

MINUTES
BOARD OF PUBLIC WORKS MEETING
February 7, 2005
New Berlin City Hall Common Council Chambers
3805 S Casper Drive

Please note: Minutes are unofficial until approved by the Board of Public Works at their next regular scheduled meeting.

The meeting was called to order at 8:00 A.M.

Members Present: Mayor Wysocki, City Engineer J.P. Walker, Alderman Chiovatero, Alderman Ament and Alderman Augustine.

Staff Present: Ray Grzys, Director of Streets & Utilities, Ron Schildt, Transportation Engineer, Greg Kessler, Director of Community Development was excused.

Guests: Joe Bukovich, MLG Development, Chuck Hawkins for Tom D, LLC (Tom Beaudry)

OLD BUSINESS

ITEM 01-05 Approval of Minutes from January 10th, 2005 meeting

Alderman Augustine made a motion to approve the minutes.

JP Walker 2nd the motion.

Upon voting the motion passed unanimously

ITEM 03-05 Correct the *Established Street and Highway Width Map* information provided to Waukesha County to be consistent with the recently adopted *Transportation Plan* for the City of New Berlin (Tabled from the January meeting)

JP Walker made a motion to take it off the table.

Mayor Wysocki 2nd the motion.

Upon voting the motion passed unanimously

Alderman Chiovatero made a motion to Convey to Waukesha County the City's intention to increase the ultimate right-of-way for Calhoun Road (Small Road to Greenfield Avenue) from 100-feet/aa0-feet to 130-feet. This will then make the *Established Street and Highway Width Map* consistent with the recently adopted *Transportation Plan*.

JP Walker 2nd the motion.

Alderman Ament: My notes from Plan Commission indicated that from National Avenue South to Small Road was not extended to 130' feet but remained where it was. 130' was from Greenfield to National. Page 43 of the plan contradicts where it says (Small Road to Greenfield) the 2nd bullet point states "Calhoun Road between Greenfield Avenue and National Avenue". I do believe we made that change but the requested action statement doesn't reflect that change. Want to make sure we correct the Requested Action statement to reflect the same thing that the Transportation Plan has in its text.

Ron Schildt: On page 43 it's talking about arterial streets. Calhoun and Greenfield down to National we might sometime in the future want the County to take it over as a County Trunk highway. At the Plan Commission we were talking about the map #5 on page 41 saying that the expansion of Calhoun Road at this time for the 2020 system is where we were looking at just South of Cleveland Avenue to Ryerson or Victor. The overall right of way width is shown on map #4 on page 18 saying that Calhoun is an arterial street. That's why we left it. The physical expansion of the roadway is to stop just south of Cleveland.

Mayor Wysocki: I recall that we did have a discussion, primarily south of National, Calhoun Road not going to 130'. This motion is not in line with the discussion we had at Plan Commission with regard to the width of Calhoun Road being 110'.

Alderman Chiovero: There is no inconsistency with the Transportation plan because the Transportation Plan does not specifically note right-of-way width, correct?

Ron Schildt: It does in map #4. Nothing right now, but sometime in the future it may be needed. Nothing would take place unless there was some type of land division or development in the future.

Alderman Chiovero: I'm willing to make a friendly amendment to make it National Avenue at this time, as long as it does not bind us in the future with the right-of-way having to be determined.

Ron Schildt: If you make the change to say National Avenue then you would have to change the Transportation Plan to also show that

JP Walker: I would be willing to table this one more time and go back and review the video to see what was said.

Mayor Wysocki: This is the plan from the Plan Commission. I don't have a problem if that's what you really want to do. I don't want to delay the Transportation Plan approval though because SEWRPC already has it and they are waiting for us. I don't want to jeopardize that. I would suggest having a special meeting as soon as the video review is done to get this approved.

Alderman Ament: Page 41-Map #5, shows widening past Ryerson and we did change that as well, to just past Cleveland Avenue, not to go past Ryerson. On page 17 there is an Ultimate Right-of-Way width chart that shows Cleveland Avenue being 130', can we check that because I thought that as well was not going to be 130'?

Ron Schildt: That's a County highway and that is their jurisdiction.

Mayor Wysocki: We didn't agree with the County on that width. We still have the opportunity in our Transportation Plan for some recommendations and we don't want that to be 4 lanes.

Alderman Ament: I don't how this works with the County but if they show 130' and we show 130' does that mean it's a done deal? On page 16 under the 2nd bullet point it refers to Moorland Road intersection with Coffee Road. In the 2nd paragraph 2nd sentence it starts out "The lack of coordinated signalization along Moorland Road....) the last paragraph states that the City has already started to address these issues.

Mayor Wysocki: This project is already done. We just need to update this.

Alderman Chiovero: Is my understanding that we are going to change the wording of the plan to reflect this discussion?

