

# Minutes

## Common Council Meeting February 9, 1999

Minutes of a Regular Meeting of the Common Council of the City of New Berlin, Waukesha County, Wisconsin, held on Tuesday, February 9, 1999, at the New Berlin City Hall at 8:55 P.M.

Present were Mayor Gatzke, Aldermen Bullermann, Wysocki, Patzer, Stuckert, Wilkens, and Kaminski. Also present were City Clerk Bill Bowers, City Attorney Paul Reilly, City Planner Steve Hoese, Asst. City Planner Mark Lake, and DPW Hamid Hashemizadeh. Alderman Zierhut was excused.

### Clerk's Report

City Clerk Bowers gave a Clerk's Report.

### ACTION ON PUBLIC HEARINGS

#### **Dennis Kasian (The Preserve at Deer Creek) 14300 W. Howard Avenue**

Motion by Alderman Kaminski to recommend to Council approval of the request by Green Acres Golf & Condominiums for a PUD Rezoning for a Golf Course (Pro Shop, Fitness Center and Banquet Facilities), Condominium Development, Multi Family Development and Two Single Family Homesites located at 14300 W. Howard Avenue subject to:

- 1) Final PUD document to be worked out with the Planning Department and City Attorney.
- 2) Modify site diagram to include a senior housing condominium area and a trail and park area to be components to the North PUD District.

Seconded by Alderman Stuckert.

Motion by Alderman Stuckert to defer this item. Seconded by Alderman Wysocki and carried with Aldermen Patzer and Kaminski voting "no".

#### **The Victorians of New Berlin (Bob Williams) 17105 W. National Avenue**

Motion by Alderman Patzer to recommend to Council approval of the PUD rezoning request by The Victorians of New Berlin located at 17105 W. National Avenue subject to:

- 1) Revised PUD required. Per Sec. 17.0329(3)(b)"The PUD overlay district ordinance shall identify the specific project, building(s) use approvals granted as part of a combined application."
- 2) Revised "Statement of Mutual Benefits" is required. Focus should be on the mutual benefits to the City of New Berlin. Similar to an impact statement; I.E. more taxes, less of a school district burden, increased fees, sidepaths, etc.
- 3) Metes and bounds legal description of all lands to be rezoned Rm-1/PUD required. Description of PUD area to include parcel to the east.

4) Per Sec. 17.0312 of the City of New Berlin Municipal Code, a 120' buffer required for all buildings adjacent to a single-family residential district. Buffer yard to be maintained per Sec. 17.1309(3) of the Municipal Code.

5) Per Sec. 17.1309 of the City of New Berlin Municipal Code, a 25' landscape buffer required along rear lotline. Landscape buffer to be planted and maintained per Sec. 17.1308 of the Municipal Code.

Seconded by Alderman Wysocki and carried with Alderman Kaminski voting present.

## **MINUTES**

Motion by Alderman Wysocki to recommend to Council approval of the Minutes of the Common Council Meeting held on January 26, 1999. Seconded by Alderman Bullermann and carried with Alderman Wilkens voting present.

## **COMMUNICATIONS**

Notice of Claim - Kathleen and Jose Ojeda

Motion by Alderman Patzer to recommend to Council denial of the Kathleen and Jose Ojeda Claim, per the recommendation of City Attorney Reilly. Seconded by Alderman Stuckert and carried with Alderman Wysocki voting "no".

