

# Minutes

## Common Council

March 28, 2000

Minutes of a Regular Meeting of the Common Council of the City of New Berlin, Waukesha County, Wisconsin, held on Tuesday, March 28, 2000, at the New Berlin City Hall at 8:55 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, Director of Human Resources Tami Potkay, City Engineer Jeff Chase, Division Engineers John Graber, JP Walker, and Larry Wilms.

### ACTION ON PUBLIC HEARINGS

#### Greenfield Avenue Water Main Assessments

Motion by Alderman Bullermann to defer the citizen assessment for the watermain project along Greenfield Avenue, from 124<sup>th</sup> Street to Calhoun Road (re: R/M Project #1492049200 aka Database ID #140492A). The assessment deferment will continue until such time that the property owner would decide to connect to the water service, or in the event of private well water failure, contamination or pollution. At the time of connection the property owner will be responsible for assessed charges for the property as recorded in the assessment levy charges. The property owner will have the option at the time of connection to pay the assessment in full or to amortize the payments over a 10 year period of time and the payments to include the fair market applicable interest rate at the time of connection as recommended by the Utility Committee and established by the Common Council. Seconded by Alderman Patzer.

Alderman Bullermann withdrew the motion.

Motion by Alderman Wysocki to approve the Engineering Assessment Report for Greenfield Avenue. Seconded by Alderman Wilkens.

Motion by Alderman Bullermann to amend the motion to defer the citizen assessment for the watermain project along Greenfield Avenue, from 124<sup>th</sup> Street to Calhoun Road (re: R/M Project #1492049200 aka Database ID #140492A). The assessment and principal and interest deferment will continue until such time that the property owner would decide to connect to the water service, or in the event of private well water failure, contamination or pollution. At the time of connection the property owner will be responsible for assessed charges for the property as recorded in the assessment levy charges. The property owner will have the option at the time of connection to pay the assessment in full or to amortize the payments over a 10 year period of time and the payments to include the fair market applicable interest rate at the time of connection as recommended by the Utility Committee and established by the Common Council. Seconded by Alderman Patzer.

Motion by Alderman Kaminski amend the motion to change the interest-free deferral to 7 years as opposed to indefinite. Motion fails for lack of a second.

Friendly amendment by Alderman Wysocki to allow for a 10 year payment deferment of assessment and principal and interest and a requirement to begin paying the current assessment costs and the applicable interest rate at that time. Seconded by Alderman Bullermann.

Mayor Gatzke read the motion as it stands with the amendment: Motion by Alderman Bullermann to amend the motion to defer the citizen assessment for the watermain project along Greenfield Avenue,

from 124<sup>th</sup> Street to Calhoun Road, for a period of up to 10 years, including interest (re: R/M Project #1492049200 aka Database ID #140492A). The assessment and principal and interest deferment will continue until such time that the property owner would decide to connect to the water service, or in the event of private well water failure, contamination or pollution. At the time of connection the property owner will be responsible for assessed charges for the property as recorded in the assessment levy charges. The property owner will have the option at the time of connection to pay the assessment in full or to amortize the payments over a 10 year period of time and the payments to include the fair market applicable interest rate at the time of connection as recommended by the Utility Committee and established by the Common Council. This is without interest for the first 10 years. Seconded by Alderman Patzer.

Motion by Alderman Scheuble to allow Laura Karel to address the Council. Seconded by Alderman Wysocki and carried unanimously.

Upon voting on the amendment, the motion failed with Aldermen Bullermann, Wysocki, and Patzer voting "yes".

Motion by Alderman Bullermann to amend the motion to defer the citizen assessment for the watermain project along Greenfield Avenue, from 124<sup>th</sup> Street to Calhoun Road (re: R/M Project #1492049200 aka Database ID #140492A). The assessment deferment will continue until such time that the property owner would decide to connect to the water service, or in the event of private well water failure, contamination or pollution. At the time of connection the property owner will be responsible for assessed charges for the property as recorded in the assessment levy charges. The property owner will have the option at the time of connection to pay the assessment in full or to amortize the payments over a 10 year period of time and the payments to include the fair market applicable interest rate at the time of connection as recommended by the Utility Committee and established by the Common Council. Seconded by Alderman Patzer. Upon voting, the motion failed with Aldermen Bullermann, Wysocki and Patzer voting "yes".

Motion by Alderman Patzer to amend the motion to direct the City Engineer to revise the Assessment Roll costs for all 1 ½ inch size Residential Water Services on this project to exclude any costs associated with these laterals within the public right-of-way that would reasonably be considered extraneous or exceptional on more conventional projects. Seconded by Alderman Bullermann and carried unanimously.

