

AGENDA
COMMON COUNCIL MEETING
TUESDAY, AUGUST 20, 2019 5:30 PM
COUNCIL CHAMBERS, BERLIN CITY HALL, 2ND FLOOR
MEETING IS OPEN TO THE PUBLIC & CITY HALL IS HANDICAPPED ACCESSIBLE

1. Call to order/Roll Call
2. General Public Comments. Registration card required (located at podium in Council Chamber).
3. Resolution Regarding Removing Restriction on Gifted Land. RECOMMENDATION: Approve Resolution #19-11 Electing Relief From Condition on Gift of Land relating to Parcel 206-01031-0000.
4. Adjourn.

Note: 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.

RESOLUTION #19-11

A RESOLUTION ELECTING RELIEF FROM CONDITION ON GIFT OF LAND

WHEREAS, the Warranty Deed, dated January 31, 1949, attached hereto as Exhibit "A", conveyed certain real property to the City of Berlin as a gift from The North Park Development Company, and contained the following condition:

This property is conveyed for public use to be used for roadways, public park purposes and for the erection of public buildings, and

WHEREAS, while the City of Berlin accepted the gift of land in 1949 conveyed by the attached Warranty Deed and containing the above described conditions, the Common Council of the City of Berlin has since determined that such conditions have become impossible or impracticable as to the following described portion of such real property:

Lot 1 and the North 80 feet of Lot 2 Block C of the North Park Addition, City of Berlin, Green Lake County, Wisconsin;

Tax Parcel No. 206-01031-0000;

(the "Subject Lot"); and

WHEREAS, the Subject Lot has gone effectively unused since the date of the gift, and there is no foreseeable need for the Subject Lot to be used for roadways, public park purposes, the erection of public buildings, or any other public purpose; and

WHEREAS, the Common Council has determined that the most public benefit would be received if the Subject Lot would be sold to a private developer for the purposes of development, which would elicit sale proceeds to the City, increase available housing stock in the City, and increase the real estate tax base for the City from the development on the Subject Lot; and

WHEREAS, the Common Council has determined that the donor of the Subject Lot, The North Park Development Company, appears to have been a corporation by virtue of the signatures on the attached Warranty Deed being identified with the titles of Vice-President and Secretary; and

WHEREAS, the Common Council has obtained a copy of the Wisconsin Articles of Incorporation for The North Park Development Company, which does not identify the shareholders of the corporation, but identifies the organizers as L.J. Walker, August Voeltner and Robert Wright, all of which, upon information and belief of the Common Council, are deceased; and

WHEREAS, the corporation does not appear to have ever been registered at the Wisconsin Department of Financial Institutions, and, upon information and belief of the Common Council, is dissolved; and

WHEREAS, the Common Council has no knowledge of the shareholder or ownership history of The North Park Development Company; and

WHEREAS, Wis. Stat. § 66.1025(1) provides that if a governing body of a city accepts a gift or dedication of land made on condition that the land be devoted to a special purpose, and the condition subsequently becomes impossible or impracticable, the governing body may by resolution or ordinance enacted by a two-thirds vote of its members elect either to grant the land back to the donor or dedicator or the heirs of the donor or dedicator, or accept from the donor or dedicator or the heirs of the donor or dedicator, a grant relieving the city of the condition, pursuant to article XI, section 3a, of the Wisconsin Constitution; and

WHEREAS, Wis. Stat. § 66.1025(2) provides that if the donor or dedicator of land to a city and the heirs of the donor or dedicator are unknown or cannot be found, the resolution or ordinance described under Wis. Stat. § 66.1025(1) may provide for the commencement of a court action for the purpose of relieving the city of the condition of the gift or dedication.

WHEREAS, as further described above, the Common Council has determined that the donor or dedicator of the Subject Lot cannot be found and the heirs of the donor or dedicator are unknown and cannot be found.

NOW, THEREFORE, BE IT RESOLVED, as follows:

1. Upon the findings of the Common Council of the City of Berlin as described in the recitals above, the Common Council elects, pursuant to Wis. Stat. § 66.1025(1), to accept from the donor or dedicator, or the heirs of the donor or dedicator, a grant relieving the city of the condition described in the first recital above as to the Subject Lot.

2. Since the donor or dedicator of the Subject Lot, and the heirs of such donor or dedicator, are unknown or cannot be found, as determined as described in the recitals above, the City Attorney is directed to commence action under Wis. Stat. § 66.1025 for the purpose of relieving the city of the condition described in the first recital above as to the Subject Lot.

Passed, approved and adopted this ____ day of _____, 2019.

ROLL CALL VOTE:

CITY OF BERLIN

_____ AYES

BY: _____

Richard D. Schramer, Mayor

_____ NAYS

_____ ABSENT

APPROVED AS TO FORM:

ATTEST: _____

Jodie Olson
Administrator, Clerk/Treasurer

Matthew G. Chier
City Attorney