Mayor Wysocki: We will make the tape available from the Clerks Office for review.

Alderman Chiovero: Just to clarify if we do approve the Ultimate Right-of-Way of Calhoun Road to 130' nothing changes right now, correct?

Ron Schildt: Waukesha County does a map of our area, all we do is tell them that right now it shows 110' down to Beloit Road, 100' South of there. If that changes we will let them know it's 130' all the way down.

Mayor Wysocki: If any property is sold along Calhoun Road they will be required to dedicate that additional width to the City or the County.

JP Walker: Map #5 on page 41 for Clarification. It shows widening and/or other improvements. Those other improvements are transition areas from the widened four lanes back down to the two lanes. That will be determined by traffic impact analyses at Ryerson and Victor whether or not there are improvements needed there.

Alderman Ament: We had that discussion and the agreement was to end just south of Cleveland Avenue.

Alderman Chiovero: The widening would end just south of Cleveland to safely make the transition. The traffic impact study could mean that we have to go back further than immediately past Cleveland.

JP Walker: What was the date of the Plan Commission that approved this.

Ron Schildt: Probably around late October.

Alderman Chiovero made a motion to table until further information is available.

JP Walker: 2nd the motion.

Upon voting motion passed unanimously.

NEW BUSINESS

ITEM 04-05 Development Agreement for The Conservancy of New Berlin Subdivision

Alderman Chiovero: Made the motion to recommend to the Common Council approval of the Development Agreement subject to final review as to form by the City Attorney.

JP Walker: 2nd the motion.

Alderman Ament: There have been issues in the past regarding grading after a subdivision has been established. Is that addressed in this Development Agreement?

JP Walker: It is addressed under the last Special Conditions. Prior to building on the house they have to go through the Architectural Review Committee that is established by the developer.

Joe Bukovich (MLG): Review all grading until landscaping is installed, any reinstallation or revisions to the grading plan by the time that happens we will more than likely be involved anymore. Upon occupancy we require an actual grading plan to be recertified to be within the City tolerances. Regarding any reinstallation or revisions within the next 5 or 10 years I don't see that in the developers agreement.

JP Walker: That is covered in the municipal code. Any change in grade is required to be reviewed by the City.

Alderman Chiovero: On page 13-#4, was the no-touch zone requirement in the Park Central agreement?

JP Walker: What we mean by no-touch zone is when we have an established drainage pattern, where there is controlled drainage that is needed, the Developer's Agreement requires that those areas be established by the developer before any building takes place and is brought to the final grade. A 5' wide swath on either side of the property becomes a no-touch zone. That means during any building or landscaping, that zone cannot be touched by the homeowner. In the case of Park Central the grades that were established were per the grading plan, but what the developer had the rough grading done he didn't realize that he was to account for basement excavation and actually leave the grade a foot and a half low, and then fill in later. He had to correct the grading. The same wording was in the Park Central Agreement.

Mayor Wysocki: Page 11 – Item C-1, Is this a backup to paragraph where it talks about the letter of credit?

JP Walker: Yes, that's correct. Usually what happens is that when taking out a letter of credit over time when the infrastructure is installed and approved by the City at that time the original letter of credit can be reduced. Practice is that after all infrastructure is installed and the City has indicated that it is acceptable, we allow the developer to take that original letter of credit and reduce it down to the 20% level.

Mayor Wysocki: Is that a 2-year term that is relative to construction traffic? This would have to be accepted by the City before any building permits are allowed, is that correct?

JP Walker: We don't accept infrastructure until the final lift of surface pavement has been put down. That is not put down on roadways until at least 70% build-out. When we do the final acceptance of the public improvements, it is when the two-year period kicks in.

Mayor Wysocki: Regarding front entrance garages only. In their section 5.8 of the protective covenants certain lots would be reviewed on a case by case basis as to whether or not an appropriate structure could be put on there, is that correct?

Joe Bukovich: That is correct.

Mayor Wysocki: Regarding the language on page 16 – Item I of the Developer's Agreement. I believe the statement or phrase in there "the protective covenants for the The Conservancy of New Berlin" applies to this issue?

Joe Bukovich: Yes, that is correct.

Alderman Chiovatero: Page 5-#4 – regarding the water system. What happens to well #11?

Ray Grzys: Right now the decision for well #11 is to not put it in service. We are looking at holding onto it for an emergency situation but not to extend any mains in that area or not to update that well in any way with a filtration system to handle any of the quality complaints that we currently have. As it stands right now, it's not going to be used.

Alderman Chiovatero: We will still have access to the site?

