

Minutes

Common Council Minutes

October 10, 2000

Minutes of a Regular Meeting of the Common Council of the City of New Berlin, Waukesha County, Wisconsin, held on Tuesday, October 10, 2000, at the New Berlin City Hall at 8:05 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, Asst. Director of Planning Mark Lake, Police Sergeant Brian Johnson and Police Detective Tom Hart.

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

Notice of Claim for Damages - Mark S. Ksobiech

Motion by Alderman Wysocki to deny the Mark S. Ksobiech Claim, per the recommendation of City Attorney Paul Reilly. Seconded by Alderman Patzer and carried unanimously.

Communication from James C. Heiden re: Action on Property Tax Penalty

Motion by Alderman Patzer to deny the James C. Heiden claim, as recommended by City Treasurer Holzinger. Seconded by Alderman Wilkens and carried with Alderman Bullermann voting "no".

Communication from Viking Communications re: Proposed Tower at 3105 S. Johnson Road - on File in Clerk's Office

Notice of Claim - John Cerar

Motion by Alderman Bullermann to recommend to Council to approve the John Cerar claim in the amount of \$1,527.68 for property damage only, per the recommendation of City Attorney Paul Reilly. Seconded by Alderman Patzer and carried unanimously.

Communication from Alderman Scheuble re: Proposed Midwest Power Plant/Possible Appropriation of Expenses

Council discussed what information will be required to make a well considered decision about the proposed power plant. This communication will be on file in the Clerk's Office.

PLAN COMMISSION

Alderman Kaminski reported from the meeting held on October 2, 2000:

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

Motion by Alderman Kaminski to approve the request by James Krahn for an 8-lot preliminary plat 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. Outlots may be required for stormwater detention ponds.
3. Length bearing and tie to all easements (public and private) required.
4. Final plat to include all setbacks. 40' setback required along the West lot line and roadway shall be moved East by a minimum of 5'.
5. Detailed road/infrastructure/stormwater/grading plans to be reviewed and approved by the Engineering Department prior to writing of the developer's agreement. Water pressure loss calculations required.
6. Sewer and water plans to be approved by all regulating authorities.
7. 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.
8. An executed Developer's Agreement is required prior to clearing, grubbing, grading and/or utility/infrastructure work commencing.
9. Urban cross-section required within development and along Beloit Road. Storm sewer required to replace ditch and drain properties behind lots 5 and 6.
10. A pedestrian pathway is required along Beloit Road.
11. 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.
12. Entrance monumentation plan required.
13. 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.
14. Access permits required from the City of New Berlin Engineering Department for the extension of Lindenwood Drive and access permits required from the Waukesha County Department of Transportation for the connection to Beloit Road.
15. All buildings on the "Tarbox" property are to be razed, razing permits are required.
16. Payment of \$1,000/unit or single-family lot in Public Site, Open Space and Trail Fees required.
17. Schedule:

- Plat received August 2, 2000
- 90-day time limit expires October 31, 2000
- PC date for final action October 2, 2000

- CC date for final action October 10, 2000

Seconded by Alderman Wilkens and carried unanimously.

Stormy Acres - 21155 Windsor Drive - Final Land Division - Lot 10

Motion by Alderman Kaminski to approve the request for Stormy Acres final land division, Lot 10 located at 21155 Windsor Drive subject to:

1. Owners and Surveyor required to sign the Final CSM before the City will sign the Final CSM.
2. Label CSM number (8993) for lot 25 of the Stormy Acres Preliminary Plat, which was approved 5-9-00.
3. Must meet all the conditions of Developer's Agreement prior to building permits being issued.
4. Public Site, Open Space and Trail Fee waived due to 21.35 acre park dedication.

Seconded by Alderman Wysocki and carried unanimously.

