

MINUTES
PROTECTION & WELFARE COMMITTEE
Monday, December 9, 2013
City Hall, Room 207
5:00 p.m.

MEMBERS PRESENT: Ald. Steuer, Ald. Brunette, Ald. Boyce, and Ald. Tim De Wane
MEMBERS EXCUSED: None
MEMBERS ABSENT: None
OTHERS PRESENT: Jim Mueller—Asst. City Attorney, Kail Decker—Asst. City Attorney, Capt. Galvin, Cheryl Renier-Wigg, Ald. Kocha, Ald. Wiezbiskie, Ald. Tom De Wane and other interested parties.

1. Roll Call.

Ald. Steuer, Ald. Brunette, Ald. Boyce, and Ald. Tim De Wane were present.

2. Approval of the Agenda.

A motion was made by Ald. Brunette and seconded by Ald. Tim De Wane to approve the agenda. Motion carried.

3. Approval of the minutes from the November 11, 2013 meeting.

A motion was made by Ald. Brunette and seconded by Ald. Tim De Wane to approve the minutes from the November 11, 2013 meeting. Motion carried.

4. Request by Ald. Sladek to discuss increased enforcement of the ordinance prohibiting the placement of temporary signs in City street terraces.

Atty. Mueller stated that placing advertising signs in the City right-of-way is against the ordinance. Atty. Mueller reported he will meet with Steve Grenier, Director of Public Works and Cheryl Renier-Wigg, Neighborhood Development Supervisor to discuss how this ordinance should be enforced. Atty. Mueller stated that Ald. Sladek gave a directive to report back to him and that this item could be received and placed on file at this time.

A motion was made by Ald. Brunette and seconded by Ald. Tim De Wane to receive and place on file the request by Ald. Sladek to discuss increased enforcement of the ordinance prohibiting the placement of temporary signs in City street terraces. Motion carried.

5. Request by Ald. Wiezbiskie to adopt a methodology to inform people in the areas that are in consideration for placement of sex offenders, so that they can arrange to offer their input. (Previously referred to staff.)

Atty. Mueller reported that Atty. Kail Decker worked on the Sex Offender Ordinance in the past and will address this item before the Committee tonight.

Atty. Decker appeared and distributed copies of an ordinance amending Section 27.622 of the Sex Offender Ordinance (enclosed). He stated several changes were made to Section 2 specifically relating to how many days prior can an offender file an appeal; how many days until staff has to notify neighbors; the way notification is made; and radius of notification.

Atty. Decker also distributed and discussed the various mediums of notification and cost per radius and type of notification (enclosed).

Ald. Kocha appeared and stated it was her understanding that once Council addresses an ordinance, they can't address changes more than once within a term. Atty. Decker replied that they cannot address the same exact issue in the same session; however they can make amendments or rescind changes to an ordinance.

Ald. Tom De Wane appeared and stated that he spoke with Atty. Decker and Atty. Wachewicz numerous times on this subject and communicated with them that the radius of notification should be 200' and delivery should be made by the Community Service Interns (CSI). Atty. Decker referred to the sheet that was earlier distributed and stated the estimated cost of notifying neighbors within a 200' radius would cost the City \$3,226 to \$8,620 per year.

Ald. Wiezbiskie appeared and stated that he would like the Alderperson who represents the District a sex offender is applying to live in be notified; as well as that neighborhood association. Atty. Decker stated that all the Alderpersons receive a copy of the Sex Offender Agenda in their mail packets. Ald. Tom De Wane stated that they don't always receive their packets in time for the meeting. Atty. Decker replied that the Sex Offender Agenda is also emailed to each Alderperson, placed in their personal mailbox at City Hall, and posted on the City website. Atty. Decker inquired as to what other format they would like to be notified. Ald. Wiezbiskie stated he would like to be notified by telephone when a sex offender moves into his district. Ald. Steuer stated that he comes to City Hall every Friday to pick up his mail pack so over the weekend he can study the materials to see what will be discussed in the upcoming meetings. Ald. Kocha stated that staff is doing everything in their power to notify Aldermen of upcoming meetings and it is the Alderperson's responsibility to ensure they have received this packet and they shouldn't burden staff by having them look up to see if the address is in their district.

Ald. Tom De Wane stated there is a simple solution to this problem, and that is to notify residents within a 200' radius using the CSI's.

