

Minutes

Common Council

March 14, 2000

Minutes of a Regular Meeting of the Common Council of the City of New Berlin, Waukesha County, Wisconsin, held on Tuesday, March 14, 2000, at the New Berlin City Hall at 10:02 P.M.

Present were Mayor Gatzke, Aldermen Bullermann, Wysocki, Patzer, Scheuble, Wilkens, Chiovatero and Kaminski. Also present were City Attorney Paul Reilly, City Clerk Judy Weter, Director of Community Development Steve Hoese, Asst. Director of Planning Mark Lake, City Engineer Jeff Chase, and Police Chief Charles Schroeder.

Clerk's Report - No Report

Council President's Report - No Report

Mayor's Report

Mayor Gatzke gave a Mayor's Report.

City Attorney's Report

City Attorney Reilly gave a City Attorney's Report.

MINUTES

Motion by Alderman Wysocki to approve the Minutes of the Common Council Meeting held on February 8, 2000. Seconded by Alderman Bullermann and carried unanimously.

Motion by Alderman Kaminski to approve the Minutes of the Common Council Meeting held on February 14, 2000. Seconded by Alderman Wilkens and carried unanimously.

Motion by Alderman Bullermann to approve the Minutes of the Common Council Meeting held on February 22, 2000. Seconded by Alderman Wysocki and carried unanimously.

COMMUNICATIONS:

Notice of Claim - Nancy B. Tolzman - To City Attorney

Communication from City Attorney Reilly re: Release of Letter of Credit/Johnson Sand & Gravel

Motion by Alderman Patzer to release the letter of credit for Johnson Sand and Gravel in the amount of \$25,000. Seconded by Alderman Bullermann and carried unanimously.

Notice of Summons and Complaint - Heather Griggs - To City Attorney

Communication from Janice & Thomas Callies re: Waiver of Delinquency Charges

Motion by Alderman Wilkens to direct the City Treasurer to waive the delinquency charges against Janice and Thomas Callies - 4551 S. Clearwater Place. Seconded by Alderman Patzer and carried unanimously.

Communication from T. Michael Schober/Notice of Injury and Written Notice of Claim - Church Street Fuel Fare - To City Attorney

Communication from Ken Andries re: Greenfield Avenue Water Assessments - On File in Clerk's Office

PLAN COMMISSION

Alderman Kaminski reported from the meeting held on March 6, 2000:

Stormy Acres - 20900 W. Glengarry Rd. - Final Land Division - Lots 14, 15 & 16

Motion by Alderman Kaminski to approve the request by Stormy Acres for a final land division for lots 14,15,16 located at 20900 W. Glengarry Road subject to:

1. Public site and trail fees have been waived due to the 21.35-acre park dedication.
2. Owners and surveyor required to sign the final CSM before the City will sign the final CSM.
3. Re-certification of roadway, ditches, and monumentation required.
4. Label CSM numbers for preliminary plat lot 31 and park.
5. Clean up drafting errors; wrong quarter-quarter section used on all references, owner's name and address missing.
6. Parcel designated as 20995 Windsor Dr. (remnant lot 13 of the Stormy Acres Preliminary Plat) requires a CSM prior to building permits being issued.
7. Parcel designated as 20805 Windsor Dr. or 20775 Barton Rd. (remnant lot 18 of the Stormy Acres Preliminary Plat) requires a CSM prior to building permits being issued.
8. Change signature page, Judy A. Weter – City Clerk, Steven K. Hoese, Secretary.
9. Must meet all the conditions of developer's agreement prior to building permits being issued.

Seconded by Alderman Patzer and carried unanimously.

Stormy Acres - 20900 W. Glengarry - Final Land Division - Lots 27 and 28

Motion by Alderman Kaminski to approve Stormy Acres final land division for lot 27 and 28 located at 20900 W. Glengarry Road subject to:

1. Public site and trail fees have been waived due to the 21.35-acre park dedication.
2. Owners and surveyor required to sign the final CSM before the City will sign the final CSM.
3. Property address and preliminary plat lot number to be labeled on each parcel.
4. Re-certification of roadway, ditches, and monumentation required.
5. Label CSM numbers for parcel 1 and lot 1 (Park) south of Windsor Drive.
6. Clean up drafting errors; lot pipe missing between parcels 1 & 2, and part of curve-table missing; owner's name and address missing.
7. Change signature page, Judy A. Weter – City Clerk, Steven K. Hoese, Secretary.
8. Must meet all the conditions of developer's agreement prior to building permits being issued.

