CITY OF CEDARBURG
COMMON COUNCIL
SEPTEMBER 30, 2024

A meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, September 30, 2024, at City Hall, W63 N645 Washington Avenue, second floor, Council Chambers, and online utilizing the Zoom app.

Mayor Patricia Thome called the meeting to order at 7:01 p.m. A moment of silence was observed. The Pledge of Allegiance was recited.

Roll Call: Present - Mayor Patricia Thome, Council Members Jim Fitzpatrick, Kevin Curley, Mark Mueller, Robert Simpson, Kristian Lindo, Kristin Burkart, and Melissa Bitter

Also Present - City Administrator Mikko Hilvo, Attorney Michael Herbrand, City Clerk Tracie Sette, City Planner Mary Censky, Water Recycling Superintendent Dennis Grulkowski, Engineering and Public Works Director Michael Wieser, and interested citizens and news media.

STATEMENT OF PUBLIC NOTICE

At Mayor Thome'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

Duey Stroebel – Wisconsin State Senator, District 20 – explained how the state shared revenue has increased 153% for the City of Cedarburg. Customer service is his focus.

NEW BUSINESS

DISCUSSION AND POSSIBLE ACTION ON APPROVAL OF AN OUTDOOR ALCOHOL BEVERAGE LICENSE APPLICATION AND AMPLIFIED MUSIC APPLICATION SUBMITTED BY SIERZANT LLC, AGENT SETH DEHNE, N49 W5471 PORTLAND ROAD, CEDARBURG

On September 4th, the Plan Commission approved a small (i.e., approximately 1,100 sq. ft.) outdoor seating area for this tavern use. This area is consistent with the footprint of the area where the former owner d/b/a Ernie's Wine Bar, had permission for outdoor seating and alcohol consumption. For additional outdoor dining and beverage service seating as Sierzant has submitted plans for, an amendment would have to be made to the City Code for the B-2 district.

On September 4th, the Plan Commission also considered, and favorably recommended to the Common Council, permission for outdoor alcohol consumption to be permitted on the 1,100 sq. ft. seating area only (like Ernie's previously had permission for), and subject to the following conditions:

- Ernie's did not previously have permission for outdoor music, amplified or otherwise. The Plan Commission recommends against considering this option at least until the applicant's larger plans for an expanded outdoor seating, recreation and entertainment area at this site are settled/finalized.
- Since Sierzant has already removed the old fence around the seating area, a new fence must be installed (subject to Planner and Building Inspector prior review and approval of fence plans) before the outdoor seating area may be used.
- The fence must begin at the building and be at least 7 feet tall along the east, and south sides of the seating area. A shorter fence may be allowed on the side facing the parking lot. Plans for this fencing have been reviewed and approved by the City Planner and Building Inspector as of 9/26/24. The plan calls for a 7-foot, treated pine fence extending from the building and around the east and south sides of the seating area. On the side facing the parking lot the fence will be 42" tall split rail design, closing to the entry sidewalk near the building.
- Closing hours for the outdoor area under the Ernie's approval were set at 9 pm Sunday through Thursday and 10 pm Friday and Saturday. The Plan Commission recommends these hours be applied to this outdoor seating area permission as well.

The following residents offered comments with varying degrees of opposition:
Jesse Scott – N49W5237 Portland Rd
John Nelson – W55N470 Spring Ct.
Amy Verhaalen – N46W5339 Spring Ct.

A motion was made by Council Member Curley, seconded by Council Member Simpson, to grant the outdoor alcohol beverage license to Sierzant LLC upon the following conditions outlined by the City Planner and that does not exceed the restrictions of the Conditional Use Permit:

- permittable square footage of 1,100 sq ft.
- no outdoor amplified music allowed
- seating area to match the former Ernie's Wine Bar footprint
- fencing to be at least 7 ft around outdoor area
- approval of City Inspector
- beverage service from inside the establishment only
- closing hours for outdoor area set at 9:00 p.m. Sunday through Thursday and 10:00 p.m. Friday and Saturday

Motion carried without a negative vote.

