

Minutes

Common Council

September 26, 2000

Minutes of a Regular Meeting of the Common Council of the City of New Berlin, Waukesha County, Wisconsin, held on Tuesday, September 26, 2000, at the New Berlin City Hall at 8:42 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 BIZ Bob Sigrist, Asst. Director of Planning Mark Lake, City Engineer Jeff Chase, Fire Chief Ron Rebatzke, Asst. Fire Chief Fred Schultz, Police Lt. Randy Alf, and Director of Human Resource Tami Potkay.

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, including the scheduling of a Special Common Council Meeting to be held on October 31 to take Action on the 2001 Budget. It was also the consensus to cancel the November 14, 2000 Common Council Meeting.

City Attorney's Report - No Report

COMMUNICATIONS

Communication from City Attorney re: Denial of Claim of Christopher Mehrstedt

Motion by Alderman Patzer to deny the Christopher Mehrstedt claim, per the recommendation of City Attorney Reilly. Seconded by Alderman Wysocki and carried unanimously.

Communication from Jack May re: Reimbursement of Furnace Bill - on File in Clerk's Office

Notice of Claim - Stacey Schultz - to City Attorney

Notice of Appeal - Highland Memorial Park Inc. - to City Attorney

Notice of Appeal - Robert & Gale Blasczyk - to City Attorney

Notice of Summons and Complaint - Church Street Fuel Fare - to City Attorney

Communications from Alderman Scheuble and New Berlin Public Schools re: Use of City Hall to Broadcast Board of Education Meetings

Motion by Alderman Scheuble to allow the New Berlin Public Schools to use City Hall to broadcast their Board of Education Meetings as requested in their Resolution, with the understanding that the Plan Commission Meetings take precedence when conflicts occur. Seconded by Alderman Bullermann.

Motion by Alderman Bullermann to amend the motion to place an 8-inch block lettered sign provided by the City in front of the Mayor's position to distinguish such meeting as a School Board Meeting. Seconded by Alderman Chiovaturo and carried unanimously.

It was the consensus that to be consistent with the School Board's Resolution, this will be reviewed by the Council in 6 months to discuss any concerns we may have.

It was the consensus to remove the Aldermanic name plates on the voting board during School Board Meetings.

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

Communication from City Attorney Reilly re: Action on Request of TeleCorp Realty for Estoppel Certificate

Motion by Alderman Wysocki to approve the Estoppel and Consent Certificate for TeleCorp Realty. Seconded by Alderman Bullermann and carried unanimously.

Communication from Edward Black re: City of New Berlin and Resignation from Special Assessment Review Committee - On File in Clerk's Office

PLAN COMMISSION

Alderman Kaminski reported from the meeting held on September 11, 2000:

Voice Stream - 12695 W. National Ave. - Stealth Flag Pole for Use as Cellular Antenna - 80' Tall

Motion by Alderman Kaminski to approve the request by Voice Stream Wireless for the siting of an 80' communication antenna located at 12695 W. National Avenue subject to:

1. Siting of antenna to follow §17.0503(2) of the City of New Berlin Municipal Code.
2. Per §17.0503(3), if it has been determined that existing or future/new antennas have the ability to be engineered or oriented which, renders this site obsolete, antenna shall removed within 60 days of new array becoming operational. Voice Stream Coverage diagrams to be submitted for each Voicestream use application to verify coverage.
3. Antenna to be located to minimize visual impact at the ROW. All practical alternatives should be explored and should include, but not be limited to:
 - a) Below ground vaults for equipment.
 1. Siting at or near the rear property line out of the public view.
 2. Landscaping (including berming) to reduce the visual impact of ground equipment.
 4. Ultimate location to be reviewed and approved by the Department of Community Development prior to building permit submission.
 5. Landscaping to be installed within 30 days of installation of cabinet or by the end of the year 2000 planting season, whichever is first.
 6. Enclosure shall be made of similar materials as the principle structure. Review and approval of enclosure by the Architectural Control Committee required.
 7. Antenna shall be painted to reduce its visual impact. Review and approval of antenna painting scheme by the Architectural Control Committee required.