Stormy Acres - 20805 W. Windsor Drive/20775 W. Barton Road - Final Land Division - Lot 18

Motion by Alderman Kaminski to approve the request for Stormy Acres final land division, Lot 18 located at 20805 W. Windsor Drive/20775 W. Barton Road subject to:

1. Owners and Surveyor required to sign the Final CSM before the City will sign the Final CSM.
2. Change Lot 1 to Parcel 1.
3. Label CSM number (8952, Parcel 3) for lot 16 of the Stormy Acres Preliminary Plat, which was approved 3-14-00.
4. Label "Proposed Road" Windsor Drive.
5. Barton Road 33' ROW to be "Dedicated for public Road purposes," and adjust acreage of parcel 1.
6. Change signature page, Judy A. Weter, City Clerk. Steven K. Hoese, Secretary, include 2000 dates.
7. Must meet all the conditions of Developer's Agreement prior to building permits being issued.
8. Public Site, Open Space and Trail Fee waived due to 21.35 acre park dedication.

Seconded by Alderman Wysocki and carried unanimously.

Stormy Acres - 20990 W. Windsor Drive - Final Land Division - Lot 29

Motion by Alderman Kaminski to approve the Stormy Acres final land division, Lot 29 located at 20990 Windsor Drive subject to:

1. Owners and Surveyor required to sign the Final CSM before the City will sign the Final CSM.
2. Label CSM number (9015) for lot 13 of the Stormy Acres Preliminary Plat, which was approved 7-11-00.
3. Change signature page, Judy A. Weter, City Clerk. Steven K. Hoese, Secretary.
4. Must be recorded after Lot 30 of the Storm Acres Preliminary Plat.
5. Must meet all the conditions of Developer's Agreement prior to building permits being issued.
6. Public Site, Open Space and Trail Fee waived due to 21.35 acre park dedication.

Seconded by Alderman Wysocki and carried unanimously.

Stormy Acres - 20960 W. Windsor Drive - Final Land Division - Lot 30

Motion by Alderman Kaminski to approve the Stormy Acres final land division, Lot 30 located at 20960 Windsor Drive subject to:

1. Owners and Surveyor required to sign the Final CSM before the City will sign the Final CSM.
2. Label CSM number (9015) for lot 13 of the Stormy Acres Preliminary Plat, which was approved 7-11-00.
3. Change signature page, Judy A. Weter, City Clerk. Steven K. Hoese, Secretary.
4. Must be recorded before to Lot 29 of the Storm Acres Preliminary Plat.
5. Must meet all the conditions of Developer's Agreement prior to building permits being issued.
6. Public Site, Open Space and Trail Fee waived due to 21.35 acre park dedication.

Seconded by Alderman Wysocki and carried unanimously.

Westridge Business Park - Lot 30 - 5770 S. Westridge Drive - NE 1/4 Sec 34 - Preliminary and Final Land Division

Motion by Alderman Kaminski to approve the Westridge Business Park, Lot 30, preliminary land division located at 5770 S. Westridge Drive subject to:

1. Owners and Surveyor required to sign the Final CSM before the City will sign the Final CSM.
2. Must meet all the conditions of Developer's Agreement, and pay any special assessments prior to building permits being issued.
3. Public Site, Open Space and Trail Fee of \$2,605.00 due prior to the City signing the final CSM.
4. Common lot line on center of easement.

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

BOARD OF PUBLIC WORKS

Alderman Patzer reported from the meeting held this evening:

Koeppen/Malone Park Storm Sewer - Award of Contract

Motion by Alderman Patzer to recommend award of Contract U-1-00 Koeppen/Malongo Park Storm Sewer to the apparent low bidder, JW Erickson, in the amount of \$86,621.87, with a contingency fund of \$8,662.19, for a grand total of \$95,284.06, with source of funds to be \$60,000 from Water Utility Account 831.04, and \$35,284.06 from the Water Utility Impact Fees. Seconded by Alderman Chiovatero and carried unanimously.

Ranch Road Sewer Relay

Motion by Alderman Patzer to authorize the Engineering Division to proceed with the re-lay of a section of sanitary sewer on Ranch Road that is capacity deficient, with upstream and downstream pipes, and recommend to authorize the Engineering Division to proceed with emergency replacement of a 40 ft. section of sanitary sewer in Ranch Road, with a not to exceed amount of \$15,000, to be funded by Waste Water Utility Account 831.04. Seconded by Alderman Bullermann and carried unanimously.

Professional Services Contract for the Implementation of a Storm Water Utility

Motion by Alderman Patzer to enter into a Professional Services Contract with Earth Tech, Inc. for the implementation of a Storm Water Utility, in the amount of \$149,982, with source of funds to be from Engineering Account 252-250, Storm Water Utility Study, and Engineering Account 252-240 SWMMP Implementation. This will be refunded by the Natural Resources Local Assistance Grant. Seconded by Alderman Chiovatero and carried unanimously.

