

**CITY OF CEDARBURG
COMMON COUNCIL
October 14, 2019**

**CC20191014-1
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, October 14, 2019, at City Hall, W63 N645 Washington Avenue, second floor, Council Chambers. Mayor O’Keefe called the meeting to order at 7:04 p.m.

Roll Call: Present - Mayor Michael O’Keefe, Council Members Sherry Bublitz, Jack Arnett, Kristin Burkart, Rick Verhaalen, Patricia Thome, Rod Galbraith

Excused - Council Member Garan Chivinski

Also Present - City Administrator/Treasurer Christy Mertes, City Attorney Michael Herbrand, Deputy City Clerk Amy Kletzien, Director of Engineering and Public Works Tom Wiza, Parks, Recreation & Forestry Director/Assistant City Administrator Mikko Hilvo, Recreation Supervisor Danny Friess, City Clerk Claire Woodall-Vogg, City Assessor Cathy Timm, Building Inspector Mike Baier, City Planner Jon Censky, Police Chief Thomas Frank, Fire Chief Jeff Vahsholtz, Public Works Superintendent Joel Bublitz, Water Recycling Superintendent Eric Hackert, Senior Center Director Aubrey Suppiger, Ozaukee County Highway Commissioner Jon Edgren, Attorney Arthur Harrington of Godfrey Kahn S.C., 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 Bublitz, to approve the minutes of the September 30, 2019 meeting. Motion carried without a negative vote with Council Member Chivinski excused.

COMMENTS AND SUGGESTIONS FROM CITIZENS – None

NEW BUSINESS

CONSIDER OUTDOOR ALCOHOL BEVERAGE LICENSE FOR THE CEDARBURG CULTURAL CENTER AT W62 N546 WASHINGTON AVENUE; AND ACTION THEREON

Planner Censky explained that the Cedarburg Cultural Center is requesting an Outdoor Alcohol Beverage license to serve drinks on their recently approved/constructed patio adjacent to the rear doors. This patio was constructed to serve as overflow space for events and other Cultural Center activities. The space is designed with raised seating surrounding the entire patio area and to control the

outdoor activity the Cultural Center staff will be responsible for ensuring that alcoholic beverages stay within the permitted area.

The Plan Commission recommended approval at their October 7 meeting subject to the condition that appropriate signage for trash disposal is added and barriers be installed at all outside access points to ensure that ingress and egress to this area is from the Cultural Center only.

Council Member Arnett complimented the Cultural Center on a great plan and addition to the Center.

Motion made by Council Member Thome, seconded by Council Member Burkart, to approve the Outdoor Alcohol Beverage license for the Cedarburg Cultural Center at W62 N546 Washington Avenue including the conditions from the Plan Commission. Motion carried without a negative vote with Council Member Chivinski excused.

CONSIDER APPROVAL OF THE CERTIFIED SURVEY MAP FOR THE CEDARBURG HIGH SCHOOL SITE AT W68 N611 EVERGREEN BOULEVARD; AND ACTION THEREON

Planner Censky explained that the School District has submitted this Certified Survey Map which will serve to dedicate the ultimate road right-of-way for the portions of Evergreen Boulevard, Cleveland Street and Juniper Lane that their property fronts. This CSM submittal was required by the Plan Commission as a condition of their approval of the recent addition to the High School. Since the purpose of this CSM is to dedicate public road right-of-way, Common Council approval is required.

Motion made by Council Member Burkart, seconded by Council Member Bublitz, to approve the Certified Survey Map for the Cedarburg High School site at W68 N611 Evergreen Boulevard. Motion carried without a negative vote with Council Member Chivinski excused.

CONSIDER APPROVAL OF SETTLEMENT AGREEMENT WITH THE WISCONSIN DEPARTMENT OF NATURAL RESOURCES TO RESOLVE THE PENDING CONTESTED CASE CHALLENGE OF THE PHOSPHORUS WATER QUALITY-BASED EFFLUENT LIMITS; AND ACTION THEREON

Director Wiza explained that the City retained Godfrey and Kahn in May 2017 to file for a contested case hearing which challenged certain aspects of the WPDES permit issued to the wastewater facility. The water quality-based phosphorus limits and compliance schedule were a primary focus of the challenge, and there were several technical issues in need of clarification. At the time, the total mass daily loadings (TMDL) imposed by the DNR were still under review by the EPA, therefore, the City risked being subject to limitations that were potentially more restrictive than those ultimately imposed by the EPA. Filing the contested case hearing preserved the City's right to negotiate. The EPA has since approved the TMDL and the City has obtained the clarifications required, so the City believes there is little value in further pursuing the contested case hearing.

