

**CITY OF CEDARBURG
COMMON COUNCIL
August 10, 2020**

**CC20200810-1
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held online on Monday, August 10, 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, Rick Verhaalen, Robert Simpson, Patricia Thome, Barbara Lythjohan

Excused - Council Member Kristin Burkart

Also Present - City Administrator Mikko Hilvo, City Attorney Michael Herbrand, Deputy City Clerk Amy Kletzien, Finance Director/Treasurer Christy Mertes, Assistant Engineer Mike Wieser, Planner Jon Censky, Senior Municipal Advisor 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

Kayla Stoflet-Santillanes, W56N487 Highland Dr., stated that she was looking forward to the first meeting of the Diversity Committee and asked when the appointments would be made. Mayor O'Keefe stated that he would have the appointments at the next Common Council meeting on August 31, 2020.

APPROVAL OF MINUTES

Motion made by Council Member Thome, seconded by Council Member Bublitz, to approve the July 27, 2020 Common Council minutes. Motion carried without a negative vote with Council Member Burkart excused.

PUBLIC HEARING

PUBLIC HEARING AT THE REQUEST OF DANNY AND JEANIE CRAWFORD OF THE LUMBERYARD/BIRD HOUSE RENTALS TO REZONE THE PARCEL AT W61 N397 WASHINGTON AVENUE FROM B-2 COMMUNITY BUSINESS DISTRICT TO B-1/PUD NEIGHBORHOOD BUSINESS DISTRICT/PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT

Mayor O'Keefe opened the public hearing at 7:04 p.m. to consider the request of Danny and Jeanie Crawford of the Lumberyard/Bird House Rentals to rezone the parcel at W61 N397 Washington Avenue from B-2 Community Business District to B-1/PUD Neighborhood Business District/Planned Unit Development Overlay District.

City Planner Censky explained that in 2018, Danny and Jeanie Crawford purchased the former Cedarburg Lumber Company building at the southwest corner of Washington Avenue and Jackson Street and almost immediately commenced work on improving the outward appearance of the building. This work included the replacement of old windows and doors with new store front windows and commercial Marvin-clad doors, along with the introduction of new dark grey board and batten siding. The owners have since completed their initial exterior renovation; however, to address ADA access requirements they are now requesting to add a ramp to the front of the building. The ramp will extend from the north side of the principal building and wrap around the front where it will extend out from the building to the Washington Avenue right-of-way line. City records indicate that this building is classified as legal non-conforming as it is located within the 40-foot front yard setback area required in the B-2 Community Business District, therefore, an addition of this nature would typically require a variance from the Board of Appeals; however, staff believes that the more appropriate way to address this issue is through a rezoning.

City Planner Censky further explained that since this corner reflects a classic neighborhood commercial node surrounded by some of Cedarburg's original homes, staff questions whether the B-2 District is appropriate for this site and instead believes that proper zoning should be the B-1 Neighborhood Business District. The B-1 District requires just a 5-foot building setback and was created just for small commercial nodes like this as it is designed to support pedestrian-oriented development where buildings are close to the street and blend into the surrounding neighborhood. Since the setback requirement in the B-1 District is only 5 feet, the principal building would automatically be rendered conforming. Accordingly, the City has encouraged the applicant to pursue this rezoning along with a PUD overlay District for the flexibility it offers in applying the base district setback requirements. Staff notes that the ADA ramp is proposed to be placed at the Washington Avenue right-of-way line which places it two feet from the front public sidewalk. The B-1 District requires the ADA ramp to be no closer than 5 feet to the right-of-way or 7 feet from the front sidewalk. In addition, the warehouse building is located 3 feet from the south property line, where the Code requires 10 feet. The PUD overlay district would allow the 0' front yard setback for the ramp as Code compliant for this site and to accept the existing 3-foot side yard setback for the warehouse building. The Plan Commission recommended approval of this rezoning request at their July 6, 2020 meeting by unanimous vote.

Council Member Lythjohan expressed concern for the location of the ramp in relation to the entrance and asked if it would be more advantageous to build the ramp on the south side of the building.

Architect Don Stauss explained that the proposed location of the ramp is the best option for this site.

Motion made by Council Member Lythjohan, seconded by Council Member Bublitz, to close the public hearing at 7:15 p.m. Motion carried without a negative vote.

NEW BUSINESS

CONSIDER ORDINANCE NO. 2020-11 TO REZONE THE PROPERTY LOCATED AT W61 N397 WASHINGTON AVENUE; TAX KEY NO. 13-050-20-02-002; FROM B-2 COMMUNITY BUSINESS DISTRICT TO B-1/PUD NEIGHBORHOOD BUSINESS DISTRICT/PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT; AND ACTION THEREON

Motion made by Council Member Thome, seconded by Council Member Simpson, to adopt Ordinance No. 2020-11 to rezone the property located at W61 N397 Washington Avenue; Tax Key No. 13-050-20-02-002; from B-2 Community Business District to B-1/PUD Neighborhood Business District/Planned Unit Development Overlay District. Motion carried without a negative vote with Council Member Burkart excused.