Notice of Claim - Frank Zizzo - On File in Clerk's Office

## **BUSINESS:**

### **PLAN COMMISSION RECOMMENDATIONS**

Alderman Kaminski reported from the Meeting held on November 16, 1998:

#### **Waukesha Medical Clinic - New Berlin - 13900 W. National Avenue - Rezone from I-1, R-4.5, R-5 to O-1**

Motion by Alderman Kaminski to recommend to Council approval of the request by Waukesha Medical Clinic to rezone the property located at 13900 W. National Avenue from I-1, R-4.5, R-5 to O-1 subject to:

- 1) Make every effort to acquire the DANCO property.
- 2) Legal description of area to be rezoned office (O-1) needs to stop at ROW line(s) of National Avenue and Sunny Slope Road and needs to reflect an approximate 5 acre district.
- 3) The size of the O-1 District to be increased to reflect a 5 acre parcel and the need for a minimum of 229 parking spaces (proposed structure), and the necessary land for a possible additional building/addition and its associated parking.
- 4) Building required to be fed by underground utilities, all aboveground utilities required to be buried.
- 5) A 6' concrete sidewalk (ultimate location to be determined by the City Engineer) required along the National Avenue frontage (including existing facilities), and Sunny Slope Road north to the entrance.

6) Street trees required along the National Avenue frontage (including existing facilities), and the Sunny Slope Road frontage. Ultimate location to be based on location of utilities and City Center guidelines.

7) Waukesha County DOT access permit required.

8) Sanitary Sewer capacity for this medical center needs to be suitable for this site taking into account overall development planned for the area.

9) Ultimate feasibility plan for area needs to be established.

Seconded by Alderman Bullermann.

A Public Hearing was scheduled for March 9, 1999 at 7:00 p.m. Notice for the Public Hearing will be 1,000 ft. from this property, as well as areas requested by Alderman Wysocki.

**Waukesha Medical Clinic - New Berlin 13900 W. National Avenue - NW1/4 Sec. 13 - Preliminary Two-Lot Land Division**

Motion by Alderman Kaminski to recommend to Council approval of the request by the Waukesha Medical Clinic for a preliminary two-lot land division located at 13900 W. National Avenue, NW1/4 Sec. 13 subject to:

1) Ultimate right-of-way (ROW) of National Avenue is 130'; an additional 5' of dedicated ROW is required.

2) Ultimate ROW of Sunny Slope Road is 100'; an additional 17' of dedicated ROW is required.

3) All existing buildings to be located on the CSM.

4) All existing property lines to be located on the CSM.

5) The size of the O-1 District to be increased to reflect a 5 acre parcel and the need for a minimum of 229 parking spaces (proposed structure), and the necessary land for a possible additional building/addition and its associate parking.

6) Correct errors in the Vicinity map, map does not reflect proposed CSM.

7) Waukesha County DOT access permit required.

8) Signature page to reflect 1999 approvals.

9) Lot line may need to be changed as the ultimate project is layed out.

Seconded by Alderman Wysocki and carried with Alderman Wysocki voting "no".

**Towne Corporate Park - 16700 W. Beloit Road - NE, SE, SW, Sec. 27 - Two-Lot Final Land Division**

Motion by Alderman Kaminski to recommend to Council approval of the request by Towne Corporate Park for a two-lot final land division located at 16700 W. Beloit Road, NE, SE, SW, Sec. 27 subject to:

1) Payment of \$2,261.92 in Public Site, Open Space and Trail Fees to be paid before City will sign the final CSM.

- 2) All required impact fees for sewer and water are to be paid prior to issuance of building permits.
- 3) CSM No. 8682 to be labeled.
- 4) The sideyard setbacks for Parcel 2 and the northern lotline of Parcel 1 are to be 25', not the 15' as shown.
- 5) Parcel 2 has drainage flow to the South from north lot line that bisects parcel.

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

## **BOARD OF PUBLIC WORKS**

Alderman Stuckert reported from the meeting held on February 3, 1999:

### **Martin Road Bridge Rehabilitation**

Motion by Alderman Stuckert to recommend to Council the award of Contract R-3-98 Martin Road Bridge Rehabilitation in the amount of \$44,616.00 to the apparent low bidder Lunda Construction Company, to include the 15% Engineering & Contingencies of \$6,692.40, and funding by the 1998 Roadway Maintenance Account 511.820.01 in the amount of \$16,151.76 and 1999 Roadway Maintenance Account 511.820.01 in the amount of \$35,156.64, totaling \$51,308.40. Seconded by Alderman Wysocki and carried unanimously.

