

MINUTES
PROTECTION & WELFARE COMMITTEE
Monday, March 7, 2016
City Hall, Room 207
5:00 p.m.

MEMBERS PRESENT: Ald. Wery, Ald. Tim De Wane, Ald. Steuer, and Ald. Scannell
MEMBERS EXCUSED: None
MEMBERS ABSENT: None
OTHERS PRESENT: Kristen Bohnert–Asst. City Attorney, Capt. Keith Knoebel, and other interested parties.

1. Roll Call.

Ald. Wery, Ald. Tim De Wane, Ald. Steuer and Ald. Scannell were present.

2. Approval of the Agenda.

A motion was made by Ald. Scannell, seconded by Ald. DeWane to approve the agenda. Motion carried.

3. Approval of the minutes from the February 22, 2016 meeting.

A motion was made by Ald. DeWane, seconded by Ald. Scannell to approve the minutes from the February 22, 2016 meeting. Motion carried.

It was noted that all recommendations made by this committee will go to the City Council at their next meeting on Tuesday, March 15, 2016.

4. Request by the owner of Pearly Gates, 3551 Finger Road, to hold an outdoor event on July 9 with music until midnight.

There were no objections by the City Attorney's office or from the Green Bay Police Department.

Motion made by Ald. Steuer, seconded by Ald. DeWane to open the floor for interested parties to speak. Motion carried.

Jeff Fonferek explained that 2016 will be the 11th year for this annual event which in the past has occurred with no incidents or issues.

Motion made by Ald. Scannell, seconded by Ald. DeWane to return to regular order of business. Motion carried.

Ald. DeWane encouraged the committee and the public to attend this event.

A motion was made by Ald. Scannell, seconded by Ald. DeWane to approve the request by the owner of Pearly Gates, 3551 Finger Road, to hold an outdoor event on July 9 with music until midnight, subject to complaint. Motion carried.

5. Application for a "Class B" Combination License by LM Capital, LLC at 301 S. Broadway. (Formerly the Crunchy Frog)

Recommendation from the City Attorney's office in conjunction with the Green Bay Police Department is for denial based on previous municipal court records (provided). The City Attorney pointed out that this owner has had incidents in the past at other businesses he has owned.

Officer Ronald Schaden stated that a business security plan was completed. The owner previously ran a bar from 2004-2006 at 125 S. Washington Street at which time there were several citations involving public nuisance and loitering (several of which were dismissed). The business was eventually shut down. Although Schaden has attempted to retrieve court records related to calls of service from that period, they have been archived and unavailable. He also referred to records of tax evasion stating that overall the business owner has not shown a pattern of good management.

The applicant (Walter Melgard) was not present for discussion. Officer Schaden stated that in a conversation with the owner, he indicated that due to the relationship he had with a co-owner, the lease was not renewed.

Ald. Steuer stated he would be more comfortable hearing from the applicant directly and would also like the opportunity to review the aforementioned police call records.

A motion was made by Ald. DeWane, seconded by Ald. Scannell to hold the application for a "Class B" Combination License by LM Capital, LLC, at 301 S. Broadway (formerly the Crunchy Frog) for two weeks. Motion carried.

6. Appeal by Timothy Gray to the denial of his Operator License application. (Referred back from Council).

As recommended at the February 2016 meeting, the City Attorney's Office recommends denial based upon applicant's criminal record, including the most recent felony conviction and revocation of probation. The Police Department concurred.

Motion made by Ald. Steuer, seconded by Ald. Scannell to open the floor for interested parties to speak. Motion carried.

Timothy Gray – 2235 Imperial Lane

Mr. Gray explained he works at the Marathon Gas Station, however, is limited to his duties due to his lack of an operator license. Ald. Steuer confirmed that beer is sold at this location.

Moved and seconded to suspend the rules to allow interested parties to speak. Motion carried.

Lois Ziebell stated she would be in favor of the reinstatement of Mr. Gray's operator license, stating he has proven to be a good employee. She has been a

Manager at this location for 18 years and has also known Mr. Gray personally for many years. She indicated that Mr. Gray not having an operator's license is a hardship to the business.

It was explained that the committee is bound by State Statute, that if a felony conviction has occurred, they cannot reissue a license, unless a significant period of time has gone by. In this case, there is a tight window, with the conviction occurring in 2011.

Mr. Gray explained that he has an apartment, a car/license, and a job that he likes. He indicated that the revocation of probation was because he didn't show up for appointments. He is presently off probation.

Motion made by Ald. Scannell, seconded by Ald. Steuer to return to regular order of business. Motion carried.

