

Minutes

Common Council Minutes

July 11, 2000

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

Present were Mayor Gatzke, Aldermen Bullermann, Wysocki, Patzer, Scheuble, Chiovatero, and Kaminski. Also present were City Attorney Paul Reilly and City Clerk Judy Weter, Director of Community Development Steve Hoese, Asst. Director of Planning Mark Lake, and Associate Planner Greg Kessler. Alderman Wilkens was excused.

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

Communication from City Clerk Weter re: September 12, 2000 Council Meeting - Meeting cancelled due to Election the same day - On File in Clerk's Office

Notice of Summons - Nicholas L. Bishop/Susan Price/Donald Bishop - On File in Clerk's Office

Communication from James C. Heiden re: Real Estate Tax Penalty - On File in Clerk's Office

PLAN COMMISSION

Alderman Kaminski reported from the meeting held on July 10, 2000:

Raven Golf Services - 19300 W. Cleveland Ave. - Golf Training Complex

Motion by Alderman Kaminski to recommend to Council approval of the request by Raven Golf Services for a golf training complex located at 19300 W. Cleveland Avenue subject to:

1. A building stakeout survey required for the building permit.
2. Access Permit from the Waukesha County DOT and/or cross easements to Deer Haven Golf Course required.
3. Coordination with Don Reed of the Southeastern Wisconsin Planning Commission (SEWRPC) on using any identified environmental corridors.
4. Landscaping Plan to be reviewed and approved by the Planning Department. Plan should address the protection of any identified wetlands and lands to the east and west by errant golf

balls. Landscaping planting schedule required. Schedule should include locations, number of trees, minimum sizes.

5. Exterior lighting plan required to be reviewed and approved by the Planning Department prior to building permits being issued.
6. Approval of drainage, grading and overall site plans by the Engineering Department is required prior to issuance of building permit.
7. Plan of operation, including operating hours, required to be on file prior to building permits being issued. Plan should also include the various methods of ball retrieval.
8. 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.
9. 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 be of masonry construction and match or enhance the exterior of the principle building. Enclosure, which includes a board on board cedar gate, must be built to accommodate both solid as well as recyclable waste dumpsters.
10. Signage requires a separate permit.

Seconded by Alderman Bullermann and carried with Alderman Scheuble voting present.

Well #10 - Wellhead Protection Overlay Ordinance

Motion by Alderman Kaminski to approve the request to create a Well #10 Wellhead Protection Overlay District subject to the following:

1. Ordinance shall meet the conditions established by NR811.16(5).
2. To be reviewed by GDMP Consultant prior to public hearing.

Seconded by Alderman Patzer.

A Public Hearing was scheduled for August 8 at 7:00 p.m.

Towne Corporate Park - Beloit Rd. - Ne,Se,Sw Sec. 27 - Preliminary and Final Land Division

Motion by Alderman Kaminski to approve the Towne Corporate Park preliminary and final one lot land division located at Beloit Road, NE,SE,SW Sec. 27 subject to:

1. CSM description requires correction. Description should read "A division of Parcel ¼" not Lot 2.
2. Payment of \$2,360 in Public Site, Open Space and Trail Fees to be paid before City will sign the final CSM.
3. All required impact fees for sewer and water are to be paid prior to issuance of building permits.
4. Owners must sign prior to City signing the Final CSM.

Seconded by Alderman Bullermann and carried unanimously.

Stormy Acres - 20900 W. Glengarry Rd. - One-Lot Final Land Division - Lot #13

Motion by Alderman Kaminski to approve the Stormy Acres one lot final land division - Lot #13 located at 20900 W. Glengarry Road subject to:

1. Owners and Surveyor required to sign the Final CSM before the City will sign the Final CSM.

2. Address should be corrected to read 20995 not 200995.
3. Verification of curve data required.
4. Must meet all the conditions of Developer's Agreement prior to building permits being issued.

Seconded by Alderman Chiovaturo and carried unanimously.