8. No flag allowed, Plan Commission reserves the right to modify plan to include a flag, or by other means, to reduce impacts in the future.
9. Antenna be located outside of utility easements.

Seconded by Alderman Wilkens. Upon voting, the motion failed with Aldermen Scheuble, Chiovatero and Kaminski voting "yes".

Midwest Power - New Berlin Energy Park - 6600 W. Crowbar Rd. - Rezone from Q-1 to I-1

Motion by Alderman Kaminski to approve the request by Midwest Power - New Berlin Energy Park to rezone the property located at 6600 W. Crowbar Road from Q-1 to M-2 subject to:

1. A revised plat of survey shall be submitted which shows the Access Road along I-43 and the reconfiguration of the lots. Plat of survey shall include a revised legal description, which describes portion of parcel to be rezoned to M-2 and remnant 250+ buffer along Tans Road as C-1. Legal description to match final CSM and shall not be adopted until use, site and architectural approval is granted.

(From 9-11-00 Plan Commission Minutes: Representatives of Midwest Power presented a detailed explanation of the project. Discussion on the uniqueness of this facility followed. It is not like other manufacturing facilities even though electricity is its product. There is no special zoning for this category, therefore the difference between M-2 and I-1 was discussed.)

Seconded by Alderman Scheuble.

A Public hearing was scheduled for October 31, 2000 at 7:00 p.m.

Midwest Power - New Berlin Energy Park - 6600 W. Crowbar Rd. - One-Lot Preliminary Land Division

Motion by Alderman Kaminski to approve the request by Midwest Power for a one-lot preliminary land division located at 6600 W. Crowbar Road subject to:

1. A revised CSM be submitted which shows the Access Road along I-43.
2. CSM required WiDOT Trans. 233 approval. Label 50' setback on CSM.
3. Master Grading Plan, and Stormwater Management Plan, addressing the property east of the active quarry required. Plans to be reviewed and approved by the City of New Berlin Engineering Department prior to signing of final CSM.
4. Ultimate development plan of entire property required.
5. Detailed "Access" Road plans required. Plans to be reviewed and approved by the City of New Berlin Engineering Department prior to signing final CSM.
6. Developer's Agreement required. Developer's Agreement to be approved by the City of New Berlin Board of Public Works and Common Council prior to signing final CSM.
7. Remnant parcel at intersection of Tans Road and Crowbar Road shall be considered "Unplatted Lands," and labeled such on the final CSM.
8. Access Road to have a minimum width of 80' and dedicated to the City for public road purposes.
9. Tans Road to be restricted and labeled "Direct Vehicular Access Prohibited."
10. Interstate "43" to be restricted and labeled "Direct Vehicular Access Prohibited."

11. Payment of applicable Public Site, Open Space and Trail fees required before the City will sign the Final CSM.
12. Owners to sign prior to City signing Final CSM.

(From 9-11-00 Plan Commission Minutes: Mr. Hoese added several additional concerns about labeling the 200' conservancy buffer along Tans and Crowbar and that the development of the land may not leave any buildable site West of the proposed land division.)

Seconded by Alderman Scheuble.

Motion by Alderman Wysocki to table this item. Alderman Wysocki withdrew his motion.

Motion by Alderman Wysocki to allow Attorney Mike Schober to address the Council. Seconded by Alderman Kaminski and carried unanimously.

During discussion, Atty. Schober acknowledged granting Council an extension of time for the CSM approval.

Motion by Alderman Wysocki to table this item. Seconded by Alderman Scheuble and carried with Alderman Wilkens voting "no".

Forest Ridge Condos - 14500 and 14510 W. Beloit - 8-Lot Subdivision (Condominiums)

Motion by Alderman Kaminski to approve the preliminary plat for Forest Ridge Condos for an 8-lot subdivision (condominiums) located at 14500 and 14510 W. Beloit Road subject to:

1. Satisfaction of the Conditional Letter of No Objection by Waukesha County Park and Land Use Department required.
2. Detailed Stormwater Management Plan required. Plan should include North Oak Estates and the properties to the west.
3. Outlots may be required for stormwater detention ponds.
4. Revised building layout required. Layout to reflect Development Review Committee changes to the proposed layout. Minor lotline changes will be required.
5. Length bearing and tie to all easements (public and private) required.
6. Final plat to include setbacks.
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 setbacks.
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. Urban cross-section required within development and along Beloit Road. Storm sewer required to replace ditch and drain properties behind lots 5 and 6.
13. An 8' asphalt pedestrian pathway is required along Beloit Road.