Ald. Brunette suggested using social media, on a trial period, as a way of informing residents. Ald. Brunette stated the information received at this meeting needs to be discussed further, including notification costs and perhaps having a trial period of notification before making a decision tonight.

Capt. Galvin stated that the Police Department is not in favor of having CSI's delivering notification. There are currently only 10 CSI employed, and they are restricted to working only 29 hours a week. Many of them are full-time students who cannot work the restricted 29 hours. In addition to their regular duties, they also respond to the lower priority calls from citizens and assist in directing traffic when necessary. Today they responded to 5,343 calls. If they are to deliver notification to the extent the Aldermen are requesting that would be over 5,000 calls the Police Department would now have to respond to. The Police are recommending notification be made through the media as well as the City's website. The Police don't believe neighborhood associations should be relied upon to distribute this information. The Police Department has received very few complaints regarding sex offenders, and when investigating these complaints many times they turn out to be false reports.

Ald. Tom De Wane stated that it is his opinion that the CSI do have the time to deliver notification. He walked alongside of them when they were delivering notices from a Neighborhood Association, if they have time to do this, then they can deliver the notices of offenders moving into their neighborhoods as well.

Capt. Galvin stated that the CSI's stopped delivering notices from Neighborhood Associations when they started responding to the lower priority police calls.

Cheryl Renier-Wigg stated it is a matter of priority. The City could have CSI deliver these notifications, but then they aren't available to respond to assistance calls from the public. They already notify neighbors of Level 3 offenders moving into the neighborhoods.

Capt. Galvin defined the various levels of offenders and stated that when a Level 3 offender is released from prison, Police Departments from several communities, Brown County, The Department of Corrections, and the offender's parole officer meet to review the offender's charges and how they reacted to treatment during incarceration. After this discussion they make a determination as to what level the offender should be listed at upon release. If they are deemed a Level 3, residents within a two to three block radius of the area the offender is moving to are notified, as well as daycares, schools, hospitals, etc. For a Level 2 offender, the police jurisdiction which they will be living in is notified as well as the media. For a Level 1 offender, only the police jurisdiction is notified.

Ald. Steuer stated it is his opinion that notification does need to be made; however it sounds like everyone present has a different opinion on what is most important and how notification should be made.

Ald. Kocha stated she would like to make a motion to give this Committee an opportunity to study and review all the material they were presented with tonight and bring it back for a decision.

A motion was made by Ald. Brunette and seconded by Ald. Tim De Wane to hold the request by Ald. Wiezbiskie to adopt a methodology to inform people in the areas that are in consideration for placement of sex offenders, so that they can arrange to offer their input. (Previously referred to staff.) Motion carried.

6. Request by Ald. Tom De Wane to revise the sexual offender ordinance.

A motion was made by Ald. Tim De Wane and seconded by Ald. Brunette to hold the request by Ald. Tom De Wane to revise the sexual offender ordinance. Motion carried.

7. Appeal by James L. Voss to the denial of his Operator License application (postponed from the November 11, 2013 meeting).

Atty. Mueller stated the City Attorney Office recommended denial at the last meeting based on the applicant's arrest and conviction record. At this meeting the applicant was directed to discuss with his employer if holding a license was mandatory upon his employment and to bring back letters of recommendation. Atty. Mueller reported denial is still recommended since Mr. Voss is not in attendance at tonight's meeting.

A motion was made by Ald. Tim De Wane and seconded by Ald. Brunette to deny the appeal by James L. Voss to the denial of his Operator License application (postponed from the November 11, 2013 meeting). Motion carried.

8. Renewal application for a Direct Seller's Permit by Thomas Kulhanek. (Hot Dog Cart)

There were no objections from the City Attorney Office.

A motion was made by Ald. Tim De Wane and seconded by Ald. Boyce to approve the renewal application for a Direct Seller's Permit by Thomas Kulhanek. (Hot Dog Cart) Motion carried.

9. Application for one of ten available "Class B" Combination Liquor Licenses by Anduzzi's East Green Bay, LLC at 900 Kepler Drive.

There were no objections from the City Attorney Office or the Police Department.

A motion was made by Ald. Brunette and seconded by Ald. Tim De Wane to approve the application for one of ten available "Class B" Combination Liquor Licenses by Anduzzi's East Green Bay, LLC at 900 Kepler Drive, with the approval of the proper authorities. Motion carried.