CONSIDER AWARD OF CONTRACT FOR THE HWY 60 BUSINESS PARK GRADING CONTRACT; AND ACTION THEREON

Assistant City Engineer Wieser explained that the grading for the Hwy. 60 Business Park must be completed by November 1, 2020 to meet Wilo's construction schedule. To that end, staff advertised for and received bids for the grading work. A total of 11 bids were received with the low bid submitted by Super-Western. He added that Super-Western is a large construction company who has previously completed grading and utility work in Cedarburg, most recently for Prairie View Subdivision and Sandhill Trails Subdivision. Super-Western's low bid of \$1,245,710.78 is well below the engineer's estimate and is in line with the TIF budget. The bid total includes a \$100,000 credit for removal of the excess topsoil stockpile from the site by December 31, 2021.

Council Member Verhaalen confirmed with Assistant Engineer Wieser that the work will be completed by November 1, 2020.

Motion made by Council Member Arnett, seconded by Council Member Bublitz, to award the contract for the Hwy 60 Business Park Grading Contract to Super-Western based on their low bid of \$1,245,710.78. Motion carried without a negative vote with Council Member Burkart excused.

CONSIDER INITIAL RESOLUTION NO. 2020-14 AUTHORIZING GENERAL OBLIGATION BONDS IN AN AMOUNT NOT TO EXCEED \$6,450,000 FOR COMMUNITY DEVELOPMENT PROJECTS IN TAX INCREMENTAL DISTRICT NO. 6; AND ACTION THEREON

Senior Municipal Advisor Todd Taves of Ehlers presented the presale report and explained that the proposed Bonds would finance a portion of the costs of developing the TID No. 6 Business Park (\$6,450,000), and improvements to the Cedarburg Community Pool (\$285,000). Debt service payments related to the pool will be paid from the property tax levy. Debt service payments for the Business Park improvements will be paid initially from capitalized interest (2021-2023) and then from land sales and Tax increments expected to be generated from development with the Business Park. The Bonds will fund only a portion of the Business Park Improvements. To complete the improvements, the City will need to issue additional debt in 2021 in the approximate amount of

\$2,300,000. Statutory procedure requires four different actions by the Common Council. With Common Council approval, Ehlers will return next month with bids.

In answer to Council Member Arnett's question, Todd Taves confirmed that the City will not be levying taxes for payment until possibly 2024 when there could be a differential.

Motion made by Council Member Arnett, seconded by Council Member Thome, to approve initial Resolution No. 2020-14 authorizing general obligation bonds in an amount not to exceed \$6,450,000 for community development projects in Tax Incremental District No. 6. Motion carried without a negative vote with Council Member Burkart excused.

CONSIDER INITIAL RESOLUTION NO. 2020-15 AUTHORIZING GENERAL OBLIGATION BONDS IN AN AMOUNT NOT TO EXCEED \$285,000 FOR SWIMMING POOL IMPROVEMENTS; AND ACTION THEREON

Motion made by Council Member Bublitz, seconded by Council Member Lythjohan, to approve initial Resolution No. 2020-15 authorizing general obligation bonds in an amount not to exceed \$285,000 for swimming pool improvements. Motion carried without a negative vote with Council Member Burkart excused.

CONSIDER RESOLUTION NO. 2020-16 DIRECTING PUBLICATION OF NOTICE TO ELECTORS RELATING TO BOND ISSUES; AND ACTION THEREON

Motion made by Council Member Thome, seconded by Council Member Bublitz, to adopt Resolution No. 2020-16 directing publication of notice to electors relating to bond issues. Motion carried without a negative vote with Council Member Burkart excused.

CONSIDER RESOLUTION NO. 2020-17 PROVIDING FOR THE SALE OF \$6,735,000 GENERAL OBLIGATION CORPORATE PURPOSE BONDS, SERIES 2020A; AND ACTION THEREON

Motion made by Council Member Arnett, seconded by Council Member Lythjohan, to adopt Resolution No. 2020-17 providing for the sale of \$6,735,000 general obligation corporate purpose bonds, series 2020A. Motion carried without a negative vote with Council Member Burkart excused.