New Berlin Commercial Center - Approx. 15155 W. National Ave. - PUD to Establish Zoning for Areas of Mixed Use and Neo-Traditional

Motion by Alderman Kaminski to recommend to Council approval of the New Berlin Commercial Center for a PUD to establish zoning for areas of mixed use and neo-traditional located at approximately 15155 W. National Avenue subject to:

1. Final PUD document to be worked out with the Planning Department and City Attorney.
2. Use, Site and Architectural approval required.
3. Proposed wetland mitigation to be approved by all regulating authorities.
4. Review by New Berlin School District for potential impacts to Elmwood Elementary School and Eisenhower Middle and High Schools required for any residential development.
5. Subdivision Plat may be required.
6. Detailed road/infrastructure/stormwater/grading plans to be reviewed and approved by the Engineering Department prior to writing of the developer's agreement.
7. Sewer and water plans to be approved by all regulating authorities.
8. 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.
9. An executed Developer's Agreement is required prior to clearing, grubbing, grading and/or utility/infrastructure work commencing.
10. Sidepaths required in all Districts. Links to Deer Creek pathway required.
11. Connection Wilbur Drive required.
12. Army Section 404 permits required for wetland dredging, filling, or ponding.
13. WDNR Section 401 Water Quality permits required for wetland modifications.
14. Conformance to Stormwater Management Plan Required.

Seconded by Alderman Patzer.

A Public Hearing was scheduled for August 1, 2000 at 7:00 p.m.

BOARD OF PUBLIC WORKS - No Report

UTILITY COMMITTEE - No Report

SAFETY COMMISSION - No Report

TECHNOLOGY COMMITTEE

Alderman Bullermann reported from the meeting held this evening:

Amend 2000 Budget for Virus Protection

Motion by Alderman Bullermann to purchase licenses from McAfee Active Virus Defense Suite, to cover the remainder of the City workstations in the amount of \$1,744 from Contingency, and to direct the City Clerk to prepare the proper Resolution. Seconded by Alderman Wysocki and carried unanimously.

STORMWATER COMMITTEE

Alderman Wysocki reported from the meeting held on July 10, 2000:

Financing Storm Water Projects

Motion by Alderman Wysocki to develop a Storm Water Utility for the City of New Berlin. Seconded by Alderman Patzer and carried unanimously.

MAYORAL APPOINTMENTS - None

ACTION ON PUBLIC HEARINGS

HCLC Primary Care Center - 12555 W. Janesville Rd. - Rezone from B-2 to I-1 - Facility for Child Care Ministry & Christian Education

Motion by Alderman Kaminski to approve the request by HCLC Primary Care Center to rezone the property located at 12555 W. Janesville Road from B-2 General Services and Business District to I-1 Institutional District subject to:

1. Per §17.0314 (1)(o) of the City of New Berlin Municipal Code, a day care center is a principle use allowed within the B-2 district.
2. An application for use approval of HCLC Primary Care Center is required.
3. Per the City of New Berlin Fire Department:
 - a. Current sprinkler system to be attached to city water system.
 - b. Fire hydrant required within 50' of Fire Department Connection
 - c. Adherence to fire alarm system and smoke detector system requirements provided by Comm. 60.36.
 - d. Adherence to day care center ingress and egress requirements provided by Comm. 60.31.
4. Ingress and egress to property limited to Lowell Place, new driveway configuration required.
5. Permits are required from the Building, Inspections and Zoning Department for any internal modifications. Building must meet all applicable building and fire codes. Building must be maintained per § 14.25 of the Non-residential Property Maintenance Code.
6. 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 match or enhance the exterior of the principle building, and must be built to accommodate both solid as well as recyclable waste dumpsters.
7. Contingent on agreement for payment in lieu of taxes.

Seconded by Alderman Patzer and carried unanimously.

Accessory Building Ordinance

Motion by Alderman Kaminski to: 1) amend the Zoning Ordinance to allow residential properties with an area of two (2) to five (5) acres the ability to construct accessory buildings up to 1.15 percent of the total lot area with residential properties over five (5) acres in size being allowed a maximum of three (3)

accessory buildings with a 2,500 square feet maximum, 2) amend the Zoning Ordinance to give the Plan Commission the authority to review and approve accessory building uses in accordance with the City's Zoning Ordinance, 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, 4) recommend to Common Council the amendment of Chapter 14 (Building Codes) to allow wood frame accessory buildings over 720 square feet with a minimum setback of 30' from the principal residence, and 5) allow the Zoning Administrator to review and approve agricultural buildings demonstrating agricultural use, and subject to the plans on file and the following:

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

1) Properties less than two (2) acres in size will be allowed a maximum of 840 square feet and up to two (2) accessory buildings. The following scale for maximum allowable square footages of accessory buildings per property will apply:

Lot Area Maximum Allowable Sq. Footage Maximum # of Buildings

2 Acres 1,000 2

2.5 Acres 1,250 3

3 Acres 1,500 3

3.5 Acres 1,750 3

4 Acres 2,000 3

4.5 Acres 2,250 3

5 Acres 2,500* 3*

* Unless demonstrated agricultural use as determined by Zoning Administrator

2) Residential properties greater than five (5) acres in size are allowed a maximum of three (3) accessory buildings with a maximum square footage of 2,500.

