AGENDA
COMMITTEE OF THE WHOLE MEETING
CITY OF BERLIN
TUESDAY, OCTOBER 2, 2018, 7:00 PM
CITY HALL COUNCIL CHAMBERS

1. Roll Call.

2. General Public Comments. Registration card required (located at podium in Council Chamber).

3. Approval of Minutes. RECOMMENDATION: Approve the minutes from the September 4, 2018 Committee of the Whole meeting.

4. Siren Radio Controls Replacement. RECOMMENDATION: Recommend to Common Council to approve the budget transfer request to replace the Siren Radio Controls at Clay Lamberton and N. Washington Street and approve Resolution #18-13 Authorizing 2018 Budget Transfer of Contingency Funds for Siren Radio Controls.

5. 2019-2023 Garbage & Recycling Contract Bid Award. RECOMMENDATION: Recommend to Common Council to award the 2019-2023 Garbage & Recycling Contract to the lowest bidder, Advanced Disposal, and establish spring bulk pick-up parameters.

6. Request for Assessment Lien Subordination for Gary Peterson, 674 NW Cumberland. RECOMMENDATION: Listen to request, discuss and action as appropriate. Item can also be discussed in closed session.

7. Review Sidewalk Café Permit Ordinance to Allow Alcohol Consumption. RECOMMENDATION: Discuss and action as appropriate.

8. Draft ATV/UTV Advisory Referendum Ballot Questions. RECOMMENDATION: Review, discuss and direct staff appropriately.

9. Municipal Court Ordinance. RECOMMENDATION: Recommend to Common Council to approve Ordinance #08-18 Establishing a Municipal Court for City of Fond du Lac, Villages of Brandon, Campbellsport, Fairwater, Oakfield and North Fond du Lac, Towns of Empire, Osceola, Ripon and Taycheedah in Fond du Lac County, and the Cities of Berlin, Green Lake, Markesan and Princeton in Green Lake County and the City of Berlin in Waushara County effective May 1, 2019.

10. Municipal Court Intergovernmental Agreement. RECOMMENDATION: Recommend to Common Council to approve the Intergovernmental Agreement for North Fond du Lac to Provide Municipal Court Services to the City of Fond du Lac, Villages of Brandon, Campbellsport, Fairwater and Oakfield, the Towns of Empire, Osceola, Ripon and Taycheedah in Fond du Lac County, and the Cities of Berlin, Green Lake, Markesan and

Princeton in Green Lake County and the City of Berlin in Waushara County to Commence on May 1, 2019.

11. Property Status Update for 107 W. Huron Street. RECOMMENDATION: Update only. No action required.

12. Property Status Update for 130 W. Berlin Street. RECOMMENDATION: Update only. No action required.

13. 2018 Street Project Update. RECOMMENDATION: Update only. No action required.

14. Motion to convene into closed session pursuant to Sec 19.85(1)(e), of the WI Statutes, to deliberate or negotiate the purchase of public property, investment of public funds or conduct other specified public business, whenever competitive or bargaining reasons require a closed session. ((1) *EMS Contract with ThedaCare-CHN & 2) Peterson Assessment Lien Subordination Request).*

15. Reconvene into open session and take appropriate action as a result of closed session discussion.

16. Adjourn.

In adherence to the City of Berlin Public Meeting Participation Policy, public participation will be allowed under each agenda item at the discretion of the presiding officer, with the exception of the Consent Agenda. Attendees must register their intention to participate on either a general comments section or a specific agenda item prior to the meeting by filling out a Registration Card, which can be obtained from the Internet, City Clerk's office or in the City Hall Council Chambers at the podium. Registration Cards should be turned in prior to the meeting to either the presiding officer or City Clerk.

DATE: September 26, 2018

TO: Committee of the Whole

FROM: Jodie Olson

RE: Siren Radio Controls Replacement

BACKGROUND: I received the attached request from Gary Podoll, Emergency Management Director relating to recent siren radio control issues. Considering the importance of the sirens, I would agree with Gary that these need to be replaced as soon as possible. The Emergency Management budget can handle a portion of the $8,400, but not all. Therefore, it is being requested that 2018 contingency funding be utilized to make up the difference. Attached is the letter from Gary Podoll and a draft resolution authorizing the budget adjustment.

