

Minutes

Common Council

April 11, 2000

Minutes of a Regular Meeting of the Common Council of the City of New Berlin, Waukesha County, Wisconsin, held on Tuesday, April 11, 2000, at the New Berlin City Hall at 9:05 P.M.

Present were Mayor Gatzke, Aldermen Bullermann, Wysocki, Scheuble, Wilkens, 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, Associate Planner Greg Kessler, and City Engineer Jeff Chase. Aldermen Patzer and Chiovatero were excused.

Clerk's Report

City Clerk Weter gave a Clerk's Report.

Council President's Report

Council President Wilkens gave a Council President's Report.

Mayor's Report

Mayor Gatzke gave a Mayor's Report.

City Attorney's Report - No Report

COMMUNICATIONS:

Communication from Mayor David DeAngelis of the City of Muskego re: Joint Council Meeting - On File in Clerk's Office

Notice of Claim/Anetta Foshey - To City Attorney

Communication from Craig Dretzka re: Sanitary Sewer Manhole Rehabilitation Project - On File in Clerk's Office

Communication from Steve Bako re: Sanitary Sewer Manhole Rehabilitation Project - On File in Clerk's Office

Communication from Dale Shaver, Director of Waukesha County Department of Parks and Land Use - Final Report of the Waukesha County Development Workgroup - On File in Clerk's Office

PLAN COMMISSION

Alderman Kaminski reported from the meeting held on March 27, 2000:

Accessory Building Ordinance

Motion by Alderman Kaminski to amend the Zoning Ordinance to adopt a sliding scale for larger accessory buildings as the lots increase in size to a maximum of 1,200 square feet, 2) amend the Zoning Ordinance to allow residential lots five (5) acres in size or greater to have a second detached garage not to exceed 1,200 square feet, 3) amend the Zoning Ordinance to give the Plan Commission the authority to permit existing houses, traditional homesteads, or remnant farmhouses the opportunity to build a 720 square foot accessory building in lieu of the 120 square foot accessory building when there is a finding that it is impractical to build an attached garage, and 4) recommend to Common Council to amend Chapter 14 (Building Codes) to allow wood frame accessory buildings over 720 square feet, but not to exceed 1,200 square feet per the sliding scale in the Zoning Ordinance, subject to increasing the setback from principal residences and subject to the plans on file and the following:

New ordinance to be written to include the following, but not limited to:

1. The square footage may be increased by the following schedule: for lots under 0.9 acres in size, allow one 720 square foot accessory building and one 120 square foot accessory building. For properties one (1) acre in size and to 4.9 acres, the landowner may have the option to increase their 720 square foot accessory building by 120 square foot increments for each additional acre of land owned (i.e. 1.0-1.9 acres = 840 s.f., 2.0-2.9 acres = 960 s.f., 3.0-3.9 acres = 1,080 s.f., and 4.0-4.9 acres = 1,200 s.f.). Height for the accessory buildings will be a maximum of 15 feet. Waiver by Zoning Administrator if higher pitch is required to match exterior of principle residence.

Properties larger than five (5) acres in size will be allowed one additional 1,200 square foot accessory structure. Properties over five (5) acres in size may have one 120 square foot accessory building, one 1,200 square foot accessory building, and one additional 1,200 square foot accessory building (no more than three (3) accessory buildings will be allowed on properties greater than five (5) acres in size.

2. Accessory building can only be used for storage and agricultural purposes, and not home occupation, commercial storage, or business occupation.

3. Accessory buildings may be made from either masonry or wood frame materials, subject to the following: a) accessory buildings built from masonry must be at least 10 feet from a principal residence and b) accessory buildings over 720 square feet built from wood frame construction must be either an addition to the principal residence or be at least 30 feet from principal residence. Accessory buildings more than 120 square feet in area must be located at least 10 feet from any other accessory building or structure.

4. Pole structures will not allowed.

5. All accessory buildings shall meet all the front, side, and rear yard setback requirements for the district. There shall be a 5 foot rear and side setback for all buildings 120 square feet or less.

6. Section 17.0303 (7) (a) of the Zoning Ordinance shall continue to read "No farm buildings or parts of farm buildings shall exceed 60 feet in height. Accessory buildings and structures exceeding 35 feet shall provide one (1) additional foot of required front, side, and rear yard for each one (1) foot over 35 feet.

