

Minutes
Common Council Meeting
Tuesday, May 8, 2018
Council Chambers, Berlin City Hall, 2nd Floor

Mayor Schramer called the Common Council meeting to order at 7:00 p.m. Roll call present: Ald. Lehr, Przybyl, Boeck, Erdmann, Secora and Harke. Staff Present: Jodie Olson, Dennis Plantz, Lindsey Kemnitz, Scott Zabel, Matt Chier and Midge Seaman.

Town of Berlin Chairman Robert Bahn, N7702 Cty F asked the Council to consider delaying the effective date of November 1st to repeal the City's Extraterritorial Zoning Authority (ETZA). He contended there would not be ample time for the County to establish farmland borders and revise a comprehensive plan and a PUD plan. Bahn stated ending the ETZA on November 1st might be good for the City of Berlin, but could hurt the City's neighbors. Tim Mentius, 700 Broadway St. Apt. 6, Berlin, WI, also spoke in favor of extending the date to repeal the ETZA stating it would make for better relations with the neighboring townships and Green Lake County.

The following items were listed on the Consent Agenda for approval and adoption: 1) Waive the reading of ordinances and resolutions adopted at this meeting; 2) Receive and place on file the written reports for the City Clerk, Treasurer and Building inspector; 3) Approve minutes from the April 10 & 17, 2018 Common Council meetings; 4) Accept the Committee of the Whole recommendation to move forward with the raze order for 130 W. Berlin Street; 5) Accept the Plan Commission & Joint ETZA Plan Commission recommendation to approve and adopt ordinance #03-18 Repealing and Recreating the Sign Code for the City of Berlin and ETZA; 6) Accept the Committee of the Whole recommendation to have the staff continue working on the Comprehensive Plan update and the ordinance to repeal all exercising of the City's extraterritorial Zoning Authority with an effective date of November 1, 2018 7) Approve the list of bills for payment. Ald. Secora made a motion to remove the item regarding the Comprehensive Plan update and ordinance to repeal of ETZA effective Nov 1, 2018 from the Consent Agenda and approve the remaining items as recommended by the Committee of the Whole. The motion was seconded by Ald. Lehr and passed 4 to 2 by voice vote with Ald. Lehr and Ald. Erdmann opposing.

Ald. Secora then questioned the Comprehensive Plan update and the effective date of Nov 1 to repeal the ETZA. Atty. Chier clarified the ordinance could still be adopted as written even if the timeline states November 1st, 2018 and can be changed during the time between July and November if the Council deems necessary. Ald. Lehr made a motion to accept the Ordinance Repealing All Exercising of the City's Extraterritorial Zoning Authority as written with the November 1st timeline. The motion was seconded by Ald. Erdmann and a roll call vote resulted in six (6) ayes, zero (0) nays and zero (0) absent. Motion carried.

Next on the agenda was an airspace lease between the City of Berlin and Wisconsin Spice. Community Development Director Kemnitz gave a background on the proposal by Wisconsin Spice to utilize the airspace over the S. Industrial Park Road to build a bridge to transport product from building to building. Al Sass from Wisconsin Spice, Inc. indicated the two buildings in the S. Industrial Park owned by WI Spice are separated by S. Industrial Park Road. With laws governing transporting of food products, even just across the street, they need to find a way to connect the buildings to transport product from one building to the other. An infrastructure investment at this time will allow for decades of future growth, which is the greater plan. Sass then questioned the feasibility of vacating the road between the

Wisconsin Spice buildings to bridge the two facilities allowing for transfer of product back and forth between them. Sass mentioned he would be willing to contribute financial support to other neighboring businesses and felt there would be no impediment to the neighbor's truck traffic. Sass indicated the preferred method is to vacate the road rather than the bridge with the airspace lease. The difference of leasing the airspace (bridge) would mean we would use one building solely as a warehouse. Sass stated if they were able to connect the buildings at ground level, it would allow Wisconsin Spice to continue to develop within the facility, make better use of capital to expand the business and hire more people. Ald. Lehr spoke on the importance of business recruitment and retaining existing businesses then made a motion to have Atty. Chier and Kemnitz work with Wisconsin Spice on either an airspace lease or other ground work to continue to come up with a plan for expansion. The motion was seconded by Ald. Harke and passed by voice vote.

