

MINUTES
CITY OF BERLIN
COMMON COUNCIL MEETING
TUESDAY OCTOBER 12, 2021
COUNCIL CHAMBERS, BERLIN CITY HALL, 2ND FLOOR

Mayor Bruessel called the October 12, 2021 Common Council meeting to order at 7:07 pm. Roll call present: Ald. Boeck, Erdmann, Lehr, Burgess, Nigbor and Marks. Staff present: Atty. Matt Chier, Jodie Olson, Sara Rutkowski, Scott Zabel and Midge Seaman

The Mayor stated there was a public comment submitted by Jerry Newton to be discussed with item#13.

The following items were listed on the Consent agenda for approval and adoption: 1) Waive the reading of all ordinances and resolutions adopted at this meeting; 2) Receive and place on file the written reports from the City Clerk, Treasurer and Building Inspector; 3) Approve the minutes from September 14, 2021 Common Council meeting; 4) Redistricting from 2020 Census; 5) Equipment Replacement for DPW and Parks; 6) 2022 Shared-Ride Taxi Grant; 7) Cleanup 356 S Church Street and 8) Approve the list of bills for payment. Item #7 was removed by the Mayor to discuss in regular session. Boeck made a motion to approve the consent agenda as presented and remove item #7 City property Farm Lease to discuss in open session. Marks seconded the motion. A roll call resulted in six (6) ayes, zero (0) nays and zero (0) absent. Motion passed.

Next the Mayor brought item #7 from the consent agenda back. Item 7 is the recommendation to accept the Committee of the Whole recommendation to approve the lease as presented by the Krentz Family Dairy Inc. and the City of Berlin at \$80 per acre with the changes made by Attorney Chier. Chier stated the reason this was pulled from the consent agenda was due to his not realizing Kevin Krentz had added a discrepancy between what he proposed and what was in the City's lease. His item was in regard to the clause about development, "If the property would sell and get developed after he already has his crops planted". Chier went on to explain that our lease states it is at the tenant's risk except that if we sell to a developer mid-year we will refund their rent, prorated to the day, but, we will not reimburse them for the cost of the crops. There was a provision in it that states if we sell it to a developer and the developer doesn't develop the property for the rest of the year, they have to let the lessee on the property to take the crops off. Kevin stated that he wanted to be reimbursed for his costs on the crops and the cost of labor to put in the crops if over five acres would be disrupted in that way. I noticed that and brought it up to Scott. Costs are approximately \$600/acre. After speaking with Kevin he ultimately consented to leaving the language in the contract as we had previously with Pomplun. It will be completely at his risk. He just asked that we would give Kevin the courtesy of keeping him abreast of any development that could occur along the way. There is no developer waiting in the wings at this time. The other thing he wanted in the lease that was to do a GPS measurement, at his cost, and if different we would take that GPS Measurement as long as Scott agrees to it. There is new language in the lease. Erdmann made a motion to accept the Committee of the Whole recommendation to approve the lease presented by the Krentz Family Dairy Incorporated and the City of Berlin as written with possible adjustments due to GPS assessment. The motion was seconded by Nigbor. A roll call vote resulted in 6 ayes 0 nays. Motion passes.

The Mayor called on Jerry Newton, 620 Hillcrest Drive, Oregon, WI 53575, owner of the property at 271 McKittrick St property up to the microphone to discuss the Raze or Repair order placed on his property.

Newton stated his passion is working on homes. Before his retirement he purchased several fixer upper properties for something to do in retirement. He worked for a couple more years and then when he retired he ran into some money issues. He stated he sold something substantial to put himself in a better financial position which would allow him to be able to work on this property. He hired a person who was going to replace the wall, but he came across a problem with the back wall needing replacement before he goes much further and rafters that need replacing in the kitchen area. A roof can be completed quickly. Newton asked if we would grant him more time, he would be able to fix it up to the point that would please the City of Berlin. In answers to the Alderperson's questions he stated he would be contracting much of the work. Boeck asked Newton to communicate often with the Council to keep them abreast of his progress. Lehr made a motion to postpone the raze or repair order until the December Council Meeting and revisit it at that time with the request we receive an update on the progress at the November meeting. Burgess seconded the motion which carried on a voice vote.

