

Minutes

Common Council

May 9, 2000

Minutes of a Regular Meeting of the Common Council of the City of New Berlin, Waukesha County, Wisconsin, held on Tuesday, May 9, 2000, at the New Berlin City Hall at 8:52 P.M.

Present were Mayor Gatzke, Aldermen Bullermann, Wysocki, Patzer, Scheuble, Wilkens, Chiovero, 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, and Director of Finance and Utilities Mike Holzinger.

Clerk's Report

City Clerk Weter gave a Clerk's Report.

Council President's Report

Appointments to Boards and Commissions

Council President Kaminski made the following Appointments:

2000 Committee Assignments:

Crime Prevention - Ald. Kaminski
Ad Hoc Customer Service Committee - Ald. Wilkens and Chiovero
Electrical Review Board - Ald. Scheuble
Ad Hoc Engineering Drawing Review - Ald. Wilkens and Kaminski
Ad Hoc Environmental Health Committee - Ald. Bullermann, Scheuble, and Chiovero
Fire Department - Ald. Bullermann
Fourth of July - Ald. Kaminski
Golf Course Committee - Ald. Wilkens
Housing Authority - Ald. Scheuble
Landmarks Commission - Ald. Chiovero
Library Board - Ald. Wilkens
Park & Rec - Ald. Patzer
Ad Hoc Policy Review Committee - City Clerk Weter, Ald. Wysocki and Chiovero
Ad Hoc Property Maintenance Code - Ald. Bullermann, Patzer, and Wilkens
Board of Public Works - Ald. Wysocki, Patzer, and Chiovero
Safety Commission - Ald. Wysocki
School Board - Ald. Scheuble
Ad Hoc Stormwater Management Committee - Ald. Bullermann, Wysocki, and Patzer
Ad Hoc Long Term Strategic Planning Committee - Ald. Bullermann, Patzer, and Wilkens
Technology Committee - Ald. Bullermann, Wysocki, and Wilkens
Utility Committee - Ald. Bullermann, Wysocki, and Patzer

2000 COW Liaison Assignments:

Assessor - Ald. Kaminski
Buildings and Grounds - Ald. Patzer
Community Development - Ald. Kaminski

Finance/Claims/Judiciary - Ald. Wilkens
Information Systems - Ald. Chiovatero
Insurance - Ald. Bullermann
Legislative - Ald. Wysocki
Licenses - Ald. Scheuble
Human Resources - Ald. Bullermann
Parks & Recreation Dept. - Ald. Patzer
Police Dept. - Ald. Wilkens
Utilities - Ald. Wysocki

Mayor's Report

Mayor Gatzke gave a Mayor's Report.

City Attorney's Report - No Report

MISCELLANEOUS

Election of Plan Commission Representative

Alderman Patzer nominated Alderman Kaminski as the Plan Commission Representative.

Motion by Alderman Bullermann to close the nominations and elect Alderman Kaminski as the Plan Commission Representative by unanimous ballot. Seconded by Alderman Patzer and carried unanimously.

COMMUNICATIONS:

Communication from City Attorney Paul Reilly re: Wis. Dept. of Administration Determination of Town of Waukesha Incorporation - On File in Clerk's Office

Communication from City Attorney Reilly re: Denial of Klante Claim

Motion by Alderman Patzer to deny the John Klante claim, per the recommendation of City Attorney Paul Reilly. Seconded by Alderman Bullermann and carried unanimously.

PLAN COMMISSION

Alderman Kaminski reported from the meeting held on May 1, 2000:

Deer Haven Golf Course - 19180 W. Cleveland Ave. - Rezone from C-1/C-2 to P-1 Park - Revised Plans for Additional New Holes to Existing Golf Course

Motion by Alderman Kaminski to approve the request by Deer Haven Golf Course to rezone the property located at 19180 W. Cleveland Avenue from C-1/C-2 to P-1 Park for use as an extension of an existing 9-hole golf course subject to:

1. Survey of all the field-staked Wetland and Primary Environmental Corridor delineations required. Plat of Survey of wetland and environmental staking to be verified and approved by SEWRPC prior to approval.

