

**CITY OF CEDARBURG
COMMON COUNCIL
September 14, 2020**

**CC20200914-1
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held online on Monday, September 14, 2020, utilizing the Zoom app.

Mayor O'Keefe called the meeting to order at 7:00 p.m.

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

Also Present - City Administrator Mikko Hilvo, City Attorney Michael Herbrand, Deputy City Clerk Amy Kletzien, Finance Director/Treasurer Christy Mertes Parks, Recreation, and Forestry Director Friess, Director of Engineering and Public Works Tom Wiza, Todd Taves of Ehlers & Associates, 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- None

APPROVAL OF MINUTES

Motion made by Council Member Thome, seconded by Council Member Bublitz, to approve the August 31, 2020 Common Council minutes. Motion carried without a negative vote.

NEW BUSINESS

CONSIDER EVENT PROPOSAL FROM THE OZAUKEE NON-PROFIT CENTER AND MEL'S CHARITIES FOR ILLUMINATE OZAUKEE LIGHT SHOW, A DRIVE-THRU HOLIDAY EVENT AT ZEUNERT PARK IN DECEMBER; AND ACTION THEREON

Executive Director Carissa Barnes spoke on behalf of the Ozaukee Non-Profit Center and explained their proposal to rent Zeunert Park on Fridays and Saturdays in December (excluding December 25) to hold a drive-through light display on the park path (Illuminate Ozaukee light show). They plan to have different businesses decorate approximately 30 plots along the drive. The light displays will be powered by two 75-megawatt diesel generators.

Motion made by Council Member Verhaalen, seconded by Council Member Thome, to approve the event proposal from the Ozaukee Non-Profit Center and Mel's Charities for Illuminate Ozaukee Light

Show, a drive-thru Holiday event at Zeunert Park in December. Motion carried without a negative vote.

CONSIDER RESOLUTION NO. 2020-18 AWARDING THE SALE OF \$6,735,000 GENERAL OBLIGATION CORPORATE PURPOSE BONDS, SERIES 2020A; AND ACTION THEREON

Todd Taves of Ehlers presented the sale report for the public purposes of financing a community development project in the City's Tax Incremental District No. 6 and swimming pool improvements. A total of five bidders bid on the bonds, with the low bidder being Baird of Milwaukee, Wisconsin. The interest rate is 1.5832%, which is less than estimated. The amount of the bonds was reduced by \$385,000 based on the bid premium received and the actual underwriting discount. The total amount of the bonds is \$6,350,000. The City was assigned an Aa2 rating by Moody's Investors Services. Overall, Mr. Taves said this was a very good sale.

Finance Director/Treasurer Mertes stated that the sale amount changed from \$6,735,000 to \$6,350,000 after the public sale and that amount should be reflected in the motion.

Motion made by Council Member Arnett, seconded by Council Member Bublitz, to approve Resolution No. 2020-18 awarding the sale of \$6,350,000 General Obligation Corporate Purpose Bonds, Series 2020A. Motion carried on a roll call vote with Council Members Bublitz, Arnett, Burkart, Verhaalen, Simpson, Thome, and Lythjohan voting aye.

CONSIDER AMENDMENT TO THE 2021-2027 WASTE MANAGEMENT REFUSE AND RECYCLING CONTRACT LANGUAGE; AND ACTION THEREON

Director Wiza explained that the seven-year contract for refuse and recycling services was approved by the Common Council at the July 27 meeting; however, during the signing process Waste Management objected to language specifically referencing Michael Smith. Waste Management indicated that while it is their intention to keep Michael on his present Cedarburg route, they cannot contractually commit to it. They are requesting that the highlighted line on page 2 of the contract be removed. Staff recognizes the legal concerns this presents for Waste Management.

Motion made by Council Member Bublitz, seconded by Council Member Simpson, to approve amendment to the 2021-2027 Waste Management Refuse and Recycling contract language. Motion carried without a negative vote.

UPDATE ON WOOLEN MILLS DAM REPAIRS; AND ACTION THEREON

Director Wiza explained that repairs to the Woolen Mills Dam, which is located just north of Bridge Road on Cedar Creek, were planned to be completed this fall. The City retained Graef to prepare plans and specifications for the work, but the design has been repeatedly delayed due to factors outside of the City's control. The main issue is that the floodplain mapping for Cedar Creek is in the process of being updated. The new maps and models are not yet approved, and thus revised stream flow and floodplain data is unavailable. The DNR needs to review and approve the dam repair plans but they cannot provide the necessary design parameters to Graef. Since the construction needs to be done in the late summer and fall when stream flow is typically lowest, the work will have to be postponed until 2021. The DNR has granted a time extension for plan completion until April 30, 2021.

Director Wiza said that staff recommends completing the required dam repairs in 2021 and/or use the time to further evaluate public sentiment on the future of Woolen Mills Dam. This could include an advisory referendum on the April 2021 ballot. The budgetary impact is an estimated \$800,000 for repairs, with a possible 50/50 matching grant through the Municipal Dam Grant Program.