RECOMMENDATION: Recommend to Common Council to approve the budget transfer request to replace the Siren Radio Controls at Clay Lamberton and N. Washington Street and approve Resolution #18-13 Authorizing 2018 Budget Transfer of Contingency Funds for Siren Radio Controls.

CITY OF BERLIN
OFFICE OF EMERGENCY MANAGEMENT

Gary V. Podoll
Director

Office: 920-361-5416
FAX: 920-361-5405

DATE: September 24, 2018

TO: City Administrator, Jodie Olson

FROM: Gary V. Podoll, Emergency Management Director

SUBJECT: Clay Lamberton Siren Radio Control

The Siren Radio Controls that were purchased back in 1993 are now failing and because of that it will not allow the siren to sound. We need to replace the Siren Radio Control at the North Washington Street siren, which failed in August. The cost to replace the control is $4,200.00. I can take $2,000.00 out of my equipment budget, which I have $2,250.00 total for that account. I will need another $2,200.00 for the remainder of the cost.
I looked at the Siren radio control located by Clay Lamberton and it is in need of being replaced. It could fail at any time and seeing that siren covers a major critical population of schools, hospital and nursing home, I feel it needs to be replaced as soon as possible.
The cost of that Siren Radio Control and install is $4,200.00.
The total cost needed is $6,400.00.

Sincerely,

Gary V. Podoll
Emergency Management Director
City of Berlin

RESOLUTION # 18-13

A RESOLUTION AUTHORIZING 2018 BUDGET TRANSFER OF CONTINGENCY FUNDS FOR SIREN RADIO CONTROLS

IT IS HEREBY RESOLVED that the amount of $6,400.00 shall be transferred from the 2018 budget expense account 10-59-90000-390 Contingency Fund to the 2018 budget expense account 10-52-90001-380 Emergency Management Equipment & Structures for the purpose of replacing the Siren Radio Controls at Clay Lamberton School and N. Washington.

Passed, approved and adopted this 9th day of October, 2018.

ROLL CALL VOTE:

_____ AYES

_____ NAYS

_____ ABSENT

CITY OF BERLIN

BY:_____
Richard D. Schramer, Mayor

APPROVED AS TO FORM:

_____
Matthew G. Chier
City Attorney

ATTEST:_____
Jodie Olson
Administrator, Clerk/Treasurer

DATE: 9/20/2018

TO: Honorable Mayor and Committee of the Whole

FROM: Scott Zabel

RE: 2019-2023 Garbage & Recycling Contract Proposals

BACKGROUND: The City of Berlin recently requested proposals for a 5-year garbage and recycling contract. Advanced Disposal and Waste Management submitted proposals, with Advanced Disposal submitting the lowest bid. Waste Management provided a significantly higher bid and did not provide an option for every other week recycling. Advanced Disposal provided an option for weekly or every other week recycling pick-up with no difference in cost.

Both proposals provided options for a Spring bulk pick-up. Advanced Disposal indicated that April road weight restrictions make it challenging to manage the trucking of bulky item collection to the facility. They proposed that if the Spring pick-up were moved to the 2nd or 3rd week of May, they would continue to provide a truck and operator for one week as well as up to 150 tons of disposal at no-charge. Both bidders had concern over the volume of rubbish that is collected during that week of the cleanup. They feel a per resident limit on rubbish should be established. I agree that limits should be established and that responsible tax payers should not have to foot the bill for the residents that are not responsible.