2. 401 grading and water quality permit # 3-SE-0256 from the Wisconsin Department of Natural Resources required to be on file in the Planning Department and available for reference at Deer Haven Golf Course.
3. Nationwide Permit # 98-05900-DJP from the Department of The Army – Corps of Engineers required to be on file in the Planning Department and available for reference at Deer Haven Golf Course.
4. Use approval for the expansion of the Golf Course required. Must meet conditions of existing use approval. Be sure to address screening of neighboring properties from errant balls, etc.
5. Per Sec. 17.1210 a fine in the amount of \$640.00 shall be imposed for work done prior to use approval being granted.

Seconded by Alderman Wilkens.

Alderman Patzer requested notices to residents within 2,000 ft. of this proposal.

A Public Hearing was scheduled for June 6, 2000 at 7:05 p.m.

Gonzales Property - 13800 W. Beloit Rd. - Preliminary 35-Lot Subdivision

Motion by Alderman Kaminski to approve the request by Michale Schiltz/Gonzales Property for a preliminary 35-lot subdivision located at 13800 W. Beloit Road subject to:

1. Investigation of the need for water laterals, or sewer extension/laterals, for eastern half of 4770 and 4820 S. Sunny Slope Road required. Letter from respective owners articulating their position required to be on file prior to approval of developer's agreement.
2. Review by New Berlin School District for potential impacts to Elmwood Elementary School and Eisenhower Middle and High Schools required.
3. Detailed road/infrastructure/stormwater/grading plans to be reviewed and approved by the Engineering Department prior to writing of the developer's agreement.
4. Sewer and water plans to be approved by all regulating authorities.
5. Developer's Agreement for all public improvements required. Agreement to be approved by the Board of Public Works and Common Council. Approval of all surety instruments required prior to the City signing the final Plat.
6. An executed Developer's Agreement is required prior to clearing, grubbing, grading and/or utility/infrastructure work commencing.
7. Bypass, acceleration and deceleration lanes required on Sunny Slope Road and Beloit Road.
8. Existing eastern treeline needs to be shown on the face of the plat. Tree Preservation Easement required.
9. Length bearing and tie to all easements (public and private) required.
10. A name for the subdivision must be chosen prior to final application.
11. Ownership of Outlot 1 to be labeled on the face of the Plat.
12. All streets to be labeled prior to submittal of the final plat.
13. All lots restricted to front-entry only unless it can be determined that a 30' sideyard setback is available (corner lots).
14. Maximum building size based on 44'x62' building envelope to be determined and deed restricted to each lot.
15. Waukesha County Access Permit required for Beloit Road entrance.
16. City of New Berlin Access Permit required for Sunny Slope Road entrance.
17. Satisfaction of the Conditional Letter of No Objection by Waukesha County Park and Land Use required.
18. Meet the conditions of Letter of No Objection from the State of Wisconsin DOA.

19. Meet the conditions of Letter of No objection from the State of Wisconsin DOT and comply with Trans 233.05, 233.08, and 233.105.
20. Based on the estimate prepared by the City Assessor in accordance with Section 18.10, the required fee for your requested residential development is as follows:

Public Site Fee: \$ 670.00 per lot x 35 lots = \$23,450

Open Space Fee: \$ 130.00 per lot x 35 lots = \$ 4,550

Trail Fee: \$ 200.00 per lot x 35 lots = \$ 7,000

Total: \$35,000

21. Schedule:

January 27, 2000 – Plat Received

April 26, 2000 – 90-day time limit expires

April 3, 2000 – Plan Commission date for final action

April 25, 2000 – Common Council date for final action

May 1, 2000 – Plan Commission date for final action (extension)

May 10, 2000 – Common Council date for final action (extension)

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

Stormy Acres - 20900 W. Glengarry Rd. - Final Two Lot Land Division, Lots 25 & 26

Motion by Alderman Kaminski to approve the Stormy Acres two lot final land division Lots 25 & 26 located at 20900 W. Glengarry Rd. 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 number for Parcel 1 (Lot 27 of the preliminary plat).
5. Clean up drafting errors; Curve label(s) on CSM missing.
6. Must meet all the conditions of Developer's Agreement prior to building permits being issued.

Seconded by Alderman Patzer and carried unanimously.