Motion by Alderman Patzer to amend the motion to direct the City Engineer to revise the Assessment Roll to reflect an indefinite deferral of the water service or lateral cost portion only, without interest, for each residentially zoned corner parcel until either 1) The property connects to the installed lateral; or 2) Watermain is installed on the adjacent side street abutting the property; whichever occurs first. Seconded by Alderman Bullermann and carried unanimously.

Motion by Alderman Wysocki to amend the motion to defer the citizen assessment for the watermain project along Greenfield Avenue, from 124<sup>th</sup> Street to Calhoun Road for up to 5 years without interest payment (re: R/M Project #1492049200 aka Database ID #140492A). The assessment deferment will continue until such time that the property owner would decide to connect to the water service, or in the event of private well water failure, contamination or pollution. At the time of connection the property owner will be responsible for assessed charges for the property as recorded in the assessment levy charges. The property owner will have the option at the time of connection to pay the assessment in full or to amortize the payments over a 10 year period of time and the payments to include the fair market applicable interest rate at the time of connection as recommended by the Utility Committee and established by the Common Council. Seconded by Alderman Bullermann.

Friendly amendment by Alderman Kaminski to allow for a 7 year payment deferment without interest payment as opposed to 5 years.

Upon voting on the amendment, the motion carried with Alderman Scheuble voting "no".

Motion by Alderman Scheuble to deny the assessment roll and charge this project on the basis of connection charges. Seconded by Alderman Patzer. Upon voting, the motion failed with Alderman Scheuble voting "yes".

Motion by Alderman Scheuble to amend the motion that the Johnson property be assessed on the basis of 100' of frontage only upon agreement with the property owner to have his property deed restricted to never be divided. Seconded by Alderman Bullermann.

Alderman Bullermann withdrew his second to the motion, motion dies for lack of a second.

Motion by Alderman Scheuble to amend the above motion to amend the assessment roll to provide the assessment for the Johnson property to be the average of all residential properties on Greenfield Avenue. Motion dies for lack of a second.

Motion by Alderman Scheuble to amend the motion to allow staff to modify the assessment roll for Johnson property on the basis of the following: 1) The willingness of the property owner to deed restrict, and 2) The status of the property as historical. Seconded by Alderman Bullermann and carried unanimously.

Upon voting on the original motion as amended, the motion carried unanimously.

A final resolution will be prepared to levy these assessments.

## **BOARD OF PUBLIC WORKS**

Alderman Wysocki reported from the meeting held on March 23, 2000:

### **Moorland Commons Development Agreement**

Motion by Alderman Wysocki to approve the Development Agreement subject to final review as to form by the City Attorney, including his amendments to Section 7A1, Section 10B, and additions to Exhibit B. Seconded by Alderman Patzer and carried with Alderman Scheuble voting "no".

## **COMMUNICATIONS:**

### **Communication from Dennis Kasian/KASCO Partnership re: Relief from Land Division Condition #8 of The Preserve at Deer Creek - South 147<sup>th</sup> Street**

Motion by Alderman Wilkens to modify Conditions 8 and 9 of the land division approved by the Common Council on February 14, 2000, as it relates to DNR permits and surety instruments. Seconded by Alderman Chiovero and carried with Alderman Scheuble voting "no".

## **REFERRALS, DEFERRALS AND TABLED ITEMS**

### **Plan Commission/Moorland Commons - 4975 S. Moorland Rd. - Two-Lot Final Land Division - **TABLED 3-14-00****

Motion by Alderman Wysocki to remove this item from the table. Seconded by Alderman Patzer and carried unanimously.

**Motion on the Floor:** 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 and carried with Alderman Scheuble voting "no".

## **RESOLUTIONS AND ORDINANCES**

### **Ordinance No. 2108 "The Preserve at Weatherstone Meadows Planned Unit Development Overlay District"**

City Clerk Weter gave the only necessary reading of Ordinance No. 2108.

Motion by Alderman Wilkens to approve and adopt Ordinance No. 2108. Seconded by Alderman Kaminski and carried with Alderman Scheuble voting "no".

### **Clerk's Report**

City Clerk Weter gave a Clerk's Report.

### **Council President's Report - No Report**

### **Mayor's Report**

Mayor Gatzke gave a Mayor's Report.

### **City Attorney's Report - No Report**

## **COMMUNICATIONS:**

### **Reconsideration Request from Alderman Chiovatero**

Motion by Alderman Chiovatero to reconsider the vote from the Common Council meeting that was held on March 21, 2000 regarding the second motion of the Clean Fill Facility discussion. Seconded by Alderman Wilkens and carried unanimously.

Motion by Alderman Scheuble to withhold proceeding with an injunction at this time but to direct Alderman Scheuble to meet with the quarry association Attorney and Zignego in a good faith attempt to enter into a resolution of issues. Seconded by Alderman Bullermann.