There was also prior council discussion relating to the feasibility of providing a 40 yard roll off dumpster or a compactor at the Public Works facility during the summer months so residents could dispose of additional rubbish outside of the weekly curbside pickup and in addition to the Spring pick-up. Advanced Disposal provided costs for both options. Waste Management did not provide costs for this, but included alternate options. Both companies stated hesitation and concerns on having this type of service for the following reasons:

1. Liability and personal safety to residents particularly relating to the compactor.
2. The Public Works Dept. does not have available staff to monitor the drop off site.
3. Because we do not have available staff to monitor the drop off the largest concern is the type of materials that could potentially end up in the dumpster such as electronics, tires, hazardous waste and many other materials that would only be accepted at a fully staffed clean sweep.
4. The service would only be provided to city residents, which would then need a residential ID verification process. This is another reason why it would need to be supervised.

RECOMMENDATION: Accept the lowest proposal submitted by Advanced Disposal for weekly curbside pickup of garbage and recyclables and direct staff to enter a 5 year contract agreement for 2019-2023 and establish Spring Bulk Pick-up parameters.

All carts will still be under warranty for the duration of a new 5 year contract. Periodically over the past two years, ADS has contacted the manufacturer to come out during collections and do a container sweep on three separate occasions – where they walk the streets looking for issues such as broken wheels, lids, etc. The local driver(s) also carry a limited supply of wheels and lids with them during regular weekly collections to address any items as quickly as possible.

In regards to the RFP request to change recycle collections to a bi-weekly schedule, a few important factors come into play in regards to collections. All of our new automated trucks are designed to collect two commodities at once, making them a much more productive vehicle – and ultimately allows us to be maintain efficiency. On the service side, the City of Berlin has exceptional recycling participation – you've done a very nice job getting the community onboard and educated in accordance with the proper programs. Periodically as time allows, I like to go out for the day and do the routes. It gives me a good perspective of our operations, and a nice opportunity to visit with residents throughout the day. From what I've experienced, my recommendation would be to continue on the current weekly collection schedule. The vast majority of recycling cans are full, or sometimes overfull. I don't believe the 65g container would be a viable long term solution on a bi-weekly schedule. We can operate under any schedule you prefer by all means, but I would recommend a good discussion in regards to this piece.

For the optional Rolloff selections, pricing will be as follows:

- No monthly fee for placement of dumpster
- Each haul of the dumpster would be charged at $85/haul and $38/ton

For the optional compactor, pricing will be as follows:

- Monthly fee of $425/month for the term of the contract
- Each haul of the dumpster would be charged at $85/haul and $38/ton
- City will be responsible for electrical and any required concrete work prior to install
- ADS will supply maintenance on the compactor for the term of the contract

If the City is able to be flexible on the Bulky Collection week, and push it into the 2nd or 3rd week of May it would help ADS from an Operational standpoint, and would allow us to present a much better package for the disposal piece. State weight restrictions, while in effect typically create a variety of challenges for any hauling operation. Over the past several years, we've seen these restrictions still in effect while the Bulky Item Collection was being completed. If the City is willing to adjust the annual Bulky Item Collection into mid-May or later, ADS would provide one truck and an operator for one week (as we have in the past), as well as up to 150 tons of disposal at no-charge. Tonnage over 150 tons would be billed at $38/ton.

ATTACHMENT A

Request for Proposal

Sanitation and Recycling for 2019-2023

1. Price structure for weekly garbage pick-up with 95 gallon cart, every other week recycling with 65 gallon carts.

Year	Refuse	Recycle	Total
2019	$7.08	$3.81	$10.89
2020	$7.08	$3.81	$10.89
2021	$7.29	$3.92	$11.21
2022	$7.51	$4.04	$11.55
2023	$7.74	$4.16	$11.90

2. Price structure for weekly garbage pick-up with 95 gallon cart, and weekly recycling with 65 gallon carts.

Year	Refuse	Recycle	Total
2019	$7.08	$3.81	$10.89
2020	$7.08	$3.81	$10.89
2021	$7.29	$3.92	$11.21
2022	$7.51	$4.04	$11.55
2023	$7.74	$4.16	$11.90

Advanced Disposal Services
(Company Name)

250 Alder Way, Omro, WI 54963
(Company Address)

9/6/18
(Signature) (Date)

GENERAL MANAGER
(Title)

*See Addendum

Dear Sir or Madame:

Please provide a separate price for a 40 yd. dumpster per month to be placed at the Public Works Dept. from May thru October 2019 thru 2023.