7. Section 17.0303 (7) (c) of the Zoning Ordinance shall read "No accessory building or structure shall exceed 15 feet in height". Waiver by Zoning Administrator if higher pitch is required to match exterior of principle residence.

8. Section 17.0304 (7) (a) of the Zoning Ordinance shall continue to read "No farm buildings or parts of farm buildings shall exceed 60 feet in height. Accessory buildings and structures exceeding 35 feet shall provide one (1) additional foot of required front, side, and rear yard for each one (1) foot over 35 feet.

9. Section 17.0503(1) (c) 1 of the Zoning Ordinance shall read "Accessory buildings more than 720 square feet in area may be made from masonry construction with a 10 foot setback from the principal residence. Wood frame construction may be used provided that there is a minimum of a 30 foot setback from the principal residence".

The Building Inspector may grant a waiver from the requirement that an accessory building be located at least 10 feet (masonry structures only) from a principal building and permit such accessory building within five (5) feet of the principal structure. Such waiver shall only be granted when the accessory building is not designed or intended to store or contain any flammable liquid or vehicles or equipment containing flammable liquids; or where the accessory building is constructed with a fire wall as if it were attached to the principal building. The Building Inspector shall consider the health, safety, general welfare, and aesthetics of the proposed construction before granting such a waiver.

10. Section 17.0503(1)(h) of the Zoning Ordinance shall read "Properties zoned residential one acre in size and up to 4.9 acres in size are allowed to have one 120 square foot accessory structure and one 720 accessory structure. The landowner will have the option of applying the following sliding scale: The square footage may be increased by the following schedule: for lots over 1 acre allow one 120 square foot accessory building, one 720 square foot accessory building which can increase by 120 square feet for each additional acre of land (i.e. 2 acres = 960 s.f., 3 acres = 1,080 s.f., 4 acres = 1,200 s.f.).

11. Section 17.0503(1)(i) of the Zoning Ordinance shall read "Properties zoned residential one acre in size and up to 4.9 acres in size are allowed to have one 120 square foot accessory structure and one 720 accessory structure. The landowner will have the option of applying the following sliding scale: The square footage may be increased by the following schedule: for lots over 1 acre allow one 120 square foot accessory building, one 720 square foot accessory building which can increase by 120 square feet for each additional acre of land (i.e. 2 acres = 960 s.f., 3 acres = 1,080 s.f., 4 acres = 1,200 s.f.).

The maximum allowable square footage for any accessory structure on 4.9 acres or less is 1,080 square feet. Properties with no accessory structures currently built, are allowed to initially construct one (1) accessory structure that will be subject to the sliding scale and (1) 120 square foot accessory structure.

12. Properties that do not have an attached garage or cannot feasibly build an attached garage may substitute their 120 square foot accessory building for a 720 square foot accessory building subject to the sliding scale.

13. Properties over five (5) acres in size will be allowed a maximum of three (3) accessory buildings.

14. The Plan Commission will have the authority to review and approve accessory building uses in accordance with the City's Zoning Ordinance.

The Commissioners asked that the acreage limits for each size building be made clear, 1 acre means 1.0 acre or more, 2 acres means 2.0 acres or more, etc.

Seconded by Alderman Bullermann.

A Public Hearing was scheduled for May 9, 2000 at 7:10 p.m.

Alderman Kaminski reported from the meeting held on April 3, 2000:

Alan C. Olson & Assoc., S.C. - 2880 S. Moorland Rd. - Rezone from R-1 to I-1/PUD

Motion by Alderman Kaminski to approve the request by Alan C. Olson & Assoc., S.C. to rezone the property located at 2880 S. Moorland Road from R-5 to I-1/PUD or O-1 subject to:

1. Use, site and architectural approval for the development required.
2. Access Permit from the Waukesha County DOT required. Coordinated access with all properties along Moorland Road including easements being granted to properties to the North shall be required.
3. Grading plan for the parking lot required.
4. Dumpster enclosure required, dumpsters must be properly screened from the street and public view in accordance with the City of New Berlin Municipal Code § 17.1304(14). Enclosure must enhance the exterior of the principle building, and must be built to accommodate both solid as well as recyclable waste dumpsters.
5. All necessary permits must be obtained from the Building Inspection and Zoning Department prior to commencement of any construction at this site.
6. Building must be maintained per Section 14.25 of the Non-residential Property Maintenance Code, and building must meet all applicable building and fire codes.
7. No outside storage shall be permitted on the premises.
8. Submittal of a revised landscaping plan prepared by a professional landscape architect including plant keys and sizes as stipulated in § 17.1308.
9. A modification or amendment to the Land Use Plan is required which includes this property and all properties North to the Clark Gas Station along Moorland Road as a PUD for professional office building with residential scale and character.

Mr. Hoeser indicated that rezoning here is spot zoning unless it is part of a PUD district.

Seconded by Alderman Wysocki.

Alderman Wysocki requested that notice for the Public Hearing be extended to the people on Acredale Road, on Cleveland Avenue from Acredale to Moorland Road, and from the Clark station down to this property.

A Public Hearing was scheduled for May 9, 2000 at 7:05 p.m.

Clarence Schindler - 2305 S. Brookland Rd. - Ne ¼ Sec. 11 - Two-Lot Final Land Division

Motion by Alderman Kaminski to approve the request by Clarence Schindler for a two-lot final land division located at 2305 S. Brookland Road, NE ¼ Sec. 11 subject to:

1. Drainage swale required along common lotline, location and length to be determined by City Engineer prior to building permit being issued.
2. Revise Final CSM per preliminary CSM approval. Driveway access off of Lincoln Av. requires a "T" turnaround to allow maneuvering of vehicles without using Lincoln Avenue. Access permit from the City of New Berlin Engineering Department required.
3. Payment of \$1000.00/new lot in Public Site, Open Space and Trail fees required before the City will sign the Final CSM.

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

Deer Creek Village - Ne ¼ Sec. 14 - 3501 S. 147 St. - Two-Lot Preliminary and Final Land Division

Motion by Alderman Kaminski to approve the two lot preliminary and final land division located at 3501 S. 147th Street, NE ¼ Sec. 14 subject to:

1. All easements requested/granted to the City are to be at no cost to the City, including Deer Creek Drainage easement.
2. Payment of \$1000.00/new lot (\$2,000) in Public Site, Open Space and Trail fees required before the City will sign the Final CSM.
3. Cross-access easements required.
4. KASCO CSM to be recorded prior to this CSM being recorded. Label CSM numbers of original three lots.
5. All owners as of the date of signing, to sign prior to City signing the final CSM.
6. Surveyor's signature and seal, required on all pages of the CSM.
7. Executed Developer's Agreement required.
8. Permits for wetland crossing for Wilbur Drive.
9. Approval of all surety instruments prior to signing the final CSM.

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

Victor Ganter & Cathy Connolly, Town of Waukesha - Extraterritorial Plat

Motion by Alderman Kaminski to recommend to Council no serious objection with the following comments to the Victor Ganter & Cathy Connolly, Town of Waukesha Extraterritorial Plat:

1. Remove City of Waukesha signatures, not within their jurisdictional limits.
2. Lawnsdale Road not accurately portrayed within the 2000 scale inset map.
3. City of New Berlin minimum lot width at setback for a rural residential lot is 300' CSM would be substandard.
4. Change note "NO FUTURE DIVISION OF THE PARCELS WILL BE PERMITTED" to reflect parcel 1 and 2 of this CSM.
5. Where does note relating to County Ownership of Environmental Corridors come from? If it's not accurate remove it from the CSM.
6. Principle residence to be a minimum of two feet above 100-year recurring flood interval and all lands within 15' of proposed structure to be a minimum of one foot above 100-year recurring flood interval. Dry land access required.
7. Metes and bounds legal description of field delineated wetland boundary required as part of this CSM.

Seconded by Alderman Bullermann and carried unanimously.

BOARD OF PUBLIC WORKS

Alderman Wysocki reported from the meeting held on April 5, 2000:

Vehicle Fleet

Motion by Alderman Wysocki to accept the amended Vehicle Policy as described. Seconded by Alderman Bullermann.