10. Application for a "Class B" Combination License by KGB-Inc. at 1647 Cass Street. (Transfer from Fan-Addicts)

There were no objections from the City Attorney Office or the Police Department.

A motion was made by Ald. Tim De Wane and seconded by Ald. Brunette to approve the application for a "Class B" Combination License by KGB-Inc. at 1647 Cass Street, with the approval of the proper authorities. (Transfer from Fan-Addicts) Motion carried.

11. Application by Abarroteria Lempiras LLC to transfer their Class "A" Beverage License from 1822 Main Street to 1740 E. Mason Street.

Atty. Mueller stated that this is an existing license being transferred from one premise to another and that the City Attorney Office has no objection.

A motion was made by Ald. Brunette and seconded by Ald. Tim De Wane to approve the application by Abarroteria Lempiras LLC to transfer their Class "A" Beverage License from 1822 Main Street to 1740 E. Mason Street, with the approval of the proper authorities. Motion carried.

12. Appeal by Ruben Haro to the denial of his Operator License application.

Atty. Mueller stated that the City Attorney Office recommends denial based on the applicant's arrest and conviction record. Atty. Mueller briefly explained the charges: This year there are pending felony charges for manufacture and delivery of THC, 2 counts of manufacture and delivery of cocaine; and a misdemeanor charge of neglecting a child. In 2012 a misdemeanor charge for a second OWI and a felony for manufacturing and delivery of TCH; 2011 forfeiture charge for first OWI; 2009 forfeiture charge of disorderly conduct; 2007 misdemeanor charges for theft of moveable property under \$2,500 and bail jumping; 2006 misdemeanor charges for possession of a dangerous weapon at school, bail jumping, criminal damage to property, underage drinking and a felony charge of possession of a firearm in a school zone.

Ald. Steuer opened the floor without objection.

Ruben Haro Jr., 1491 Seventh Street, appeared and stated he has made a lot of mistakes in the past and he needs this license in order to maintain his employment at the gas station. He has applied for jobs everywhere and has

been denied employment at a lot of places because of his record. His parole officer does not object to this employment. His place of employment wants him to work night shift by himself and he needs to be licensed in order to do this. He wants to better himself, pay off his restitution, and support his children.

Ald. Boyce inquired if Mr. Haro is found guilty on these charges isn't it possible he could go to jail. Mr. Haro replied he's already been on probation for two years for things he did back in 2011 and 2012 and doesn't understand why he's being charged now for things he did in 2010. He stated that his attorney is working on a deal with the District Attorney's Office.

Ald. Steuer stated that it is this Committee's responsibility to make the right choices for the safety of the entire community.

Mr. Haro stated that when he was delivering the cocaine he was doing it as a favor for a friend and that it wasn't a huge amount. Another time he just finished smoking some weed and was driving in his car looking to buy some more and had his child with him when he was pulled over, and that is how he received the child neglect and marijuana charges. Mr. Haro stated he doesn't deliver drugs with his children in the vehicle. He wasn't even aware he was being charged for the things he did in 2010 and 2011 until this past September.

Atty. Mueller reported that according to State Statutes no license or permit related to alcoholic beverages may be issued to any person who has habitually been a law offender or who has been convicted of a felony unless the person has been duly pardoned. Atty. Mueller stated that this applicant is both a felon and a habitual law offender and it is clear that this Committee should deny his application.

A motion was made by Ald. Boyce and seconded by Ald. Tim De Wane to deny the appeal by Ruben Haro to the denial of his Operator License application. Motion carried.

13. Appeal by KB Properties, LLP to the chronic nuisance citation issued at 718-720 Bodart.

Atty. Mueller stated the property owners could not attend tonight's meeting and requested postponing this item until the next meeting.

A motion was made by Ald. Brunette and seconded by Ald. Tim De Wane to postpone until the next meeting the appeal by KB Properties, LLP to the chronic nuisance citation issued at 718-720 Bodart. Motion carried.

14. Request by City Attorney's Office to repeal Chapter 20 of the Green Bay Municipal Code relating to air pollution based on preemption by the State of Wisconsin.

Atty. Mueller stated earlier this year this Committee began to repeal codes that the City could no longer enforce; the State and the Department of Natural Resources regulates air pollution control and therefore the City Attorney's Office recommends to repeal Chapter 20.

A motion was made by Ald. Brunette and seconded by Ald. Boyce to adopt the draft ordinance of the Green Bay Municipal Code relating to air pollution based on preemption by the State of Wisconsin. Motion carried.

