

**CITY OF CEDARBURG  
COMMON COUNCIL  
July 13, 2020**

**CC20200713-1  
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held online on Monday, July 13, 2020, utilizing the Zoom app.

Mayor O’Keefe called the meeting to order at 7:03 p.m.

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

Excused - Robert Simpson

Also Present - City Administrator Mikko Hilvo, City Attorney Michael Herbrand, Deputy City Clerk Amy Kletzien, Finance Director/Treasurer Christy Mertes, Planner Jon Censky, 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.

**COMMENTS AND SUGGESTIONS FROM CITIZENS**

Patty Kubala, N67 W5475 Columbia Road, explained the Unifest Program that was sponsored by the NAACP and supported by the schools. This program ran for many years engaging teachers and students from different schools to participate in retreats focusing on diversity and multi-culturalism. Some of the students that participated in the program are working adults and would be very interested in assisting the Diversity Committee any way possible. Patty Kubala also expressed interest in serving on the Diversity Committee.

Harold Wendt, W55 N511 Highland Drive, expressed concern for the wooden structure built on the back of the Bozeman’s Bar parking lot being built without a permit. He understood there was a special provision allowed by the City to help businesses during the pandemic by allowing temporary structures; however, this structure is permanent. He would like the City to investigate this structure.

City Planner Censky explained that Building Inspector Baier viewed the structure and determined that it is a permanent structure that was built during the pandemic period and will not be taken down. Planner Censky stated that he would follow through on this structure and call Mr. Wendt on Tuesday.

**APPROVAL OF MINUTES**

Motion made by Council Member Arnett, seconded by Council Member Burkart, to approve the June 22 and June 29, 2020 Common Council minutes. Motion carried without a negative vote with Council Member Simpson excused.

**NEW BUSINESS**

**CONSIDER OUTDOOR ALCOHOL BEVERAGE LICENSE FOR BOZEMAN'S BAR LOCATED AT N50 W5586 PORTLAND ROAD; AND ACTION THEREON**

Planner Jon Censky explained that the applicant is requesting an Outdoor Alcohol Beverage License to use the existing fenced-in outdoor smoking area along the east side of their building at N50 W5586 Portland Road. This area is accessed from the bar through the existing door on the east side of the building and is completely fenced in with an attractive wood and iron fence wherein the applicant has placed several old barrels with umbrellas for patrons to stand around. The Plan Commission reviewed these plans at the July 6 meeting and recommended approval by unanimous vote; however, the Commission did not address an ending time for the outdoor activity. After speaking with Council Member Verhaalen, he believes this should be established as possibly 10:00 p.m. He did receive a message from the neighbor located approximately 25 feet from this fenced-in area, who expressed real concern regarding this activity.

Council Member Verhaalen looked at the neighboring house and the picture provided to the Council is looking at the area with his back against this house.

Ron Sella, W55 N503 Highland Drive, explained that his house is 28 feet from the proposed Outdoor Alcohol Beverage serving area. He loves what the owners are doing to the building; however, he is concerned that he never received a notice about this agenda item.

Planner Censky explained that this is not a public hearing; therefore, notices only go out to adjacent neighbors the Friday before the Monday meeting. However, he confirmed with staff that a letter was mailed to his address.

Ron Sella moved to Cedarburg 33 years ago and he moved next to a bar, which he is aware of. However, since that time the bar has extended to within 28 feet of his house with the new area. He has eight windows that face the bar area, five of which are bedroom windows. Mr. Sella stated that he keeps his windows closed to keep the smoke and noise out of his house, along with keeping his shades drawn to maintain privacy. He stated that the new owner has increased the size of the bar threefold, increasing the smoke and noise by that also. He never had problems with the bar before this time when the side door was added to the building. He has called the bar to close the door and they have done so. The bar may increase their business, but he is losing his privacy and the ability to open his windows.

In answer to Council Member Thome's question, Planner Censky explained that the Plan Commission will request a barrier from surrounding properties in the form of landscaping or a fence if possible. In this case plantings or a wall will not help. Planner Censky agreed that Mr. Sella has very legitimate concerns and this almost makes it worthy of revisiting this site.

Mayor O'Keefe asked if this was a new smoking area for the bar. Mr. Sella explained that L&G Express would have patrons smoke out front on the porch of the business. Only a few people would smoke on the east side of the building and he could smell it in his house occasionally.