STORM WATER COMMITTEE - No Report

UTILITY COMMITTEE

Koeppen/Malone Park Storm Sewer

This item was discussed at the Board of Public Works report above.

LSSSES Update - Emergency Sewer Relay - Ranch Road at Greenfield Avenue

This item was discussed at the Board of Public Works report above.

SAFETY COMMISSION - No Report

TECHNOLOGY COMMITTEE - No Report

MAYORAL APPOINTMENTS

Board of Appeals

Motion by Alderman Wysocki to recommend to Council to appoint Milton A. Galke and Brian H. Loohaus to the Board of Appeals, both with an expiration date of April 30, 2002, and Sally J. Boya to the Board of Appeals, with an expiration date of April 30, 2001. Seconded by Alderman Patzer and carried unanimously.

ACTION ON PUBLIC HEARINGS/None

REFERRALS, DEFERRALS, AND TABLED ITEMS

Midwest Power - New Berlin Energy Park - 6600 W. Crowbar Rd. - One-Lot Preliminary Land Division - TABLED 9-26-00 - No Action

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 September 26, 2000

UTILITY & FINANCE

Claims

Approve the Sewer Utility claims in the amount of \$462,574.83, of which \$260,779.27 represents payments to MMSD and \$201,795.56 represents payments to vendors; Water Utility claims in the amount of \$112,899.01, and bi-weekly claims in the amount of \$1,070,510.92, all of which represents payments to vendors.

LICENSES

Bartender Licenses

Deny the Bartender License for the year 2000-2002 to Timothy A. Schmidt, based on the record as presented.

Approve the Bartender Licenses for the year 2000-2002 to Jeremy M. Butterfield, Elizabeth M. Gerlach, Nicole K. Kozeneski, Matthew S. Tarnoff, and Tricia N. Weber.

PERSONNEL

Authorization to Fill Position of Utility Water Operator and Any Residual Vacancies

Authorization to fill one position of Utility Water Operator and any residual vacancies.

MISCELLANEOUS

Prohibit Possession of Ignition Device

Motion by Alderman Kaminski to recommend to Council to request the City Attorney to draft an Ordinance prohibiting the possession of ignition devices by a minor (child under 18 years of age) while on school property, and add this to the Youth Advisory Board Agenda for their input. Seconded by Alderman Wilkens.

Motion by Alderman Scheuble to defer this item. Motion dies due to lack of a second.

Upon voting, the motion carried unanimously.

Payment to Expert Witnesses/Parties in the Zignego Conflict

Motion by Alderman Kaminski to recommend to Council to obtain \$18,720.74 from Contingency to complete a contribution to the Quarry Association to help them satisfy the balance of their bills. Seconded by Alderman Bullermann and carried with Aldermen Patzer and Chiovero voting "no".

RESOLUTIONS AND ORDINANCES

Ordinance No. 2123 "An Ordinance to Repeal and Recreate Section 6.03(1) of the Municipal Code Pertaining to Emergency Government"

City Clerk Weter gave the first reading of Ordinance No. 2123.

Motion by Alderman Bullermann to waive the second and third readings of Ordinance No. 2123. Seconded by Alderman Patzer and carried with Aldermen Wysocki and Scheuble voting "no".

Motion by Alderman Bullermann to approve and adopt Ordinance No. 2123. Seconded by Alderman Patzer and carried with Alderman Wysocki voting "no".

Ordinance No. 2124 "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. 2124.

Motion by Alderman Wysocki to approve and adopt Ordinance No. 2124. 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 Wilkens voted "yes", Alderman Chiovatero 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.

- Keith Heun Claim -

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

OPEN SESSION

Possible Action on Keith Heun Claim

Motion by Alderman Wysocki to approve the Keith Heun Claim in the amount of \$23,000, per the recommendation of City Attorney Paul Reilly. Seconded by Alderman Patzer and carried unanimously.

Motion by Alderman Wysocki to adjourn the meeting at 9:00 p.m. Seconded by Alderman Bullermann and carried unanimously.

**Judy Weter
City Clerk**

JW/nh