

Minutes

Common Council

August 8, 2000

Minutes of a Regular Meeting of the Common Council of the City of New Berlin, Waukesha County, Wisconsin, held on Tuesday, August 8, 2000, at the New Berlin City Hall at 7:40 P.M.

Present were Mayor Gatzke, Aldermen Bullermann, Wysocki, Patzer, Scheuble, Wilkens, Chiovero, and Kaminski. Also present were City Attorney Paul Reilly and City Clerk Judy Weter, City Engineer Jeff Chase, Asst. City Planner Mark Lake, Associate Planner Greg Kessler, Planning Office Coordinator Kaye Giesege, and GIS Tech Diana Kanter.

Clerk's Report

City Clerk Weter gave a Clerk's Report.

Council President's Report

Council President Liz Kaminski 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 City Attorney re: Roger Myers Claim

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

Notice of Circumstances of Claim and Claim: Waterbury Estates, LLC - To City Attorney

Communication from City Attorney re: Funds from Stefani Home - On File in Clerk's Office

Notice of Claim - Habermehl Electric/Federated Insurance

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

PLAN COMMISSION

Alderman Kaminski reported from the meeting held on August 7, 2000:

Raven Golf Services - 19300 W. Cleveland Ave., SE ¼ Sec. 8. - One-Lot Final Land Division

Motion by Alderman Kaminski to approve the request by Raven Golf Services for a one lot final land division located at 19300 W. Cleveland Avenue, SE 1/4 Sec. 8 subject to:

1. Ultimate ROW of Cleveland Avenue is 130'. An additional 15' of land is required to be "Dedicated for Public Road Purposes."
2. Clean up drafting errors.
3. Access Permit from the Waukesha County DOT required for any access to Cleveland Avenue. Remove note on CSM about Lot 1 & 2 being connecting access to Cleveland Avenue.
4. Cross access easements with Deer Haven Golf Course required.
5. Payment of \$3,778.00 in Public Site, Open Space and Trail fees prior to the City signing the final CSM.

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

Guthrie Station Subdivision - Town of Waukesha - Extraterritorial Plat

Motion by Alderman Kaminski to recommend no serious objection to the request for Guthrie Station Subdivision extraterritorial plat located in the Town of Waukesha subject to:

1. Minimum rural lot size should be 1.5 acres not 1.0 acres.
2. Rear setbacks should be a minimum of 50'.
3. Side setbacks should be a minimum of 25'.
4. Primary Environmental Corridor setback should be a minimum of 10'.
5. Installation of all improvements prior to accepting application for Final Plat Review.

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

PSJ Investment LLC - NW 1/4 Sec. 36 - Nicolet/Edgewood - One-Lot Land Division

Motion by Alderman Kaminski to approve the request by PSJ Investment LLC for a final one lot land division located at Nicolet/Edgewood, NW 1/4 Sec. 36 subject to:

1. A 30' x 30' Vision Corner Easement to be labeled on the corner of Nicolet Drive and W. Edgewood Ave.
2. Master grading plan addressing both lots required. Master grading plan required to be reviewed and approved by the City of New Berlin Engineering Department before building permits for either lot will be issued. Master Grading Plan should reflect a 4' exposure and a front entry garage requirement for lot 1.
3. Lot fronting Edgewood Ave and Nicolet Drive required to adhere to Deed Restrictions of Highgrove Subdivision Addition #1.
4. Per Developer's Agreement for Highgrove Addition #1, all connection charges for Edgewood Avenue lots to be collected by the City of New Berlin and turned over to the Developer prior to the City signing the final CSM.
5. Payment of \$1000.00 in Public Site, Open Space and Trail fees required before the City will sign the Final CSM.
6. Owners to sign prior to City signing Final CSM.

Seconded by Alderman Chiovatero and carried unanimously.

Susan Kannegiesser - 1428 S. River Rd. - Deck in Floodplain

Motion by Alderman Kaminski to recommend to Council approval of the request by Susan Kannegiesser for a deck in the floodplain located at 1428 S. River Road subject to:

1. The deck shall meet all Federal Emergency Management Agency requirements.
2. Removal of new unpermitted accessory building located within the 100-year floodway of Deer Creek. Onsite verification of removal required prior to issuance of building permit.
3. The posts of the deck shall be supported by reinforced concrete piers.
4. No skirting or lattice shall be applied to the deck.
5. Only natural vegetation shall be located adjacent to the deck.
6. No storage of materials underneath the deck.
7. No objections filed by the Department of Natural Resources.
8. A building stakeout survey, which includes the deck, required prior to issuance of the building permit.