Motion by Alderman Chiovatero to table this item until discussion in Closed Session. Seconded by Alderman Wysocki and carried unanimously. (This item was addressed after the Closed Session discussion)

**Communication from Mark Lake re: Summit Lane Vacation - Schedule Public Hearing**

A Public Hearing was scheduled for May 9, 2000 at 7:00 p.m.

**PLAN COMMISSION** - No Report

**BOARD OF PUBLIC WORKS**

**Vehicle Fleet** - No Action

**UTILITY COMMITTEE** - No Report

**SAFETY COMMISSION**

Alderman Wysocki reported from the meeting held on March 8, 2000:

**"No Parking" Signs - Al Stigler Parkway**

Motion by Alderman Wysocki to place "No Parking" signs on the south side of Al Stigler Parkway, from Casper Drive to where Al Stigler Parkway turns south. Seconded by Alderman Patzer and carried unanimously.

**TECHNOLOGY COMMITTEE**

**Planning Department Computer Equipment Needs & Budget Impact** - No Action

**MAYORAL APPOINTMENTS**

**Board of Appeals**

Motion by Alderman Wilkens to approve the reappointment of Brian W. McGrath to the Board of Appeals, with an expiration date of April 30, 2003. Seconded by Alderman Wysocki and carried unanimously.

**Parks & Recreation Commission**

Motion by Alderman Wilkens to approve the reappointment of Paul T. Gihring to the Parks & Recreation Commission, with an expiration date of April 30, 2003. Seconded by Alderman Wysocki and carried unanimously.

**Safety Commission**

Motion by Alderman Wilkens to approve the reappointment of Kenneth T. Czyzewski and Kory L. Hauser to the Safety Commission, both with an expiration date of April 30, 2002. Seconded by Alderman Wysocki and carried unanimously.

**Special Assessment Review Committee**

Motion by Alderman Wilkens to approve the reappointment of David Guse to the Special Assessment Review Committee, with an expiration date of April 1, 2003. Seconded by Alderman Wysocki and carried unanimously.

### **Weed Commissioner**

Motion by Alderman Wilkens to approve the reappointment of Duane Hause as Weed Commission, with an expiration date of April 30, 2001. Seconded by Alderman Wysocki and carried unanimously.

### **REFERRALS, DEFERRALS, AND TABLED ITEMS**

**Ad Hoc Policy Committee:** Enclosed Storm Drainage Projects; Engineering Grading Guidelines; Amendments to Updated Policies - **TABLED 9-14-99**

Motion by Alderman Wysocki to remove the Enclosed Storm Drainage Projects Policy and the Engineering Grading Guidelines from the table. Seconded by Alderman Bullermann and carried with Alderman Scheuble voting "no".

**Motion on the Floor:** Motion by Alderman Wysocki to recommend that the Enclosed Storm Drainage Projects Policy be referred to the Board of Public Works. Seconded by Alderman Chiovatero and carried unanimously.

**Motion on the Floor:** Motion by Alderman Wysocki to recommend that the Engineering Grading Guidelines Policy be referred to the Board of Public Works. Seconded by Alderman Patzer and carried unanimously.

**Safety Commission/No Parking Coachlight Drive and Carriage Lane - TABLED 1-25-00**

### **CONSENT AGENDA**

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

### **MINUTES**

Minutes of the Public Hearing held on March 14, 2000 re: Jacobs Ridge Condominiums

Minutes of the Public Hearing held on March 14, 2000 re: Star Line Trucking Corp.

Minutes of the Common Council Meeting held on March 14, 2000.

Minutes of the Common Council Meeting held on March 15, 2000.

Minutes of the Common Council Meeting held on March 21, 2000.

### **Claims**

Sewer Utility claims in the amount of \$6,949.77, all of which represents payments to vendors; Water Utility claims in the amount of \$64,979.13, all of which represents payments to vendors; and bi-weekly claims in the amount of \$1,050,331.98, all of which represents payments to vendors.

### **Bartender Licenses**

1998-2000 to Pattiann Peterson, Therese Schlueter, Danna L. Seipel, and Michelle E. Zamzow.

### **"Class B" Retailers License**

"Class B" Retailers License to sell Fermented Malt Beverages and Intoxicating Liquors for the year 1999-2000 to he Dar's Sportspark, LLC, Darlene M. Heyel, Agent at New Berlin Sportspark, 17980 W. Beloit Road, upon both the surrender of the license held by Guy O. and Doris L. Bourdo for the same location and upon the approval by the Inspection and Planning Departments.

### **Special Class "B" Retailers License**

Special Class "B" Retailers License to sell Fermented Malt Beverages at Picnics or Gatherings to Ojibwa Bowhunters at 3045 S. Johnson Road on April 29, 2000 and April 30, 2000.

### **Milwaukee Regional Cable Communication Membership**

Approve the City of New Berlin membership in MRCC and appoint Eric Henry as the official representative, with funds to come from the cable revenue account.