<u>DISCUSSION AND POSSIBLE ACTION ON WB CEDARBURG LLC PARKING AND ACCESS AGREEMENT</u>

WB Cedarburg LLC currently owns two properties located at, and adjacent to, N70 W5185 Columbia Road. The vacant lot contains a restriction that currently states the lot may be used for no other purpose than to provide parking and access for the benefit of the built lot. City Attorney Herbrand and Planner Censky have worked with the applicant and their attorneys to arrive at a satisfactory draft Parking and Access Agreement/Easement that would replace the existing Restriction while continuing to retain perpetual Columbia Road access and adequate parking for the benefit of the built lot. The applicant desires to open the possibility of other uses being added to this currently vacant .73-acre lot in the future. That lot is currently located in the Town of Cedarburg which is outside of the City's planning and annexation territory based on the current Boundary Agreement between the City and Town of Cedarburg.

A motion was made by Council Member Burkart, seconded by Council Member Mueller, to approve the WB Cedarburg LLC parking access agreement subject to the City's receipt of a signed and recorded access and parking agreement and easement on that parcel. Motion carried without a negative vote.

DISCUSSION AND POSSIBLE ACTION ON ENGINEERING DESIGN CONTRACT FOR THE 2025 STREET UTILITY PROJECT

The 2025 Street and Utility Project is planned for Evergreen Boulevard (Bridge to just north of Pine), Jackson Street/Hilgen Avenue (Washington to Hamilton), Fillmore Avenue (Garfield to Hamilton), Alyce Street (Washington to Interurban Trail), Fairfield Street (Washington to termini), and Layton Street (Washington to termini). Cedarburg Light and Water (CL&W) plans to replace lead services from the water main to the houses on Evergreen Boulevard and Jackson Street/Hilgen Avenue.

Generally, RFP's are sent out to five engineering firms for the street and utility project engineering work. The firm that includes the lowest price in their proposal is then awarded the engineering contract. CL&W has used and plans to continue using RA Smith for the engineering on their lead service replacement projects due to their experience with Safe Drinking Water Loan funding through the DNR. Since CL&W will be using RA Smith for the lead service replacement portion of the street and utility project, staff propose forgoing the typical RFP process and use RA Smith for the entire street and utility project.

A motion was made by Council Member Fitzpatrick, seconded by Council Member Bitter, to approve of awarding the Engineering Design Contract for the 2025 Street & Utility project to R.A. Smith subject to staffing deeming the bid price reasonable. Motion carried without a negative vote.

DISCUSSION AND POSSIBLE ACTION ON APPROVAL OF DONOHUE & ASSOCIATES ENGINEERING PROPOSAL

The City of Cedarburg hired Donohue & Associates in 2023 to perform a facility plan, along with some alternatives for review. A plan was brought before the Common Council in November of last year with two alternatives, either construct a new treatment facility or renovate the existing treatment plant. The Common Council requested more information on the alternatives. Donohue delivered additional information which was discussed at the March 11th Common Council meeting. The Council suggested that staff move forward with some of the next steps. Donohue & Associates prepared an Engineering

Service Agreement which includes many of the items needed to make an informed decision on whether the City build a new treatment plant or renovate the existing site.

A motion was made by Council Member Fitzpatrick, seconded by Council Member Mueller, to approve the awarded contract to Donohue & Associates not to exceed $107,560. Motion carried without a negative vote.

DISCUSSION AND POSSIBLE ACTION ON APPROVAL OF TID #7 CONSTRUCTION AUDIT RESULTS FOR THE FOX RUN DEVELOPMENT

The Tax Incremental Finance Agreement (TIF) for the Foxrun Development requires a construction audit to review qualified costs prior to the first TIF payment. The Concord Group was hired to complete the audit and they presented the findings.

A motion was made by Council Member Burkart, seconded by Council Member Fitzpatrick, to approve the TID #7 Construction Audit Results for the Fox Run Development. Motion carried without a negative vote.