### **Purchase 4-Wheel Drive Vehicles**

Motion by Alderman Stuckert to recommend to Council the purchase of 4 Wheel Drive Vehicles for Department of Public Works/Streets Division to include Streets Division Supervisors, Superintendent and the Director of Public Works. Seconded by Alderman Patzer.

Motion by Alderman Patzer to amend the motion that the amount available to spend is limited to the savings on the purchase of three new dump trucks and the sale of surplus vehicles, and actual purchase of these vehicles need final approval from the Board of Public Works and Common Council. Seconded by Alderman Stuckert and carried with Aldermen Wysocki and Wilkens voting "no".

Upon voting on the motion as amended, the motion carried with Aldermen Wysocki and Wilkens voting "no".

**ACTION ON PUBLIC HEARINGS** - None

**MAYORAL APPOINTMENTS** - None

**SAFETY COMMISSION** - No Report

**TECHNOLOGY COMMITTEE** - No Report

**LEGISLATIVE COMMITTEE** - No Report

## **REFERRALS, DEFERRALS, AND TABLED ITEMS**

**Ordinance No. 2056** - AAn Ordinance to Repeal and Recreate Sections 4.03 and 4.04 of the Municipal Code of the City of New Berlin Relating to Civil Service Employees - TABLED 11-10-98

**Resolution No. 98-58** - "A Resolution to Adopt Fees for Services Provided by the New Berlin Fire Department" - TABLED 12-8-98

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**COMMITTEE OF THE WHOLE (Items from Consent Agenda)**

Motion by Alderman Bullermann to recommend to Council to approve the following items from the consent agenda. Seconded by Alderman Patzer and carried unanimously.

**UTILITY**

**Sewer Claims**

Motion by Alderman Bullermann to recommend to Council approval of payment of Sewer Utility Claims in the amount of \$41,638.62, all of which represents payments to vendors. Seconded by Alderman Wysocki and carried unanimously.

**Water Claims**

Motion by Alderman Bullermann to recommend to Council approval of the payment of Water Utility Claims in the amount of \$95,858.45, all of which represents payments to vendors. Seconded by Alderman Wysocki and carried unanimously.

**LICENSES**

**Bartender's License**

Motion by Alderman Wysocki to recommend to Council approval of the Bartenders License for the year 1998/2000 to Connie M. Julson, Faye A. Kupka-Reichert, Andrew B. Laing, and Sheldon R. Lakritz. Seconded by Alderman Kaminski and carried unanimously.

**MISCELLANEOUS**

**Westbrooke Water and Sewer**

Motion by Alderman Patzer to recommend to Council that Water and Sewer service be provided to the entire Westbrooke area. Seconded by Alderman Wilkens and carried unanimously.

Motion by Alderman Stuckert to recommend to Council that the cost allocation for the Westbrooke area be done on a 50% Residential Equivalent Charge (REC) and 50% Assessable Front Foot basis. Seconded by Alderman Zierhut and carried unanimously.

Motion by Alderman Stuckert to recommend to Council that Water and Sewer must be installed concurrently for this project to proceed. Seconded by Alderman Zierhut and carried unanimously.

**FINANCE**

**Re-Allocation of Funds - Police Department**

Motion by Alderman Zierhut to recommend to Council a reallocation of funds in the amount of \$1,740 from Account 521.317 (Canine Corp) to Account 521.331 (Training) and to direct the City Clerk to prepare the proper resolution. Seconded by Alderman Patzer and carried unanimously.

**Claims**

Motion by Alderman Wysocki to recommend to Council approval of the bi-weekly claims in the amount of \$569,911.87, all of which represents payments to vendors. Seconded by Alderman Wilkens and carried unanimously.

