

**CITY OF CEDARBURG
COMMON COUNCIL
December 9, 2019**

**CC20191209-1
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, December 9, 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 Bublitz (arrived at 7:07 p.m.), Jack Arnett, Kristin Burkart, Rick Verhaalen, Garan Chivinski, Patricia Thome,

Excused - Council Member Rod Galbraith

Also Present - City Administrator/Treasurer Christy Mertes, City Attorney Michael Herbrand, Attorney Ronald Stadler, Deputy City Clerk Amy Kletzien, Director of Engineering and Public Works Tom Wiza, Parks, Recreation & Forestry Director/Assistant City Administrator Mikko Hilvo, Police Chief Thomas Frank, City Planner Jon Censky, Light & Water General Manager Dale Lythjohan, Public Works Superintendent Joel Bublitz, 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 November 25, 2019 meeting. Motion carried without a negative vote with Council Members Galbraith and Bublitz excused.

COMMENTS AND SUGGESTIONS FROM CITIZENS - None

PUBLIC HEARINGS

CONSIDER ORDINANCE NO. 2019-23 AMENDING SECTION 13-1-101(G) OF THE ZONING CODE TO IMPOSE A MAXIMUM SIZE AND NUMBER OF STRUCTURES PER LOT LIMITS ON ACCESSORY STRUCTURES SO THAT ALL SUCH STRUCTURES COMBINED SHALL NOT EXCEED 720 SQUARE FEET AND THAT THERE BE NO MORE THAN TWO ACCESSORY STRUCTURES PERMITTED PER LOT; AND ACTION THEREON

Mayor O'Keefe opened the public hearing at 7:03 p.m. to consider Ordinance No. 2019-23 amending Section 13-1-101(G) of the Zoning Code to impose a maximum size and number of structures per lot

limits on accessory structures so that all such structures combined shall not exceed 720 square feet and that there be no more than two accessory structures permitted per lot.

Planner Censky explained that the current Zoning Code regulates accessory detached structures on residential parcels by location and height but relies on the Floor Area Ratio (FAR) to regulate size. Staff feels that while the FAR requirement provides enough control over the size of such structures on smaller lots, it provides little control over the size of accessory structures on large lots. It is possible under the current formula that a large pole building type structure can result where it dominates the look of a neighborhood. While the City has received but a few requests for accessory structures of excessive size, those that were permitted are in areas where the larger size fit the area. However, there are a scattering of larger lots located in areas surrounded by much smaller lots where staff would be unable to refuse issuance of a permit for a large accessory structure unbefitting the neighborhood.

He further explained that after discussing this with Building Inspector Baier and researching other municipal zoning codes, they find that many communities regulate the size of accessory structures that combined shall not exceed 720 square feet and that there be no more than two accessory structures permitted per lot on residential sites only. The Plan Commission agreed unanimously with this proposed recommendation at their October 7 meeting.

Council Member Burkart expressed concern for limiting people with large lots of an acre or more. She would like more of a variance.

Planner Censky said that the Board of Appeals is always available to residents.

Council Member Verhaalen asked if this was necessary and expressed concern for resident's property rights.

Council Member Thome said that a variance can be obtained on larger properties. This change does not only affect property rights, but it protects neighbors also from possibly having a large structure overpower their houses. Property rights are a two-way street.

In answer to Council Member Thome's question, Planner Censky stated that the 720 square feet maximum is a common figure used in surrounding communities and was agreed upon with Building Inspector Baier.

There was no public comment.

Motion made by Council Member Thome, seconded by Council Member Bublitz, to close the public hearing at 7:19 p.m. Motion carried without a negative vote with Council Member Galbraith excused.

Motion made by Council Member Arnett, seconded by Council Member Thome, to adopt Ordinance No. 2019-23 amending Section 13-1-101(G) of the Zoning Code to impose a maximum size and number of structures per lot limits on accessory structures so that all such structures combined shall not exceed 720 square feet and that there be no more than two accessory structures permitted per lot. Motion carried with Council Members Bublitz, Arnett, Chivinski and Thome voting in favor, Council Members Burkart and Verhaalen opposed, and Council Member Galbraith excused.

CONSIDER ORDINANCE NO. 2019-24 AMENDING SECTION 13-1-54(d) OF THE ZONING CODE TO PERMIT MICRO-BREWERIES AS A CONDITIONAL USE IN THE B-2 COMMUNITY BUSINESS DISTRICT; AND ACTION THEREON

Mayor O'Keefe opened the public hearing at 7:22 p.m. to consider Ordinance No. 2019-24 amending Section 13-1-54(d) of the Zoning Code to permit micro-breweries as a Conditional Use in the B-2 Community Business District.