Next on the agenda was the discussion on Transitional Housing at 145 W. Berlin St. Chief Plantz stated the only Berlin Police Department involvement was ensuring the potential home being purchased by the Genesis Company was in compliance with the Child Safety Zone Ordinance.

Several members of the public voiced concerns, asked questions and provided comments on the TLP housing location.

Laura Wood, Contract Administrator for Region 08, Department of Corrections, gave a synopsis of what is required for transitional houses throughout the U.S. The Statute says the Dept. of Corrections must give notice to the local police department, the Green Lake County Sheriff's Dept., Mayor and also the local newspaper. It is at the newspaper's discretion whether they run the notification or not. Wood indicated that with proper notice being given, Genesis moved forward with sighting the home.

Matt Stake, Department of Correction Field Supervisor for Green Lake and Waushara County, stated all individuals living at the transitional living placement (TLP) house are coming out of prison and are on probation. These people could be homeless. A TLP house assists with re-entry back into the community by providing supervised home environment with regular checks versus being at any home that is not monitored.

Jordon Bauman, Director of housing statewide for Genesis Behavioral Services, partners and works closely with the DOC to provide transitional housing. Bauman discussed why the location was chosen as a suitable location and explained that there are three checks per day with random checks on all shifts to ensure there are no illegal guests. Bauman brought a list of rules to hand out and assured that their goal is to not allow the parolees to be a public nuisance. Probation and Parole officers also do random searches for illegal contraband and all TLP houses are kept clean and are well maintained.

Chief Plantz noted that the current TLP home in Berlin has been here almost 20 years. The DOC works very swiftly if a problem arises and has no issues with sending violators to the Green Lake County Jail immediately. The current TLP home is well cared for and kept clean and the allowable coming and goings of tenants is very structured. The frequency of PD response calls to the TLP is periodic and depends on the individual. The length of stay is approximately 60 days and no longer than 90 days, with hardship cases allowed to be extended for a maximum of 30 days.

Pat Splitt, 140 W. Berlin Street, stated he was a Correctional Officer for 32 years and lives right across the street from the house being purchased by Genesis. He voiced concern over the dimness of the

street lights in the area and poor visibility due to shrouded trees. He further stated it took Correctional Officers 2 hours to search an 8x10 cell and wondered how long it would take to check a whole house.

Ed Marks, 269 Mound Street, Berlin, WI commented that it sounded like Berlin does not have a choice as long as the standards of Child Safe Zones are met. He asked how many other TLP homes there are in the County. Mr. Stake replied that there were no other TLP homes in the County and the reason why was because Berlin has the best potential in the County for re-entry into society. Berlin has employment opportunity, works well with the Police Department, it is the biggest city in the County, and has a taxi service. On Tuesdays and Thursday Probation Officers actually come to City Hall and meet with the parolees.

The Mayor stated a question hadn't been answered and that was does Berlin have a choice in having this TLP in our community. Wood explained that while it is true that there is a statute that all the department has to do is give notice to the area they are going to place a home, they prefer not to be heavy handed. They like to engage the community and make sure they are going to have a good working relationship with the community and community leaders. Wood indicated that the experience in Berlin the past 10-20 years has been great and no serious issues, which is why they would like to continue.

Andrew Pryzbyl, N1190 Cty Rd. XX, owns a rental property at 236 N. Capron across the street from the proposed TLP site. He inquired as to how TLP residents get around without public transportation. Stake indicated they use a taxi, ride bikes or walk. It is important to have public transportation available such as a taxi, which is why a community such as Markesan wouldn't work. Pryzbyl questioned the type of individuals that go into TLP houses. Stake responded anyone that is on supervision, so it is very broad and can range from sex offenders to someone who failed to pay child support. Stake stated that TLP residents were previously county residents and remains so and we are not able to deny them coming back to Berlin. The goal is to get them the skills necessary to move on, but unfortunately in this area we do not have a skill learning center or a technical college. There used to be work programs where people took these individuals and worked with them, and they have found these people want to work and get back into society. Pryzbyl questioned why this particular house in a residential neighborhood versus a downtown location and if there was an option to look elsewhere? Bauman responded they had researched the proximity of the Police Department to the site and it was outside of the child safety zone. The contract begins in July so they have to start hiring staff and they have an accepted offer and are ready to go. Pryzbyl asked about the duration of supervisory checks or if there was onsite supervision. Bauman indicated supervisors are at the TLP house 15 minutes to a half hour, 3 shifts per day at random times. Pryzbyl asked if area residents would be notified of the TLP residents offense. Stake replied they would not know the offense of people for a general conviction, meaning failure to pay child support, theft etc., but there is a notification for a sex offender to the Police Chief. He clarified that certain levels of sex offenders would have a notification process. Pryzbyl stated that considering the neighborhood has about 30 children in it, this is not the right location for such a house and doesn't believe the proper homework was done in locating this house. He feels 300 feet is NOT enough of a barrier.