Alderman Bullermann withdrew his second to the motion.

Motion by Alderman Wysocki to accept the amended Vehicle Policy as described. Seconded by Alderman Kaminski.

Motion by Alderman Bullermann to table this item and to direct the City Clerk to investigate the cost of an umbrella policy, or to contact CVMIC and request a policy statement on minimum requirements of insurance for employees. Seconded by Alderman Wysocki and carried unanimously.

Motion by Alderman Wysocki to accept Option No. 2, Department Assigned Vehicle Fleet for policy implementations. Seconded by Alderman Bullermann.

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

Sidewalk Ordinance

Motion by Alderman Wysocki to approve a Sidewalk Maintenance Ordinance creating subsection 17, Chapter 14.25 "sidewalk maintenance" with a friendly amendment to put in "paved sidepaths" and a friendly amendment that excludes the obligation for residential properties that do not have a driveway that crosses the sidewalk whereby the City would be responsible for its maintenance, and to direct the City Attorney to prepare the proper Ordinance. Seconded by Alderman Bullermann and carried with Alderman Scheuble voting "no".

Priority Manhole Rehabilitation Award of Contracts A & B

Motion by Alderman Wysocki to approve the award of Construction Contract A to Kim Construction, Inc., and to waive informalities in their bidding, in the amount of \$999,670 subject to becoming licensed to perform work in the state by April 11, 2000 prior to the Council meeting, and in the event that Kim Construction, Inc. does not become fully licensed to perform work in the state by April 11, 2000, the BPW recommends that the Council award Contract A to Underground Pipeline, Inc. and to waive informalities in their bidding, in the amount of \$1,063,557, for a Priority Basin Manhole Rehabilitation total project cost of \$1,384,000 to be funded by Wastewater Utility Account #831.04. Seconded by Alderman Bullermann and carried unanimously.

It was confirmed that Kim Construction, Inc. met the BPW condition to obtain a license by April 11, 2000.

The Pines

Motion by Alderman Wysocki to approve the Development Agreement subject to final review as to form by the City Attorney and Staff. Seconded by Alderman Bullermann.

Motion by Alderman Wilkens to allow Dean Frederick to address the Council. Seconded by Alderman Wysocki and carried unanimously.

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

The Preserve at Weatherstone

Motion by Alderman Wysocki to approve the Development Agreement subject to final review as to form by the City Attorney and Staff. Seconded by Alderman Bullermann and carried with Alderman Scheuble voting "no".

JNP Investments

Motion by Alderman Wysocki to approve the Development Agreement subject to final review as to form by the City Attorney and Staff and also to eliminate Paragraph 5 Reversion. Seconded by Alderman Bullermann and carried with Alderman Scheuble voting "no".

UTILITY COMMITTEE - No Report

SAFETY COMMISSION - No Report

TECHNOLOGY COMMITTEE - No Report

MAYORAL APPOINTMENTS

Motion by Alderman Bullermann to approve the reappointment of Leo F. Wallner to the Board of Appeals, with an expiration date of April 30, 2003; the reappointment of Donald J. Starr to the Board of Review, with an expiration date of May 31, 2005; the reappointment of Ronald J. Brecha to the Fire and Police Commission, with an expiration date of April 30, 2005; the appointment of Nancy Duff to the Parks & Recreation Commission, with an expiration date of April 30, 2003; and the reappointment of Brian J. Felda to the Plan Commission, with an expiration date of April 30, 2003. Seconded by Alderman Wysocki and carried unanimously.

ACTION ON PUBLIC HEARINGS

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.

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

REFERRALS, DEFERRALS, AND TABLED ITEMS

Ad Hoc Policy Committee: Amendments to Updated Policies - **TABLED 9-14-99** - No Action

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

CONSENT AGENDA

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

MINUTES

Minutes of the Common Council Meeting held on March 28, 2000.

Claims

Sewer Utility claims in the amount of \$257,315.33, of which \$251,775.34 represents payments to MMSD and \$5,539.99 represents payments to vendors; Water Utility claims in the amount of \$46,080.30, all of which represents payments to vendors; and bi-weekly claims in the amount of \$423,690.99, all of which represents payments to vendors.

