be a one-time cost of \$11,500, but only minor licensing fees of around \$500 annually. Director Wiza is bringing this proposal before the Council in the hopes that the City can switch this year, before the annual \$9,300 subscription fee is due to Ruekert Mielke. The cost for the system would come from the Cemetery Special Revenue Fund.

Secretary Esselmann confirmed that she receives several requests a day to assist people in finding burial plots of ancestors and that this new system would be more user friendly for the public.

Motion made by Council Member Galbraith, seconded by Council Member Chivinski, to approve the proposal from Symbiont for a new cemetery records/GIS agreement. Motion carried without a negative vote.

CONSIDER OVERVIEW OF 2020 BUDGET AND POSSIBLE BORROWING FOR STREETS; AND DIRECTION THEREON

Administrator/Treasurer Mertes explained that the 2020 proposed street budget is a half million dollars more than the 2019 projects. With the needed increase in the levy, the City is not able to stay under the State levy limit or the expenditure restraint program. Council has directed that borrowing is to be avoided, but streets were also made a priority at the July budget meeting.

Administrator/Treasurer Mertes gave an overview of how short-term borrowing could help with the levy limits and expenditure restraint program because debt service is not included in the levy limit. The interest for the short-term loan would be approximately \$10,000 on a \$1 million loan.

A discussion ensued on what was included in the current 2020 budget. Administrator/Treasurer Mertes explained that staff understood Fire Department staffing and streets to be the priorities for 2020. The budget does not currently include every item presented at the July meeting.

Further discussion took place regarding the 2020 street projects. Council Members reiterated that streets are a priority for the citizens. The Council advised Administrator/Treasurer Mertes that she could continue pursuing the possible short-term borrowing as she prepares the 2020 budget but stressed that they are not interested in starting to borrow on a regular or long-term basis.

CONSIDER APPROVAL OF NEW COPIER LEASE AGREEMENT WITH JAMES IMAGING FOR COPIERS IN CITY HALL; AND ACTION THEREON

Clerk Woodall-Vogg explained that the current copier lease for the three machines in City Hall expires at the end of this year. She met with four copier companies and obtained three bids. One

bid was immediately disqualified due to cost and the machines being refurbished. Office Copying Equipment (OCE) and James Imaging both provided leases that either matched or were competitive with the state-negotiated contract. The difference between the two bids was nominal (~\$10 a month), but James Imaging would allow the City to exit their current lease and receive new machines within the next two weeks. She explained that the City will also be switching to quarterly billing for any overages, as well as combining the bill for all three machines in order to avoid unnecessary overage charges by department. The total cost savings of the new lease will be a minimum of \$19,000 over the next five years.

Motion made by Council Member Burkart, seconded by Council Member Galbraith, to approve new copier lease agreement with James Imaging for copiers in City Hall. Motion carried without a negative vote.

CONSIDER REAPPOINTMENT OF RONALD STADLER, AT HIS NEW LAW FIRM OF JACKSON LEWIS P.C., AS COUNSEL FOR MATTERS INVOLVING GENERAL LABOR; AND ACTION THEREON

Administrator/Treasurer Mertes explained that the City has utilized outside counsel from Attorney Ronald Stadler for many years, primarily for matters involving general labor. He became employed at Jackson Lewis P.C. in May of 2019. This letter of engagement and fee agreement reflects his current hourly rate of \$320 at his new firm. He just completed work for the City on the new job descriptions for Administrator and Finance Director/Treasurer and has previously assisted the City with Police Union negotiations.

City Attorney Herbrand affirmed to Council Member Arnett that he thinks this fee is reasonable for an attorney with Mr. Stadler's experience and specialization. Council Member Galbraith spoke to how helpful and talented Mr. Stadler was when they worked together previously.

Motion made by Council Member Burkart, seconded by Council Member Galbraith, to reappoint Ronald Stadler at this new law firm of Jackson Lewis P.C. as counsel for matters involving general labor. Motion carried without a negative vote.