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**MISCELLANEOUS**

**Westbrooke Water and Sewer**

Motion by Alderman Patzer to recommend to Council that Water and Sewer service be provided to the Westbrooke area as an integrated part of the City's existing utility. Seconded by Alderman Wilkens and carried with Alderman Wysocki voting "no".

Motion by Alderman Patzer to recommend to Council that the City utilize the \$210,270 fund collected from the sale of 80,000 gallon sewer capacity to buy down the costs of Water and Sewer service to the Westbrooke area. Seconded by Alderman Wilkens and carried unanimously.

**RESOLUTIONS AND ORDINANCES**

**Resolution No. 99-5 "Re-allocation of Funds for Training for Canine Corp"**

Motion by Alderman Patzer to recommend to Council approval and adoption of Resolution No. 99-5. Seconded by Alderman Kaminski and carried unanimously.

**Ordinance No. 2066 "An Ordinance to Adopt an Ordinance Codifying Chapter 17 of the Municipal Code of the City of New Berlin Relating to Zoning" (1<sup>st</sup> Reading)**

City Clerk Bowers gave the first reading of Ordinance No. 2066.

Motion by Alderman Bullermann to waive the second and third readings of Ordinance No. 2066. Seconded by Alderman Kaminski and carried unanimously.

Motion by Alderman Bullermann to recommend to Council approval and adoption of Ordinance No. 2066. Seconded by Alderman Patzer and carried unanimously.

**Ordinance No. 2067 "An Ordinance to Repeal Section 1.06(d)(4) of the Municipal Code of the City of New Berlin Relating to Clerical Assistance for the Municipal Judge" (1<sup>st</sup> Reading)**

City Clerk Bowers gave the first reading of Ordinance No. 2067.

Motion by Alderman Bullermann to waive the second and third readings of Ordinance No. 2067. Seconded by Alderman Wilkens and carried unanimously.

Motion by Alderman Stuckert to recommend to Council approval and adoption of Ordinance No. 2067. Seconded by Alderman Kaminski and carried unanimously.

**Ordinance No. 2068 "An Ordinance to Amend Section 25.04(4)(b)(1) of the Municipal Code of the City of New Berlin Relating to the Schedule of Deposits" (1<sup>st</sup> Reading)**

City Clerk Bowers gave the first reading of Ordinance No. 2068.

Motion by Alderman Bullermann to waive the second and third readings of Ordinance No. 2068.

Seconded by Alderman Patzer and carried unanimously.

Motion by Alderman Patzer to recommend to Council approval and adoption of Resolution No. 2068.

Seconded by Alderman Bullermann and carried unanimously.

**Council President's Report**

Alderman Wysocki gave a Council President's Report.

**Mayor's Report**

Mayor Gatzke gave a Mayor's Report.

**City Attorney's Report - No Report**

Motion by Alderman Patzer to recommend to Council to move into Closed Session at 10:14 p.m.

Seconded by Alderman Wysocki. Upon voting, Alderman Bullermann voted "yes", Alderman Wysocki voted "yes", Alderman Patzer voted "yes", Alderman Stuckert voted "yes", Alderman Wilkens voted "yes", and Alderman Kaminski voted "yes".

**CLOSED SESSION**

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 it is or is likely to become involved.

- Richard Clark Claim -

Motion by Alderman Patzer to move into Open Session 10:15 p.m. Seconded by Alderman Kaminski and carried unanimously.

**OPEN SESSION**

**Possible Action on the Richard Clark Claim**

Motion by Alderman Stuckert to recommend to Council approval of the Richard Clark Claim in the amount of \$307.72 with funds to come from the Police Department budget, per the recommendation by City Attorney Reilly. Seconded by Alderman Bullermann and carried unanimously.

Motion by Alderman Bullermann to adjourn the meeting at 10:17 p.m. Seconded by Alderman Patzer and carried unanimously.

**William Bowers**  
**City Clerk**

WB/nh