3) Properties over five (5) acres in size that have a demonstrated agricultural use as determined by the City of New Berlin's Zoning Administrator would be exempt from this ordinance.

4) Accessory buildings within agricultural or residential zoning can only be used for storage and demonstrated agricultural purposes, and not home occupation, commercial storage, or business occupation.

5) 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.

6) 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.

7) 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 buildings exceeding 35 feet shall provide one (1) additional foot of required front, side, and rear yard for each one (1) foot over 35 feet.

8) 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.

9) 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 buildings exceeding 35 feet shall provide one (1) additional foot of required front, side, and rear yard for each one (1) foot over 35 feet.

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

11) The Zoning Administrator shall regulate the architecture of agricultural use accessory buildings only under Section 17.1305 (4) of the City's Zoning Ordinance.

12) Allow 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 is impractical to build an attached garage.

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

REFERRALS, DEFERRALS, AND TABLED ITEMS

Ad Hoc Policy Committee: Amendments to Updated Policies - Rural Development Policy - **TABLED 5-23-00**

Motion by Alderman Scheuble to remove this item from the table. Seconded by Alderman Wysocki and carried with Aldermen Bullermann and Kaminski voting "no".

Motion by Alderman Wysocki to approve the Rural Development Policy. Seconded by Alderman Patzer. Upon voting, the motion failed with Aldermen Chiovatero and Kaminski voting "yes".

Motion by Alderman Scheuble to repeal the Rural Development Policy that was proposed September 12, 1996. Seconded by Alderman Wysocki and carried unanimously.

CONSENT AGENDA

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

Minutes

Minutes of the Common Council Meeting held on June 13, 2000

Minutes of the Common Council Meeting held on June 27, 2000

Claims

From June 27, 2000:

Approve Sewer Utility claims in the amount of \$394,790.65, Water Utility claims in the amount of \$168,629.86, and bi-weekly claims in the amount of \$621,483.17, all of which represents payments to vendors.

For July 11, 2000:

Approve Sewer Utility claims in the amount of \$478,688.43, of which amount \$255,274.81 represents payments to MMSD and the remaining amount of \$223,413.62 represents payments to vendors, Water Utility claims in the amount of \$78,575.29, and bi-weekly claims in the amount of \$242,633.50, all of which represents payments to vendors.

LICENSES

Bartender Licenses

Approve the Bartender Licenses for the year 2000-2002 to Tracy L. Besler, Jennifer M. Blochowicz, Chris S. Burr, Douglas W. Curler, Debbie S. Espinoza, Theresa L. Esser, Patricia M. Friedrich, Raymond C. Gettler, Donna L. Goedde, Elizabeth Grayson, Michael J. Haas, Michael J. Harvey, Julianne M. Helmle, Scott A. Herder, Tera L. Hubbard, Evelyn R. Korom, Benjamin D. Krejcarek, William R. Kriskovic II, Barbara A. Lewin, Hugh R. McSorley, Timothy P. Myles, Mark A. Nagy, Carrie A. Nakielski, Jennifer L. Nejedlo, Deborah L. Palmer, Dominic P. Petri, Donna M. Rasmussen, Corey James Regan, Gini E. Reid, Christine D. Shaffer, David R. Strelitz, Shelli J. Szypulski, and Wallace R. Van Duser.

Reserve "Class B" Retailers License

Approve the Reserve "Class B" Fermented Malt Beverage and Intoxicating Liquor License for the year 2000-2001 to WHG New Berlin, LLC, d/b/a Applebee's Neighborhood Grill & Bar, Hugh McSorley, Agent, at 15505 W. Rock Ridge Rd., subject to the approval of the Inspection and Planning Departments.

Reserve "Class B" Retailers License Grant

Approve the grant application to WHG New Berlin, LLC, d/b/a Applebee's Neighborhood Grill & Bar, Hugh McSorley, Agent, for a Reserve "Class B" Retailers License.

Amendment to "Class B" Retailers License

Approve of the amendment to the "Class B" Retailers License to include the "parking lot area" for Matty's Bar & Grille at 14460 W. College Ave. on Friday, August 18, 2000 from 3:00 p.m. to 1:00 a.m. (live music from 8:00 p.m. to 12:00 a.m.), Saturday, August 19, 2000 from 12:00 p.m. to 1:00 a.m. (live music from 1:00 p.m. to 12:00 a.m.), and Sunday, August 20, 2000 from 12:00 p.m. to 11:00 p.m. (Live music from 1:00 p.m. to 11:00 p.m.). Any complaints from neighbors, etc. that require Police response will result in immediate revocation of outdoor amendment.