### **Replace Court Clerk Position with Office Coordinator Position**

Motion by Alderman Wilkens to replace one full-time position of Court Clerk (AFSCME) with the position of Office Coordinator (Civil Service) and direct the City Attorney to prepare the proper Ordinance. Seconded by Alderman Patzer and carried with Aldermen Wysocki, Scheuble and Kaminski voting "no".

### **Change One Part Time Custodial Position to Full Time Position**

Motion by Alderman Bullermann to recommend that one of the part time custodial positions at the Public Safety Building be changed to a full time custodial position. In turn one part time position, that has not been filled, would be eliminated. Seconded by Alderman Patzer and carried with Alderman Wysocki voting "no".

### **Waukesha County Municipal Executives 2000 Lobbying Expenses**

Motion by Alderman Wilkens to recommend a transfer of funds in the amount of \$5,818 from Contingency Account 616 to Account 501.325 Membership Dues to pay the City of New Berlin's portion of lobbying expenses, and to direct the City Clerk to prepare the proper Resolution. Seconded by Alderman Kaminski and carried with Alderman Patzer voting "no".

## **RESOLUTIONS AND ORDINANCES**

### **Resolution No. 00-08 "A Resolution to Prohibit Parking on the South Side of Al Stigler Parkway from Casper Drive to Where Al Stigler Parkway Turns South"**

Motion by Alderman Wysocki to approve and adopt Resolution No. 00-08. Seconded by Alderman Bullermann and carried unanimously.

### **Ordinance No. 2105 "Ordinance Repealing and Recreating Section 1.04 of the City of New Berlin Municipal Code Designating Directors for Various Divisions Involving Public Works Within the City of New Berlin (1<sup>st</sup> Reading)**

City Clerk Weter gave the first reading of Ordinance No. 2105.

**Ordinance No. 2106 "Ordinance Creating Section 12.10(11) of the City of New Berlin Municipal Code Pertaining to Venomous Snakes" (1<sup>st</sup> Reading)**

City Clerk Weter gave the first reading of Ordinance No. 2106.

Motion by Alderman Bullermann to waive the second and third readings of Ordinance No. 2106. Seconded by Alderman Wysocki and carried with Alderman Scheuble voting "no".

Motion by Alderman Bullermann approve and adopt Ordinance No. 2106. Seconded by Alderman Wysocki and carried unanimously.

**Ordinance No. 2107 "City of New Berlin Storm Water Management Ordinance" (1<sup>st</sup> Reading)**

City Clerk Weter gave the first reading of Ordinance No. 2107.

**Ordinance No. 2109 "Ordinance Amending Section 1.15(8) of the New Berlin Municipal Code" (1<sup>st</sup> Reading)**

City Clerk Weter gave the first reading of Ordinance No. 2109.

Motion by Alderman Bullermann to waive the second and third readings of Ordinance No. 2109. Seconded by Alderman Wysocki and carried unanimously.

Motion by Alderman Bullermann to approve and adopt Ordinance No. 2109. Seconded by Alderman Wysocki and carried unanimously.

Motion by Alderman Bullermann to move into Closed Session at 11:42 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)(c) & (g) of the Wisconsin State Statutes, to consider employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility regarding Decision Band Committee Recommendations. Also, 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 the Tolzman Claim and Jurisdiction Over "Clean Fill" Facility.

Motion by Alderman Kaminski to move into Open Session at 12:15 p.m. Seconded by Alderman Chiovatero and carried unanimously.

**OPEN SESSION**

**Action on Decision Band Committee Recommendations**

Motion by Alderman Wysocki to approve the rebanding of the Building Maintenance Manager and Office Coordinator/Municipal Court positions, and to direct the City Attorney to prepare the proper Ordinance. Seconded by Alderman Bullermann and carried unanimously.

**Action on Tolzman Claim**

Motion by Alderman Bullermann to recommend to Council denial of the Nancy Tolzman claim, per the recommendation of City Attorney Paul Reilly. Seconded by Alderman Patzer and carried unanimously.

**Action on Jurisdiction over "Clean Fill" Facility**

Motion by Alderman Kaminski to join the quarry association and become party to the six citizen complaint issued to the DNR. Seconded by Alderman Wysocki and carried with Aldermen Bullermann and Patzer voting "no".

Motion by Alderman Scheuble to withhold proceeding with an injunction at this time but to direct Alderman Scheuble to meet with the parties involved and Zignego in a good faith attempt to enter into a resolution of issues. Seconded by Alderman Wilkens. Upon voting, the motion failed with Aldermen Patzer, Scheuble and Wilkens voting "yes".

Motion by Alderman Bullermann to adjourn the meeting at 12:25 p.m. Seconded by Alderman Patzer and carried unanimously.

**Judy Weter**  
**City Clerk**

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