Council Member Verhaalen stated that Mr. Sella has lived in his house for many years and he does not feel this is a good use for the Bozeman property owners. He also expressed concern for the many people that walk that area while people are hanging on the fence; it is not a good area for outdoor drinking.

In answer to Council Member Burkart's question, Planner Censky stated that the owners put this fenced in area awhile ago, as part of their overall renovation of the building, and it was not being used. Council Member Burkart confirmed that the new renovated building has an increased capacity for patrons.

Council Member Arnett reviewed some of the downtown businesses that have outdoor seating with residential areas surrounding them. Mr. Sella opined that nothing is as close as his house.

Council Member Lythjohan confirmed that there is also an area on the drawing where people could access the deck without going through the bar, as presented.

In answer to Council Member Bublitz's question, Planner Censky stated that the owners of Bozeman's Bar did get permission for this deck as a smoking area when their renovation plans went through the Planning Commission as an ancillary use to the tavern.

In answer to Mayor O'Keefe's question as to how this deck could be re-examined, Planner Censky said if the intent is to have the owner move the deck, it would have to go back to the Plan Commission to approve a new smoking area site plan and to the Common Council to approve it as an outdoor alcohol beverage area.

Motion made by Council Member Verhaalen, seconded by Council Member Burkart, to deny the Outdoor Alcohol Beverage license for Bozeman's Bar located at N50 W5586 Portland Road as presented.

Council Member Arnett asked for a compromise by sending the outdoor deck back to the Plan Commission for further discussion.

In answer to Mayor O'Keefe's question, Planner Censky explained that if the owner submits a new plan for the outdoor alcohol beverage area it can be taken through the process. Planner Censky will talk with the owners to see if the deck can be moved to a different area on their site.

Motion carried on a roll call vote with Council Members Bublitz, Burkart, Verhaalen, Thome, and Lythjohan voting aye, Council Member Arnett voting nay, and Council Member Simpson excused.

**CONSIDER ORDINANCE NO. 2020-09 TO CREATE A FINANCE COMMITTEE; AND ACTION THEREON**

City Administrator Hilvo explained that the City of Cedarburg has operated many years without a Finance Committee but as the City continues to grow and go through organizational change it will be important to have a committee that continually evaluates our financial standing along with implementing financial policies and procedures for the long-term financial stability of the City. The purpose of the Finance Committee is to provide financial oversight for the City. This includes budgeting, financial planning, financial reporting, and the creation and monitoring of internal controls and accountability policies. The Committee will be comprised of Finance Director/Treasurer Mertes as the City Staff member, one Council Member, and six citizens of the City who shall be appointed by the Mayor.

In answer to Council Member Arnett's questions, City Administrator Hilvo confirmed that this committee is similar to other communities and the ad hoc Debt Investment Committee will also be rolled into the Finance Committee.

Mayor O'Keefe stated that there are some incredible finance people in the City, and this will be advantageous to the City to oversee the complicated issues. This is in no way a criticism of City staff or the Finance Director/Treasurer.

Council Member Arnett stated that debt burns off over time and the Finance Committee can look ahead and advise when those funds are available.

Mayor O'Keefe stated that the Committee can watch the interest rates and recommend refinancing when the rates are low.

Council Member Thome stated that the Committee can work on long term financial goals, and that planning and focus is valuable.

Council Member Verhaalen stated that the Committee can advise on long term planning.

Motion made by Council Member Verhaalen, seconded by Council Member Arnett, to approve Ordinance No. 2020-09 to create a Finance Committee. Motion carried without a negative vote with Council Member Simpson excused.

**CONSIDER ORDINANCE NO. 2020-10 TO CREATE A DIVERSITY COMMITTEE; AND ACTION THEREON**

City Administrator Hilvo explained that the City of Cedarburg embraces and celebrates diversity and inclusion. Through the creation of the Diversity Committee and through their guidance we hope that our community will see Cedarburg as a welcoming and inclusive place to live, work, and play. The Diversity Committee shall promote an environment that accepts, celebrates, and appreciates diversity within the community. He further explained that the committee is intended to:

- 1) Serve as a resource for City government and the community by providing information, education, and communication that facilitates a better understanding and celebrates our differences.
- 2) Provide recommendations to the Mayor and City Council that would identify opportunities to address diversity issues, promote diversity programs, and/or provide guidance to create a more accessible, safe, welcoming, and inclusive government and community.
- 3) Assist the City of Cedarburg in supporting and challenging all areas of government and the community to eliminate and prevent all forms of discrimination.