Christina Burgess, 236 N. Capron Street submitted a three page document, which she read aloud to the Council members. Her home is within 300 feet of the potential site for the TLP house. Burgess is mainly concerned about the many children that live in the neighborhood or pass through it on their way to the Library, parks and schools. She is currently in the process of becoming a certified daycare provider by the County. She questioned if the TLP house is closed on first does that mean her daycare business has

to suffer. She has lived there for 5 years, raising her children and now this company can come and shut down her choice of careers. Burgess also told her concerns about what this will do to her property value. Burgess is opposed to this house in her neighborhood.

Joe and Nancy Resop, 264 N. Capron Street, abuts the back and side yard of the proposed TLP property. Mrs. Resop is currently operating a daycare out of the home for her four grandchildren and they oppose this home being allowed in their neighborhood.

The Mayor thanked all for speaking and indicated to the Genesis Company and the Department of Corrections representatives that he felt they picked the wrong neighborhood and hoped they looked for something other than a neighborhood with families and kids. Ald. Lehr reminded of how the Council fought to pass an ordinance prohibiting sex offenders from moving into the city at all, but because complete prohibition was not allowed, the council came up with the 300 foot rule. He requested Atty. Chier revisit the ordinance that will prohibit this type of housing in our city all together or at the least the sex offender part of it. Atty. Chier responded definitely the concept of prohibiting it altogether will not fly. Atty. Chier stated that if an offender is not a 980.08 offender, which is violent crimes, it is inapplicable. Lehr suggested passing an ordinance prohibiting a TLP from residential zoned properties and confine it to commercial leased properties. Attorney Chier will look into this possibility. Burgess commented Neshkoro enacted an ordinance about this. Atty. Chier indicated the communities that have passed these ordinances are being challenged now. Mayor Schramer inquired with Atty. Chier about the 1500 foot rule that was in the State Statute. Atty. Chier responded he did not know what the statute excerpt Burgess included in her statement was from. Bauman confirmed he didn't know either. Ald. Lehr made a statement regarding the State not allowing the City to govern ourselves and protect our own citizens, he condemned Governor Walker, the legislature, the Department of Corrections, and the Judges that let these people go, and Genesis for going into our residential areas. Ald. Lehr made a motion to direct Atty. Chier to look into the possibility of adding a zoning restriction to our current safety zone ordinance to make it strictly commercial so that no residence can be destroyed by this type of house. Ald. Pryzbyl seconded the motion. The motion passed with a voice vote 5 ayes 0 nays with Erdmann Abstaining. The Mayor asked Genesis to reconsider this location, and offered willingness to help find a more suitable location for the TLP housing. Atty. Chier noted that there is a 1500 foot for sexually violent predators for actual residency but then if they are supervised, it doesn't apply.

Next on the agenda was the consideration of a waiver to bypass Committee of the Whole discussion on a proposed City of Berlin ATV/UTV Ordinance by the Waushara County ATV Association. Ald. Erdmann addressed the Mayor stating that in her almost 25 years in Municipal & County government experience she did not recall ever waiving to bypass a committee discussion, and felt would set a dangerous precedence. Ald. Erdmann made a motion to deny the waiver to bypass the Committee of the Whole and request that this item be added to that body's next agenda in June that so it can be completely discussed and vetted. Ald. Lehr seconded the motion and added at the request of quite a number of his constituents, this needs to be discussed more thoroughly through proper channels. A roll call vote was taken which resulted in 4 ayes, 0 nays and 2 members (Boeck and Harke) abstaining. Chief Plantz requested an adhoc committee be formed for the purpose of researching the ATV/UTV proposed ordinance. Ald. Erdmann responded two or more would be a quorum issue.