Forest Ridge Condominiums - 14500 and 14510 W. Beloit - Rezone from R-4 to Rm-1, Rd-1, R-4.5/PUD

Motion by Alderman Kaminski to approve the request by James Krahn/Forest Ridge Condominiums to rezone the property located at 14500 and 14510 W. Beloit Road from R-4 to Rm-1, Rd-1, R-4.5/PUD for a mixed-use condominium development subject to:

1. Revised PUD document to be reviewed by the City Attorney.
2. Revise building layout, all buildings north of Lindenwood Road are to be duplexes.
3. Metes and bounds legal descriptions of reconfigured districts required.
4. Full subdivision submittal based on reconfigured lots required.
5. Length bearing and tie to all easements (public and private) required.
6. Review by New Berlin School District for potential impacts to Elmwood Elementary School and Eisenhower Middle and High Schools required.
7. Approval of drainage, grading, utility and overall site plans by the Engineering Department is required Contact City Engineer for details. Detailed Stormwater management plan required. Plan to include drainage pond computations. Move detention pond out of WiDOT Trans. 233 regulated setback.
8. Detailed road/infrastructure/stormwater/grading plans to be reviewed and approved by the Engineering Department prior to writing of the developer's agreement.
9. Sewer and water plans to be approved by all regulating authorities.
10. Developer's Agreement for all public improvements required. Agreement to be approved by the Board of Public Works and Common Council. Approval of all surety instruments required prior to the City signing the final Plat.
11. An executed Developer's Agreement is required prior to clearing, grubbing, grading and/or utility/infrastructure work commencing.
12. Bypass, acceleration and deceleration lanes required on Beloit Road.
13. The City of New Berlin Architectural Review Committee must approve two-family and eight-family building materials and exterior architecture.
14. Adherence to §17.1308(10) Woodland Preservation required. Tree inventory of existing trees greater than 4" DBH required. Landscaping plan, which addresses species, sizes and quantities of trees and shrubs required for Use Site and Architecture approval. Coniferous trees to be a minimum of 6' in height. Deciduous trees to be a minimum of 3-1/2" in caliper. Ornamental trees to be a minimum of 2-1/2" in caliper.
15. Entrance monumentation plan required.
16. Satisfaction of any/all Fire Department Concerns required. Hydrants to be located within 150' of any building riser. 8-unit buildings to be fully sprinklered. Knox boxes and alarm systems required.
17. Access permits required from the City of New Berlin Engineering Department for the extension of Lindenwood Drive.
18. Access permits required from the Waukesha County Department of Transportation for the connection to Beloit Road.
19. All buildings on the "Tarbox" property are to be razed, razing permits are required.
20. Permits are required from the Building, Inspections and Zoning Department. Building must meet all applicable building and fire codes. Building must be maintained per § 14.25 of the Non-residential Property Maintenance Code.
21. Payment of \$1,000/building or lot in Public Site, Open Space and Trail Fees required.

Seconded by Alderman Wilkens.

A Public Hearing was scheduled for June 6, 2000 at 7:00 p.m.

ACTION ON PUBLIC HEARINGS

Alan C. Olson & Assoc., S.C. - 2880 S. Moorland Rd. - Rezone from R-5 to I-1/PUD or O-1

Motion by Alderman Wysocki 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 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. Hoese indicated that rezoning here is spot zoning unless it is part of a PUD district.

Seconded by Alderman Bullermann and carried unanimously.

UTILITY COMMITTEE

Alderman Bullermann reported from the meeting held on May 1, 2000:

Regal Manor - Well Maintenance

Motion by Alderman Bullermann to approve of the necessary funds for the removal, inspection and repairs to the pumping equipment and chemical treatment of Well #5 as required, not to exceed \$67,500 with the funding coming from the Water Utility Working Capital Fund. Seconded by Alderman Wysocki and carried unanimously.

Purchase of New Chlorinator Heads

Motion by Alderman Bullermann to approve the purchase of 10 new Capital Controls Advance Direct Cylinder Vacuum Regulators and Ejectors with the amount not to exceed \$16,000 with the funding coming from the Water Utility Operating Budget. Seconded by Alderman Wysocki and carried unanimously.

Alderman Bullermann reported from the meeting held this evening:

Milwaukee Water Study

Motion by Alderman Bullermann to authorize Ruckert & Mielke to provide study services for Lake Michigan water to the City of New Berlin, with the amount not to exceed \$50,000 with the funding coming from Water Utility Account 923.42, Outside Services Engineering. Seconded by Alderman Wysocki.