15. Request by staff to amend Section 6.38 of the Green Bay Municipal Code regarding lobbyist registration to clarify the definition of "lobbyist".

Atty. Mueller stated the City Attorney's Office has been requested to change the ordinance relating to lobbyist registration. Basically the amendment states that people who are employed full-time for a company or non-profit can represent that company in front of the City and lobby on their employers behalf without registering as a lobbyist.

Discussion that followed focused on who was requesting this change and why, and to hold up this item until this was answered.

A motion was made by Ald. Brunette and seconded by Ald. Tim De Wane to hold the request by staff to amend Section 6.38 of the Green Bay Municipal Code regarding lobbyist registration to clarify the definition of "lobbyist". Motion carried.

A motion was made by Ald. Brunette and seconded by Ald. Tim De Wane to adjourn the meeting at 6:25 p.m. Motion carried.

:dmo

GENERAL ORDINANCE NO. ____-13

AN ORDINANCE
AMENDING SECTION 27.622, GREEN BAY MUNICIPAL CODE,
RELATING TO SEXUAL OFFENDER RESIDENCY RESTRICTIONS,

THE COMMON COUNCIL OF THE CITY OF GREEN BAY DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 27.622(2m), Green Bay Municipal Code, is hereby created to read:

(2m) In this section, “reside” shall mean _____

SECTION 2. Section 27.622(6)(c), Green Bay Municipal Code, is hereby amended to read:

(c) Procedure.

1. The Board shall approve of an official appeal form.
2. An offender shall completely fill in the official form and submit it to the City Clerk, who shall forward it to the Board.
3. The Board shall hold a hearing on each appeal **no sooner than ____ days after receiving the appeal form and, if the offender’s appeal was denied at a prior hearing, no sooner than ____ months after the prior hearing.**~~, during which~~
4. **At least ____ days prior to a hearing, the [insert department] shall send notice of the meeting date, time, and location via _____ to any person residing within _____ feet of any parcel for which an exemption is requested.**
5. **During the hearing,** the Board may review any pertinent information and may accept oral and written statements from any person.
6. The Board shall base its decision on whether the offender has shown remorse, has rehabilitated, could re-offend, and any other factor related to the City’s interest in promoting, protecting, and improving the health, safety, and welfare of the community.
7. The Board shall decide by majority vote whether to grant or deny an exemption.
8. An exemption may be unconditional or limited to a certain address or time.
9. A written copy of the decision shall be provided to the offender.

SECTION 3. This ordinance shall take effect on and after its passage and publication.

Dated at Green Bay, Wisconsin this ____ day of _____, 2014.

APPROVED:

Mayor

ATTEST:

Clerk

kjd

DATE

DEFINE THE WORD “RESIDE”

There are many ways the terms “reside” and “residence” are defined depending on the circumstances. The council has a lot of discretion to define the term. One problem is that in most cases, a person is trying to prove they reside at one particular place when multiple places are possible homes. Instead we have a situation where there are multiple options that could be a residence, but the person is trying to show he resides at none of them.

Pick the definition that accomplishes what you seek. Good questions to ask yourself:

- What result do I want?
- What effect am I seeking?

Possible definitions:

- A. Reside means to “occupy a particular place at least 51% of the year.”
[Borrowed from Ch. 145, state plumbing code]
- B. Residence means “the voluntary concurrence of physical presence with intent to remain in a place of fixed habitation. Physical presence is prima facie evidence of intent to remain.”
[Borrowed from Ch. 46, 49, 55, 252, health services chapters]
- C. Residence means “a place at which a home or regular place of abode is maintained.”
[Borrowed from Ch. 938, juvenile justice]
- D. Residence means “residential real property in this state that an applicant maintains as a full-time residence, but does not use as a vacation home or for trade or business purposes.”
[Borrowed from Ch. 234, WHEDA]
- E. Residence means “one home and customary and principal residence, to which the person has the intention of returning whenever he or she is absent.”
[Borrowed from Ch. 343, traffic laws]
- F. Resident means “a person who has been legally domiciled in this state for a period of at least 3 months or, with respect to an eligible individual, an individual who resides in this state. For purposes of this chapter, legal domicile is established by living in this state and obtaining a Wisconsin motor vehicle operator's license, registering to vote in Wisconsin, or filing a Wisconsin income tax return.”
[Borrowed from Ch. 149, health insurance]
- G. The term "residence" employed in this section shall be construed to mean the actual living quarters which must be maintained within the city by an employe and his family. Neither voting in the city nor the payment of taxes of any kind by itself by an employe shall be deemed adequate to satisfy the requirements of this section, nor shall the provisions of this section be satisfied [12] by the maintaining of a rented room or rooms by an employe solely for the purpose of establishing residence in the city when it appears that his residence is outside of the city. Ownership of real property within the city, when not coupled with maintaining of actual living quarters in the city as herein required, shall be deemed insufficient to meet the requirements of this section. . . . No consideration shall be given by the city service commission to the fact that such employe intends to maintain a residence in the city if actually he does not maintain such a residence as herein provided for
[Borrowed from Milwaukee City Charter]
- H. Residence means "[p]ersonal presence at some place of abode with no present intention of definite and early removal . . . Residence implies something more than mere physical presence . . ."
[Black's Law Dictionary 1176 (rev. 5th Ed. 1979)]
- I. One popular dictionary defines the term's root form, "reside," as: "To live in a place for a permanent or extended time." WEBSTER'S II NEW COLLEGE DICTIONARY 943 (1995). Another, WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY 1931 (1993), states that to

"reside" means "to dwell permanently or continuously: have a settled abode for a time: have one's residence or domicile." A third, FUNK & WAGNALLS NEW INTERNATIONAL DICTIONARY OF THE ENGLISH LANGUAGE 1072 (2000), defines "reside" as "[t]o dwell for a considerable time; make one's home; live."⁸

[State v. Dinkins, 2010 WI App. 163]

DEFINE APPLICATION RESTRICTIONS AND NOTIFICATIONS

1. How many days prior to the hearing must an offender submit the appeal form?

Pick a number that provides sufficient time to send notice out, but beyond the frequency of meetings.

Possible range: 7-21 days

Suggested number: 7

2. How many months must a denied offender wait in order to reapply?

By restricting offenders from applying after being denied, the only result is another potential claim for offenders because of a rigid and inequitable rule

Possible range: 0-?

Suggested number: 0

3. How many days must notice go out to the neighbors?

If you want input from neighbors, pick a number that provides sufficient time for people to arrange schedules and attend the meeting. If you just want people to be informed of the board's decision, there is no reason to send specific notification out because the same information is available in the minutes after the meeting.

Possible Range: 5-14 days

Suggested number: Do not send out notification

4. Through what medium should notice go out?

Medium	Materials	Labor	Cost per unit	Accessibility	Maintenance
Mail	\$.57	\$3.33	\$3.90	Public	None
Email	\$.01	\$2.50	\$2.51	Private	Yes
Phone	\$.01	\$3.33	\$3.34	Private	Yes
Pamphlet	\$.09	\$3.75	\$3.84	Public	None
Door-to-door	\$.01	\$5.00	\$5.01	Public	None

5. How wide should the notice distribution be?

The densest residential areas are about 45' x 100' lots and the least dense areas are about 100' x 200'. City is averaging 70-80 appeals per year recently. Using Staff at \$25/hr for mail-phone-email and \$15/hr for pamphlet/door-to-door.

Notification radius	Densest Area	Yearly Notices	Least Dense area	Yearly Notices	Max. Range
50-foot	9 notices each	630-720	5 notices each	350-400	350-720
100-foot	16 notices each	1120-1280	8 notices each	560-640	560-1280
200-foot	28 notices	1960-2240	12 notices each	840-960	840-2240

Medium	\$ Per Unit	50' Range	100' Range	200' Range
Mail	\$3.90	\$1,365 to \$2,808	\$2,184 to \$4,992	\$3,276 to \$8,736
Email	\$2.51	\$879 to \$1,807	\$1,406 to \$3,213	\$2,108 to \$5,622
Phone	\$3.34	\$1,169 to \$2,405	\$1,870 to \$4,275	\$2,806 to \$7,482
Pamphlet	\$3.84	\$1,344 to \$2,765	\$2,150 to \$4,915	\$3,226 to \$8,602
Door-to-door	\$5.01	\$1,754 to \$3,607	\$2,806 to \$6,413	\$4,208 to \$11,222

Other considerations: how to handle apartments/condos/institutions, which department does the work, who maintains the contact list, what to do when people do not get notice, etc.