Seconded by Alderman Patzer and carried unanimously.

BOARD OF PUBLIC WORKS

Alderman Patzer reported from the meeting held on August 7, 2000:

The Crossings Developer Agreement

Motion by Alderman Patzer to enter into an agreement with the developer of The Crossings, listing the responsibilities of the parties in the development. Seconded by Alderman Wysocki.

Motion by Alderman Wilkens to amend the motion to delete the wording of Section IV.B.3 and insert the following:

"Sec IV.B.3: The retention pond for this development shall be located within Outlot One as shown in Exhibit A. Outlot One shall be owned by the Developer and by the future owners of lots as shown on Exhibit A. Each lot owner shall have an undivided interest in Outlot One. The retention pond located within Outlot One, and all lands located therein, shall be maintained by the owners of Outlot One in accordance with the storm water maintenance plan prepared by the Developer and approved by the City Engineer. The City Engineer at his sole discretion, may require the owners of Outlot One to perform maintenance on Outlot One or the retention pond located therein as required by the maintenance plan, and may require the retention pond be restored to its original condition should its function diminish through disrepair. The City Engineer and/or his designee may inspect Outlot One upon reasonable notice. Should the maintenance work not be completed in a timely manner to the City Engineer's reasonable satisfaction, the City shall have the authority to complete the work and charge all reasonable costs, including but not limited to engineering, administration, and legal costs, to the owners of Outlot One as a lien against their properties.

The Developer shall establish a Home Owners Association for the purpose of performing the maintenance obligations for Outlot One as contained herein. Participation in the Home Owners Association shall be mandatory and required by deed restriction. The Developer shall cause such deed restriction to be placed on each and every lot as set forth in Exhibit A. Outlot One maintenance requirements, and Home Owners Association participation requirements shall be recorded on the face of the Plat and on the Title of each and every lot as set forth in Exhibit A."

Also subject to approval and/or correction of the whole document by the City Attorney.

Seconded by Alderman Kaminski and carried unanimously.

City Atty. Reilly indicated that he forwarded a letter dated August 2, 2000 to Engineering setting forth some technical corrections and suggested changes that he requests be made.

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

Civic Center Lighting Award of Contract

Motion by Alderman Patzer to reject all bids for the Civic Center Outdoor Lighting project. Seconded by Alderman Wysocki and carried unanimously.

Ditches in Rolling Meadows

Motion by Alderman Patzer to waive the concrete invert requirement in the Rolling Meadows Developers Agreement until September 1, 2001, at which time the ditches will be reevaluated and a final decision made regarding the placement of concrete inverts or retention of the re-enforced grass ditches. Seconded by Alderman Wysocki and carried unanimously.

STORM WATER COMMITTEE

Alderman Wysocki reported from the meeting held on August 7, 2000:

Flood Mitigation

Motion by Alderman Wysocki to enter into a contract with Hey and Associates for the preparation of a Flood Mitigation Plan, and designate \$19,000 from Storm Water Implementation Account 252-240 for reimbursement by HUD Grant money. Seconded by Alderman Patzer and carried unanimously.

UTILITY COMMITTEE - No Report

SAFETY COMMISSION - No Report

TECHNOLOGY COMMITTEE - No Report

MAYORAL APPOINTMENTS

Civil Service Commission

Motion by Alderman Bullermann to approve the reappointment of Bernard D. Kramer to the Civil Service Commission, with an expiration date of June 30, 2005. Seconded by Alderman Patzer and carried unanimously.

Fourth of July Commission

Motion by Alderman Bullermann to approve the reappointments of Anida Rose, Nancy A. Perkins, and John Ziino to the Fourth of July Commission, all with an expiration date of August 1, 2004. Seconded by Alderman Kaminski and carried unanimously.

ACTION ON PUBLIC HEARINGS

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 and public facilities, if included in the plan will need to be reviewed and approved by Library and or Park boards.
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. Density adjacent to Regal East to respect single family subdivisions to the South in conformance with adopted plan.
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.

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

Seconded by Alderman Patzer.

