

CITY OF BERLIN COMMON COUNCIL MEETING MINUTES
TUESDAY, November 14, 2023 AT 7:00 pm
COUNCIL CHAMBERS, BERLIN CITY HALL, 2ND FLOOR

The Mayor called the meeting to order at 7:00pm, Roll Call resulted in five (5) present; Boeck, Burgess, Durtschi, Nigbor and Stobbe. One (1) absent – Dretske. Staff in attendance: Sara Rutkowski, Brian Pulvermacher, Tim Ludolph, Rebecca Bays, Attorney Chier, Office Alex Schmidt, and Caitlin Hilgart.

No Virtual Attendees to seat.

There was one Public Comment registration card completed by Zach Bays. Bays, W1428 County Rd AA expressed concerns with the Nativity Scene. Mayor Bruessel thanked him for his concerns.

The following items were listed on the Consent Agenda for approval and adoption: 4) Waive the reading of all ordinances and resolutions adopted at this meeting; 5) Receive and place on file the written reports for the City Clerk, Treasurer and Building Inspector; 6) Approve the minutes from October 10, 2023; 7) Approve the Bills List. 8.) Accept Recommendation from the Cemetery Board to approve the purchase of cemetery truck and kiosk. 9) Accept the Cemetery Board recommendation to update the Cemetery Rules & Regulations. 10) Accept the Recommendation from Police and Fire Commission to accept PD Union Wage Agreement. 11) Accept the Committee of the Whole Recommendation to create an assigned GL Account to hold any funds donation to “Save the Pool”. Boeck made a motion to accept the Consent Agenda. Burgess seconded the motion and it passed on a roll call vote of five (5) ayes.

12) Burgess made a motion to accept the appointment of Ros Ross to the Zoning Board of Appeal with a term ending November 1, 2024. Nigbor seconded the motion which carried on a voice vote.

Item #13 was a TID Façade and Building Improvement Application from Fungi Fusion LLC. Alexandra Rogers from Fungi Fusion was present to answer any questions related to her request for funds. Burgess made a motion to approve the match amount for the TID Facade and Building Application for Fungi Fusion LLC. Stobbe seconded the motion that passed on a voice vote.

Next was the TID Building Improvement Application for Fox River Property Management. Wyngate Barraclough, property owner was present to answer questions. Nigbor made a motion to approve the TID Building Improvement for Fox River Property Management. Boeck seconded the motion that passed in a voice vote.

Item #15 was the Anderson Vicious Dog Appeal Hearing. Rutkowski filled in as Prosecutor for the City of Berlin. Attorney Chier advised this is a quasi-judicial situation requiring cross examination of witnesses.

The City’s first witness was Steven Dane. Rutkowski asked Dane to explain what happened May 29, 2023 when he was walking his dog near Riverside park. Dane stated that he was walk his dog and saw another and owner their dog approaching him, he crossed the street and Anderson crossed following him. Anderson’s dog Kai, broke off the leash and attacked Dane’s dog. Dane states due to medical issues he is unable to jump in and break up a dog fight. Attorney Heil asked questions on behalf of Anderson. Attorney Heil asked Dane what animal he thought bit first and what kind of leash he had on his dog.

Next witness called was Hailey Ferron that was not present.

Officer Bennett was called as a City witness next. He states that he was dispatched to the animal attack. Officer Bennett explained once he arrived and information that was provided in the police report. Officer Bennett said he contacted Anderson later on his shift when he notified that she was at the hospital receiving treatment for bits that she sustained during the fight. Rutkowski asked what facilitated or contributed to the event taken place. Officer Bennett stated an animal at large was a factor but didn't think the question was relevant. It was an unprovoked attack. Attorney Heil asked Officer Bennett if his knowledge of what transpired was off of what other people had told him and to elaborate more on terms he used in his explanation.

Next witness was Courtney Kurth. Rutkowski asked Kurth to explain the incident that happened between her dog and Anderson's dog on September 21, 2023 at their apartment complex located at 260 N. Washington St. Berlin. Kurth stated that he was taking her dog out and stopped in the mail room between the double doors in the entrance was of the apparent complex. Kurth stated that she had her dog on a leash tucked behind her leg in the corner, when the door opened and Anderson's dog rushed in and attacked her dog in the neck. That is why Kurth decided to call the Police. Attorney Heil asked Kurth if her and Anderson's dog had interactions or incidence before. Council had no questions.

Officer Schmidt was assigned to the case at 260 N. Washington St. He described what happened when he arrived at the property. Officer Schmidt stated that mark about an inch or two in length on the underside of Kurth's dogs' neck and a large amount of hair was missing from the dog. Officer Schmidt spoke with Anderson to see her side of the situation and she explained as a mutual combat between the dog and see what kind of leash she had her dog on. Anderson stating that it was a retractable leash unsure of how far it was let out or in the locked position. Anderson provided pictures of her dog's injury a little later. Officer Schmidt later learned about a previous incident with Anderson's dog in May 2023 and deemed Anderson's dog vicious. Attorney Heil asked Officer Schmidt if in his investigation if he came cross anything that would suggest that Anderson's dog had routine or habitual tendency to attack other dogs and if he could tell upon arrival whether the fight in inside the double doors or outside. Officer Schmidt answered no to both questions, but stated that there were tufts of hair outside the door way. Council asked Officer Schmidt to clear up questions on his report. Kurth stated that the tuft of hair was both on the inside and outside of the door when she left. The City had no more witnesses to call.

Attorney Heil for the defense called John Borst next. Borst lives in the same apartment complex as Kurth and Anderson. Borst said he has almost daily interactions with Anderson's dog for the last 3 years and referred to the dog as a big baby. He had never observed anything that shows Anderson's dog to be vicious. Borst also states that he has had interactions with Kurth's dog that is also not vicious, the two dogs just don't like each other. Attorney Heil and Rutkowski questioned Borst about his interaction with both dogs.

