

MINUTES
COMMITTEE OF THE WHOLE MEETING
CITY OF BERLIN
TUESDAY, JUNE 5, 2018
CITY HALL COUNCIL CHAMBERS

Mayor Schramer called the Committee of the Whole meeting to order at 7:00 p.m. Roll call present: Ald. Lehr, Boeck, Przybyl, Erdmann, Secora and Harke. Staff present: Lindsey Kemnitz, Matt Chier, Scott Zabel, Dennis Plantz, Jodie Olson and Susan Thom.

Michelle Vander Vegte, President of IKWE Development reviewed the recommendation of a midscale brand hotel with 39 rooms. Vander Vegte has scheduled the first investor meeting for June 6, 2018. The timeline would be up to 90 days to find investors. The estimate of the hotel project is \$4.6 million. Vander Vegte estimates 6 to 9 months to build. Mayor Schramer reminded the rezoning of the property is subjected to having plans approved by October 2018. Vander Vegte is hopefully to have plans finalized by August.

Next on the agenda was the Waushara County ATV Association's proposed ATV/UTV Ordinance for the City of Berlin. Brandon Bonfiglio indicated he was a member of the Waushara County ATV Club and was also a Waushara County Board Member. He reviewed the plans to open and maintain routes and trails throughout Green Lake, Waushara, Adams, Fond du Lac and Winnebago counties which would attract tourist dollars to the City of Berlin. Bonfiglio stated that the WI DNR and private companies have grant money available to develop and sign routes throughout Green Lake and Waushara County. Municipalities and private land owners are held to the standards of liability under Wisconsin State Statute 892.52 which holds immunity from liability for those who allow recreational activities as long as the land owner/municipality does not charge for the recreational activity use or there is a malicious failure to warn of an unsafe condition by a government body. Bonfiglio proposed an ordinance that included the speed limit not greater than 35 mph, person under the age of eighteen (18) must wear a DOT approved protective helmet, the hours of operation between 6:00 a.m to 10:00 p.m. daily and they must possess a valid driver's license. He indicated the noise level would be 96 decibals, which is less than some lawn mowers. He indicated they opened 100 miles of ATV routes in Waushara County last year. He further noted that ATV there has been a 30% increase in UTV activity in the last year and average age is 46.

Edmund Marks, 269 Mound St stated that OSHA safety bulletin indicated that ATVs are not intended for paved roads and never to ride on public roads. Marks indicated that ATV manufacturers have stickers on the machines indicating that they are not for paved roads. Marks voiced concern with the ATV exhaust being as loud as 96 decibels, because it is recommended at 80 decibels that a person should have hearing protection. Marks was concerned that ATVs would be able to use any streets in the City of Berlin. Marks stated that Berlin is not a proper place for this. Marks questioned enforcement including loud noise enforcement and if the PD has time for this enforcement. Also, he questioned if hearing protection should be a consideration. He further indicated that according to Green Lake County Code 257-9, the sponsor shall pay for 10 years of signage costs and maintenance. He questioned if there were connection points and why we were being compared to Jackson County with facts and figures, because we are much different and do not have the forested area. Marks felt this would create more noise issues, and there is a place for such an ordinance, but Berlin is not the place and asks that this proposal be rejected.

Felicia Page 191A Broadway stated that she is against ATVs running in town. Page was concerned the main route was Broadway and that 35 mph was a dangerous speed. She felt the hill on Broadway would be an issue. Page was concerned how the City of Berlin would be keeping them off the park. Page stated that the Town of Leon would not allow ATVs. Page stated that she does not approve of this ordinance.

Charlie Beard, 560 River Drive, stated that speed limit on River Drive is 15 mph and the average speed is 25+ mph and it is not enforced well at all. He doubted the ATVs would stay on the street and would go into the parks. He noted that the consumer product safety commission states that ATVs are not designed for paved roads. He questioned the financial information submitted as there are not footnotes or anything to back up the information. He does not trust the numbers and they have not been verified. Beard stated he is firmly against it and will be back if it passes.

Chief Plantz stated the police department could absolutely meet the challenge of enforcing this ATV ordinance even though it is one more thing on their plate.

Erdmann questioned the comparability to Black River Falls since they have a casino and a 1300 acre recreation lake front park with 6 hotels. ATVs come for bars and restaurants, but ATVs are not going to be shopping at stores downtown, such as buying flowers, shoes and antiques. She reviewed the 2002 traffic study that an average of 8300 vehicles uses the new bridge and projected in 2022 that an average of 10,900 vehicles would be using it. This would average 10,300 per day for 2018. The 2002 traffic study showed an average of 12,400 vehicles per day over the Main Street Bridge. It is also projected that in 2022 there would be an average of 17,000 vehicles per day. Using that logic, there are potentially 16,100 vehicles daily using main street in 2018. Erdmann is concerned over too much traffic to add ATV/UTV routes to city streets. She indicated she is totally against this ordinance and will vote no if there is a vote.

Brandon addressed some questions. He indicated the sticker on ATVs is for liability. The noise level cannot exceed the federal level and the PD can fine if it goes beyond that. He indicated the ATV Association pays and puts up the signs. Felicia Page noted that ATVs are not allowed all over Waushara County and are not allowed in the Town of Leon.