Ald. DeWane stated it appears that Mr. Gray has experience and is trusted by his employer.

Ald. Scannell stated it is a tight window, however, with the recommendation of the Manager, he is willing to grant the request.

Ald. Steuer stated he concurred based on the approval of the Manager and the fact that Mr. Gray has had four years of responsibility and accountability.

A motion made by Ald. DeWane, seconded by Ald. Scannell to approve the appeal by Timothy Gray to the denial of his Operator License application. (Referred back from Council). Motion carried.

7. Appeal by Jeffrey Gay to the denial of his Junk Collector License application.

City Attorney's Office, along with the Police Department, recommend denial based on criminal record involving two felony convictions of drug manufacturing and trafficking.

Motion made by Ald. Steuer, seconded by Ald. DeWane to open the floor for interested parties to speak. Motion carried.

Jeffrey Gay – 526 N. Henry Street, Green Bay

Mr. Gay stated that he worked at Georgia Pacific for 33 years. Due to medical problems he developed alcohol and addiction problems. He still suffers from headaches and swelling in his neck but it is managed. States he has learned his lesson with help and guidance from AA. He is presently a journeyman millwright and has skill with woodworking. He would like to build on to his garage to renovate the "junk" (tables/chairs, small equipment) he picks up on the street, invite others he has met in AA to work with him to fill their time, with a future goal to open a shop. Mr. Gay indicated that not only does he pick items off the street but has people who bring him things to repair. When asked how lucrative this type of business is, Mr. Gay stated that mainly it would keep him busy and that his sponsor has suggested it is time for him to give back and help others.

When asked, Mr. Gay stated the last time he drank was 2-12-14. He is drug free and an active member of AA. He has not been before this committee before.

Motion made by Ald. Scannell, seconded by Ald. Steuer to return to regular order of business. Motion carried.

Ald. Steuer expressed concern with noise, asking what else Mr. Gay would be working on other than vacuum cleaners and chairs. Mr. Gay stated other work would involve woodworking activities.

Ald. Scannell asked how previous drug related charges and fines are a concern with this request to pick junk. Asst. City Attorney Bohnert explained that past burglary charges raise a flag. Once Mr. Gay would be given a license he would have a reason to be on residential property. Police Department concurred, pointing out that recent felony convictions are concerning.

Ald. Scannell noted that the past burglary charge was 20 years ago. He stated he would feel more comfortable with a letter of recommendation. Mr. Gay was able to provide a letter for the record.

Ald. Nennig who represents Mr. Gay's neighborhood expressed no concern, stating it is different from a request for a liquor license.

Ald. DeWane stated his concern is with storage of the items that Mr. Gay collects, indicating it may become a problem in the neighborhood.

Moved and seconded to re-open the floor interested parties to speak. Motion carried.

Mr. Gay stated he presently has a 24x 30 garage with enough room for what he is doing. However, if he were to receive a permit, he would like the city to advise him regarding an addition, if not on his property, elsewhere. He stated he does not want trouble in his neighborhood,

Moved and seconded to return to regular order of business. Motion carried.

Ald. Scannell stated he was not concerned about storage as there would be inspections.

Ald. Steuer stated he would not support due to four previous DWI charges.

A motion made by Ald. DeWane, seconded by Ald. Scannell to approve the appeal by Jeffrey Gay to the denial of his Junk Collector License application.

Ayes: DeWane, Wery, Scannell

Nays: Steuer

Motion carried 3-1

8. Request by Ald. Nennig, on behalf of Dave Nichols, to discuss four concerns regarding the operation of Nic's Bar & Grill at 1657 Main Street.

Asst. City Attorney Bohnert requested this item be held, explaining that Mr. Nichols has made a complaint regarding treatment of his establishment at 1657 Main Street by the Police Department. The Chief of Police has asked that the item not be discussed while the investigation is pending.

Moved and seconded to open the floor for interested parties to speak. Motion carried.

As this item is under active investigation which will be resolved by the next meeting of this committee, it was felt inappropriate to discuss at this time.

Motion to Open the Floor Withdrawn

A motion was made by Ald. DeWane, seconded by Ald. Scannell to postpone the request by Ald. Nennig, on behalf of Dave Nichols, to discuss four concerns regarding the operation of Nic's Bar & Grill at 1657 Main Street.

Motion carried.

Items 9 & 10 were discussed together.

9. Resolution supporting and recommending the Wisconsin Assembly and Senate restore local rights for municipalities to govern cell tower placement within city limits.
10. Request Ald. Zima and Thomas DeWane to hold a public hearing before the City Council regarding the placement of a SBA cell tower at the NEW Lutheran School property.