Mayor O'Keefe stated that he is a staunch defender of the dams and their beauty; however, he would be open to a study indicating the effects of removing the two dams.

Discussion ensued over the timing of a study and whether it should be done before or after a possible referendum.

Council Member Thome opined that it would be helpful to have an unbiased opinion and to know the ramifications if the dams were removed. It would be worth the expenditure to have this information.

In answer to Mayor O'Keefe's question, City Attorney Herbrand stated that a study would be helpful against indemnification.

Council Member Verhaalen stated that it would be important to hold information sessions prior to a referendum.

Director Wiza suggested a referendum question on the Woolen Mills Dam only.

Council Member Bublitz stated that neighbors are concerned about their property and it would be helpful to have unbiased information to provide to them.

In answer to Mayor O'Keefe's questions, Director Wiza confirmed that the land that would appear, if the dam were removed, would be unbuildable because it will be in a flood plain. He also thought that the study could be completed before the April election.

Cheryl Nenn of the Milwaukee River Keepers provided additional information:

- Has been involved in 11 dam removals.
- Three options available to City: repair, removal or a hybrid version that would include some drops if the dam were removed.
- A recent dam that was removed in Milwaukee was paid for by grants and private funds.
- Educational sessions are important.
- Cedarburg riverfront landowners would not lose that much frontage.

In answer to Council Member Arnett's question, Ms. Nenn said that the last five dam removals that she was involved with were paid for by grant funding which included restoration. There is strong funding for dam removal and restoration.

Mayor O'Keefe and Council Member Verhaalen agreed that the City needs to look at the dams long-term and decide if they should continue repairing the dams.

City Administrator Hilvo suggested adding a further discussion to the October Common Council meeting to decide on a possible survey and referendum on the dams.

In answer to Council Member Burkart's question, Director Wiza explained that an impact study could be done in the winter.

CONSIDER FIRST AMENDMENT TO THE WILO DEVELOPMENT AGREEMENT; AND ACTION THEREON

City Attorney Herbrand stated that there may be additional unrelated amendments and suggested that they be considered comprehensively at the next meeting.

Motion made by Council Member Bublitz, seconded by Council Member Thome, to postpone any action on the first amendment to the WILO Development Agreement until the September 28 Common Council meeting. Motion carried without a negative vote.

CONSIDER OUTDOOR ALCOHOL BEVERAGE LICENSE FOR PHOA BROTHERS INC. (NEW FORTUNE RESTAURANT) LOCATED AT W62 N547 WASHINGTON AVENUE; ACTION THEREON

City Administrator Hilvo stated that due to COVID-19, the City has allowed New Fortune an outdoor seating area in the back of their restaurant and they have applied for an Outdoor Alcohol Beverage license for this area.

Jimmy Phoa would like to continue the outdoor seating area next spring and he will not have music.

City Administrator Hilvo stated that all sites that have been granted temporary outdoor seating area approvals during COVID-19 will be revisited next year.

Motion made by Council Member Thome, seconded by Council Member Burkart, to approve the Outdoor Alcohol Beverage License for Phoa Brothers, Inc. (New Fortune Restaurant) located at W62 N547 Washington Avenue. Motion carried without a negative vote.

CONSIDER LICENSE/PERMIT APPLICATIONS; AND ACTION THEREON

Motion made by Council Member Bublitz, seconded by Council Member Lythjohan, to approve new Operator License applications for the period ending June 30, 2021 for Emily J. Domaille and Nathan A. Franke. Motion carried without a negative vote.

CONSIDER PAYMENT OF BILLS DATED 08/28/20 THROUGH 09/04/20, TRANSFERS FOR THE PERIOD 08/29/20 THROUGH 09/11/2020 AND PAYROLL PERIOD 08/23/20 THROUGH 09/05/20; AND ACTION THEREON

Motion made by Council Member Burkart, seconded by Council Member Bublitz, to approve payment of bills dated 08/28/20 through 09/04/20, transfers for the period 08/29/20 through 09/11/20 and payroll for the period 08/23/20 through 09/05/20. Motion carried without a negative vote.

ADMINISTRATOR'S REPORT

City Administrator Hilvo did not provide any additional information to his report.

TREASURER'S 2ND QUARTER FINANCIAL REPORT

City Administrator Hilvo explained that the 2nd Quarter Financial Report was provided by the Treasurer's Office. If there are any questions, please email Finance Director/Treasurer Mertes or City Administrator Hilvo.

COMMENTS AND SUGGESTIONS FROM CITIZENS- None

COMMENTS AND ANNOUNCEMENTS BY COUNCIL MEMBERS- None

MAYOR REPORT

Mayor O'Keefe brought attention to an ambush/shooting on law enforcement officers in New York today and asked the Common Council to keep them in their thoughts and prayers during this difficult time.

ADJOURNMENT

Motion made by Council Member Arnett, seconded by Council Member Verhaalen, to adjourn the meeting at 8:08 p.m. Motion carried without a negative vote.

Amy D. Kletzien, MMC/WCPC
Deputy City Clerk