

**CITY OF CEDARBURG
COMMON COUNCIL
OCTOBER 25, 2021**

**CC20211025-1
UNAPPROVED**

REVISED

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, October 25, 2021, at City Hall, W63 N645 Washington Avenue, second floor, Council Chambers, and online 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 Jack Arnett, Sherry Bublitz, Robert Simpson, Kristin Burkart, Rick Verhaalen, Patricia Thome

Excused – Council Member Barbara Lythjohan

Also Present - City Administrator Mikko Hilvo, Attorney Michael Herbrand, City Clerk Tracie Sette, Police Captain Mike McNerney, City Engineer Mike Wieser, **Finance Director/Treasurer Christy Mertes**, news media and interested citizens.

STATEMENT OF PUBLIC NOTICE

At Mayor O’Keefe’s request, City Clerk Sette 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

A motion was made by Council Member Thome, seconded by Council Member Bublitz, to approve the October 11, 2021 Common Council minutes. Motion carried without a negative vote with Council Member Lythjohan excused.

NEW BUSINESS

DISCUSSION AND POSSIBLE ACTION ON POSSIBLE AMENDMENT TO THE DEVELOPMENT AGREEMENT FOR THE FAIRWAY VILLAGE SUBDIVISION ON WASHINGTON AVENUE

Utility poles located along Washington Avenue near the Fairway Village development will need to be removed to finish the installation of curb and gutter. Construction season is ending so the removal of poles will most likely not happen until next year. Neumann Development is proposing to pave the entire phase 1 of the development and extend the new pavement (approximately 53’ wide) to the existing edge of pavement along Washington Avenue. The fully improved intersection with Washington Avenue would be completed next spring.

According to the Developer's Agreement a fully improved intersection with Washington Avenue is a condition of obtaining building permits. The existing Development Agreement suggested a concern with the timeliness of the installation of the private utilities and, as a result, already includes language prohibiting the issuance of any building permits without the Developer providing the City with adequate proof of a contract with and payment to WE Energies for the removal of these poles. Language also exists in the Agreement prohibiting the issuance of occupancy permits for homes prior to the completion of the private utilities. This language assures the City that no homeowners will move into homes prior to this work being completed.

Attorney Herbrand suggested an amendment to the Development Agreement allowing the issuance of building permits throughout the winter months and addressing the tapering and raising of wires to allow greater access for trucks.

A motion was made by Council Member Thome, seconded by Council Member Burkart, to approve the amendment identified in item 8A on the agenda (Development Agreement for Fairway Village Subdivision) subject to changes mentioned by Attorney Herbrand to include crafting an amendment that separates the tapering and addresses the raising of wires so everything is completed in chronological order. Motion carried without a negative vote with Council Member Lythjohan excused.

DISCUSSION AND POSSIBLE ACTION ON CONES USED TO BLOCK PARKING IN FRONT OF DOWNTOWN RESTAURANTS AND BARS FOR TAKEOUT ORDERS

Several downtown businesses currently utilize cones to block off parking spots in front of their businesses to allow for easy access for takeout orders. The City temporarily allowed this in order to assist the businesses through the pandemic. With a decrease in the trajectory of COVID-19 cases in Ozaukee County, and the ability of restaurants to have indoor/outdoor dining options; the critical need for drive-up options may not be as necessary as during the height of the pandemic.

A discussion ensued with the Council regarding the continued utilization of cones.

Council Member Arnett suggested the City may want to approve of specified loading zones throughout the downtown area.

The consensus of the Council is that the cones are no longer needed as they were during the pandemic and appear to be more of a convenience.

The Council directed Administrator Hilvo to have the cones removed in front of the downtown businesses. No official action was taken by the Council.

DISCUSSION AND POSSIBLE ACTION ON CITY CODE SEC 7-2-17(E) OUTDOOR AMPLIFIED SOUND AND MUSIC PERMIT

The outdoor amplified sound and music ordinance was revised on March 8, 2021 to include local businesses and provide additional days for non-profits. The ordinance change is set to expire at the end of 2021. The businesses and non-profits that provided additional amplified music would like to continue doing so in the future. With the increase in amplified music in the downtown district, the number of resident complaints has increased. The complaints relate to the number of events and the

volume level. The decibel levels provided in the City ordinance do not account for other factors that project the sound to various areas of the City.

The Council discussed the pros and cons of allowing amplified music citing the following points:

- Outdoor music increases social gatherings, hopefully attracting people to the City
- Outdoor music boosts local business
- Police Captain McNerney confirmed most sound checks were in compliance with decibel levels
- Outdoor music needs more control
- The responsibility rests with business owners to make sure volume is reasonable

The owners of Lime Cantina and the Stagecoach Inn explained to the Council how much business increased due to having outdoor amplified music. They both diligently keep the music below allowable decibel levels.

Four (4) interested citizens spoke to the Council in support of continued outdoor amplified music.

A motion was made by Council Member Arnett, seconded by Council Member Verhaalen, to amend City Code Section 7-2-17(e) regarding outdoor amplified sound and music by removing the verbiage “during the calendar year 2021” and “temporarily”; and removing items E4 and E5 and amending item E6 to “90 decibels”; and changing the maximum number of events per week from two (2) to three (3) in item E10. Motion carried without a negative vote with Council Member Lythjohan excused.

DISCUSSION AND POSSIBLE ACTION ON THE USE OF AMERICAN RESCUE PLAN (ARP) FUNDS

The City of Cedarburg is receiving a total of \$1,214,469.24 of ARP funds. The U.S. Department of Treasury provided interim and final rules for the use of the funds with a requirement that the funds be obligated by December 31, 2024 and spent by December 31, 2026. Discussions with City staff and requests from non-profits have resulted in a list of potential uses of the funds. Ehlers Public Financial Advisors are currently assisting the City with the list of fund opportunities. The Council brought additional ideas for future funding needs which included Broadband, Lead Pipe Replacement, usage of farm animals, children’s playground, and a car charging station for electric vehicles.