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

City Planner Censky recalled that the Common Council denied this request at the July 13, 2020 meeting because of concerns that were raised by the immediate adjacent neighbors pertaining to the use of the patio off the east side of the Boseman's Bar. Because the immediate neighbor's home is just 25-feet away they have been bothered by noise and cigarette smoke emanating from this outdoor use and other concerns were raised pertaining to the location of the patio with respect to the public sidewalk. Due to these issues, the applicant was asked to work with the Plan Commission to find a solution to this problem. In response, the applicant hired Wydeven Landscape Architects to draft a buffer/berm plan which includes an undulating landscaped berm to be located between his outdoor

patio of the Bozeman's Bar and the adjacent neighbor. At the July 7 Plan Commission meeting, the adjacent neighbor indicated support for the plan and complimented Mr. Knuth on his efforts; therefore, the Plan Commission voted unanimously to approve the plan with its use ending at 9 p.m. daily.

Council Member Bublitz expressed appreciation for working together on a solution.

In answer to Council Member Verhaalen's question, City Planner Censky explained that Mr. Knuth will need to be proactive and monitor the activity on the patio in relation to the sidewalk. If there are complaints, they can be addressed at that time.

Owner Eric Knuth explained that they have invested a lot of money in this business and they want the same opportunities that are given to other downtown businesses.

Motion made by Council Member Bublitz, seconded by Council Member Thome, to approve an Outdoor Alcohol Beverage License for Bozeman's Bar located in N50 W5586 Portland Road. Motion carried without a negative vote with Council Member Burkart excused.

**DISCUSS OUTDOOR AMPLIFIED MUSIC IN THE DOWNTOWN BUSINESS DISTRICT;
AND ACTION THEREON**

City Administrator Hilvo explained that City policy currently only allows for Outdoor Alcohol Beverage License holders whose underlying "Class B" liquor license(s) were granted to a club, society or lodge holding a current 501(c)(3) status to apply for amplified music. The fee for this license is \$250 and it only allows them six events per year. Most recently the Council approved to allow the Cultural Center and the Cedarburg Art Museum additional days to help during the COVID-19 crisis. There are currently two local businesses (Lime Cantina and The Stagecoach Inn) that have amplified music in their outdoor seating areas on a regular basis. Based on City policy this is not permitted. Both businesses have requested that the City allow it this year based on lost revenue due to COVID-19 regulations. They have also requested that the City consider waiving the \$250 fee.

After a lengthy discussion, the Common Council decided that the businesses wanting to have amplified music will be allowed to do so until the end of 2020; however, they will need to follow the same rules as the Cultural Center and the Cedarburg Art Museum by submitting an application, paying the \$250, and notifying the Clerk's Office of the amplified music dates. Allowable dates/events will be at City staff's discretion to avoid conflict.

Motion made by Council Member Verhaalen, seconded by Council Member Thome, to allow outdoor amplified music in the downtown business district through 2020 by permit only with approval of days granted by City Administrator Hilvo. Motion carried without a negative vote with Council Member Burkart excused.

CONSIDER LICENSE APPLICATIONS; AND ACTION THEREON

Motion made by Council Member Verhaalen, seconded by Council Member Lythjohan, to approve new Operator License applications for the period ending June 30, 2021 for Samuel J. Arnholt and Madeline O. Pagel. Motion carried without a negative vote with Council Member Burkart excused.

Motion made by Council Member Bublitz, seconded by Council Member Lythjohan, to approve renewal Operator License applications for the period ending June 30, 2021 for Jonathan M. Brumwell, Robert M. Nash, and Erin A. Riley. Motion carried without a negative vote with Council Member Burkart excused.

CONSIDER PAYMENT OF BILLS DATED 07/23/20 THROUGH 07/31/20, TRANSFERS FOR THE PERIOD 07/22/20 THROUGH 08/04/20 AND PAYROLL PERIOD 07/12/20 THROUGH 07/25/20; AND ACTION THEREON

Motion made by Council Member Bublitz, seconded by Council Member Simpson, to approve payment of bills dated 07/23/20 through 07/31/20, transfers for the period 07/22/20 through 08/04/20 and payroll period 07/12/20 through 07/25/20. Motion carried without a negative vote with Council Member Burkart excused.

ADMINISTRATOR'S REPORT – No addition to report.

FIRE DEPARTMENT ANNUAL REPORT

Fire Chief Vahsholtz presented the 2019 Cedarburg Fire Department Annual Report and began by saying that the Department responded to a house fire in the City that hit very close to home because it resulted in the death of two of their members who lived in the home. These were the first fire deaths in the City since 1985. The Department continues their dedication to educate the public in fire safety and help prevent tragic loss of life in fires such as this one.

