

**CITY OF CEDARBURG
COMMON COUNCIL
January 27, 2020**

**CC20200127-1
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, January 27, 2020, at City Hall, W63 N645 Washington Avenue, second floor, Council Chambers. Acting Mayor Thome called the meeting to order at 7:00 p.m.

Roll Call: Present - Council Members Sherry Bublitz, Jack Arnett, Kristin Burkart, Rick Verhaalen, Garan Chivinski, Patricia Thome

Excused - Mayor Michael O'Keefe, Council Member Rod Galbriath

Also Present - City Administrator Mikko Hilvo, City Attorney Michael Herbrand, Deputy City Clerk Amy Kletzien, Light & Water General Manager Dale Lythjohan, City Clerk Claire Woodall-Vogg, City Forester Kevin Westphal, Water Recycling Center Superintendent Hackert, Smantha Lammers of Glacierland Resource Conservation and Development Inc., Michaela Zuelke of Stantec Consulting Services Inc., Cedarburg Green Board Members John Norquist, Renee Welfel, Libby Burns, Terri Henderson, Thelma Heidel-Baker and Jeanne Mueller, interested citizens and news media

STATEMENT OF PUBLIC NOTICE

At Acting Mayor Thome'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.

Council Member Thome stated that as Acting Mayor, she would retain her right to vote as Council Member of the 6th Aldermanic District.

APPROVAL OF MINUTES

Motion made by Council Member Bublitz, seconded by Council Member Arnett, to approve the minutes of the January 13, 2020 meeting. Motion carried without a negative vote with Council Member Galbraith excused.

COMMENTS AND SUGGESTIONS FROM CITIZENS – None

PRESENTATIONS

**GLACIERLAND RESOURCE CONSERVATION & DEVELOPMENT COUNCIL
PRESENTATION ON AQUATIC INVASIVE SPECIES CONTROL WORK IN OZAUKEE
COUNTY**

Samantha Lammers of Glacierland Resource Conservation and Development Inc. (GRC&D) and Michaela Zuelke of Stantec Consulting Services Inc. explained that GRC&D received funding from the Wisconsin Department of Natural Resources to control invasive Phragmites on public and private lands across Ozaukee County. Invasive phragmites or common reed is a tall, perennial grass that aggressively colonizes and forms dense stands in freshwater wetlands. Invasive phragmites harms the environment by reducing wildlife habitats, decreasing plant diversity, and altering water levels by trapping sediments. GRC&D will partner with Ozaukee County, Ozaukee Washington Land Trust, Southeastern Wisconsin Invasive Species Consortium, Inc. and Stantec Consulting Services, Inc. to control this species for up to three years on participating parcels. Treatments will be performed by trained/certified contractors using herbicide from July-October each year. Mapping has been completed across the County, and each landowner with Phragmites will receive a letter in the mail requesting permission to access and control this species. There are five parcels/landowners that have been identified and the GRC&D is asking the City to participate by endorsing the project and sending letters to the landowners.

CEDARBURG GREEN 2020 FOCUS ON TREES PRESENTATION

Cedarburg Green President John Norquist explained that Cedarburg Green was formed in 2012 to:

- Foster appreciation and support for community forestry for the benefit of Cedarburg residents and visitors
- Beautify our public streets, boulevards and parks
- Promote sustainable environmental stewardship and landscape management practices
- Raise and distribute private funds for the planting, care and maintenance of public trees and for other projects aligned with our goals and objectives.

President Norquist further explained that Cedarburg Green learned of the Rotary Club's goal of planting a tree for every member and partnered with them on a project in Westlawn Woods. Congregations made donations and over \$6,000 was raised for planting over 250 trees, culminating in a planting day that brought together over 50 people. Other events held by Cedarburg Green include: Trees of Distinction (walking tour throughout Cedarburg), Garlic Mustard Grabs, Annual Arbor Day Tree Planting at local schools, Buckthorn Pull, Neighborhood Plantings, and grant writing for various projects. The group recently received an \$11,000 Urban Forestry grant from the DNR.

Thelma Heidel-Baker, Scientist in residence at the Cedarburg School District, explained the tangible and intangible benefits of trees in terms of Social/Historic, Community, Environmental, and Economic value in detail. Adding that it requires an investment to get the desired outcome, tree management costs include planting, watering, mulching and pruning. With this investment, trees pay back with better air quality, energy, real estate value, and stormwater assistance.