Attorney Heil called Michael Lucas as a witness next. Lucas lived with Anderson now for almost four years. Attorney Heil asked Lucas to assume he has daily interactions the Anderson's dog and to describe his observations the dog's demeanor. Lucas described the dog to be a big lazy dog, very laid back, and easygoing. Attorney Heil asked Lucas if he ever saw the dog act negatively with other dogs. Lucas stated with other dogs and at dog parks he wouldn't describe it as negatively maybe very excited but not super vicious.

Last to the stand was Ashley Anderson. Attorney Heil asked Anderson to explain in her words what happened in the first incident on May 29, 2023. Anderson said she was out on a walk with her dog on a retractable leash no more than two feet in length. Anderson admitted that the leash did slip out of her

hands as they got close the river. Anderson panicked and tried to get the dog fight broken up knowing that there was blood on her hand and her dog but did not know what animal had bit her or started the attack. Anderson's dog did have holes in his ear and a cut on his neck after the fight. Attorney Heil asked Anderson prior the May incident how long Anderson had owned the dog and if something like this has ever occurred before. Anderson said she had the dog since a puppy a few weeks old and the dog is great round kids and never bit anyone before. Anderson stated that Kurth and herself spoke about getting the dogs together to see if the dogs would get along prior to the September attack. Anderson said at the time of the attack, her dog was on a leash with a lead out further because she was the only person outside and was taken by surprise with Kurth's dog attack and unable to pull her dog back. Anderson states that she has taken her dog to a behaviorist that said Anderson dog is very protective and gave Anderson different recommendations on training her dog. Rutkowski asked Anderson to confirm statements that had been made in both attacks. Rutkowski and Anderson if she has continued on the training courses with Simply Smith LLC, which Anderson replied with no at this time due to financial and time constraints. Council asked Anderson to elaborate on her future plan and training with her dog.

Council took a 5-minute break.

At Closing statements, Attorney Heil stated that we have two incidences involving Anderson's dog that are both troubling incidences, they don't prove that Anderson's dog has habitual or routine tendency to attack. Attorney Heil indicating that the question is only if the attacks fit in the Ordinance of a Vicious Dog. Rutkowski stated that Anderson admitted to losing control of the leash, not taking her dog to professional training, and even Anderson's behaviorist indicated that Anderson needs better control of her dog to keep everyone safe. It is the owner's responsibility to maintain control of their dog to keep other people and animals safe. Anderson had two incidences with both people and animal injuries.

Attorney Chier provided a definition of the City Ordinance of a Vicious Dog. Attorney Chier also explained to Council what to take into consideration and stick to the record when making their deliberation. Without objection the Mayor accepted all pictures and documents that have been submitted in the packet and by Attorneys onto the record. Each Council member then expressed their thoughts concerning the situation. Durtschi made a motion to affirm the Officers determination that Anderson's dog meets the definition of a vicious dog. Nigbor seconded the motion that passed on a voice vote.

At 8:40p.m. Burgess made a motion the seat Dretske. Stobbe seconded the motion that passed on a voice vote.

Next item was the Family Dollar Stores of Wisconsin, LLC Beer & Liquor Alcohol Beverage License Application. Boeck made a motion to approve the Class "A" Beer and "Class A" Liquor License Application from Family Dollar Stores of Wisconsin, LLC for license year 2023-2024 for location at 758 Broadway Street, contingent upon passing the required inspections. Nigbor seconded the motion that passed on a voice vote.

Item #17 was the 107 W. Huron Raze & Repair. Ludolph had spoke with the property owner recently and stated that there has not been much to update. The scaffolding had been removed from the sidewalk and the owner hopes to have widows and rear roof work done in the next few weeks. Discussion was held, no action was needed.

Item #18 was the 2024 Senior Transportation Purchase of Service Contract. Rutkowski stated #18 and #19 are very similar. These contracts that we get every year from Green Lake County for the grants to be able to do the meal and transportation programs for the Senior Center. There was discussion held on the contract. Dretske made a motion to waive the Committee of the Whole discussion and #18 and #19. Stobbe seconded the motion that passed on a voice vote. Dretske made a motion to Approve the 2024 Purchase of Service Contract with Green Lake County Department of Health & Human Services and authorize the appropriate signatures and Approve the 2024 Agreement between Green Lake County DHHS and the City of Berlin for the Berlin Senior Center Meal Program and authorize the appropriate signatures. Durtschi seconded the motion and passed on a voice vote.

Next was the Nuisance Property Process Update. Ludolph presented updates on the letters that had been mailed out in April and issues that have been addressed. Discussion was held and no action was needed.

Item #21 was the 2024 Shared-Ride Taxi Grant Application. Dretske made a motion to waive the Committee of the Whole discussion on this item. Burgess seconded the motion passing on a voice vote. Rutkowski stated that the City applies for this every year. It is the grant we get to help provide the shared taxi in the community. Nigbor made a motion to approve staff to apply for the 2024 WisDOT Public Transit Assistance Program and DOT Capital Expenditures Grant and authorize any needed signatures. Stobbe seconded the motion passing in a voice vote.

Next item was the Taxi Contract Award for 2024-2029 services. Rutkowski shared the information that no action could be taken because the DOT had not approved anything at that point.

There was no Old Business.

New Business was requested by Burgess for a future date to go over some personal evaluations in closed session.

Burgess made a motion to adjourn at 9:04p.m. and Nigbor seconded the motion which carried on a voice vote.

Caitlin Hilgart, Deputy Clerk