2019 $_____

2020 $_____

2021 $_____

2022 $_____

2023 $_____

Please provide a separate price for a 40 yd. compactor per month to be placed at the Public Works Dept. from May thru October 2019 thru 2023.

2019 $_____

2020 $_____

2021 $_____

2022 $_____

CONTRACTOR CONTACT INFORMATION

Official business name and address for notification purposes:

Contractor Name Waste Management of Wisconsin, Inc. - Fond Du Lac

Address 301 Thomas St
Fond Du Lac, WI

Telephone 920-923-8820 After Hours Phone

City of Berlin contact (.i.e. route manager) regarding service related issues:

Contact Person Name Heather Hadel – District Operations Manager

Address 301 Thomas St.
Fond Du Lac, WI

Telephone 920-923-8820 After Hours Phone 920-960-0590

Email hhadel@wm.com

DISPOSAL & PROCESSING INFORMATION

Contractor's choice of landfill:

Name Valley Trail Landfill

Location Berlin, WI

Contractor's choice for recyclables processing:

Name Fond Du Lac Transfer Station to Germantown MRF

Location Fond Du Lac to Germantown

Changes in Collection Day due to Holidays: If a designated holiday falls on a regularly scheduled Service day, the Service will be performed on the next day, including Saturday.

Community Involvement

Waste Management is proud to be a supporter for the City of Berlin community in regard to fundraising, scholarships and other charitable events such as: Berlin Street Cruzers, INC, Bugle Mouth Bass, Norton's Dry Dock Youth Fishing, Berlin Fire Department, Berlin High School Scholarship Fund, Shootin' for a Reason, MP Golf Charity – Mallary Nissen, Brantley's Bowlerama, Kordell DVorachek Memorial, Berlin Lions Club, Elves 'R' Us, Green Lake 4-H County Fair Book, Berlin Conservation Club, June Dairy Month, Berlin Food Pantry, Walleye's for Tomorrow, The ABC Group.

Waste Management looks forward to continuing these efforts for the City of Berlin and its community.

Proposal Rates

The following proposal is based on approximately 2178 residential trash units and 2178 residential recycling units. This proposal will cover a five-year period, beginning January 1, 2019.

Waste Management of Wisconsin, Inc. is offering the City of Berlin weekly trash and every other week single stream recycling services. Residents will be given a 96-gallon wheeled and lidded cart for trash, and a 64-gallon wheeled and lidded cart for recycling. Theses carts will remain the property of Waste Management of Wisconsin, and will be maintained throughout the term of the contract for normal wear and tear. If a cart is broken or becomes unusable due to resident neglect/fault, the resident will be responsible for the replacement cost of the cart of $60.00.

The contractor's employees shall return all containers to the point of pickup in an orderly manner. All carts must be provided by the Contractor. Resident owned carts will not be serviced by the Contractor

All residential waste materials, listed above, must be in the proper carts. Items outside of the cart will not be collected during normal curbside collection service. If the resident has a larger or bulk item, they will have the option to utilize Waste Management's Valley Trail Landfill in Berlin.

If the City issues a new residency permit, the City will be responsible for informing Waste Management of the new permit, providing the address of the residential unit. Waste Management will deliver the trash and recycling carts, along with the appropriate educational material to the new residential unit. The new residential unit will be added to the route and to the unit count for billing purposes.

Residents can make a request through the City of Berlin for an additional waste cart, and upon confirmation by the City, the Contractor will provide and deliver to the residential unit an additional 96-gallon waste cart at no charge. The City will be billed an additional $7.00 per month, for each additional cart that is requested and delivered. This fee will be at a fixed rate throughout the expiration of the contract.

Residents can make a request through the City of Berlin for an additional recycling cart, and upon confirmation by the City, the Contractor will provide and deliver to the residential unit an additional 64-gallon recycling cart at no charge. The City will be billed at the prevailing per home rate for recycling service for each additional cart that requested and delivered. This fee will be at a prevailing rate throughout the expiration of the contract.