Cedarburg Green Member Jeanne Mueller explained that of the 50 applicants for the DNR grant, 36 were selected to receive funding which, when matched dollar-for-dollar by the recipients, totals nearly \$2 million in awards. Out of the 20 organizations receiving regular grants, Cedarburg Green's "2020: Focus on Trees – Plant trees as if life depended on it!" program ranked in the top five – receiving an award of \$11,000.

Jeanne Mueller reviewed the planned events for 2020:

- January – Announcement of grant.

- February – Bare root tree sale and seminar with Glen Herold on How to Plant a Bare Root Tree in Your Yard.
- March – Writing contest with students in district and organizing workgroups to plant 60 trees and invite community.
- April – Tree pick up date and 50th Anniversary of Earth Day.
- May – Valuing trees in Cedarburg and planting 10 trees in all seven districts.
- June – Update on “Trees of Distinction” book and public tree walks.
- October – Common Council to plant a symbolic tree.
- December – Final celebration.

Jeanne Mueller requested \$5,000 in matching funds from the City in the form of Cedarburg Green funds, 305 volunteer hours, 90 City hours, and use of City equipment. The Cedarburg Library is participating in tree education events.

President John Norquist and Cedarburg Green were presented with a Proclamation that proclaims this year as 2020: Focus on Trees – Plant trees as if life depended on it.

UNFINISHED BUSINESS

CONSIDER APPLICATIONS OF SUNSHINE WINERY, W63 N631 WASHINGTON AVENUE, AND THE SHINERY NEENAH, LLC, W63 N706 WASHINGTON AVENUE, FOR A “CLASS B” FERMENTED MALT BEVERAGE AND “CLASS B” INTOXICATING LIQUOR (ON OR OFF-PREMISE CONSUMPTION) LICENSE; AND ACTION THEREON

City Administrator Hilvo explained that the Common Council postponed this decision at the last Common Council meeting, requesting business plan information from the applicants to consider at this meeting.

Tim Schelwat of Sunshine Winery explained that he discussed their business concept at the last meeting and provided their business plan for this meeting for consideration. He asked if the Common Council had any questions.

In answer to Council Member Arnett’s question, Tim Schelwat explained that they will have a tasting bar and additional bar and want to add tables and chairs for year-round enjoyment of their product along with serving at Festivals.

City Clerk Woodall-Vogg explained that they currently have a “Class A” license for their primary business to take-away the product.

In answer to Council Member Thome’s question, Tim Schelwat explained that obtaining a “Class B” Liquor license has not been far behind in their plan. After receiving feedback, they have determined that there is a high demand to purchase a glass of wine on premise. The exact hours of their business have not been determined; however, they would extend their hours into the evening.

Troy Reissmann of The Shinery explained that they started their business five years ago. They often go to Gatlinburg, TN where the amount of moonshine stores has increased from four to twenty, due to its popularity. Their stores in Neenah and Grand Chute have grown greatly with the addition of a

“Class B” Liquor License in both locations. The Shinery offers 65 different types of moonshine and only being able to offer two “church size” samples hampers their sales. As the store will be moving into the former August Weber Haus location, Mr. Reissmann said the “Class B” license will help them maintain that location.

In answer to Council Member Arnett’s question, Troy Reissmann confirmed that his current license allows him to offer a ¾ ounce sample per adult per day. He would like to offer a flight of samples consisting of 5 shots totaling 1.5 shots of liquor. He also stated that they do not want to be bar.

In answer to Council Member Thome’s question, Troy Reissmann explained that The Shinery will not be using the existing bar at the August Weber Haus. They will have a tasting bar with chairs as a sampling area. Troy Reissmann added that they will be offering in Airbnb on the second floor.

City Attorney Herbrand explained that the Common Council has broad discretion in granting the available “Class B” license. A qualified applicant does not have a right to the license; however, the Common Council should have a rational basis for not doing so.

Council Member Arnett explained that a liquor license is essential to the success of a restaurant. The City has only one regular “Class B” license available and two Reserve “Class B” licenses, which require a one-time fee of \$10,000. The Common Council amended the current ordinance to ensure that this license is fully utilized by requiring licensees to be open minimum hours and days each month. The two businesses requesting the available license are not traditional bar/restaurants. Council Member Arnett reviewed the facts from the recent branding survey that indicated that restaurants are the top asset in the City and 65% of the activities in the City are eating at restaurants. Both uses in this instance are restricted because of a technicality in State Law and could possibly be underutilized.

Council Member Chivinski explained that this is a hard decision because both businesses have great enthusiasm for the City. Council Member Chivinski said that he will fall back on logic in his decision that an anchor restaurant would benefit more from this available license.