Motion by Alderman Bullermann to allow the Ruckert & Mielke Representative to address the Council. Seconded by Alderman Wysocki and carried unanimously.

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

Well Siting Study

Motion by Alderman Bullermann to authorize Ruekert & Mielke to provide a well siting study for a municipal well or wells in the sand and gravel aquifer for the City of New Berlin with the amount not to exceed \$157,000 with the funding to come from Water Utility RCA Funds. Seconded by Alderman Wysocki.

Motion by Alderman Kaminski to end debate. Seconded by Alderman Patzer and carried with Alderman Scheuble voting "no".

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

BOARD OF PUBLIC WORKS

Alderman Wysocki reported from the meeting held on May 3, 2000:

Sidewalk Ordinances/Ordinance Nos. 2113 and 2114

Motion by Alderman Wysocki to recommend the Sidewalk Ordinance to Council. Seconded by Alderman Patzer and carried unanimously.

City Clerk Weter gave the first readings of Ordinance Nos. 2113 and 2114.

Enclosed Storm Drainage Projects

Motion by Alderman Wysocki to recommend back to Council the Enclosed Storm Drainage Projects to include it with the balance of other policies. Seconded by Alderman Patzer and carried unanimously.

Engineering Grading Guidelines

Motion by Alderman Wysocki to recommend back to Council the Engineering Grading Guidelines to include it with the balance of other policies. Seconded by Alderman Chiovaturo.

Motion by Alderman Wysocki to refer this item back to the Ad Hoc Policy Committee. Seconded by Alderman Chiovaturo and carried with Alderman Bullermann voting present.

SAFETY COMMISSION - No Report

TECHNOLOGY COMMITTEE - No Report

MAYORAL APPOINTMENTS

Motion by Alderman Wysocki to approve the appointment of Dennis E. Winchell to the Special Assessment Review Committee, with an expiration date of April 1, 2001. Seconded by Alderman Kaminski and carried unanimously.

ACTION ON PUBLIC HEARINGS

Vacation of Summit Lane - Drainage/Utility/Maintenance Easement

Motion by Alderman Scheuble to enter into the Drainage/Utility/Maintenance Easement. Seconded by Alderman Wilkens and carried unanimously.

Motion by Alderman Scheuble to vacate Summit Lane. Seconded by Alderman Kaminski and carried unanimously.

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 feet 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.

Motion by Alderman Patzer to refer this item back to Plan Commission. 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

Resolution & Ordinances/Ordinance No. 2107 "City of New Berlin Stormwater Management Ordinance" - DEFERRED 4-25-00

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

Motion on the Floor: Motion by Alderman Wysocki to adopt and approve Ordinance No. 2107. Seconded by Alderman Bullermann.

Upon voting, the motion carried unanimously.

CONSENT AGENDA

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

Minutes

Minutes of the Common Council Meeting held on April 25, 2000.

Claims

Sewer Utility claims in the of \$48,211.80; Water Utility claims in the amount of \$50,026.51; and bi-weekly claims in the amount of \$136,071.15, all of which represents payments to vendors.

Bartender License, Special Class "B" Retailer's License

Bartender Licenses for the year 1998-2000 to Samuel T. Laughery; Special Class "B" Retailer's License to sell Fermented Malt Beverages at Picnics or Gatherings to St. Elizabeth Ann Seton Parish at 12700 W. Howard Avenue from July 21 to July 23, 2000.

LICENSES

Bartender License

Motion by Alderman Bullermann to approve the Bartender License for the year 1998-2000 to Joseph R. Pond. Seconded by Alderman Kaminski and carried with Aldermen Wysocki and Wilkens voting "no".

RESOLUTIONS AND ORDINANCES

Resolution No. 00-14 "Final Resolution in Accordance with Section 66.60 Wisconsin Statutes Authorizing Levying Special Assessments Against Benefited Properties in the Greenfield Avenue Watermain Assessment District"

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

Resolution No. 00-15 "A Final Resolution to Vacate a Portion of Summit Lane"

Motion by Alderman Kaminski to approve and adopt Resolution No. 00-15. Seconded by Alderman Scheuble and carried unanimously.

Motion by Alderman Bullermann to adjourn the meeting at 11:25 p.m. Seconded by Alderman Wysocki and carried unanimously.

Judy Weter
City Clerk

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