Seconded by Alderman Patzer and carried unanimously.

Moorland Commons - 4795 Moorland Rd. - Two Lot Final Land Division

Motion by Alderman Kaminski to approve the request of Moorland Commons for a two lot final land division located at 4770 Moorland Road subject to:

1. All easements requested/granted to the City are to be at no cost to the City.
2. All easements to reflect the after condition not just the existing condition.
3. Easements within the public right-of-way required to be recorded before the City will sign the final CSM.
4. Final access points/cross easements are to be worked out with all jurisdictions prior to the City signing the final CSM.
5. Developer's agreement for the construction of all public improvements and utilities required to be approved by the Board of Public Works and Common Council prior to the City signing the final CSM.
6. Easements for all watermains required prior to City signing the final CSM.
7. Expansion of the sanitary sewer easement to meet the conditions of the City's Utility Engineer prior to the City signing the final CSM.
8. All owners as of the date of signing, to sign prior to City signing the final CSM.
9. Surveyor's signature and seal required on all pages of the final CSM.

Seconded by Alderman Patzer.

Motion by Alderman Wysocki to table this item until Conditions 4 and 5 are addressed. Seconded by Alderman Wilkens.

Alderman Wysocki withdrew his motion.

Motion by Alderman Wysocki to table this item. Seconded by Alderman Bullermann and carried unanimously.

Arcadian SS - 20840 W. Lincoln - Construction of 199' Communication Tower

Motion by Alderman Kaminski to approve the request by Arcadian SS to construct at 199' communication tower at 20840 W. Lincoln Avenue subject to:

1. Submittal of plans stamped by a Wisconsin registered engineer prior to issuance of building permit.
2. Soil borings and structural computations will be required prior to issuance of a building permit.
3. Submittal of overall plans of operation for the tower.
4. All future cellular co-locators will be required to apply for separate use approval from the Plan Commission prior to installation of arrays, multipliers, or building equipment. They will be required to submit evidence of a demonstrated need.
5. Permits are required from the Building Inspections and Zoning Department
6. Meet conditions or Ordinance 1018 prior to building permits being issued.

Seconded by Alderman Bullermann.

Motion by Alderman Patzer to allow Wisconsin Electric representative Paul Dogan address the Council. Seconded by Alderman Bullermann and carried unanimously.

Upon voting, the motion carried with Aldermen Wysocki, Patzer and Scheuble voting "no".

GS Hydraulics - NE¼ Sec. 27 - 5050 S. Towne Dr. - Preliminary and Final Two-Lot Land Division

Motion by Alderman Kaminski to approve the request by GS Hydraulics for a preliminary and final two lot land division located at 5050 S. Towne Drive, NE 1/3 Sec. 27 subject to:

1. Ultimate right-of-way of Beloit Road is 100'. Upwards of 20' of additional land required to be dedicated to the City of New Berlin for public road purposes along Beloit Road.
2. Payment of \$2707.78 in public site, open space and trail fees to be paid before City will sign the final CSM.
3. Quarter-corner monuments to include northing and eastings.
4. All required impact fees for sewer and water are to be paid prior to issuance of building permits.
5. Remove outlot 1.
6. 80' road reservation to be labeled on the face of the plat to be dedicated to the City for public road purposes.
7. All owners as of the date of signing, to sign prior to City signing the final CSM.
8. Surveyor's signature and seal required on all pages of the final CSM.
9. Change Clerk's name to Judy A. Weter and the Secretary's name to Steven K. Hoese.
10. ROW of Towne Drive is 80'. ROW varies north of common lot line.
11. ROW of Beloit Road is 100', 50' on each side. Some parts are 33' on the north and 50' on the south, please label appropriately as referenced in CSM #8682.
12. Correct any and all drafting errors. There is a bust and the CSM doesn't close in the northwest corner.
13. All structures to be razed, razing permit required.
14. Owner's name and address to be placed on the face of the CSM.
15. A 60' x 60' Vision corner easement to be placed on the face of the CSM at the intersection of Towne Dr. and Beloit Rd.
16. Setbacks to be placed on all lot lines (including reservation).
17. A signed developers agreement needs to be on file prior to City signing this final CSM.

Seconded by Alderman Wilkens and carried with Alderman Scheuble voting "no".