Next on the agenda was the Committee of the Whole Recommendation to accept the Police & Fire Commission recommendation to consider removal of Police & Fire Commission's Exercise of Optional Powers and place on a referendum. The Mayor gave a synopsis of what having Optional powers means stating there are basically two sets of rules, one the State mandates for Police and Fire Commissions across the state and an extra set of optional powers that our Police & Fire Commission has and there are only 16 Police & Fire Commissions across the State that have these powers. They take some of the daily decisions and put it on to the Police & Fire Commission that only meets once per month and so removing those powers would allow our City Administrator to approve bills, pay them on time, hopefully get some discounts and that is the biggest part along with other things. The Police & Fire Commission has said they want to eliminate the optional powers and put it on the spring ballot because it does take a referendum to remove optional powers. Lehr stated he is the Liaison on the Police and Fire Commission, he spoke about the current Commission and how they are doing a very good job and this did not come up in any way, shape or form because of the negatives right now. He stated there is a disconnect between the Commission, the Council and the Citizens. Council represents the citizens but they are on their own island and the Council is on their own island. For the safety all off Citizens, I would greatly desire the commission and the Council to work as a team but the way it is currently set up, makes this impossible. I am all for making the change; I feel that as time goes by it will be a very positive change for the Citizens, the Commission and the Council as a whole. Lehr encourages the Council to act accordingly. Marks, who is also a member of the Police & Fire Commission, reiterated what Lehr expressed. The Mayor added this is in no way anything against the Police & Fire Commission, they are doing an excellent job and that is WHY we are looking to do this now. Better to do it now than if there was turmoil between the Commission and the Council. Erdmann made a motion to accept the Police & Fire Commission recommendation to consider removal of the Police & Fire Commission's Exercise of Optional Powers and place on the next Election Referendum as soon as we can. Burgess seconded the motion. Erdmann added they need 377 signatures on a petition by the citizens and encouraged Alderperson's to visit households in their Ward to gather signatures. Burgess asked the timeline, Olson stated early January 2022. A voice vote was taken and all were in favor. Motion passed.

The Mayor stated item number 15 was the Remediation for Old Safeguard property. The Recommendation is to Request additional funding from Wisconsin Economic Development Corporation (WEDC) – Site Assessment Grant to complete Vapor Intrusion Testing as needed per the DNR. Rutkowski explained a notification was received from the Wisconsin DNR that explained more testing needed to be taken at the site of the Safeguard site. The letter stated the next test was a "Vapor Intrusion" test. Sigma, who has been doing the work at the site currently, gave us a cost of \$4600. We contacted WEDC to see if we could potentially amend the SAG Grant that we had received previously to help clean up the

site. It was said it was potential but this is where we need to end it. At this point if we do this, this is where the city would stop in terms of clean up going forward any further ground water testing this would be up to the developer. Rutkowski went on to explain there are three contaminants, there is the BOCs, there is contaminated soil and there is some ground water contamination. When the DNR came in to look at the site they said they completed the soil analysis so they know where it is contaminated. They completed the ground water analysis and the one thing they still need to do is the vapor intrusion, which will require us to go to a neighboring site, not just on that property. That is why it is more expensive. Rutkowski stated if the WEDC does not approve this funding then we will just wait and see if we get a developer interested in the site. At this time there are no interested developers in this site. Boeck asked the purpose of waiting. Rutkowski said Money, although that is why we are looking at grant money. Chier stated the technical reason for waiting is, we do not have an obligation to clean it up, and we have a local government exemption because we acquired it through special means. So the DNR can't force us to clean it up at our expense. But if a developer came in they would be required before they could develop it. No developer would want to take a property that isn't compliant. Marks asked how much the original grant was. Olson responded original \$130K but we only spent \$80K. Lehr made a motion that we request additional funding from the Wisconsin Economic Development Corporation for the site assessment grant to complete vapor intrusion testing as needed per the DNR. Marks seconded the motion, which carried on a voice vote.

The Mayor brought forward item 16 on the Agenda – discussion only on the 2022 budget. No action required at this time. Olson came to the podium. She stated she sent an email to everyone today regarding some budgetary items and she also handed out a document listing several Capital Expense items which she stated are not “wish list” items but they are “needs list” items. Zabel went through each item and explained why it is necessary to update these items now. The Council asked several questions to understand how to prioritize the Capital Projects.

There was no old business. No new business.

Under public appearances, the Mayor once again reminded the Council and those in attendance to be aware of scam emails that members receive in the Mayor's name asking for help purchasing gift cards etc.

Burgess made a motion to remove the discussion on 271 McKittrick Street from closed session. Nigbor seconded the motion which passed on a voice vote.

At 8:05 PM Burgess made a motion to convene into closed session pursuant to WI § 19.85 (1) (c), to consider employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility (*Discussion regarding specific salaries for non-union personnel relating to 2022 budget*). And WI §19.85(1)(c) to deliberate or negotiate the purchase of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session(*Discuss Potential EMS bid and contract with Green Lake County*) Nigbor seconded the motion. A roll call vote resulted in six (6) ayes, zero (0) nays and zero (0) absent. Erdmann made a motion to seat Jodie Olson and Sara Rutkowski. Marks seconded the motion, which carried by voice vote.

Discussion continued in closed session. At 8:42 pm, Erdmann moved to reconvene into open session. Marks seconded the motion which carried by voice vote. There was no action taken as a result of closed

session discussion. Lehr moved and Nigbor seconded the motion to adjourn which passed unanimously by voice vote. Meeting was adjourned at 8:43pm.

Midge Seaman, Deputy Clerk