Motion made by Council Member Bublitz, seconded by Council Member Thome, to adopt Ordinance No. 2020-10 creating a Diversity Committee.

Community members asked if the meetings will be public, how they can apply; and if the body will be a decision-making committee or if recommendations will be made to the Common Council for consideration.

Mayor O'Keefe explained that the meetings will be publicly noticed for anyone to attend, there is an application available for any community member to apply, and the Committee will be advisory to the Common Council who will make the final decisions.

Council Member Bublitz encouraged community members to get involved and apply to serve on the Committee and be part of the beginning process to discuss multi-faceted issues. She hopes that the Committee works hard and is dedicated to the task of making Cedarburg more welcoming.

Council Member Arnett stated that more than seven people serving on the Committee can have a voice by attending the meetings with their public input.

Mayor O'Keefe encouraged those people who apply and may not be chosen to attend the meetings.

Kayla Stoflet-Santillanes, stated that the community has spoken, and she is excited to see this committee come to life.

Motion carried without a negative vote with Council Member Simpson excused.

### **CONSIDER LICENSE 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, 2021 for Sydney K. Gaskell, Madeline J. Hosni, Linda K. Martens, Kristen M. Mertens, and Kim G. Stover. Motion carried without a negative vote with Council Member Simpson excused.

Motion made by Council Member Bublitz, seconded by Council Member Thome, to approve renewal Operator License applications for the period ending June 30, 2021 for Carol A. Ameen, Marks S. Brock, Jody L. Brzezinski, Elizabeth A. Jacobson, Jaime L. Jacobson, Kristen M. Klug, Scott Kosidowski, Cynthia M. Larson, Mark E. Larson, Zachery R. Lewis-Grill, Brenda L. Mueller, and Debra M. Newll. Motion carried without a negative vote with Council Member Simpson excused.

### **CONSIDER PAYMENT OF BILLS DATED 06/26/20 THROUGH 07/02/20, TRANSFERS FOR THE PERIOD 06/24/20 THROUGH 07/02/20 AND PAYROLL PERIOD 06/14/20 THROUGH 06/27/20; AND ACTION THEREON**

Motion made by Council Member Burkart, seconded by Council Member Bublitz, to approve payment of bills dated 06/26/20 through 07/02/20, transfers for the period 06/24/20 through 07/02/20 and payroll period 06/14/20 through 06/27/20. Motion carried without a negative vote with Council Member Simpson excused.

### **ADMINISTRATOR'S REPORT**

City Administrator Hilvo reported that he walked the Amcast site with Council Member Simpson and saw much improvement. The office renovation is moving along, and the company should move in by December. Good progress is also being made on the tear down of the former Amcast building.

All Board, Commission and Committee meetings scheduled for July will be held via zoom and will be reevaluated for the August meetings.

**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 Arnett, to adjourn to closed session at 7:50 p.m. pursuant to State Statute 19.85(1)(e)(g) 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. Also, to confer with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved, more specifically, to discuss parking lot lease agreement with Jackson Western LLC located at N49 W6337 Western Avenue and an update on Prochnow Landfill. Motion carried on a roll call vote with Council Member Bublitz, Arnett, Burkart, Verhaalen, Thome, and Lythjohan voting aye and Council Member Simpson excused.

**RECONVENE TO OPEN SESSION**

Motion made by Council Member Arnett, seconded by Council Member Thome, to reconvene to open session at 8:08 p.m. Motion carried with Council Members Bublitz, Arnett, Burkart, Verhaalen, Thome, and Lythjohan voting aye and Council Member Simpson excused.

**NEW BUSINESS**

**CONSIDER PARKING LOT LEASE AGREEMENT WITH JACKSON WESTERN LLC LOCATED AT N49 W6337 WESTERN AVENUE; AND ACTION THEREON**

Motion made by Council Member Thome, seconded by Council Member Lythjohan, to approve the parking lot lease agreement with Jackson Western LLC, located at N49 W6337 Western Avenue. Motion carried without a negative vote with Council Member Simpson excused.

**ADJOURNMENT**

Motion made by Council Member Arnett, seconded by Council Member Bublitz, to adjourn the meeting at 8:10 p.m. Motion carried without a negative vote with Council Member Simpson excused.

Amy D. Kletzien, MMC/WCPC  
Deputy City Clerk