Attorney Harrington added that the EPA has reissued a permit with less stringent limits which can be achieved by the City. He is in favor of approving the settlement agreement with the WDNR to resolve the pending contested case challenge. This will initiate a public comment hearing and a 60-day challenge period; whereas, the challenge will be dismissed if no challenges are received.

In answer to Council Member Arnett's question, Attorney Harrington said that several communities including Grafton have gone through this process. Grafton's process is approximately one month further along than the City of Cedarburg. He believes the results are better than if they were not challenged.

In answer to Mayor O'Keefe's question, Attorney Harrington said the new permit is good for five years, and possibly another five years may be added, before full compliance is mandatory.

Motion made by Council Member Burkart, seconded by Council Member Arnett, to approve the settlement agreement with the Wisconsin Department of Natural Resources to resolve the pending contested case challenge of the phosphorus water quality-based effluent limits. Motion carried without a negative vote with Council Member Chivinski excused.

CONSIDER REQUEST TO FILL WASTEWATER OPERATOR POSITION; AND ACTION THEREON

Superintendent Hackert explained that an operator position is open due to the resignation of one of the six operators. It is important to have this position filled because of the work required and the necessity of having staff on hand to help cover for people when they are off due to vacations, sick leave, etc. He continues to lose experienced operators and has limited knowledge with the current group of employees. With full staffing of six people, the Center will be able to provide the work and services required at an efficient level and in a safe environment.

Motion made by Council Member Verhaalen, seconded by Council Member Bublitz, to approve request to fill the Wastewater Operator position. Motion carried without a negative vote with Council Member Chivinski excused.

DISCUSS ADDITIONAL SIGNAGE AND FUNDING OF POSSIBLE SIGNAGE AT PIONEER ROAD/INTERURBAN TRAIL CROSSING; AND ACTION THEREON

Director Wiza explained that this crossing has become contentious, due to a fatal accident, and requires further discussion. County Highway Commissioner Jon Edgren was invited to the meeting to discuss cost-sharing options for improvements to the crossing.

Highway Commissioner Edgren explained that cities and villages along the Ozaukee County Interurban Trail are responsible for the trail in their communities. If a community wants to improve a crossing, the County will work with the municipality to issue a permit; however, the city or village is responsible for the cost.

In answer to Council Member Burkart's question, Highway Commissioner Edgren said that Port Washington paid for an improvement to a crossing in their community.

Mayor O'Keefe expressed concern for indemnification once a permit is issued by the County.

Highway Commissioner Edgren was in favor of a study on the crossing rather than doing any improvements based on his PE license. The County would split the cost of the study with the City.

In answer to Council Member Bublitz's question, Highway Commissioner Edgren said the County's position is that any improvements made to a pedestrian crossing on a County Highway is the responsibility of the municipality where the crossing is located.

Council Member Galbraith opined that the City and County should not spend money on a study because people make decisions that cannot be engineered.

Highway Commissioner Edgren said that the study was agreed upon by the County to determine if something should be done at this crossing. He added that the City had purchased additional signs for the crossing and the County had installed them prior to the accident.

Director Wiza said that another option for the crossing would be to add cantilevered signs with trombone arms over the crossing, like those at the Washington Avenue and Pioneer Road intersection.

In answer to Director Wiza's comment regarding the possibility of a Highway Safety Improvement (HSIP) grant, Highway Commissioner Edgren said that the grants are based on accident history and there have not been any other reported accidents for this crossing, reducing the likelihood of receiving one.

Council Member Burkart added that the City should spend time on public education through the website and social media. There are soccer fields nearby and children may be crossing in this area to get to the fields.

Council Member Bublitz was in favor of adding signage that encourages people to cross at the Washington Avenue/Pioneer Road intersection. People need to be reminded that automobiles have the right-of-way at the trail crossings.

Assistant City Administrator/Director Hilvo said that public education can be done through the Interurban Trail Advisory Committee that is made up of representatives from each community included within the trail.