CONSIDER APPROVAL OF NEW FINANCE DIRECTOR/TREASURER POSITION AND RESTRUCTURE CITY ADMINISTRATOR AND FINANCE DIRECTOR/TREASURER JOB DUTIES, EFFECTIVE JANUARY 1, 2020; AND ACTION THEREON

Mayor O'Keefe stated that the Council would like to split the Administrator/Treasurer position into two separate positions. Administrator/Treasurer Mertes has been doing two full-time jobs as one for over 12 years and the Council believes it is time to have a full-time City Administrator and a full-time Finance Director/Treasurer. The Council plans to appoint Administrator/Treasurer Mertes as the new Finance Director/Treasurer. They would like to appoint Assistant Administrator/Director Hilvo as the Interim City Administrator for a 12-month term. The Council will evaluate mid-year whether to enlist a search firm for a permanent Administrator.

Council Member Thome stated that city services would be enhanced by splitting these two positions. She also thinks that Assistant Administrator/Director Hilvo will create organizational change that will make the City more efficient.

Council Member Bublitz said she had been contacted by one of her constituents to voice their support for Assistant Administrator/Director Hilvo in the Interim City Administrator position. Council Member Thome said that she had received a letter in support of him as well from Festivals of Cedarburg.

Council Member Burkart stated that she is very excited about this change because it is putting two people in positions where they belong and will thrive. She can see Administrator/Treasurer Mertes' passion for budget and finance.

Mayor O'Keefe pointed out that a full-time City Administrator will be able to focus on economic development. Council Member Arnett asked that the job description for the City Administrator be reviewed further and that more economic development responsibilities be added. Council Member Galbraith agreed and clarified that the vote before them was the creation of the two separate positions, not final approval of job descriptions. Clerk Woodall-Vogg confirmed that job descriptions would be finalized at a later date.

Motion made by Council Member Thome, seconded by Council Member Arnett, to approve a new Finance Director/Treasurer and to restructure the City Administrator and Finance Director/Treasurer job duties, effective January 1, 2020. Motion carried without a negative vote.

CONSIDER RECLASSIFICATION OF PARKS & FORESTRY SUPERINTENDENT TO CITY FORESTER AND CREATING ONE SUPERINTENDENT POSITION AT THE PUBLIC WORKS FACILITY; AND ACTION THEREON

Assistant Administrator/Director Hilvo explained that he cannot be present at the Public Works facility on a daily basis, so there has been confusion figuring out who Parks and Forestry staff report to for daily assignments and oversight. Assistant Administrator/Director Hilvo proposed that all Parks and Forestry staff report to Public Works Superintendent Joel Bublitz for daily assignments. The Director of Parks, Recreation, and Forestry and the Director of Public Works and Engineering will work with the Public Works Superintendent to determine workflow and priorities. Assistant Administrator/Director Hilvo stated that this structure will create a more cohesive team and eliminate the divide between Parks, Forestry, and Public Works.

Council Member Burkart stated that in reading the Personnel Committee notes it appeared that Superintendent Westphal was either confused or in disagreement with this decision.

Assistant Administrator/Director Hilvo explained that prior to 2005, there was only one Superintendent at the garage. The City then tried out having two Superintendents and there was a lot of "tug of war" on who got staff assigned to projects each morning. Over the years, it caused personnel issues and made services inefficient. He made the proposed changes over a year ago, and they have improved operations. He is requesting that the Council make it official.

Council Member Galbraith stated that employees' tasks, supervision, and organizational structure should come from the boss. He understands the need to have an operational supervisor that oversees both divisions and determines what is in the best interest of the City each day.

Council Member Thome asked Superintendent Bublitz if he thought this was manageable. Superintendent Bublitz said that he can balance the employees and that they are all very well-

rounded. He has had his staff focus on street projects more because he understood that as the current priority.

Council Member Bublitz asked how many staff this change affects and how many more employees Superintendent Bublitz would be supervising. He currently supervises nine Public Works employees. This change would add four Parks & Forestry full-time staff, plus six to ten additional Parks and Forestry seasonal staff in the summer.