Residential Refuse and Recycling Service Rates 5-Year Term:

All pricing listed is monthly.

96 gallon- carted refuse, weekly service--	$ 8.30 per home, per month
64 gallon- carted single source recycling, every other week service--	$ 3.25 per home, per month

Cost per household would be **$11.55 per month**. Cost is based on a total of approximately 2178 households. The pricing for these services will include a price increase of 3%, on the anniverary of the start date of the original contract.

ATTACHMENT A

Request for Proposal

Sanitation and Recycling for 2019-2023

1. Price structure for **weekly** garbage pick-up with 96 gallon cart, and **every other week** recycling with 64 gallon cart.

Year	Refuse	Recycling	Total
2019	$8.30	$3.25	**$11.55**
2020	$8.55	$3.35	**$11.90**
2021	$8.81	$3.45	**$12.26**
2022	$9.08	$3.55	**$12.63**
2023	$9.36	$3.65	**$13.01**

2. Price structure for **weekly** garbage pick-up with 96 gallon cart, and **weekly** recycling with 64 gallon cart.

Year	Refuse	Recycling	Total
2019			No Bid
2020			No Bid
2021			No Bid
2022			No Bid
2023			No Bid

Waste Management of Wisconsin, Inc.
(Company Name)

301 Thomas St. Fond Du Lac, WI 54935
(Company Address)

9/6/18
(Signature) (Date)

Public Sector Representative II
(Title)

ATTACHMENT B

Please provide a separate price for a 40 yd. dumpster per month to be placed at the Public Works Dept. from May thru October 2019 thru 2023.

2019--- No Bid

2020--- No Bid

2021--- No Bid ***See below for alternative option.**

2022--- No Bid

2023--- No Bid

Please provide a separate price for a 40 yd. compactor per month to be placed at the Public Works Dept. from May thru October 2019 thru 2023.

2019--- No Bid

2020--- No Bid

2021--- No Bid ***See below for alternative option.**

2022--- No Bid

2023--- No Bid

Alternative Bulk Items and Excess Trash- (Year-round)

Waste Management would like to offer residents in the City of Berlin a year-round option for disposing of excess trash or bulk items. Residents will be able to utilize Waste Management's Valley Trail Landfill in Berlin for these items throughout the year. Proof of residency within the City of Berlin will be required. Residents will be charged a flat rate of $25.00 per trip, for loads up to five hundred (500) pounds. Loads weighing more than five hundred (500) pounds will be charged the prevailing gate rate at the Valley Trail Landfill. Regular hours at the Valley Trail Landfill are Monday through Friday, 7:30 am to 4:00 pm.

Option 1. Curbside, Bulk Waste Pick-up (One time per year, Spring)

Waste Management will provide the City of Berlin with one (1) rear load truck and two (2) operators for up to five (5) week days, for the City's annual bulk item cleanup. This service will be charged at a rate of $150.00 per hour, for the truck and operators; and a disposal rate of $30.50 per ton. Waste Management will enforce a limit of three (3) bulk items, or two (2) cubic yards of waste per household during a curbside cleanup. Dates of the cleanup will be coordinated between the City of Berlin and Waste Management.

Option 2. Drop Site, Bulk Waste Drop off (One time per year, Spring)

Waste Management will host a two (2) day bulk item drop off event at Valley Trail Landfill in Berlin. Waste Management will staff the event on a Friday and Saturday. Residents will be able to drop off items during the agreed upon dates and hours. Dates and hours of operation will be coordinated between the City of Berlin and Waste Management. The cost for this drop off service will be $2,000.00, plus $30.50 per ton for disposal of waste. Proof of residency within the City of Berlin will be required.