Brandon noted that there is always risk involved and they work to minimize the risk by setting hours, speed, and requiring valid driver license and ATV/UTV safety course. Charlie Beard commended that since all city streets would be open to ATV/UTVs that kids could bring them to school. Boeck indicated she is pro ATV and people she spoke to were in favor of it. The people she spoke to were 30-50 years old. Lehr reminded Council of the fight over the truck route situation over Wisconsin Street and stated no constituent wants to deal with that again.

Lehr made a motion to table this ATV/UTV ordinance for the City of Berlin indefinitely. Erdmann seconded the motion. Secora asked for clarification on what indefinitely meant. Chier clarified that the Mayor could put it back on the agenda whenever he wanted. Pryzybl indicated she hadn't heard anything negative. Harke stated the concern is the route. He is all for ATVs, but the route concern is "not by my house". A roll call vote results: Lehr (aye), Erdmann (aye), Secora (aye), Harke (nay), Boeck (aye) and Pryzbyl (nay), which was 4-2. Boeck then requested she be able to change her vote to aye because she misunderstood what was being considered and thought roll call was being taken. With her vote change, the outcome was then 3-3. With a tie vote, Mayor Schramer broke the tie by voting nay. Motion failed.

Harke made a motion to recommend to Common Council to form an AD HOC committee to study the ATV route request and that this committee comes back within 30 days with a recommendation. Boeck seconded the motion. Lehr made a motion to amend the motion to appoint Charlie Beard to the committee. Erdmann seconded. A voice vote on the amendment resulted in six (6) ayes, zero (0) nays and zero (0) absent. A voice vote on the amended main motion resulted in Boeck, Secora, Lehr, Przybyl and Harke (5) ayes, Erdmann (1) nay and zero (0) absent. Motion carried.

The Mayor asked for Council members to volunteer, which Boeck and Secora agreed to. Mayor Schramer then suggested the committee be Charlie Beard, David Secora, Kristina Boeck and Chief Plantz. Erdmann questioned if Dennis Plantz was acting as an individual or as the Police Chief. Plantz indicated as the Chief of police. Erdmann then stated she believed Denny had a vested interest in this situation and would not be unbiased and was therefore not in favor of him being on the committee.

Next on the agenda was Municipal Court Agreement and Ordinance Updates. Jodie Olson reviewed that according to the Intergovernmental Agreement adopted in 2009 the Village of Rosendale hereby notifies the termination date is April 30, 2019 the last day of Judge Jaye's current term and that they will transfer of the "Rosendale matters" to their own independent court. Olson stated to review the amended draft of the ordinance for any changes.

Next was Vacant Building Registration Ordinance. Kemnitz recommended a \$75 fee for a vacant building inspection renewal fee. If the building continues to be in violation for the next 6 month inspection, the renewal fee will be increasing increments of \$150 at each renewal to a maximum of \$500. If the inspector is unable to gain access to the structure at the scheduled time there will be an additional fee of \$100. Erdmann stated the fees were in line with the Latest Landlords' Legislation, Act 317. Erdmann made a motion to recommend to the Common Council to adopt the vacant building registration ordinance with the fee structure as presented. Przybyl seconded the motion, which carried by voice vote.

Next was possible amendment to Sex Offender Child Safety Ordinance. Atty Chier stated after reviewing the ordinance his recommendation was to leave it as is. Chief stated that Atty Lloyd will continue the contract to house offenders at 120 E Huron Street.

Next was 2018 Federal and State Taxi Grant Contracts. Lehr made a motion to recommend to the Common Council to approve and authorize the Mayor to sign the 2018 Urban Mass Transit Assistance Contracts between the State of Wisconsin, Department of Transportation for Section 5311 and the City of Berlin for Calendar Year 2018, including the Federal Certifications and Assurances. Secora seconded the motion which carried by voice vote.

Next was 5311 Capital Assistance Taxi Grant Contract. Secora made a motion to recommend to Common Council to approve and authorize the Mayor to sign the 2018 Section 5311 Grant Agreement for \$41,440 for a mini-bus taxi. Lehr seconded the motion which carried by voice vote.

Next was authorizing Resolutions for Grant Funding Applications. Erdmann made a motion to recommend to Common Council to approve and adopt Resolution #18-07 Authorizing Jodie Olson to file applications for Financial Assistance from State of Wisconsin Environmental Improvement fund. Harke seconded the motion which carried by voice vote.

Next was Safe Drinking Water Fund Loan Resolution Declaring Intent. Harke made a motion to recommend to Common Council to approve and adopt Resolution #18-08 Declaring Official Intent to reimburse expenditures from proceeds of borrowing (Safe Drinking Water Fund Loan). Lehr seconded the motion which carried by voice vote.

Next was Clean Water Fund Resolution Declaring Intent. Przybyl made a motion to recommend to Common Council to approve and adopt Resolution #18-09 declaring official intent to reimburse expenditures from proceeds of borrowing (Clean Water Fund Loan). Boeck seconded the motion, which carried by voice vote.

Lehr made a motion to adjourn at 8:35 p.m. Secora seconded the motion, which carried by voice vote.

Susan Thom, Deputy Clerk