Approve of the amendment to the "Class B" Retailers License to include the "parking lot area" for Matty's Bar & Grille at 14460 W. College Ave. on Monday, August 21, 2000 from 5:00 p.m. to 10:00 p.m. Any complaints from neighbors, etc. that require Police response will result in immediate revocation of outdoor amendment.

LICENSES

Bartender Licenses

Motion by Alderman Patzer to approve the Bartender Licenses to Amy J. Abbiehl, to expire January 9, 2001. If there are any problems, the Clerk will revoke the license after 6 months; if no problems, the Clerk will approve until June 30, 2002. Seconded by Alderman Bullermann and carried with Aldermen Wysocki and Scheuble voting "no".

Motion by Alderman Patzer to deny the Bartender License to Robert G. Balinski. Seconded by Alderman Wysocki and carried unanimously.

Motion by Alderman Kaminski to deny the Bartender License to Tracy L. Boya. Seconded by Alderman Bullermann and carried unanimously.

Motion by Alderman Wysocki to deny the Bartender License to John R. Dickinson. Seconded by Alderman Chiovaturo and carried with Alderman Bullermann voting "no".

Motion by Alderman Patzer to approve the Bartender License to Nicole M. Shindel, to expire January 9, 2001. If there are any problems, the Clerk will revoke the license after 6 months; if no problems, the Clerk will approve until June 30, 2002. Seconded by Alderman Bullermann and carried with Alderman Wysocki voting "no".

TABLED ITEM

Growth and Development Management Plan Development Policies/Resolution No. 00-20

Motion by Alderman Wysocki to approve of the Future Land Use Map, Growth and Development Master Plan Update, and Concept Area Map as prepared by Clarion Associates and McBride Dale Clarion and discussed at the Public Hearing on November 2, 1999, and recommend Resolution 00-20 to Council. Seconded by Alderman Kaminski and carried unanimously.

RESOLUTIONS AND ORDINANCES

Resolution No. 00-20 "A Resolution Approving the Future Land Use Map, Growth & Development Master Plan Update, and Concept Area Map as Prepared by Clarion Associates and McBride Dale Clarion"

Motion by Alderman Bullermann to approve and adopt Resolution No. 00-20. Seconded by Alderman Patzer and carried unanimously.

Resolution No. 00-21 "A Resolution to Prohibit Parking on the South Side of Prospect Drive from 124th Street Proceeding Westerly 125 Feet"

Motion by Alderman Bullermann to approve and adopt Resolution No. 00-21. Seconded by Alderman Patzer and carried unanimously.

Ordinance No. 2117 "An Ordinance to Rezone the Property at 19180 W. Cleveland Avenue (Deer Haven Golf Course)"

City Clerk Weter gave the only necessary reading of Ordinance No. 2117.

Motion by Alderman Bullermann to approve and adopt Ordinance No. 2117. Seconded by Alderman Patzer.

Motion by Alderman Scheuble to defer this item. Seconded by Alderman Bullermann. Upon voting, the motion failed with Alderman Scheuble voting "yes".

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

Ordinance No. 2118 "An Ordinance to Amend the General Ordinances of the City of New Berlin, Wisconsin"

City Clerk Weter gave the only necessary reading of Ordinance No. 2118.

Motion by Alderman Bullermann to approve and adopt Ordinance No. 2118. Seconded by Alderman Patzer and carried unanimously.

Motion by Alderman Bullermann to move into Closed Session. Seconded by Alderman Patzer. Upon voting, Alderman Bullermann voted "yes", Alderman Wysocki voted "yes", Alderman Patzer voted "yes", Alderman Scheuble voted "yes", Alderman Chiovero 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) of the Wisconsin State Statutes.

7. Conferring 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.

- Charles Jungbluth Claim -

Motion by Bullermann to move into Open Session. Seconded by Alderman Patzer and carried unanimously.

Possible Action on Charles Jungbluth Claim

Motion by Alderman Bullermann to settle the Charles Jungbluth claim in the amount of \$1,104.31, per the recommendation by City Attorney Reilly. Seconded by Alderman Patzer and carried unanimously.

Motion by Alderman Bullermann to adjourn the meeting at 12:00 p.m. Seconded by Alderman Patzer and carried unanimously.

**Judy Weter
City Clerk**

JW/nh