Bartender Licenses

Bartender Licenses for the year 1998-2000 to Renia M. Stehovsky and Shelli J. Szyplski.

Authorize City Attorney to Retain Council for Police & Fire Commission Hearing

Retain Attorney James Corum to represent the Police Chief on the matter involving the Police & Fire Commission at the rate of \$165 per hour.

Selection of Financial Advisor

Engage Ehlers & Associates, Inc. for financial advisory services and direct the firm to prepare recommendation for the 2000 Capital Improvement Program debt issue.

Amendment to Council Rule No. 6

Amend Common Council Rule No. 6 to outline the correct order of business at regular Common Council Meetings:

1. Clerk's Report, Council President's Report, Mayor's Report, City Attorney's Report
2. Presentation and consideration of letters, claims, petitions, memorials, remonstrances and accompanying documents.
3. Messages and communication from the Mayor, Council and the Clerk, shall be read.
4. Plan Commission and Board of Public Works recommendations.
5. Reports from Other Boards and Committee shall be presented and considered, first from the Board and next from the Selected Committees, and Commissions.
6. Presentation and consideration of business.
7. Consent Agenda, including approval of the minutes of previous meetings.
8. Presentation and consideration of Ordinances, Resolutions and By-Laws.

Establishment of Community Environmental Health Commission

Establishment of an ad hoc committee to investigate the need of such a commission, the framework and the personnel, and to identify the specific objectives - goals and structure, and the possible role in the community that this commission might serve. The ad hoc committee will include three Aldermen - Aldermen Scheuble, Bullermann and Chiovatero.

WiDOT Grant

Resolution for the application, acceptance, and expenditure of a 2002-2003 WiDOT Local Transportation Enhancement and/or Surface Transportation Program - Discretionary Grant.

RESOLUTIONS AND ORDINANCES

Resolution No. 00-09 "A Resolution Amending the 2000 City of New Berlin Operational Budget"

Motion by Alderman Bullermann to approve and adopt Resolution No. 00-09. Seconded by Alderman Wysocki and carried unanimously.

Resolution No. 00-10 "A Resolution Authorizing the Application, Acceptance, and Expending of a State of Wisconsin Department of Transportation Local Transportation and Surface Transportation Program Grant"

Motion by Alderman Bullermann to approve and adopt Resolution No. 00-10. Seconded by Alderman Wysocki 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 (2nd Reading)

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

Motion by Alderman Bullermann to waive the third reading of Ordinance No. 2105. Seconded by Alderman Kaminski and carried unanimously.

Motion by Alderman Bullermann to approve and adopt Ordinance No. 2105. Seconded by Alderman Kaminski and carried unanimously.

Ordinance No. 2107 "City of New Berlin Storm Water Management Ordinance" (2nd Reading)

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

Ordinance No. 2110 "An Ordinance to Rezone the Property at 19410 W. Cleveland Avenue"

City Clerk Weter gave the only necessary reading of Ordinance No. 2110.

Motion by Alderman Bullermann to table Ordinance No. 2110. Seconded by Alderman Wysocki and carried unanimously.

Ordinance No. 2111 "Ordinance Amending Section 4.04 of the City of New Berlin Municipal Code Removing Building Maintenance Supervisor and Creating the Positions of Building Maintenance Manager and Office Coordinator (Courts)" (1st Reading)

City Clerk Weter gave the first reading of Ordinance No. 2111.

Motion by Alderman Bullermann to waive the second and third readings of Ordinance No. 2111. Seconded by Alderman Wilkens. Upon voting, the motion fails with Aldermen Bullermann and Wilkens voting "yes".

Ordinance No. 2112 "Ordinance Amending Section 4.18(3)(a) of the City of New Berlin Municipal Code Removing Building Maintenance Supervisor with a Salary Range of Nine and Creating Building Maintenance Manager with a Salary Range of Eleven and Office Coordinator (Courts) with a Salary Range of Six" (1st Reading)

City Clerk Weter gave the first reading of Ordinance No. 2112.

Motion by Alderman Wysocki to adjourn the meeting at 11:00 p.m. Seconded by Alderman Bullermann and carried unanimously.

Judy Weter

City Clerk

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