Ray Grzys: The two lots that we have right now, well #11 we have the option of owning it until such time as we decide to abandon it, it reverts back to the development for what we paid for it. Well #12, which is the option that we took advantage of with the developer to purchase by August of last year. The idea is to hold onto those lots, we are looking at some alternate water supplies. If they do come true, there is a good chance that we might not need either of the lots. At that time the decision would be made to give them back to the developer.

JP Walker: There will be a water main crossing that will be installed between outlet 3 & 4. All of the options have been taking care of by the proposed installation of the infrastructure.

Alderman Chiovatero: On page 7 - #3. Who approves access around the ponds?

JP Walker: The staff reviews that; it's been taken care of. Eric Nitschke looks at all the issues regarding the ponds and makes sure that everything is OK.

Alderman Chiovatero: Page 10 - Under final approval regarding the Butler Garter Snake Habitat. How big is that area?

Joe Bukovich: I don't have the actual calculations with me. We have been working with the WDNR. We will finalize the plans with him.

Upon voting the motion passed unanimously.

ITEM 05-05 **Makeup of Board of Public Works Members (Discussion Only)**

Alderman Chiovatero: The issue is should the City Engineer be removed from the Board and be replaced by a citizen. The reason I brought this forth is tomorrow it's on the agenda to change the ordinance to remove the City Engineer and to replace him with a resident. Most of the surrounding communities have the Director like Greg. I just want to take a look at this for discussion. I don't have a problem with a citizen being on the Board. The City Engineer has great input and has an important role on the Board, and a voting member because of the items we discuss.

Alderman Ament: I don't have strong feelings either way. I was hoping that list of other communities would help but it really doesn't. I think having the City Engineer here has been very helpful.

Mayor Wysocki: If the City Engineer was not on the Board he would still be at the table for the meetings. We would still have his expertise. The only difference would be that when it comes to the vote, he would not be voting. I think it is a good idea to have the different make up of the Boards and Commissions and want to extend that to the Board of Public Works.

Alderman Augustine: All of the surrounding communities have at least one citizen maybe bringing in someone from the outside with other ideas would be a good idea.

Alderman Chiovatero: I don't have a problem with a Citizen coming aboard, but here we are looking at 6 out of 9 communities has a public works director and the engineer on their Board. I don't feel putting another alderman on is a good idea. As far as a conflict I don't see a problem because it always goes to the Council anyway, so the City Engineer's vote would be recognized, but any conflict would cause his vote not to be counted. I feel the City Engineer position is important to the Board and he adds a lot of insight. If there would be a conflict I wouldn't have a problem with the City Engineer not voting.

JP Walker: It doesn't make any difference to me, because I would still be at the meetings to answer any questions that would arise. The technical expertise would still be at each meeting as required.

Alderman Chiovatero: It gives credibility to the Board to have the City Engineer sit on the Board. It helps with the public perception that we do have a technical person on the Board.

Mayor Wysocki: Just want to point out that the City Engineer would be here for any discussion. My point is to allow for continued citizen involvement, which is a hallmark that we are trying to do.

Alderman Chiovatero: I have no problem with a citizen being on the Board. This was for discussion only and was wondering what the Board is thinking and what other communities are doing.

ITEM 06-05 Development Agreement for Victoria Estates Subdivision

Alderman Chiovatero: Made a motion to recommend to Common Council approval of the Development Agreement subject to final review as to form by the City Attorney.

JP Walker: 2nd the motion.

Mayor Wysocki: Page 15 – Item F. It is the developer's responsibility to notify the purchaser of the individual lots. So we will be dealing with the individual lot owners, am I correct?

JP Walker: The actual notification to the prospective buyers of the lots will take place through the developer and their expeditor at the time of closing. Right now our agreement is with the developer. T they're required to put in the public improvements. We are asking the developer through their procedures at the time of closing that it is the homeowner's responsibility to protect our infrastructure.

Mayor Wysocki: Have we considered the possibility of putting in the sidepaths two years or so later, so that the bulk of the construction is completed. Then we are essentially guaranteed that repairs would be made?

JP Walker: It would be difficult for the developer to retain the services of a contractor, because they would be holding them in limbo. There are 10 lots in the subdivision and there is no guarantee that the 10 lots would sell in the two-year time frame. We do deal with the individual property owners on an individual basis because part of the curb and ditch deposit and erosion control permit that is part of the area that we would touch on if there were any issues. It is an interesting concept and it is something we could think about.

Alderman Chiovatero: I agree, because there is a lot of weight going over the sidewalks. My reservation would be with a whole section of homes being built and then they do their landscaping and then all of a sudden, there are sidewalks going through this subdivision. Did the developer or the city propose this?

Chuck Hawkins: I believe that it was done by the City.

Mayor Wysocki: I just feel it would be helpful to the property owners to know that sidepaths are going to be put in, so when they plan their landscaping they are aware of that fact.