A Petition was presented by Peg Nugent in opposition of the developer's proposal to rezone the land immediately north of Mark Drive for multi-family.

Motion by Alderman Bullermann to allow Peg Nugent to address the Council. Seconded by Alderman Wysocki and carried unanimously.

Motion by Alderman Wilkens that the R4.5 PUD overlay district language be added to this PUD Ordinance. Seconded by Alderman Bullermann and carried unanimously.

Motion by Alderman Kaminski to allow the developer and representatives to address the Council. Seconded by Alderman Scheuble and carried unanimously.

Motion by Alderman Scheuble to table this item. Motion dies for lack of a second.

Motion by Alderman Wilkens to end debate. Seconded by Alderman Bullermann and carried with Aldermen Wysocki and Scheuble voting "no".

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

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 and carried unanimously.

REFERRALS, DEFERRALS, AND TABLED ITEMS

Technology Committee - IS Plan - DEFERRED 7-25-00

Motion by Alderman Bullermann to accept the proposal of Schenk and Associates in an amount not to exceed \$12,000 with funding to be included in the 2001 budget for an Informational Systems Plan.

Seconded by Alderman Wysocki and carried unanimously.

CONSENT AGENDA

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

Minutes

Minutes of the Public Hearing re: IRB Bond held on July 25, 2000

Minutes of the Common Council Meeting held on July 25, 2000

Minutes of the Public Hearing re: New Berlin Commercial Center held on August 1, 2000

UTILITY & FINANCE

Claims

Approve the Sewer Utility claims in the amount of \$65,822.78, Water Utility claims in the amount of \$168,686.17, and bi-weekly claims in the amount of \$459,050.52, all of which represents payments to vendors.

LICENSES

Appeal to Denial of Bartender Licenses

Deny the appeal of a Bartender License to Jeremiah T. Schmuki based on the background record presented.

Bartender Licenses

Approve the Bartender Licenses for the year 2000-2002 to Tina R. Gross, Thomas C. McFadzen, Nicole C. Martin, Russell J. Raposa, Marsha M. Sczerzen, Lisa J. Wojciechowski, and Patricia A. Zais.

Amendment to "Class B" Retailers License

Approve the amendment to the "Class B" Retailers License to include the "parking lot area" for Pendulum Pub at 1959 S. 124 Street on Sunday, September 17, 2000 from 12:00 Noon to 9:00 p.m. Any complaints from neighbors, etc. that require Police response will result in immediate revocation of outdoor amendment.

Fireworks Permit

Approve the Fireworks Permit to display fireworks during half-time of the Homecoming Game at Eisenhower High School, 4333 S. Sunnyslope Road, on Friday, September 22, 2000.

PERSONNEL

Fill Position of Division Engineer/Temporary Appointment

Fill the position of Division Engineer, and any residual vacancies, and to appoint Mark Handzlik to this position temporarily until the position is filled.

MISCELLANEOUS

Medical Control Contract

Approve the Medical Control Contract between the City of New Berlin and Elmbrook Memorial Hospital, Inc.

RESOLUTIONS AND ORDINANCES

Resolution No. 00-26 "A Resolution to Prohibit Parking on Portions of Coachlight Drive and Carriage Lane"

Motion by Alderman Bullermann to approve and adopt Resolution No. 00-26. Seconded by Alderman Wysocki and carried unanimously.

Ordinance No. 2121 "Ordinance to Prohibit Non-Emergency Traffic on Posted Emergency Vehicle Only Streets, Alleys, Lanes or Ways and Amendment of Section 25.04(b) Establishing Cash Deposit for Violation of Section 7.047"

City Clerk Weter gave the first reading of Ordinance No. 2121.

Motion by Alderman Wysocki to waive the second and third readings of Ordinance No. 2121. Seconded by Alderman Bullermann.

Motion by Alderman Bullermann to end debate. Seconded by Alderman Chiovatero. Upon voting, the motion failed as 2/3 vote is required with Aldermen Wysocki, Patzer and Scheuble voting "no".

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

Motion by Alderman Wysocki to approve and adopt Ordinance No. 2121. Seconded by Alderman Bullermann and carried with Alderman Scheuble voting "no".

Motion by Alderman Bullermann to adjourn the meeting at 9:45 p.m. Seconded by Alderman Patzer and carried unanimously.

**Judy Weter
City Clerk**

JW/nh