Council Member Bublitz explained that she did some investigation and learned that a building owner who leased to a restaurant that closed last year is having a difficult time finding a new tenant. It will be even more difficult to market the property without an available liquor license in the City.

In answer to Council Member Verhaalen’s question, City Clerk Woodall-Vogg said that there is only an initial cost of \$10,000 for a Reserve “Class B” license and the regular cost of \$500/annually is charged after this. Council Member Verhaalen explained that he is leaning towards issuing the available license to one of the applicants. He opined that the Common Council should not stand in the way of business.

Council Member Burkart agreed that to hold the license for a restaurant would hold back other businesses.

Council Member Verhaalen is hopeful there will be changes in State law, as there is a high potential.

In answer to Council Member Arnett's question, City Clerk Woodall-Vogg explained that a business can partner with a civic or non-profit group to apply for a Temporary "Class B" license to serve wine on their behalf at festivals (allowed twice per year per applicant).

In answer to Council Member Verhaalen's question, City Clerk Woodall-Vogg explained that the liquor license holder is the business owner, not the owner of the property, if they are different. The business owner may keep the license for the remainder of the licensing year to use at another location.

Council Member Thome expressed concern for the license not being fully utilized as intended. She asked if the current ordinance for "Class B" liquor licenses could be clarified on its uses.

City Attorney Herbrand said the ordinance could be adjusted again, possibly near renewal time.

Council Member Thome said she is inclined not to grant the available license to either business because it would not be fully utilized. Her focus is on utilization when making her decision.

Motion made by Council Member Verhaalen, seconded by Council Member Chivinski, to issue a "Class B" fermented malt beverage and "Class B" intoxicating liquor (on or off-premise consumption) license to one of the applicants. Motion failed with Council Members Verhaalen and Burkart voting aye, Council Members Bublitz, Arnett, Chivinski, and Thome voting nay and Council Member Galbraith excused.

Troy Reissmann questioned if shops were the number one attraction in the City according to the branding survey, why the Council would not choose a shop over a restaurant for the license. His sales are down 50% in Cedarburg and he is taking a gamble by moving to the former August Weber Haus location. He would like whatever benefit he can have to succeed.

Tim Schelwat agreed with Troy Reissmann. He said that he did not understand the Council's reluctance in issuing the available license. Restaurants come and go, and Sunshine Winery is a new business opening in the heart of downtown. Mr. Schelwat appreciates having a "Class A" license; however, he would make great use of a "Class B" liquor license.

Megan Schelwat explained that they have received a lot of commentary on social media regarding their new business. People would like to be able to order a glass of wine at their store. She expressed disappointment for not issuing the license where it would make the most sense.

Council Member Thome said that she appreciated their business commitment to Cedarburg, but wants the license to be fully utilized.

Council Member Verhaalen expressed disappointment in holding back on the issuance of an available license and helping a business succeed.

CONSIDER AMENDMENT TO OFFER RECEIVED ON A PORTION OF PARCEL NO. 13-034-14-000.00 (OUTLOT #1 CSM 2784); AND ACTION THEREON

City Attorney Herbrand explained that there was a previous offer for a small rectangular parcel from a stormwater pond for a setback that was not signed. James Condos is now prepared to go to closing on

January 31 for the sale. There is a change in price based on Mr. James doing work on the storm water pond serving the Business Park, which is reflected in the current amendment to the offer that needs to be signed. The City is not providing any title insurance. Closing date is set for January 31, 2020. The Developer must sign the Development Agreement with the City, at or prior to closing.

Motion made by Council Member Burkart, seconded by Council Member Bublitz, to approve the amendment to offer received on a portion of parcel no. 13-034-14-000.00 (Outlot #1 CSM 2784) and authorize City Administrator Mikko Hilvo to sign the amendment and all related closing documents including the deed. Motion carried without a negative vote with Council Member Galbraith excused.

CONSIDER APPLICATION OF LIME CANTINA, W62 N550 WASHINGTON AVENUE, FOR A CLASS “B” FERMENTED MALT BEVERAGE AND “CLASS B” INTOXICATING LIQUOR (ON OR OFF-PREMISE CONSUMPTION) LICENSE, CONTINGENT UPON PROOF OF CONTROL OF PREMISE AND THE RETURN OF LICENSES BY STONEWALL PUB; AND ACTION THEREON

Motion made by Council Member Arnett, seconded by Council Member Bublitz, to approve application of Lime Cantina, W62 N550 Washington Avenue, for a Class “B” fermented malt beverage and “Class B” intoxicating liquor (on or off-premise consumption) license, contingent upon proof of control of premise and the return of licenses by Stonewall Pub on January 31, 2020. Motion carried without a negative vote.