FUEL SURCHARGE

Please note the published index used by Contractor to determine monthly diesel fuel prices?
Waste Management's proposed pricing for curbside collection will include a fuel surcharge, based on a $4.00 fuel table. The published index for determining monthly diesel fuel prices will be the Department of Energy's (DOE) "Weekly Retail On-Highway Diesel Prices" for the Midwest region. The price published for the first Monday of the month will be used as that month's diesel fuel price. The prices can be viewed at the DOE's website: ("EIA/DOE"). If diesel fuel is below $4.00 per gallon, the fuel surcharge will be 0 percent. If diesel fuel is at or above $4.00 per gallon, the following percentages will apply to Waste Management's base rate.

Diesel Fuel Price per Gallon	Fuel Surcharge
<$4.00	0 Percent
$4.00 to $4.24	2 Percent
$4.25 to $4.49	4 Percent
$4.50 to $4.75	5 Percent
For every $0.25 per gallon increase above $4.75	The Fuel Surcharge will increase by 1%

List of Acceptable and Unacceptable Trash Materials

Wastes to be collected include normal household refuse, garbage, and trash from residences within the City. This includes, but is not limited to, the following items:

a. Small appliances that are not banned from landfills (toasters, radios, etc.)
b. Furniture (3' x 5' or smaller)
c. Small auto parts in containers, other than non-alkaline batteries
d. Carpet, rolled and sized appropriately for handling by one person

Wastes not to be collected include the following items:

a. Stone, concrete, rubble, earth or sod; compost
b. Material in containers or bundles exceeding the limits of Section 2.4
c. Construction debris
d. Large auto parts (engine blocks, fenders, etc.), tires
c. Tree trunks or stumps
d. Branches, tree trimmings, leaves, grass clippings, yard and garden debris, brush
e. Large appliances and white goods (refrigerators, freezers, washers, dryers, air conditioners, water heaters, etc.)
f. Electronic waste items commonly referred to as e-waste (computers, televisions, monitors, etc)
g. Non-Alkaline Batteries
h. Waste oil
i. Hazardous or Industrial Waste
j. Ashes or Hot Materials
k. Fluorescent Lightbulbs/ Ballasts

SINGLE STREAM SPECIFICATIONS

RECYCLABLES must be dry, loose (not bagged) and include ONLY the following:

Aluminum cans - empty	Newspaper
PET bottles with the symbol #1 – with screw tops only - empty	Mail
HDPE plastic bottles with the symbol #2 (milk, water bottles detergent, and shampoo bottles, etc.) – empty	Uncoated paperboard (ex. cereal boxes; food and snack boxes)
Steel and tin cans – empty	Uncoated printing, writing and office paper
Phone books	Old corrugated containers/cardboard (uncoated)
Magazines, glossy inserts and pamphlets	

RECYCLABLES may include the following with the written consent of COMPANY:

Plastic containers with symbols #3-#7 – empty (no expanded polystyrene), empty	Glass food and beverage containers – brown, clear, or green - empty
Aseptic containers	Cartons

NON-RECYCLABLES include, but are not limited to the following:

Plastic bags and bagged materials (even if containing Recyclables)	Microwavable trays
Mirrors	Window or auto glass
Light bulbs	Coated cardboard
Porcelain and ceramics	Plastics unnumbered
Expanded polystyrene	Coat hangers
Glass and metal cookware/bakeware	Household appliances and electronics,
Hoses, cords, wires	Yard waste, construction debris, and wood
Flexible plastic or film packaging and multi-laminated materials	Needles, syringes, IV bags or other medical supplies
Food waste and liquids, containers containing such items	Textiles, cloth, or any fabric (bedding, pillows, sheets, etc.)
Excluded Materials or containers which contained Excluded Materials	Napkins, paper towels, tissue, paper plates, paper cups, and plastic utensils
Any Recyclable materials or pieces of Recyclables less than 4" in size in any dimension	Propane tanks, batteries

DELIVERY SPECIFICATIONS:

Material delivered by or on behalf of Customer may not contain Non-Recyclables or Excluded Materials. "Excluded Materials" means radioactive, volatile, corrosive, flammable, explosive, biomedical, infectious, bio-hazardous or toxic substance or material, or regulated medical or hazardous waste as defined by, characterized or listed under applicable federal, state, or local laws or regulations, materials containing information (in hard copy or electronic format, or otherwise) which information is protected or regulated under any local, state or federal privacy or data security laws, including, but not limited to the Health Insurance Portability and Accountability Act of 1996, as amended, or other regulations or ordinances.