It was the consensus of the Common Council to ask the County to help fund additional signs for the Pioneer Road trail crossing.

Highway Commissioner Edgren will be attending a County Public Works meeting later in the week and they can discuss this request.

CONSIDER APPOINTMENT OF MIKKO HILVO AS INTERIM CITY ADMINISTRATOR, EFFECTIVE JANUARY 1, 2020, FOR A 12-MONTH TERM; AND ACTION THEREON

Motion made by Council Member Bublitz, seconded by Council Member Thome, to approve the appointment of Mikko Hilvo as Interim City Administrator, effective January 1, 2020, for a 12-month term. Motion carried without a negative vote with Council Member Chivinski excused.

CONSIDER APPOINTMENT OF CHRISTY MERTES AS FINANCE DIRECTOR/TREASURER, EFFECTIVE JANUARY 1, 2020; AND ACTION THEREON

Motion made by Council Member Burkart, seconded by Council Member Bublitz, to approve the appointment of Christy Mertes as Finance Director/Treasurer, effective January 1, 2020. Motion carried without a negative vote with Council Member Chivinski excused.

CONSIDER PROPOSED 2020 BUDGET; DISCUSSION AND DIRECTION THEREON

City Administrator/Treasurer Mertes said that she was optimistic that the budget will look better, as items continue to change until the beginning of November.

The following items adding to the increase in the current draft budget include:

- Change to assessed value
- 2% salary increase
- Increase in health insurance premiums above 7%
- 6% increase in refuse and recycling costs
- Reorganization of City Hall Staff

City Administrator/Treasurer Mertes said it may help to use fund balance for the City Administrator search next year. Recodification is necessary and was added back into the budget (\$10,000 from General Fund and \$5,000 from Water Recycling Center Fund). Using fund balance for various items would help balance the budget. Currently, there is a projected tax increase of 0.76/\$1,000 with this draft budget. The City needs to work within the tax levy limit and expenditure restraint program.

Assistant City Administrator/Director Hilvo said that the Parks, Recreation & Forestry Department needs a Director to direct operations and oversee the budgeting. It would be a disservice not to maintain the Director position. He wants to fill the Recreation Supervisor position as a salaried position.

Council Member Bublitz asked if the Parks, Recreation & Forestry Department could be overseen by a manager who could eventually move into the director position.

Council Member Galbraith said that staffing and restructuring needs to be reviewed for optimal efficiency.

Council Member Thome was in favor of filling the director position.

Council Member Galbraith said that a larger issue is the increase in health insurance and questioned whether there would be further discussion on an employee contribution.

City Administrator/Treasurer Mertes said that the Personnel Committee agreed to hold off on an employee contribution until the compensation study review is completed, in order to look at the whole picture. The Committee can revisit contributions at its next meeting.

Council Member Galbraith wants to see the health insurance costs and what it does to the budget.

City Administrator/Treasurer Mertes said that the health insurance costs are unknown and are still being negotiated. Whatever is decided also needs to be considered in the Police Union negotiations.

Council Member Thome said the Council needs to address the Director of Parks, Recreation & Forestry for this budget. Promoting from within for the interim positions will be a cost savings for the City.

Council Member Verhaalen asked Assistant City Administrator/Director Hilvo for a copy of the organizational chart for his department.

Mayor O'Keefe suggested a clerical position was needed in the department to keep the office open.

In answer to Council Member Verhaalen's question, City Administrator/Treasurer Mertes reviewed the capital budget affecting the tax levy increase.

In answer to Council Member Burkart's question regarding the Woolen Mill Dam work, Director Wiza explained that the project will need to go out for bid before the City can apply for any grants.

City Administrator/Treasurer Mertes said that \$400,000 is in the capital budget for the Woolen Mill Dam in 2020.

Council Member Verhaalen suggested that if the bids come in at \$1 million, repairing the dams should go to a referendum.

Council Member Arnett agreed that the voters should decide whether the dams are removed.

Council Member Burkart asked if Police Chief Frank could apply for a Public Safety Answering Point (PSAP) grant through the Department of Military affairs for the Department's 911 upgrade. Police Chief Frank said that the County received this grant, so it is no longer available to the City.