Planner Censky explained that Gary Kabitzke is requesting a zoning text amendment to add "microbreweries" to the list of uses permitted in the B-2 Community Business District. This amendment will create the approval process for Mr. Kabitzke to pursue the operation of a microbrewery from within the vacant building that formerly housed the Larson Paint store at W51 N729 Keup Road. If this zoning text amendment is approved, Mr. Kabitzke will then need to submit his application for Conditional Use consideration by the Plan Commission. As indicated in his application, Mr. Kabitzke will be producing craft beers, sodas and have a tasting bar for the sale of beer, wine and soda on site and to sell beer to bars, restaurants and to distribution stores. The Plan Commission recommended unanimously that this use be added to the list of conditional uses where appropriate conditions can be applied.

There was no public comment.

Motion made by Council Member Thome, seconded by Council Member Bublitz, to close the public hearing at 7:25 p.m.

Council Member Thome stated that some of her constituents have expressed concern about the location of the microbrewery.

Mayor O'Keefe stated that he has heard enthusiasm for the business.

In answer to Council Member Verhaalen's question, Planner Censky explained that a public hearing will be required to approve the business at the proposed location.

Motion made by Council Member Verhaalen, seconded by Council Member Thome, to adopt Ordinance No. 2019-24 amending Section 13-1-54(d) of the Zoning Code to permit micro-breweries as a Conditional Use in the B-2 Community Business District. Motion carried without a negative vote with Council Member Galbraith excused.

ADJOURNMENT – CLOSED SESSION

Motion made by Council Member Thome, seconded by Council Member Bublitz, to adjourn to closed session at 7:28 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 discuss 2020-2022 Police Union Contract. Motion carried on a roll call vote with Council Members Bublitz, Arnett, Burkart, Verhaalen, Chivinski, and Thome voting aye and Council Member Galbraith excused.

RECONVENE TO OPEN SESSION

Motion made by Council Member Burkart, seconded by Council Member Thome, to reconvene to open session at 7:50 p.m. Motion carried on a roll call vote with Council Members Bublitz, Arnett, Burkart, Verhaalen, Chivinski, and Thome voting aye and Council Member Galbraith excused.

NEW BUSINESS

CONSIDER APPROVAL OF 2020-2022 POLICE UNION CONTRACT; AND ACTION THEREON

Motion made by Council Member Arnett, seconded by Council Member Chivinski, to approve the 2020-2022 Police Union contract. Motion carried without a negative vote with Council Member Galbraith excused.

CONSIDER APPROVAL OF PLAT FOR THE SECOND ADDITION TO ZUR RUHE CEMETERY; AND ACTION THEREON

Director Wiza explained that Zur Ruhe Cemetery is starting to run short of available gravesites and thus staff has initiated the platting of another section of cemetery land. The City has verified that the bedrock is more than six feet down in this area, and the gravesites are readily accessible from existing cemetery roads. This area is immediately north of the Interurban Trail. The Public Works and Sewerage Commission previously reviewed and approved the platting.

Motion made by Council Member Burkart, seconded by Council Member Bublitz, to approve the plat for the second addition to Zur Ruhe cemetery. Motion carried without a negative vote with Council Member Galbraith excused.

CONSIDER REQUEST TO FILL VACANCY AT THE DEPARTMENT OF PUBLIC WORKS AND AN INTERNAL PROMOTION TO PUBLIC WORKS FOREMAN; AND ACTION THEREON

Assistant City Administrator/Parks, Recreation & Forestry Director Hilvo explained that a crewperson is retiring January 2, 2020 at the Department of Public Works. The Department is looking to fill the vacant position as soon as possible, due to the workload of winter plowing and to promote internally for the foreman position as part of the Public Works Department restructuring. The hiring and promoting will be done within the 2020 budget parameters. This item did not go to the Personnel Committee because the timing is critical.

In answer to Council Member Verhaalen's question, City Administrator/Treasurer Mertes explained that this is a perfect opportunity to aid Superintendent Bublitz with his additional duties.

Director Wiza explained that a foreman would serve a number of functions in assisting Superintendent Bublitz with planning snowplow routes, making work assignments, and being on call on weekends during vacations.

Motion made by Council Member Verhaalen, seconded by Council Member Thome, to approve request to fill the vacancy at the Department of Public Works and an internal promotion to Public Works Foreman. Motion carried without a negative vote with Council Member Galbraith excused.

CONSIDER RESOLUTION NO. 2019-17 HONORING CHRISTY MERTES AS CITY ADMINISTRATOR/TREASURER; AND ACTION THEREON

Motion made by Council Member Thome, seconded by Council Member Bublitz, to approve Resolution No. 2019-17 honoring Christy Mertes as City Administrator/Treasurer. Motion carried without a negative vote with Council Member Galbraith excused.

The Mayor and Common Council presented Resolution No. 2019-17, along with congratulating and thanking City Administrator/Treasurer Mertes for her service as City Administrator for 13 years and wished her well in her new position as Finance Director/Treasurer.