Superintendent Bublitz stated that he is honored to be asked to take on this responsibility but feels like there is a lot of gray areas that need clarification. The organizational chart shown at the Personnel Committee meeting did not show the Public Works branch, with all his existing responsibilities. He suggested that the City look at reorganizing and promoting employees to foremen or lead operators so that he has a support system and clear chain of command. He is confident that he can do a good job, but thinks that many puzzle pieces are still missing.

Council Member Galbraith stated that no one was asking Superintendent Bublitz to supervise every employee under Parks and Forestry. The Forester, for example, will oversee the day-to-day operations of his staff. The Superintendent will help set priorities. It is the job of the City Administrator or Department Head to determine the duties and responsibilities of their staff. If the Department Head or City Administrator thinks that an increase in salaries or change in titles is necessary, he will make that decision and gain the input of the staff.

Council Member Bublitz reiterated that Superintendent Bublitz's concerns should be shared with Director Wiza and Assistant Administrator/ Director Hilvo.

Motion made by Council Member Arnett, seconded by Council Member Thome, to reclassify Parks & Forestry Superintendent to City Forester and create one superintendent position at the Public Works facility. Motion carried without a negative vote.

CONSIDER LICENSE/PERMIT APPLICATIONS; AND ACTION THEREON

Motion made by Council Member Verhaalen, seconded by Council Member Bublitz, to approve new Operator License applications for the period ending June 30, 2020 for: Rebekah J. Batchelder, David A. Bretsch, Robin L. Hammetter, and Luz M. Martin. Motion carried without a negative vote.

Motion made by Council Member Verhaalen, seconded by Council Member Galbraith, to approve the appointment of Allen L. Naparalla as agent for Chiselled Grape Winery LLC at W64 N713 Washington Avenue.

CONSIDER PAYMENT OF BILLS DATED 09/05/19 THROUGH 09/20/19, TRANSFERS FOR THE PERIOD 09/04/19 THROUGH 09/27/19; AND PAYROLL FOR THE PERIOD 08/25/19 THROUGH 09/21/19; AND ACTION THEREON

Motion by Council Member Burkart, seconded by Council Member Verhaalen, to approve payment of bills dated 09/05/19 through 09/20/19, transfers for the period 09/04/19 through 09/27/19; and payroll for the period 08/25/19 through 09/21/19. Motion carried without a negative vote.

ADMINISTRATOR’S REPORT

Chief Frank asked Administrator/Treasurer Mertes to share that the Police Department passed their accreditation. She praised the Department’s huge accomplishment.

COMMENTS AND SUGGESTIONS FROM CITIZENS – None

COMMENTS & ANNOUNCEMENTS BY COUNCIL MEMBERS – None

MAYOR’S REPORT - None

ADJOURNMENT – CLOSED SESSION

Motion made by Council Member Burkart, seconded by Council Member Bublitz, to adjourn to closed session at 8:55 p.m. pursuant to State Statute 19.85(1)(c) to consider employment, promotion, compensation or performance evaluation data of a public employee subject to the jurisdiction or authority of the governing body, more specifically to discuss compensation offers for Finance Director/Treasurer, Interim City Administrator, and Interim Parks, Recreation, and Forestry Director. Motion carried on a roll call vote with Council Members Bublitz, Arnett, Burkart, Verhaalen, Chivinski, Thome and Galbraith voting in favor.

RECONVENE TO OPEN SESSION

Motion made by Council Member Arnett, seconded by Council Member Thome, to reconvene to open session at 9:44 p.m. Motion carried on a roll call vote with Council Members Bublitz, Arnett, Burkart, Verhaalen, Chivinski, Thome and Galbraith voting in favor.

ADJOURNMENT

Motion made by Council Member Arnett, seconded by Council Member Burkart, to adjourn the meeting at 9:44 p.m. Motion carried without a negative vote.

Claire Woodall-Vogg
City Clerk