Scheduled street repairs were discussed with Director Wiza and it was determined not to change the schedule or allocated amount for repairs.

City Administrator/Treasurer Mertes encouraged the Council Members to contact her with any questions or comments concerning the budget.

CONSIDER TERMINATION OF JAMES IMAGING CONTRACT FOR CITY HALL COPIERS AND APPROVE NEW CONTRACT WITH OFFICE COPYING EQUIPMENT LTD; AND ACTION THEREON

City Clerk Woodall-Vogg asked the Common Council to table this item to the next meeting to allow her and City Administrator/Treasurer Mertes more time to try and resolve customer service problems and make a sound decision.

Motion made by Council Member Arnett, seconded by Council Member Thome, to postpone the consideration of termination of James Imaging contract for City Hall copiers and approval of new contract with Office Copying Equipment Ltd. to the next meeting. Motion carried without a negative vote with Council Member Chivinski excused.

CONSIDER LICENSE/PERMIT APPLICATIONS; AND ACTION THEREON

Motion made by Council Member Verhaalen, seconded by Council Member Galbraith, to approve new Operator License applications for the period ending June 30, 2020 for Tyler Wittock and Jordan Ganther. Motion carried without a negative vote with Council Member Chivinski excused.

Motion made by Council Member Burkart, seconded by Council Member Bublitz, to approve the appointment of Deanna Liebelt as agent for Walgreens #13620 at W62 N190 Washington Avenue. Motion carried without a negative vote with Council Member Chivinski excused.

CONSIDER PAYMENT OF BILLS DATED 09/19/19 THROUGH 10/04/19, TRANSFERS FOR THE PERIOD 09/28/19 THROUGH 10/11/19; AND PAYROLL FOR THE PERIOD 09/22/19 THROUGH 10/05/19; AND ACTION THEREON

Motion made by Council Member Burkart, seconded by Council Member Bublitz, to approve payment of bills dated 09/19/19 through 10/04/19, transfers for the period 09/28/19 through 10/11/19; and payroll for the period 09/22/19 through 10/05/19. Motion carried without a negative vote with Council Member Chivinski excused.

ADMINISTRATOR'S REPORT - None

COMMENTS AND SUGGESTIONS FROM CITIZENS – None

COMMENTS & ANNOUNCEMENTS BY COUNCIL MEMBERS

Council Member Arnett congratulated Brandywine for making the list of the top 30 best restaurants in the Milwaukee area and the Rivoli Theatre for being included in the Milwaukee Film Festival.

Mayor O'Keefe reported that he attended a Greater Milwaukee Foundation Open Table with Council Member Arnett where they discussed social welfare issues. Council Member Arnett added that transportation for employees was discussed to bring employment to the area. There are a significant number of residents in Ozaukee County who have trouble making ends meet and would be burdened with a 10% tax increase.

MAYOR'S REPORT - None

ADJOURNMENT – CLOSED SESSION

Motion made by Council Member Arnett, seconded by Council Member Burkart, to adjourn to closed session at 8:37 p.m. pursuant to State Statute 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 consider cellular tower leases for location on the monopole constructed on Western Avenue. Approval of September 30, 2019 closed session minutes. Motion carried unanimously on a roll call vote with Council Member Chivinski excused.

RECONVENE TO OPEN SESSION

Motion made by Council Member Arnett, seconded by Council Member Burkart, to reconvene to open session at 8:46 p.m. Motion carried unanimously on a roll call vote with Council Member Chivinski excused.

CONSIDER REVISED CELLULAR TOWER LEASE WITH AT&T FOR LOCATION ON THE MONOPOLE CONSTRUCTED ON WESTERN AVENUE; AND ACTION THEREON

Motion made by Council Member Arnett, seconded by Council Member Verhaalen, to approve the revised cellular tower lease with AT&T for location on the monopole constructed on Western Avenue subject to the review of the final exhibits by City Staff, City Attorney Michael Herbrand and SEH Consultant. Motion carried without a negative vote with Council Member Chivinski excused.

ADJOURNMENT

Motion made by Council Member Arnett, seconded by Council Member Bublitz, to adjourn the meeting at 8:47 p.m. Motion carried without a negative vote with Council Member Chivinski excused.

Amy D. Kletzien, MMC/WCPC
Deputy City Clerk