A motion was made by Council Member Arnett, seconded by Council Member Bublitz, to approve the use of ARP funds for Hazard Pay for the Fire Department in the amount of \$39,700.00, small business reimbursement of licenses and permits for \$40,000, and business grants for facade improvements for \$60,000. Motion carried without a negative vote with Council Lythjohan excused.

A motion was made by Council Member Bublitz, seconded by Council Member Simpson, to immediately approve the use of ARP funds for Cedarburg Crush Softball and Cedarburg Baseball for \$5,000 each under the direction of the Parks & Recreation Department, to approve the Book Drop for the Library in the amount of \$60,000, and repairs to the Interurban Trail. Motion carried without a negative vote with Council Member Lythjohan excused.

A motion was made by Council Member Simpson, seconded by Council Member Verhaalen, to approve the use of ARP funds for the replacement of a Cedarburg Police Department Patrol Vehicle in

the amount of \$50,000 and \$25,000 to go towards the locker room improvements at the Cedarburg Fire Department. Motion carried without a negative vote with Council Member Lythjohan excused.

DISCUSSION AND POSSIBLE ACTION ON 2022 BUDGET

The budget has been revised to reflect changes in the dental insurance coverage along with recommendations by the Finance Committee. The dental insurance rates came in lower than previously noted in the budget. The savings provided the ability to **help** fund Library salary and benefit increases of **\$24,784** without increasing the proposed tax rate of 7.94. **The \$13,000 helps offset this along with \$7,808 from the Library fund balance and some increase in revenue. The Library will continue to rely on fund balance but it will be much less.** The Finance Committee recommended the City borrow the funds to finance the plow truck (\$230,000) and the replacement of the A/C unit (\$160,000) at City Hall, as they are long-term capital projects. The Finance Committee also recommended the City increase the Capital Improvement fund levy by \$150,000 to assist with future Capital expenditures allowing the City to adjust for future project costs and inflation without relying on fund balance. A discussion ensued about whether to levy for the additional \$150,000.

Administrator Hilvo explained that the City must keep total expenditures below 4.5% in order to qualify for the Expenditure Restraint program.

A motion was made by Council Member Arnett, seconded by Council Member Burkart, to approve a portion of the budget which relates to the air conditioner and truck to borrow for those funds as proposed in the budget. Motion carried without a negative vote with Council Member Lythjohan excused.

A motion was made by Council Member Bublitz, seconded by Council Member Thome, to approve the budget as presented including the \$150,000 in reserves. Motion carried on a voice vote with Council Members Thome, Arnett, Simpson, and Bublitz voting aye, Council Members Burkart and Verhaalen voting opposed, and Council Member Lythjohan excused.

DISCUSSION AND POSSIBLE ACTION ON LICENSE/PERMIT APPLICATIONS

A motion was made by Council Member Verhaalen, seconded by Council Member Bublitz, to approve the New Operator License applications for the period ending June 30, 2022 for Joseph L. Chiarelli, Joseph P. Gilbertson, Megan M. Kieliszkowski, and Timothy J. Van Ryzin. Motion carried without a negative vote with Council Member Lythjohan excused.

A motion was made by Council Member Verhaalen, seconded by Council Member Simpson, to approve the Renewal Operator License application for the period ending June 30, 2022 for Terrance E. Ronsman Sr. Motion carried without a negative vote with Council Member Lythjohan excused.

DISCUSSION AND POSSIBLE ACTION ON PAYMENT OF BILLS DATED 10/08/2021 THROUGH 10/15/2021, TRANSFERS FOR THE PERIOD 10/09/2021 THROUGH 10/21/2021 AND PAYROLL FOR PERIOD 10/03/2021 THROUGH 10/16/21.

A motion was made by Council Member Verhaalen, seconded by Council Member Simpson, to pay the bills dated 10/08/2021 through 10/15/2021, transfers for the period 10/09/2021 through

10/21/2021, and payroll for period 10/03/2021 through 10/16/2021. Motion carried without a negative vote with Council Member Lythjohan excused.

ADMINISTRATOR'S REPORT

The Administrator's report was included in the Council packet. Administrator Hilvo explained a City Hall custodial position currently remains open.

COMMENTS AND SUGGESTIONS FROM CITIZENS - None

COMMENTS AND ANNOUNCEMENTS BY COUNCIL MEMBERS

Council Member Bublitz was pleased to share that she had been in contact with Director of Engineering Wieser and a sidewalk for Sheboygan Road will be in the budget for next year.

MAYOR'S REPORT

Mayor O'Keefe read the proclamation for Change your Clock, Change your Batteries. He also commended those involved with the Highland Road wall project as well as Washington Avenue resurfacing and Interurban Crossing installation. All projects were a success.

ADJOURNMENT - CLOSED SESSION

A motion was made by Council Member Bublitz seconded by Council Member Thome, at 9:35 p.m., to adjourn to closed session pursuant to State Statute 19.85(1)(g) to confer with legal council 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. Specifically discussed was the Prochnow Landfill. Motion carried on a roll call vote with Council Members Arnett, Bublitz, Simpson, Verhaalen, Thome, and Burkart voting aye and Council Member Lythjohan excused. (6-0)

RECONVENE TO OPEN SESSION

Open session reconvened at 9:57 p.m.

ADJOURNMENT

A motion made by Council Member Arnett and seconded by Council Member Burkart to adjourn the meeting at 9:57 p.m. Motion carried without a negative vote with Council Member Lythjohan excused.

Tracie Sette
City Clerk