Ald. Tom DeWane reported that a new state law preempts local regulation of cell phone towers in areas of height limits, setbacks, and location of towers. There has been a tower placed on the property of NEW Lutheran resulting in a concern from residents as to how this placement will affect their property values. NEW Lutheran has stated they would not have a problem with SBC moving the tower, however, they have signed a contract that it cannot be moved and SBA has refused to respond.

Ald. DeWane stated he is asking for support to revise the resolution which would restore local rights for municipalities to govern cell towers within city limits. Although an effort has been made to bring the bill back before the end of March, the legislature is now in recess. The City has until March 31st to issue a permit. DeWane suggested that the City open discussions with the DNR related to wetlands and confirm that they are following regulations. Until that is determined, DeWane is asking the City to withhold the permit. He pointed out that Verizon has stated they would have no problem with moving the tower, that there is adequate room on the property.

Ald. Steuer referred to a map asking whether SBA went forward with this project without contact with the neighbors. DeWane replied that neighbors were contacted after a contract was finalized between NEW Lutheran and SBC.

Ald. DeWane clarified that SBA has not responded to staff, nor have they shown any willingness to consider another location. NEW has refused to come to meetings to discuss the matter, nor will not divulge the details of their contract. They have stated their hands are tied and that this is a 50 year lease that will benefit the school.

Ald. Zima pointed out this matter is the result of an action by the State who have included a policy matter in their budget. He suggests that staff request the DNR review the matter for approved regulations.

Zima pointed out a similar incident which occurred at St. Joseph Church. At that time petitions were collected opposing the idea, there was news media coverage which resulted in residential voices to the problem. In the end, the church voted against the placement. However, Zima noted that in this case, the NEW Lutheran neighborhood is not opposed to the tower, only to the placement.

Ald. Zima suggested that another resolution from the City Council be drafted to urge NEW Lutheran to reconsider the location and that it be ready for the next Council meeting. He questions whether the churches that sponsor NEW are aware of this problem.

When asked by Ald. Steuer the state bill timeline, Ad. Zima replied there have been problems in the past with cell towers, however, residents had to be notified and decisions were made by the Common Council. Zima stated that this change in legislature takes all authority from the City

Ald. Nicholson concurred with comments by Ald. DeWane and Zima, agreeing that the DNR should be contacted by legal staff,

Motion made by Ald. Steuer, seconded by Ald. Scannell to open the floor for interested parties to speak. Motion carried.

Mike Georgia, 2622 Pecan Street, Green Bay

Stated that the bigger issue is that rights have been taken away from the City by a non-profit organization who is now trying to utilize property for a use that was not intended. Homes were bought in the area knowing that the school was there, however, understanding that zoning was for a high school not a business.

Ald. Steuer asked Mr. Georgia if he had been involved with NEW Lutheran regarding a previous billboard issue. Mr. Georgia explained that he did serve on a neighborhood committee that fought this issue and that after time some resolution was achieved.

Cindy Larscheid, 2578 Pecan Street, Green Bay

Indicated the first time she heard about the issue was in a handout from Ald. DeWane. She had not been notified before by anyone of the placement of this 200 ft tower in her neighborhood. She feels there is plenty of other property not so close to residential homeowners to place the tower.

Ald. DeWane confirmed that others also told him that they knew nothing of the placement of the tower until he provided the flyer.

Another resident - Pecan Street, Green Bay

Is saddened by the fact that NEW Lutheran has not been open with discussion of this plan with the neighborhood. Stated that she is a school teacher and understands the hardships that fall on a school to financially make it. All that is being asked is that the tower be moved back.

Wes DeGrand, 1337 Benjamin Court, Green Bay

Works as an appraiser, stating that location of a tower in this location will have an impact on home values.

Ald. Zima also commented on the loss of property dollars and the effect this can have on tax dollars. He again urged that communication regarding alternatives be sought.

Patrick Boex, 1275 South Robinson Avenue, Green Bay

His property is located one house away from placement of the tower. He expressed concern with other structures that will be involved such as air conditioning, etc. He is concerned about resale/property values.

Pete Lenss, 1281 South Robinson Avenue stated that tower placement will be 45' from his home and 30' from his patio. He stated this does not make sense. He does not feel he will be able to sell his house.

Ald. Steuer asked how long this resident has lived in his home and the response was 8 years. He first heard about the placement of the tower from the school in September of 2015. When he received the formal notice, it was a done deal.

Mr. Georgia pointed out that at a neighborhood association meeting it was stated that because this tower is between Aurora Hospital and other Green Bay Hospitals, there could be a petition for lighting.