Alderman Chiovatero: I agree with the Mayor, because just with the curbs you cross those with heavy trucks and you will have cracks. I would hate to have the new subdivision go up and have all the problems with the sidewalks and have to go back to the developer and landowner to replace.

Mayor Wysocki: That is the issue; the individual homeowner shouldn't have to pay for the repairs, because the developer already paid it for. Just looking at a more creative way to do this. Hold the developer responsible for the repairs but delay it until later. We all know it's going to get damaged by heavy trucks and equipment going over it, so why not just delay it until the bulk of the work is done. I think the developer would be comfortable with that.

Chuck Hawkins: I don't think the developer would have a problem with it and it would probably work out better for the homeowners.

Alderman Chiovatero: Just like we have a curb and gutter fee, then we would need a sidewalk fee also.

JP Walker: On page 12 it talks about what things have to be done before they can get a building permit. Item 2 near the top states "for each individual lot, the storm drainage management system, water and sanitary sewer systems, private utilities, and roadways through the asphaltic base course have been installed." It doesn't say anything about the side path. Under B on the same page in order to get the occupancy all improvements have to be accepted. I would have no problem with holding off on the side path, but it gets a little tricky when you start looking at the timing of the various lots being built and when they want occupancy. Side paths are part of the improvements. I don't think we want the developers putting in sidepaths piece by piece. They have to be put in all at the same time. The question is when is the right time to do this?

Mayor Wysocki: I think in item F where it states that the developer shall be responsible for informing the purchasers of each lot where we could indicate on this particular item the sidepaths will be put in within 18 months of the first development that occurs. I would rather have a situation where the developer informs the purchaser that there will be a sidepath going in after 80% of the construction is completed or a time frame.

Alderman Chiovatero: In Highpointe subdivision there is still an undeveloped lot, so that would be a problem with a time frame.

Alderman Ament: Couldn't we somehow tie that in with the last layer of asphalt going down on the road, because that's when we are saying "OK, you have enough of the subdivision developed that we are putting in the final asphalt of pavement."

JP Walker: Would that be acceptable to the developer?

Chuck Hawkins: I would have to discuss it with him, but I think that would be fine.

Ray Grzys: One of the things that the Mayor mentioned about the sidewalks and curbs, they are cracked and destroyed prior to homeowner taking occupancy. In my previous jobs one of the things we did was to make an inspection of the project prior to any sale of the lots, that included sidewalk, curb and gutter inspection. At that time we informed the developer that those areas were acceptable, what the developer did then was that he requested a deposit from each of the homeowners prior to the sale of the home. That deposit then covered any damage to the sidewalks, curb or gutter that occurred during the construction of the building. That included anybody doing landscaping afterwards. The developer would then submit to us the fees necessary to make the corrections. If the lots were sold and there were no cracks anywhere, the deposit was returned to the homeowner.

Mayor Wysocki: This process would eliminate the need for more fees.

Alderman Chiovatero: Is there anyway of notifying the land owners that after the final building is in they would be responsible for any damage to the sidewalk?

Mayor Wysocki: I think paragraph F would cover it. I would like to approve the Developer's Agreement with the amendment that the public infrastructure with regard to the concrete sidepaths would be put in at the same time as the final lift of pavement.

Alderman Chiovero 2nd the amendment.

Upon voting the amendment passed unanimously.

Upon voting the Developer's Agreement passed unanimously with the amendment.

ITEM 07-05 Revised Cold Spring Road Relocation Order / Plat Changes

Alderman Chiovero: JP would like this removed from the agenda.

Alderman Chiovero made the motion to remove from the agenda.

JP Walker 2nd the motion

Mayor Wysocki: I'm concerned that removing this from the agenda does not affect our timeline for the Cold Spring project.

JP Walker: It does not affect the timeline. There are still changes to be made to the plat as we just received information from our consultant who has been in negotiations for the right-of-way acquisitions. We thought we had all the changes and last Friday we were informed of another change. I would rather wait until we have all the issues that affect the plat taken care of and then bring them forth one time. This should not cause a delay.

Mayor Wysocki: Will it cause a delay in our stormwater issues? We can move forward with that project?

JP Walker: Yes, we can move forward with that. There may be a separate contractor working on that.

Mayor Wysocki: Just want to make sure this doesn't delay the Cold Spring project because the citizens are anxious about what is happening.

JP Walker: Construction is scheduled to start this spring.

Alderman Chiovero: Why do you want this removed and not just tabled?

JP Walker: As long as if we table it until we can get the information. That would be fine.

Motion by Mayor Wysocki to table.

Alderman Chiovero: 2nd the motion.

Upon voting the motion passed unanimously.

Alderman Chiovero made a motion to adjourn.

Upon voting the motion passes unanimously.

Meeting was adjourned at 9:10 AM.