CONSIDER ORDINANCE NO. 2019-25 AMENDING SEC. 3-6-3 TO 3-6-7 OF THE MUNICIPAL CODE ADJUSTING THE IMPACT FEES FOR LIBRARY FACILITIES, POLICE DEPARTMENT FACILITIES, WATER SUPPLY FACILITIES, PARK FACILITIES, AND WASTEWATER TREATMENT PLANT; ORDINANCE NO. 2019-26 AMENDING SEC. 14-1-84 ADJUSTING THE FEES IN LIEU OF PARKLAND AND AMENDING SEC. 14-1-100(g) ADJUSTING THE PUBLIC SITE FEES; AND ORDINANCE NO. 2019-27 AMENDING SEC. 9-2-6(c) ADJUSTING THE SANITARY SEWER CONNECTION FEE BASED ON THE CONSTRUCTION COST INDEX PUBLISHED IN THE ENGINEERING NEWS RECORD AND CALCULATED BASED ON THE ANNUAL INCREASE IN THE CCI INDICES; AND ACTION THEREON

Director Wiza explained that Ordinance No. 2019-25 adjusts impact fees, Ordinance No. 2019-26 updates fees in lieu of parkland, and Ordinance No. 2019-27 adjusts the sewer connection fee. These ordinances are updated in December of each year based on the annual increase in the Construction Cost Index, which is 1.75%.

Motion made by Council Member Arnett, seconded by Council Member Chivinski, to adopt Ordinance No. 2019-25 amending Sec. 3-6-3 to 3-6-7 of the Municipal Code adjusting the impact fees for Library facilities, Police Department facilities, Water Supply facilities, Park facilities, and Wastewater Treatment Plant; Ordinance No. 2019-26 amending Sec. 14-1-84 adjusting the fees in lieu of parkland and amending Sec. 14-1-100(g) adjusting the public site fees; and Ordinance No. 2019-27 amending Sec. 9-2-6(c) adjusting the sanitary sewer connection fee based on the Construction Cost Index published in the Engineering News Record and calculated based on the annual increase in the CCI Indices. Motion carried without a negative vote with Council Member Galbraith excused.

CONSIDER APPOINTMENT OF ELECTION OFFICIALS FOR THE PERIOD 1/1/2020 THROUGH 12/31/2021; AND ACTION THEREON

Election Officials are appointed by the Mayor in December of odd-numbered years to serve a two-year term. The election officials to be considered will serve for the January 1, 2020 – December 31, 2021 term. This list includes the names provided by the Ozaukee County Republican Party as allowed under State Statutes.

Motion made by Council Member Burkart, seconded by Council Member Bublitz, to approve the appointment of Election Officials for the period 1/1/2020 through 12/31/2021. Motion carried without a negative vote with Council Member Galbraith excused.

CONSIDER LICENSE/PERMIT APPLICATIONS; AND ACTION THEREON

Motion made by Council Member Verhaalen, seconded by Council Member Arnett, to approve new Operator License applications for the period ending June 30, 2020 for Jonathan Brumwell, Rebecca Rogahn, and Travis Sette. Motion carried without a negative vote with Council Member Gailbrath excused.

CONSIDER PAYMENT OF BILLS DATED 11/22/19 THROUGH 12/02/19, TRANSFERS FOR THE PERIOD 11/9/19 THROUGH 12/6/19; AND PAYROLL FOR THE PERIOD 11/3/19 THROUGH 11/30/19; AND ACTION THEREON

Council Member Verhaalen clarified the payment of several bills.

Motion made by Council Member Burkart, seconded by Council Member Verhaalen, to approve payment of bills dated 11/22/19 through 12/02/19, transfers for the period 11/9/19 through 12/6/19; and payroll for the period 11/3/19 through 11/30/19. Motion carried without a negative vote with Council Member Galbraith excused.

ADMINISTRATOR'S REPORT – No additional information was added.

COMMENTS AND SUGGESTIONS FROM CITIZENS - None

COMMENTS & ANNOUNCEMENTS BY COUNCIL MEMBERS

Council Member Bublitz thanked Mayor O'Keefe for a successful tree lighting.

MAYOR'S REPORT - None

ADJOURNMENT – CLOSED SESSION

Motion made by Council Member Thome, seconded by Council Member Burkart, to adjourn to closed session at 8:15 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 discuss Highway 60 Business Park. Approve closed session minutes from November 25, 2019. Motion carried on a roll call vote with Council Members Bublitz, Arnett, Burkart, Verhaalen, Chivinski and Thome voting aye and Council Member Galbraith excused.

RECONVENE TO OPEN SESSION

Motion made by Council Member Arnett, seconded by Council Member Thome, to reconvene to open session at 9:42 p.m. Motion carried unanimously on a roll call vote with Council Members Bublitz, Arnett, Burkart, Verhaalen, Chivinski, and Thome voting aye and Council Member Galbraith excused.

ADJOURNMENT

Motion made by Council Member Arnett, seconded by Council Member Chivinski, to adjourn the meeting at 9:43 p.m. Motion carried without a negative vote with Council Member Galbraith excused.

Amy D. Kletzien, MMC/WCPC
Deputy City Clerk