Kathy Schultz, 1256 Benjamin Court, stated that because this tower will be located in the flight path for helicopters to Aurora Hospital, suspects they will recommend lighting. She is absolutely opposed to the location, finding it deceitful and made with no input from the neighborhood. It is located near to a very active school and park. She expects her home value to fall by 48%. Stated that she has one daughter who graduated from NEW Lutheran and understands their struggles with budget. Attempts to talk to school officials have been refused and she has been told that the decision has been made. She understands that many of the Board members are not Green Bay city residents.

When asked if she is not only opposed to the location but to the tower in general by Ald. Steuer, Ms. Schultz stated that she opposed the location after understanding the supporting structure and concrete required of a 200 foot tower.

Moved and seconded to return to regular order of business. Motion carried.

Zima asked that a list of speakers be compiled for the record.

A motion was made by Ald. Scannell, seconded by Ald. Steuer to approve the resolution supporting and recommending the Wisconsin Assembly and Senate restore local rights for municipalities to govern cell tower placement within city limits. Motion carried.

When asked regarding the flexibility with granting a permit, it was stated the timeline is 90 days from application (March 31). If no response, the application is deemed approved.

Ald. Nicholson asked that any decision be held until after a decision from the DNR is made.

A motion was made and then seconded by Ald. Steuer to formerly hold the city from approving a permit until the DNR studies the issue and offers a result.

Ald. (undistinguishable) stated he has no problem with holding off, however, would like a backup plan if the issue is taken out of city hands.

Ald. DeWane explained that if the DNR sees this as a wetland, SBA will have to prove there is no other place on the property to locate, noting that his review of the wetland map shows there are other places for location.

Ald. Scannell pointed out that the DNR has a timetable and if that should lapse, questioned if it is possible to ask for delay.

Asst. City Attorney Bohnert stated that in order to get an exception related to the DNR timetable, the subdivision will need to agree.

Moved and seconded to open the floor for interested parties to speak. Motion carried.

David Brusky, 2618 Pecan Street, Green Bay

Asked whether the DNR ruling or power can override state law regarding wetlands, noting a soil test may not be completed until after 3-31 when the frost is out of the ground.

He was informed that the Planning & Zoning Administrator determines the 90 day limit.

Scott Vanadestine – Why can't the City wait until a response is received from the DNR?

Ald. DeWane – In talking with the DNR found it is not unusual to change plans if the property is deemed wetlands. He suggests that the attorneys and get together and discuss further with the DNR

Patrick Larscheid, 2578 Pecan Street, Green Bay

Stated he would accept placement away from any homes. Stated that he attended a meeting in October at which time all parties were invited to attend. Although NEW Lutheran was not represented, the Green Bay City Attorney was present and explained that once application has been made for a permit there is 90 days to review, approve or deny. Once the 90 days is up, in this case 3-31-16, the matter will move forward. Ms. Bohnert further explained that the Zoning administrator can deny during that 90 day period based on specific criteria. In this she understands the Zoning Administrator has found no criteria applicable, therefore, the matter will move forward in 90 days unless both parties agree to an extension.

Pete Lenss asked whether location can be a reason for denial. Att. Bohnert explained that location cannot be the sole reason.

Moved and seconded to return to regular order of business. Motion carried.

Motion made by Ald. Steuer and seconded to formerly request that the DNR study the wetland issue and work with the Planning Department to issue an opinion, withholding the City permit for the cell tower until the DNR issues a result. Motion carried.

Motion made by Ald. Steuer, and seconded to formerly invite representatives of NEW and SBA to the next Council meeting to hear concerns. Motion carried.

Moved and seconded to support a resolution directing NEW Lutheran and SBA to relocate the tower on the NEW Lutheran property along with a request to extend the timeline, and explain the impact on neighborhoods and the City. Motion carried.

Ald. Zima asked that the resolution be sent to NEW Lutheran and all the member bodies/participating churches who are supporting NEW Lutheran.

Motion amended to include Ald. Zima's request that the resolution be sent to churches who are supporting NEW Lutheran. Motion carried.

(A request was made to have this resolution by the City Council meeting)

Ald. Scannell recommended that everyone involved write their state representatives.

Ald. DeWane pointed out that this bill was passed without the knowledge of Council, stating that if they had known, it could have been addressed earlier. He questioned whether there may be other hidden items they do not know about.

A motion was made by Ald. Steuer, seconded by Ald. DeWane to adjourn the meeting at 6:45 p.m. Motion carried.

Respectfully submitted by:

Rae G. Knippel
Recording Secretary