CONSIDER LICENSE APPLICATIONS; AND ACTION THEREON

Motion made by Council Member Verhaalen, seconded by Council Member Arnett, to approve new operator license application for period ending June 30, 2020 for Rebecca Knuth. Motion carried without a negative vote with Council Member Galbraith excused.

Motion made by Council Member Burkart, seconded by Council Member Chivinski, to authorize issuance of a Festival Celebration Permit to Festivals of Cedarburg, Inc., for Winter Festival to be held on Saturday, February 15, 2020 from 8:30 a.m. to 10:00 p.m. and on Sunday, February 16, 2020 from 8:30 a.m. to 4:00 p.m. Motion carried without a negative vote with Council Member Galbraith excused.

CONSIDER PAYMENT OF BILLS DATED 1/4/20 THROUGH 1/17/20, TRANSFERS FOR THE PERIOD 1/11/20 THROUGH 1/22/20; AND PAYROLL FOR THE PERIOD 12/29/19 THROUGH 1/11/20; AND ACTION THEREON

Motion made by Council Member Burkart, seconded by Council Member Verhaalen, to approve payment of bills dated 1/4/20 through 1/17/20, transfers for the period 1/11/20 through 1/22/20; and payroll for the period 12/29/19 through 1/11/20. Motion carried without a negative vote with Council Member Galbraith excused.

ADMINISTRATOR’S REPORT

City Administrator Hilvo explained that City Clerk Woodall-Vogg is leaving her position on Friday, January 31. The City is advertising for the Clerk position until February 7, at which time a new clerk

will be hired. In the interim, retired Clerk Dianne Robertson will be administering the election on a contract basis.

COMMENTS AND SUGGESTIONS FROM CITIZENS - None

COMMENTS & ANNOUNCEMENTS BY COUNCIL MEMBERS

Council Member Kristin Burkart announced that longtime resident Joyce Barth passed away.

MAYOR'S REPORT

ADJOURNMENT – CLOSED SESSION

Motion made by Council Member Burkart, seconded by Council Member Bublitz, to adjourn to closed session at 8:32 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, TID No. 3 Developer's Agreement, Highway 60 Business Park, and hotel feasibility study; and pursuant to State Statute 19.85(1)(g) 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, holding tank replacement at city-owned property. 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 Bublitz, to reconvene to open session at 9:38 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.

NEW BUSINESS – CONTINUED

CONSIDER PORPOSED AMENDMENT TO THE TID NO. 3 DEVELOPER'S AGREEMENT; AND ACTION THEREON

Motion made by Council Member Arnett, seconded by Council Member Bublitz, to approve the proposed amendment to the TID No. 3 Developer's Agreement by extending the completion date by 12 months to December 31, 2021 and the Developer to make a \$25,000 payment towards the TID expenses by December 31, 2020. Motion carried with Council Member Bublitz, Arnett, Burkart, Chivinski, and Thome voting aye, Council Member Verhaalen voting nay, and Council Member Galbraith excused.

CONSIDER ALLOCATION OF FUNDS FOR HIGHWAY 60 BUSINESS PARK PROJECT MANAGEMENT SERVICES; AND ACTION THEREON

Motion made by Council Member Arnett, seconded by Council Member Bublitz, to approve the services of the Concord Group for the Highway 60 Business Park Project management services in an

amount not to exceed \$5,000. Motion carried without a negative vote with Council Member Galbraith excused.

CONSIDER THE HOLDING TANK REPLACEMENT AT CITY-OWNED PROPERTY 1838 PIONEER ROAD; AND ACTION THEREON

This item is postponed to the next Common Council meeting.

CONSIDER APPROVAL OF UPDATED HOTEL FEASIBILITY STUDY; AND ACTION THEREON

Motion made by Council Member Arnett, seconded by Council Member Bublitz, to approve an updated Hotel Feasibility Study with a \$1500 reimbursement made by the City of Cedarburg after permits are taken out for building a hotel and offer to expire on December 31, 2021. Motion carried without a negative vote with Council Member Galbraith excused.

ADJOURNMENT

Motion made by Council Member Arnett, seconded by Council Member Burkart, to adjourn the meeting at 9:41 p.m. Motion carried without a negative vote with Council Member Galbraith excused.

Amy D. Kletzien, MMC/WCPC
Deputy City Clerk