The next item regarding the proposed ATV/UTV ordinance was removed from the agenda to add to the June 5th Committee of the Whole Agenda.

The next agenda item was to review the draft of the Vacant Building Registration Ordinance and if appropriate to approve and adopt Ordinance #04-08 creating the Vacant Building registration Ordinance. Kemnitz spoke to Council regarding background and drafting based on the Milwaukee Ordinance. She spoke about fees attached and the need to define timelines for compliant vacant building owners' vs non-compliant vacant building owners. Ald. Erdmann moved to postpone the passing of the Ordinance #04-08 until June meeting. Ald. Secora seconded the motion which carried by voice vote.

The next item was Resolution #18-05 regarding examining County-wide Emergency Medical Service for Green Lake County. City Administrator Olson explained this resolution had been discussed with the town chairs who agreed to present these to their governing bodies for consideration to urge the Green Lake County Board to consider the option in the future of County-wide Emergency Medical Ambulance Service by performing a comprehensive study. A study would look at all necessary data and provide recommendations on the feasibility and potential to have a County-wide service in the area. Municipalities will be passing the resolutions and forwarding them to Green Lake County for consideration and encourage a feasibility study be completed. Ald. Secora moved to approve Resolution #18-05 urging the Green Lake County Board to Examine the Option for a County-Wide Emergency Medical service (EMS). The motion was seconded by Ald. Harke. A roll call vote resulted in six (6) ayes, zero (0) nays and zero (0) absent. Motion carried.

Next was discussion on common storm water management for the North Business Park (NBP). The Mayor indicated there is a business expanding in the NBP and the storm water situation should be addressed. Kemnitz indicated there had been two quotes for a stormwater pond in this area. One option would benefit two businesses for \$179,400 and the other option would just benefit the one expanding business for \$124,272. Ald. Secora made a motion to request city staff to bring back more information regarding a Storm Water plan in the North Industrial Park. Ald. Erdmann seconded the motion. Ald. Lehr asked if the motion was too broad and more discussion took place. Ald. Secora's motion was brought back and passed by voice vote.

Next item was a Sidewalk Café Permit application for Belissimo's to have tables and chairs on the front sidewalk for restaurant patron's use May 9, 2018 through July 9, 2018. Ald. Erdmann motioned to grant the Sidewalk Café Permit to Belissimo's for May 9-July 9, 2018. Ald. Lehr seconded the motion which carried by voice vote.

Next item on the agenda was the resignation of Tom Pionke from the Police and Fire Commission, effective May 8, 2018. Ald. Secora made the motion to accept the resignation from Tom Pionke from the Police and Fire Commission effective May 8, 2018 and to also have a letter of appreciation sent for the years of service, dedication and passion for the job. Ald. Harke Seconded the motion. The motion was passed by voice vote.

Next were bartender's applications for Ashley Jean Weber, Rebecca Anne Klawitter, Alycia Marie Allen & Bobbi J. Jacobson (all approved by the Police Department). Ald. Harke moved to accept and provide the license to tend bar as stated, Weber, Klawitter, Allen and Jacobson. The motion was seconded by Ald. Przybyl which carried by voice vote.

There was no old business, new business or public appearances.

At 8:50pm Ald. Secora moved to convene into closed session pursuant to Sec. 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 with regard to potential legal action related to wetland delineation disputes with DNR and Army Corps of Engineers in N. Industrial Park. Ald. Pryzbyl seconded the motion. A roll call vote resulted in six (6) ayes zero (0) nays and zero (0) absent. Motion carried.

Ald. Lehr made a motion to seat Jodie Olson, Lindsey Kemnitz and Scott Zabel for the closed session discussion. The motion was seconded by Ald. Secora and carried by voice vote.

Discussion continued in closed session.

Ald. Secora moved to reconvene into open session at 9:28pm. Ald. Lehr seconded the motion, which carried by voice vote. No action was taken as a result of closed session discussion.

At 9:30pm a motion was made by Erdmann to adjourn. Ald. Secora seconded the motion, which carried by voice vote.

Midge Seaman, Deputy Clerk