DISCUSSION AND POSSIBLE ACTION ON THE FOLLOWING MAYORAL APPOINTMENTS

A motion was made by Council Member Fitzpatrick, seconded by Council Member Mueller, to approve the following Mayoral appointments:

- Eric Stelter – Community Development Authority
- Paul Radtke – Light & Water
- Andrew Moss – Light & Water

Motion carried without a negative vote.

DISCUSSION AND POSSIBLE ACTION ON ORDINANCE NO. 2024-13 UPDATING SECTION 13-1-226 OF THE CITY CODE REGARDING CONDITIONAL USE PERMITS

In previous cases, when there is a change in the business or property ownership attendant to an existing Conditional Use Permit (CUP), the new owner(s) files a request/application to the Plan Commission for transfer of the CUP into the new business or ownership name. This process requires the same procedures as for a new CUP. The same is true when an existing CUP holder requests to amend to their CUP in some way – the process requires the same procedures as for a new CUP. The City Code doesn't currently articulate these requirements clearly. The proposed amendments would correct that.

A motion was made by Council Member Burkart, seconded by Council Member Bitter, to approve Ordinance No. 2024-13 updating Section 13-1-226 of the City Code regarding Conditional Use Permits. Motion carried without a negative vote.

DISCUSSION AND POSSIBLE ACTION ON REVIEW OF 2025 PROPOSED CITY BUDGET

Administrator Hilvo proposed the first draft of the 2025 City Budget to the Common Council, which includes a 0.93% increase in the assessed tax rate due to the fire department referendum, addition of personnel, and annual wage and benefit increases. The budget also includes borrowing for street repairs, a new approach for the city. Administrator Hilvo emphasized the need for smart, controlled growth to maintain service levels without overburdening residents and acknowledged that some tax increases would be required to fund essential services and capital projects. A presentation with more detail will be made at the October 14, 2024 Council meeting. The budget may be adopted at the November 11, 2024 Council meeting.

No action was taken by the Common Council.

CONSENT AGENDA

A motion was made by Council Member Mueller, seconded by Council Member Simpson, to approve the following consent agenda items. Motion carried without a negative vote.

- August 26, 2024, Common Council Meeting minutes
- Payment of bills dated 09/01/2024 through 09/20/2024, transfer list dated 08/24/2024 through 09/26/2024 and payroll from 08/18/2024 through 09/14/2024

ADMINISTRATOR'S REPORT - None

COMMENTS AND ANNOUNCEMENTS BY COUNCIL MEMBERS - None

MAYOR'S REPORT – None

ADJOURN TO CLOSED SESSION

A motion was made by Council Member Burkart, seconded by Council Member Fitzpatrick to adjourn to Closed Session at 8:22 p.m. pursuant to State Statute 19.85(1)(e) to deliberate or negotiate the purchase of public property, the investment of public funds, or to conduct other specified public business, whenever competitive or bargaining reasons require a closed session. The Council discussed a possible Letter of Intent for a land purchase as well as purchase agreements for parcels located in the HWY 60 Business Park. Motion carried on a roll call vote with Council Members Fitzpatrick, Burkart, Curley, Simpson, Lindo, Mueller and Bitter voting aye.

RECONVENE TO OPEN SESSION

Open session reconvened at 9:39 p.m.

DISCUSSION AND POSSIBLE ACTION ON LETTER OF INTENT FOR LAND PURCHASE WITHIN THE HWY 60 BUSINESS PARK

No action was taken by the Common Council.

DISCUSSION AND POSSIBLE ACTION ON PURCHASE AGREEMENTS WITHIN THE HWY 60 BUSINESS PARK

A motion was made by Council Member Mueller, seconded by Council Member Simpson, to approve purchase agreements from Phillip Lithograph subject to final review. Motion carried without a negative vote.

A motion was made by Council Member Burkart, seconded by Council Member Curley, to approve the purchase agreement for Cornerstone Daycare with the revisions discussed in Closed Session for the lot on the South side of the business park. Motion carried with Council Member Fitzpatrick opposed.

ADJOURNMENT

A motion was made by Council Member Mueller, seconded by Council Member Burkart, to adjourn the meeting at 9:42 p.m. Motion carried without a negative vote.

Tracie Sette
City Clerk