14. Adherence to §17.1308(10) Woodland Preservation required. Tree inventory of existing trees greater than 4" DBH (diameter at breast height) 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" D.B.H. Ornamental trees to be a minimum of 2-1/2" D.B.H.
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. Payment of \$1,000/unit or single-family lot in Public Site, Open Space and Trail Fees required.

Also to amend the motion to add the 19 points from the Engineering Review dated 9/8/00 added to the conditions needed to be addressed prior to final approval.

1. Preliminary plat does not show proposed setbacks. From building shells shown on grading plan, proposed setbacks are less than standard and are unacceptable. Multi-families show _ 27' between each other (30' should be minimum distance). The proposed shell is 125' x 85'. The shell of the actual building the developer used in Beloit Meadows and apparently wants to use again here is 130' x 90'. This building will not fit this site as shown.
2. Does the City want to allow this same building that was built _ 1 mile away extensively to be built again?
3. Duplexes shown are only 20' apart from each other (standard is 30').
4. Single family as drawn on grading plan has 15' front setback on lot 5, 25' on lot 6, 35' on lot 2 and 37'on lot 7. Minimum front setback should be 40' or 50'.
5. Single family shell as shown only 62' x 32' deep. Use standard 66' x 46'.
6. Lot 5 only 132' deep. R-3 standards call for 155' depth. R-4.5 calls for 140' minimum. Grading plan deceptively shows back of house 85'_ from North Oak Estates. In reality, the typical house would only be _46' from North Oak Estates. Walnut Court should be moved 10'-20' west to make lot 5 deeper. There is an existing hole or swamp at the back of lot 5. The City does not want a house on top of this drainage area. The setback along the east lot line of this site should be 40' minimum, 50' if following R-3 setbacks.
7. Lot 6 also shallow lot. Moving Walnut Court west may help make this lot the 140' minimum City wants. Also, it seems south line of lots 6 and 7 drawn 7'_ too far south, making lots look bigger than they would actually be. The setback along Beloit Road should be 40' or 50' minimum.
8. The impact statement states that "the developer has expressed a willingness to work with the owners of lots 30 & 31 in the North Oak Estates to resolve an existing drainage problem." The preliminary utility plan shows no attempt to solve problem with storm sewer. No storm sewer is proposed in Walnut Court at all, and it would be difficult to design a storm system at the back of lot 5 or 6 that drained into the proposed detention pond at the southwest corner of the lots.

Developer will need to install storm sewer along entire Beloit Road frontage to improve this drainage situation.

9. Proposed 7'_ fills at back of western tier of multi-family buildings. Expose back of buildings 4' or if Planning Commission is agreeable, 4' high, 400' long, masonry keystone wall located _25' from west lot line.

10. Proposed preliminary road grade for Lindenwood Drive at Lindenwood Court is 2' too high. Need surveyed grade of edge existing pavement Lindenwood in North Oak Estates (proposed 926.5 seem 1.5' too high).
11. Proposed westerly duplex grade of 918.0 too low, keep at least 2' above pond peak flow of 916.8'.
12. Duplex with proposed yard grade of 922.5 is too close to duplex with proposed yard grade of 927.0.
13. Multi-family building with grade of 918 too close to building with proposed 923.0 grade.
14. Developer needs to do water pressure loss calculations for duplexes with high 928, 929-yard grades. The developer is responsible financially for ensuring adequate water pressure to all proposed buildings. He shall contact the City Attorney as to appropriate structure arrangement.
15. It appears south pond either needs to be wider with lower top of pond or road grades in Lynwood Drive and Walnut Court need to be raised to get minimum 3' cover over storm sewer.
16. In general, it appears proposed building grades are too low compared with road grades. Proposed 921.0 at back of building on lot 2 can't drain. It appears storm sewer at southwest corner of lot 2 will be needed.
17. City will need to see exact building shell on grading plan with proposed location of drives and walks for multi-family and duplex buildings. The existing 1' contours are unreadable on preliminary grading plan submitted.
18. Will need County access and culvert permits plus County approval of any storm and curb & gutter in Beloit Road required by City.
19. How will roads be dedicated and lots platted? Subdivision for single family lots? Detention ponds need to be on outlots or other plan satisfactory to City Engineer

Seconded by Alderman Wilkens.