Brian Felda - NE¼ Sec. 17 - 3280 S. Wehr Rd. - Two-Lot Preliminary Land Division

Motion by Alderman Kaminski to approve a two lot preliminary land division located at 3280 S. Wehr Road, NE ¼ Sec. 17 subject to:

1. Proof of perc. Required prior to the City of New Berlin signing the final CSM.
2. Existing well and septic field locations to be placed on final CSM.
3. Ultimate right-of-way of Wehr Road is 40', any ROW lands not previously dedicated to the City of New Berlin are to be dedicated to the City of New Berlin for public road purposes.
4. Public site and trail fees of \$2,000 required prior to the City of New Berlin signing the final CSM.
5. Owner and surveyor required to sign prior to the City signing the final CSM.
6. Driveways with T turn-arounds are required.
7. Driveways to be located to minimize sight distance problems.
8. Grading/drainage plan to be approved by Engineering.

Seconded by Alderman Patzer and carried with Alderman Scheuble voting "no".

Raven Golf Services - 19410 W. Cleveland Ave. - Rezone from A-2/C-2 to P-1

Motion by Alderman Kaminski to approve the request by Raven Golf Services to rezone the property located at 19410 from A-2/C-2 to P-1 subject to:

1. Use/site and architectural approval required.
2. Coordination with Don Reed of the Southeastern Wisconsin Planning Commission (SEWRPC) on using any identified environmental corridors.

3. Landscaping plan to be submitted as part of the use application to address the protection of any identified wetlands and lands to the east and west by errant golf balls.
4. Access permit from the Waukesha County DOT required.
5. Land division required, propose land division needs to be straightened out, cross access easements will ultimately be required.
6. Revised "detailed" grading plan required. Facility may need to be lowered to allow for proper integration with parking lot to the east.

Seconded by Alderman Patzer.

A Public Hearing was scheduled for April 11, 2000 at 7:00 P.M.

BOARD OF PUBLIC WORKS

Alderman Patzer reported from the meeting held on March 10, 2000:

Vehicle Fleet - No Action

Reject Bids for Priority Basin Manhole Rehabilitation Project

Motion by Alderman Patzer to reject all bids for Project #99-04-831.04(K-333), to restructure the project scope of work in the best interest of the City, and to rebid the revised project in a timely manner. Seconded by Alderman Wysocki and carried unanimously.

Calhoun Creek Flood Plain Study - Award of Contract

Motion by Alderman Patzer to award the engineering contract to Ruckert & Mielke for the Calhoun Creek Floodplain Reclamation Study and submittal of a LOMR to the Federal Emergency Management Agency, not to exceed \$38,000, with funds to come from TID2. Seconded by Alderman Chiovatero and carried unanimously.

UTILITY COMMITTEE

Alderman Bullermann reported from the Meeting held on February 29, 2000:

Allocation of Funds Reserved for Westbrooke Sewers

Motion by Alderman Bullermann to reallocate \$210,270 (reserved for the Westbrooke Sewers) to debt service payment on GO Promissory Note 1997A. Seconded by Alderman Wysocki.

Motion by Alderman Bullermann to refer this item to the City Attorney to consult with the City Treasurer to ensure funds are legally available from the separate sewer fund. Seconded by Alderman Wysocki and carried unanimously.

Charles Koeppen/Town Rd./Malone Park Storm Sewer

Motion by Alderman Bullermann to recommend to Council that the engineering staff prepare construction documents and solicit bids for construction of approximately 670 l.f. of 18 inch storm sewer in the designated area with the funding to come from Utility Account 831.04 with the price not to exceed \$60,000. Seconded by Alderman Patzer and carried unanimously.

Infiltration/Inflow Repair

Motion by Alderman Bullermann to reserve \$2,000,000 for the Infiltration/Inflow repair account for year-end 1999. Seconded by Alderman Patzer and carried unanimously.

MAYORAL APPOINTMENTS/None

ACTION ON PUBLIC HEARINGS

Jacobs Ridge Condos - 17720 W. Lincoln Avenue - PUD Change from RM-1 to RM-1/PUD

Motion by Alderman Wilkens to recommend approval of the request by Jacobs Ridge Condos for a rezoning from RM-1/C-1/C-2 to RM-1/C-1/C-2/PUD located at 17720 W. Lincoln Avenue subject to:

1. PUD ordinance to be reviewed and approved by City Attorney.
2. An 8' asphalt trail connecting the planned trails to the north and south will be required. Location of the trail to be coordinated with the Planning and Park & Rec departments.
3. Use, site and architectural review and approval required.
4. Developer's agreement for the Lincoln Avenue improvements and rehabilitation, utilities and lift station to be approved by the Board of Public Works and Common council prior to permits being issued. Acceleration/deceleration lanes as well as bypass lane required within Lincoln Avenue.
5. Architecture to be approved by the Architectural Control Committee.
6. An impact statement is required.
7. Per SS17.1309 of the City of New Berlin Municipal Code, a 25' landscape buffer required along northern lotline. Landscape buffer to be planted and maintained per SS17.1308 of the municipal code.
8. A revised grading plan/stormwater management plan required
9. A detailed utility plan required.
10. A landscape plan required. Schedule of size and species of landscaping materials required. Plan should also address courtyard landscaping.
11. All dumpsters required to be stored internally unless out for collection.
12. All utilities to be fed underground.
13. Building to be fully sprinklered. Alarm system required. Fire hydrants required within 150' of all fire department connections. Knox box required.

Also to direct the City Attorney to prepare the proper ordinance.

Seconded by Alderman Kaminski and carried with Alderman Scheuble voting "no".

Star Line Trucking Corp. - 18480 W. Lincoln Avenue - Rezone from C-1 to B-3

Motion by Alderman Kaminski to adopt the Plan Commissions recommendation to deny the request by Star Line Trucking Corp. to rezone the property at 18480 W. Lincoln Avenue from C-1 to B-3 based on the following reasons:

1. Expansion of the current use of the property for storage, staging and parking of semi trucks and trailers is prohibited in a B-3 district. Regarding the non-conforming status, Section 17.0601 (1) of the zoning ordinance states that, "only that portion of land or water in actual use may be so continued and the use may not be extended, enlarged, substituted or moved; and the structure may not be extended, enlarged, reconstructed, substituted, moved, or structurally altered except when required to do so by law or order or so as to comply with the provisions of this ordinance."
2. All applications for the expansion of use must include a plan for the rehabilitation or upgrade of Lincoln Avenue.
3. The geotechnical subsurface exploration and site feasibility evaluation prepared by Midwest Engineering Services, Inc. in their recommendation identified that "the existing fill are variable in

strength and composition, and are not recommended for the support of continuous wall and conventional spread footings".

4. J. & A. Pohl Concrete Contractors will be required to vacate the northerly portion of the property as a result of this denial.

Seconded by Alderman Wilkens.

Friendly amendment to include other issues that were discussed at Plan Commission as reasons for this denial, namely the current Master Plan and GDMP are not being followed, along with lack of utilities. Friendly amendment that this be denied without prejudice, so the applicant may come back within a year with fees waived.

Upon voting, the motion carried unanimously.

SAFETY COMMISSION

Alderman Wysocki reported from the meeting held on February 9, 2000:

Venomous Snake Ordinance

Motion by Alderman Wysocki to adopt a carefully worded ordinance regarding venomous snakes, and direct the City Attorney to prepare the proper ordinance. Seconded by Alderman Wilkens and carried unanimously.

TECHNOLOGY COMMITTEE

Alderman Bullermann reported from the meeting held on March 14, 2000:

Police Department CAD (Computer-Assisted Dispatch) System

Motion by Alderman Bullermann to set aside \$250,000 from the sale of the former police department building proceeds to be used for the purchase of the new CAD system. Seconded by Alderman Wysocki and carried unanimously.

Authorization to Fill Position of Police Officer in Order to Replace Vacant Civilian Position (Administrative Supervisor)

Motion by Alderman Bullermann to authorize hiring a new replacement sworn officer to fill a vacancy left by Officer Bryan Yokes. Officer Yokes is to be permanently assigned to replace (in part) the vacant civilian position. Seconded by Alderman Wysocki and carried unanimously.

REFERRALS, DEFERRALS, AND TABLED ITEMS - no action

CONSENT AGENDA

Motion by Alderman Bullermann, seconded by Alderman Patzer carried unanimously to approve the following items from the consent agenda:

Claims

Sewer Utility Claims in the of \$2,174,265.86, of which \$2,113,022 represents payments to MMSD and \$61,243.86 represents payments to vendors;

Water Utility Claims in the amount of \$129,464.45, all of which represents payments to vendors;

Bi-weekly Claims in the amount of \$579,117.38, all of which represents payments to vendors.

Bartender Licenses

1998-2000 to Joyce L. Brinkman, Julie L. Kimmerling, Karen K. Kruschke, Richard J. Mather, Kimberley A. Meersman, Janice M. Newman, Sarfraz H. Sayyed, Lisa M. Sparks and Lynda A. Trapp.