Company reserves the right to refuse to provide recycling services when Recyclables are not properly segregated from waste or Non-Recyclables More specifically, Company may "tag and leave" carts or containers when Company determines in its sole discretion that Non-Recyclables have been placed in the recycling cart or container. The tag will identify the reason for non-collection. Company may also collect recyclables that have not been properly segregated from waste or other Non-Recyclables and dispose of the contaminated recyclables at Customer's sole cost.

Company may reject in whole or in part, or may process, in its sole discretion, Recyclables not meeting the specifications, including wet materials, and Customer shall pay Company for all costs, losses and expenses incurred with respect to such non-conforming Recyclables including costs for handling, processing, transporting and/or disposing of such non-conforming Recyclable Materials which charges may include an amount for Company's operating or profit margin. Without limiting the foregoing, and Customer shall pay a contamination charge for additional handling, processing, transporting and/or disposing of Non-Recyclables, Excluded Materials, and/or all or part of non-conforming loads and additional charges may be assessed for bulky items such as appliances, concrete, furniture, mattresses, tires, electronics, pallets, yard waste, propane tanks, etc.

Company reserves the right upon notice to discontinue acceptance of any category of materials set forth above as a result of market conditions related to such materials and makes no representations as to the recyclability of the materials.

rev. 5-13-2018

DATE: September 26, 2018

TO: Committee of the Whole

FROM: Jodie Olson

RE: Request for Special Assessment Lien Subordination

BACKGROUND: In 1999 the Hunter's Pond lift station was installed. Potentially benefitted property owners were assessed, but were provided the opportunity to enter into an Agreement with the City if they were not immediately hooking up to it. Gary & Linda Peterson were the owners of one such property, 674 NW Cumberland, with an assessment of $10,716.85. Please see their Agreement as attached.

Gary is looking to sell the property now and wants to transfer the assessment lien to the new property owner in lieu of paying it off. However, Gary has indicated that the bank wants clear title to the property in order to handle a new mortgage on it. Gary is requesting that the City subordinate the assessment behind the new owners mortgage. To my knowledge we have not done this in the past and I do not have the authority to make such a decision, which is why the request is coming forward to Council. Atty. Chier will be able to provide information from a legal perspective as well.

Gary will be present at the COTW meeting to make the request and provide answers to any questions you may have. The committee can then go into closed session to further review the request with legal counsel and determine if anything is to be negotiated.

RECOMMENDATION: Listen to request, discuss and action as appropriate. Item can also be discussed in closed session.

VOL 513 PAGE 415

298428

Document No.

AGREEMENT AND LIEN

GREEN LAKE COUNTY
RECEIVED FOR RECORD
8:30 A.M.
APR 19 1999
Vol. 513 Of Rec. Pg. 415
Lynne R. Kleach
REGISTER OF DEEDS

Return to:
Berlin City Attorney
Matthew G. Chier
111 South Pearl Street
Berlin, WI 54923
Pd 10.00

Tax Parcel No. 206-1727-00

This Agreement by and between the City of Berlin ("City") and Gary L. Peterson and Linda L. Peterson, husband and wife ("Property Owners") dated this 9th day of April, 1999. This agreement affects the following described real estate:

A parcel located in part of Lot 18 of Assessors Plat #2, being in the SE 1/4 of Section 5, T17N, R13E. Commencing at the NW corner of Lot 18, Assessors Plat #2, thence south 80' to POB; thence continuing south along the west line of Lot 18 to the SW corner of Lot 18; east 330', north 400', northwest to a point 150' east of the POB, thence west to POB. Said parcel being approximately 6.23 acres and all in the City of Berlin, Green Lake County, Wisconsin.

This is not homestead property.