Motion by Alderman Wilkens to refer this item to the Plan Commission. Seconded by Alderman Wysocki.

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

Upon voting on the motion to refer, the motion carried with Aldermen Patzer and Kaminski voting "no".

BOARD OF PUBLIC WORKS

Alderman Patzer reported from the meeting held on September 11, 2000:

Johnson/Greenfield Road Vacation

Motion by Alderman Patzer to recommend the final description of the appropriate vacation of land relative to the intersection vacation of Johnson Road south of Greenfield Avenue. Seconded by Alderman Wysocki and carried unanimously.

Connecting Highway Agreement - STH 59

Motion by Alderman Patzer to approve the Connecting Highway Agreement for Greenfield Avenue between 124th Street and Calhoun Road. Seconded by Alderman Wysocki and carried unanimously.

STORM WATER COMMITTEE - No Report

UTILITY COMMITTEE - No Report

SAFETY COMMISSION - No Report

TECHNOLOGY COMMITTEE

Alderman Bullermann reported from the meeting held on August 29, 2000:

Electronic Mail, City Internet Use and Internet Etiquette Policies

Motion by Alderman Bullermann to recommend that all three policies as amended by City Attorney Paul Reilly, be adopted. Seconded by Alderman Wilkens and carried unanimously.

Police Department CAD System

Motion by Alderman Bullermann to approve the Larimore Associates proposal for a Police CAD System. The necessary funds (above the already set aside \$250,000) will also come from the proceeds of the sale of the former Police Administration Building, Account 415.

Also subject to City Attorney approval. Seconded by Alderman Wysocki.

Motion by Alderman Bullermann to allow Lt. Randy Alf to address the Council. Seconded by Alderman Patzer and carried unanimously.

Upon voting, the motion carried unanimously.

MAYORAL APPOINTMENTS/None

ACTION ON PUBLIC HEARINGS/None

REFERRALS, DEFERRALS, AND TABLED ITEMS

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

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

Motion on the Floor from 7-25-00 Meeting: 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.

Also that the R4.5 PUD overlay district language be added to this PUD Ordinance.

Seconded by Alderman Patzer.

Motion by Alderman Bullermann to end debate. Seconded by Alderman Wilkens. Upon voting, the motion fails with Aldermen Wysocki, Patzer and Scheuble voting "no". (Requires 3/4 vote to pass)

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

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

CONSENT AGENDA

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

Minutes

Minutes of the Common Council Meeting held on August 22, 2000

Minutes of the Common Council Meeting held on September 7, 2000

UTILITY & FINANCE

Claims

From September 13, 2000:

Approve the Sewer Utility claims in the amount of \$70,318.84, Water Utility claims in the amount of \$116,190.72, and bi-weekly claims in the amount of \$427,900.97, all of which represents payments to vendors.

For September 26, 2000:

Approve the Sewer Utility claims in the amount of \$199,329.73, Water Utility claims in the amount of \$55,598.31, and bi-weekly claims in the amount of \$485,150.53, all of which represents payments to vendors.

Set Public Hearing Date of Proposed 2001 Budgets

Set October 24, 2000 as the date for the Public Hearing on the proposed 2001 budgets.

LICENSES

Bartender Licenses

Approve the Bartender Licenses for the year 2000-2002 to Stephanie A. Bailey, Beth A. Brase , Leon R. Grob, Penny M. Heisler, Michelle A. Jenkins, Janice K. Kern, Crystal M. Olson, Michael E. Patzlsberger, and Sarah K. Pyzik.

MISCELLANEOUS

Notice of Call on General Obligation Promissory Notes, Series 1996C, dated December 1, 1996/Resolution No. 00-29

Recommend Resolution No. 00-29 to Council.