Amendment to "Class B" Retailers License

Amendment to the "Class B" Retailers License to include the "Parking Lot Area" for Mustang Shelly's Roadhouse on Saturday, May 6, 2000, from 11:00 a.m. until 11:00 p.m. and Sunday, May 7, 2000, from 9:00 a.m. until 11:00 p.m. Any complaints from neighbors, etc. that required Police response will result in immediate revocation of outdoor amendment.

"Class B" Retailers License

"Class B" Retailers License to sell Fermented Malt Beverages and Intoxicating Liquors for the year 1999-2000 to The Char-Grill, Inc., Jeffrey J. Marsh, Agent at Timber Creek Grille, 15375 W. Greenfield Avenue, upon both the surrender of the license held by James H. Zarder for the same location and upon the approval by the Inspection and Planning Departments.

Waiver of Delinquency Charges/Mary & Jerry Gerke

Direct the Treasurer to waive delinquency charges of \$48.25 against the Gerke's - 14535 W. Butternut Trail.

Audio-Visual Equipment

Direct the Technology Committee to address those issues stated below as it relates to our New Berlin City Hall Common Council Chambers audio-visual equipment: 1) That the need will be addressed for some type of specific handbook or instructional information on how to run the equipment. Including how to broadcast, tape, record, and micro-phone hook-up and troubleshooting. 2) That the current audio-visual equipment, including microphones, will be assessed for adequacy as they related to our ability to communicate to the public and a recommendation be brought back to Council as to what changes are needed if any.

ORDINANCES AND RESOLUTIONS

Ordinance No. 2104 "Ordinance Renumbering Section 1.05(14) and (15) to Section 1.05(15) and (16) Respectively and Creation Section 1.05(14) 'Youth Advisory Board'" (1st Reading)

City Clerk Weter gave the first reading of Ordinance No. 2104.

Motion by Alderman Bullermann to waive the second and third readings of Ordinance No. 2104. Seconded by Alderman Wysocki and carried unanimously.

Motion by Alderman Bullermann to recommend to Council approval and adoption of Ordinance No. 2104. Seconded by Alderman Wysocki and carried unanimously.

Motion by Alderman Bullermann to move into Closed Session at 10:45 p.m. Seconded by Alderman Patzer. Upon voting, Alderman Bullermann voted "yes", Alderman Wysocki voted "yes", Alderman Patzer voted "yes", Alderman Scheuble voted "yes", Alderman Wilkens voted "yes", Alderman Chiovatero voted "yes", and Alderman Kaminski voted "yes".

CLOSED SESSION

The basis for the items to be discussed in Closed Session are as enumerated in Section 19.85(1)(g) & (e) of the Wisconsin State Statutes, to confer with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which is or likely to become involved regarding jurisdiction over "Clean Fill" facility. Also, to deliberate or negotiate the purchase

of public properties, the investing of public funds, or conducting other specified business whenever competitive or bargaining reasons require a Closed Session, regarding Johnson Road sewer extension.

Motion by Alderman Kaminski to move into Open Session at 11:50 p.m. Seconded by Alderman Wilkens and carried unanimously.

OPEN SESSION

Motion by Alderman Kaminski to request a temporary injunction until the DNR has a chance to address the contested case hearing which they have ruled on a decision on March 10, 2000, which should be held within the next 90 days. Seconded by Alderman Patzer and carried unanimously.

Motion by Alderman Kaminski to adopt Resolution No. 00-07, "Resolution Requesting the Department of Natural Resources for the State of Wisconsin to Exercise its Administrative Power Over the Property Located at the Former Parkview Sand & Gravel Site and Currently Owned and Operated by the Zignego Company." Seconded by Alderman Patzer.

The Resolution was read into the record.

Motion by Alderman Scheuble to amend the Resolution to include monitoring wells between the citizens and the fill, and also that clay materials be put into the bottom as lining to protect the groundwater before going forward with this project. Seconded by Alderman Bullermann.

Motion by Alderman Patzer to end debate. Seconded by Alderman Wilkens and carried unanimously. Upon voting on the amendment, the motion failed with Alderman Scheuble voting "yes".

Upon voting on the Resolution, the motion carried unanimously.

Motion by Alderman Wilkens to adjourn the meeting at 12:08 p.m. Seconded by Alderman Chiovatero and carried unanimously.

Judy Weter

City Clerk