The following highlights and accomplishments were presented:

- Active membership has dropped to 58 compared to 66 members in 2018 and 65 members in 2017.
- The Department responded to 1,162 incidents.
- Mutual aid was given to 41 other Ozaukee County Departments.
- CFD received mutual aid from other Ozaukee County departments for 406 incidents in 2019. 363 were paramedic intercepts from the Thiensville Fire Department. The other mutual aid received included 38 rescue calls and 5 fire calls.
- 4,611 hours of training were completed. Training is essential since CFD does not receive a lot of fire calls.
- One new member went through the Firefighter 1 course which has not happened since 2016. Two firefighters took Fire 2 and one passive member moved to active status and completed EMT Basic. Several members completed courses for Emergency Services Instructor 1 and Fire Officer 1.
- CFD partnered with the Cedarburg Police Department and purchased a new forcible entry door prop to use for trainings.
- The Explorer program had a great year with a very active group of Explorers. Teens between 14-18 were busy with over 400 hours of training.
- Retirements, Promotions & Recognition:
 - Deputy Fire Chief Kim Esselmann retired from Active service after 20 years.
 - Chief Engineer Lieutenant Craig Boerner was promoted to Chief Engineer Captain.

- Assistant Chief Engineer Lieutenant Joseph Hintz was promoted to Engine Company Captain.
 - Rescue Lieutenant Nichole Zarling was promoted to Rescue Company Captain.
 - HEO/Firefighter Peter Pautz was promoted to Assistant Chief Engineer Lieutenant.
 - HEO/Firefighter Paul Goetz was promoted to Engine Company Lieutenant.
 - Firefighter/AEMT Blake Karnitz was promoted to Rescue Company Lieutenant.
 - The Badger Firefighter's Association recognized members for 50, 40, 30, 25, 20, and 10 years of service.
 - Deputy Chief Matusewic received the Cedarburg Life Safety Award for saving a friend and co-worker's life.
 - Cedarburg residents Maureen and Sampson Hackett received a Badger Firefighter's Association Heroism Award for rescuing two kayakers in Cedar Creek.
- 330 hours were devoted to public education and fire prevention by Public Education Officer Dutin Halyburton.
 - Fire/EMS Standby – The EMS and Fire personnel logged over 990 hours standing by ready to respond at special events held in the City.
 - 1,187 semi-annual safety inspections were completed last year in the City of Cedarburg and 156 in the Town of Cedarburg.
 - Collectively, over 7,000 hours of volunteer time has been given back to the community, excluding fire calls. Chief Vahsholtz emphasized that ultimately the recognition for such a successful year goes to the men and women of the Cedarburg Fire Department.

Mayor O'Keefe and the Common Council thanked the Cedarburg Fire Department for their outstanding contributions to the Community.

CITY CLERK'S REPORT – CERTIFY CODE OF ETHICS

City Clerk Sette certified that the Ethics Code has been distributed to and reviewed by all boards, commissions, and committees and staff pursuant to the requirement of Sec. 2-5-10 of the Municipal Code, with the exception of the Public Art Commission, Community Development Authority (on call), ad hoc Debt/Investment Advisory Committee (on call), and the ad hoc Mayor's Community Enhancement Award Committee (on call). All of which have not met to-date.

COMMENTS AND SUGGESTIONS FROM CITIZENS - None

COMMENTS & ANNOUNCEMENTS BY COUNCIL MEMBERS

MAYOR'S REPORT- None

ADJOURNMENT – CLOSED SESSION

Motion made by Council Member Bublitz, seconded by Council Member Arnett, to adjourn to closed session at 8:30 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, discuss Hwy 60 Business Park Commercial Broker services and Forward Cedarburg, Inc. Waiver and Mutual

Release. Approval of June 22, 2020 and July 13, 2020 closed session minutes. Motion carried on a roll call vote with Council Member Bublitz, Arnett, Verhaalen, Simpson, Thome, and Lythjohan voting aye and Council Member Burkart excused.

RECONVENE TO OPEN SESSION

Motion made by Council Member Thome, seconded by Council Member Lythjohan, to reconvene to open session at 8:46 p.m. Motion carried on a roll call vote with Council Members Bublitz, Arnett, Verhaalen, Simpson, Thome, and Lythjohan voting aye and Council Member Burkart excused.

NEW BUSINESS

DISCUSSION AND POSSIBLE ACTION ON HWY. 60 BUSINESS PARK COMMERCIAL BROKER SERVICES; AND ACTION THEREON

Motion made by Council Member Arnett, seconded by Council Member Verhaalen, to approve hiring Newmark Knight Frank as the City's Hwy. 60 Business Park land broker. Motion carried without a negative vote with Council Member Burkart excused.

DISCUSSION AND POSSIBLE ACTION ON FORWARD CEDARBURG, INC. WAIVER AND RELEASE; AND ACTION THEREON

Motion made by Council Member Thome, seconded by Council Member Lythjohan, to agree to the Forward Cedarburg Inc. waiver and release. Motion carried without a negative vote with Council Member Burkart excused.

ADJOURNMENT

Motion made by Council Member Arnett, seconded by Council Member Bublitz, to adjourn the meeting at 8:49 p.m. Motion carried without a negative vote with Council Member Burkart excused.

Amy D. Kletzien, MMC/WCPC
Deputy City Clerk