In consideration of the construction by the City of a sanitary sewer force main/lift station and purchase of an appurtenant power generator which potentially serves the undersigned Property Owners' real estate and in consideration of the avoidance of a special assessment by the City against the undersigned Property Owners' real estate for said improvements, the undersigned Property Owners hereby agree that if said sanitary sewer force main/lift station and appurtenant power generator is ever utilized through hookup, upon or by any portion of the above described real estate, the undersigned Property Owners shall make payment to the City, within sixty (60) days thereafter, the following amount:

$10,716.85, plus accrued interest as described below.

Said amount represents the Property Owners' share of the cost of said improvements and shall accrue interest at the rate of three percent (3%) per annum until hookup or other utilization. If Property Owners' hookup to the sanitary sewer force main/lift station occurs within ten (10) years after the date of this agreement, the Property Owners' payment hereunder may be made in annual installments, with the final payment being due no later than ten (10) years from the date of this agreement. Interest shall accrue at a rate of seven percent (7%) per annum after hookup and during any installment period utilized hereunder.

The undersigned Property Owners further agree and admit that the potential benefit to the Property Owners' real estate from the construction of this improvement is in proportion to the square footage thereof and therefore agree to the above described share amount.

This Agreement may be recorded at the City's expense in the Register of Deeds office for Green Lake County on the above described real estate. This Agreement and the promises of the undersigned Property Owners shall hereby run with the land and shall be a lien, in favor of the City, on the land until the above described payment amount is paid in full or until expiration of this agreement, which shall occur on the 30th anniversary of the date of this agreement, whichever is earlier.

If a default by Property Owners occurs hereunder, either through lack of payment or other breach of this agreement, the City may, without further notice or demand, proceed to collect hereunder in a suit at law or by foreclosure of this agreement by action or advertisement or by the exercise of any other remedy available at law or equity, and the City may sell the above described real estate at public sale and give deeds of conveyance to the purchasers thereof.

Dated this 9 day of April, 1999.

Property Owners

Gary L. Peterson
Name: Gary L. Peterson

Linda L. Peterson
Name: Linda L. Peterson

CITY OF BERLIN

BY Steven W. Sponholtz
Steven W. Sponholtz, Mayor

BY Dennis E. Jordan
Dennis E. Jordan, City Administrator

This instrument was signed before me by Gary L. Peterson, Linda L. Peterson, Steve Sponholtz, and Dennis Jordan this 9th day of April, 1999.

Carol Neubauer
Notary Public – State of Wisconsin
My commission expires: 3/2/2003

CAROL NEUBAUER NOTARY PUBLIC STATE OF WISCONSIN

This document was prepared by:
Attorney Matthew G. Chier, 111 South Pearl Street, Berlin, WI 54923 (920) 361-9740

Farmers &
Merchants Bank
Where Family is our Foundation

September 26, 2018

RE: 674 NW Cumberland Street, Berlin

To Whom It May Concern:

The bank is requesting subordination on the property located at 674 NW Cumberland Street, Berlin owned by Gary Peterson. Gary Peterson would be selling the property to a new owner who would take the10,000 plus interest lien on the property behind his mortgage on Cumberland Street.

If you have any question regarding this approval you can contact me at 920-361-1454. Please call with any questions.

Sincerely,

Heather Olson

Mortgage Loan Officer

MLO #271206

holson@fmberlin.com

DATE: September 26, 2018

TO: Committee of the Whole

FROM: Jodie Olson

RE: Review Sidewalk Café Permit Ordinance to Allow Alcohol Consumption

BACKGROUND: This item was requested to be placed on the agenda by Ald. Boeck at the September Council meeting under New business. The current Code allows for Sidewalk Café permits, but specifically does not allow alcohol consumption in the permitted area. There has been some interest from a new business owner to allow alcohol consumption on public property under a Sidewalk Café permit situation. I have enclosed our current ordinance for Street Privilege Permits for Sidewalk Cafes. Some sample ordinances are included.

RECOMMENDATION: Discuss and action as appropriate.