Fire Department Fee Increases

Recommend that the City adopt the revised fee schedule as presented by the Fire Department dated September 12, 2000.

Award of Contract - Addition to Maintenance/Storage Building at New Berlin Hills Golf Course

Recommend that the low bidder Ray Stadler Construction, Inc. (per attached bid tabulation of \$48,820) be awarded the contract for constructing the addition to the golf course maintenance building, in the amount of \$57,002, with funds to come from the Golf Course Reserve Account 200.284.200.

City Wide Trick or Treating Date and Times

Move and hold the year 2000 City Wide Trick or Treat from Saturday, October 28 to Sunday, October 20, 2000. Hours will remain the same from 4:00 p.m. to 8:00 p.m. Also to set all City Wide Trick or Treat hours for the Sunday prior to Halloween Day, unless Halloween falls on Saturday, always 4:00 - 8:00 p.m.

LICENSES

Bartender License

Motion by Alderman Wysocki to approve a 6-month Bartender License to Jennifer N. Schrader, to expire March 27, 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 Scheuble and carried with Alderman Wilkens voting "no".

PERSONNEL

Amend Sec. 6.03 of Municipal Code to Establish Salaries for Emergency Government Deputies and Coordinators Through Budget Process

Motion by Alderman Bullermann to repeal and recreate Section 6.03 of the Municipal Code of the City of New Berlin as follows:

(1) APPOINTMENT. The office of Emergency Government Director is hereby created. The Director shall be appointed by the Mayor, subject to confirmation by the Common Council. The appointment shall be for a term of three years. Deputies and Coordinators may be appointed by the Director. Emergency Government personnel shall take and file an official oath.

(2) SALARY. Salaries shall be established each year through the budget process with a January 1 effective date.

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

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

Revision and Update of Plumbing and Electrical Permit Fees and the Addition of a Technology Fee

Motion by Alderman Wysocki to recommend that the fee schedule as presented by the Director of BIZ dated September 18, 2000 for Plumbing and Electrical Permits be revised and take effect no later than January 1, 2001. Seconded by Alderman Scheuble and carried unanimously.

Motion by Alderman Wysocki to recommend the addition of a Technology Fee to the cost of a permit. Seconded by Alderman Scheuble and carried with Alderman Wysocki and Wilkens voting "no".

DEFERRED AND TABLED ITEMS

Establish Policy for "Special Event Hours" - Liquor License Establishments

Motion by Alderman Kaminski to direct the City Clerk to suggest a policy for "Special Event Hours". Such policy, before coming to Council should have the approval of the City Attorney and the Chief of Police. Seconded by Alderman Wilkens and carried with Alderman Patzer voting "no".

RESOLUTIONS AND ORDINANCES

Resolution No. 00-29 "Resolution Authorizing the Extraordinary Redemption of a Portion of the General Obligation promissory Notes, Series 1996C, Dated December 1, 1996

Motion by Alderman Wysocki to approve and adopt Resolution No. 00-29. Seconded by Alderman Patzer and carried unanimously.

Ordinance No. 2122 "The New Berlin City Center Planned Unit Development Overlay District"

Motion by Alderman Kaminski to approve and adopt Ordinance No. 2122, with the necessary specific legal descriptions added for each of the 3 districts per the City Attorney. Seconded by Alderman Wilkens and carried with Alderman Scheuble voting "no".

Motion by Alderman Kaminski to move into Closed Session. Seconded by Alderman Chiovero. Upon voting, Alderman Bullermann voted "yes", Alderman Wysocki voted "yes", Alderman Patzer voted "yes", Alderman Scheuble voted "yes", Alderman Wilkens 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.

(g) 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.

- CIS Contract: CAD Program, Police Department -

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

OPEN SESSION

Possible Action on CIS Contract: CAD Program, Police Department

Motion by Alderman Wysocki to request the City Attorney enter into a mutual release of the CIS Contract. Seconded by Alderman Kaminski and carried unanimously.

Motion by Alderman Bullermann to adjourn the meeting at 10:53 p.m. Seconded by Alderman Patzer and carried unanimously.

Judy Weter
City Clerk

JW/nh