

# Minutes

## Common Council Meeting

March 9, 1999

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

Present were Mayor Gatzke, Aldermen Bullermann, Wysocki, Patzer, Stuckert, Wilkens, Zierhut, and Kaminski. Also present were City Clerk Bill Bowers, City Attorney Paul Reilly, City Planner Steve Hoesel, City Treasurer Mike Holzinger, DPW Hamid Hashemizadeh, and Director of Human Resources Tami Potkay.

### Clerk's Report

City Clerk Bowers gave a Clerk's Report.

### MINUTES

Motion by Alderman Wysocki to recommend to Council approval of the Minutes of the Common Council Meeting held on February 23, 1999. Seconded by Alderman Bullermann and carried unanimously.

### COMMUNICATIONS

Communication from Michael Haselwood regarding Applewood Senior Homes - On File in Clerk's Office

Reconsideration Request from Alderman Wilkens regarding Waiving of Tax Penalties for Dan Kuglitsch

Motion by Alderman Wilkens to reconsider the motion regarding waiving of tax penalties for Dan Kuglitsch. Seconded by Alderman Wysocki and carried with Alderman Stuckert voting "no".

Motion by Alderman Bullermann to recommend to Council to waive the tax payment penalty and allow the property owner to pay on the installment schedule as outlined in the memo dated February 10, 1999 from Dan Kuglitsch, for the property at 13327 W. Greenfield Avenue. Seconded by Alderman Patzer. Upon voting, the motion carried with Aldermen Wysocki, Wilkens and Zierhut voting "no".

Communication from Konstantin Dimitropoulos requesting Waiving of Tax Penalty Fees

Motion by Alderman Wilkens to recommend to Council denial of the Konstantin Dimitropoulos request to waive the tax penalty fees. Seconded by Alderman Kaminski and carried unanimously.

Communication from Rose Silvestri requesting Waiving of Tax Penalty Fees

Motion by Alderman Wysocki to recommend to Council to waive the tax payment penalty for Rose Silvestri. Seconded by Alderman Stuckert.

Alderman Wysocki withdrew his motion.

Motion by Alderman Wilkens to recommend to Council denial of the Rose Silvestri request to waive the tax penalty fees. Seconded by Alderman Zierhut and carried unanimously.

Communication from Betty Demshar requesting Waiving of Tax Penalty Fees

Motion by Alderman Bullermann to recommend to Council denial of the Betty Demshar request to waive the tax penalty fees. Seconded by Alderman Stuckert and carried unanimously.

Communication from Ken Czyzewski regarding Regal Manors East Subdivision - On File in the Clerk's Office

**BUSINESS:**

**PLAN COMMISSION RECOMMENDATIONS**

Alderman Kaminski reported from the Meeting held on March 1, 1999:

**Dan J. Kuglitsch (Bubb's Grub) – 13327 W. Greenfield Ave. – Rezone from R-4 to B-2**

A Public Hearing was scheduled for April 13 at 7:00 p.m.

**Jacobs Ridge Condos (formerly Oak Crest Condominiums) – 17720 W. Lincoln Avenue – Rezone from R-4 to RM-1 to Develop 88 Unit Residential Condo Project**

A Public Hearing was scheduled for April 13 at 7:05 p.m.

**Applewood Senior Home Addition – 2900 S. Moorland – Addition of 20 Assisted Living Suites**

Motion by Alderman Kaminski to recommend to Council approval of the request by Applewood Senior Home for an addition of a second residence located at 2900 S. Moorland Road subject to:

- 1) Plan as submitted substantially conforms to a plan previously denied.
- 2) Minimum distance between structures to be 30+ feet (eave to eave) to allow for the natural light and view enjoyed by the rest of the residents.
- 3) Per § 17.0310 of the Municipal Code, an expansion would be the only modification allowed.
- 4) Rezoning to Rm-1 (Senior Housing), at 1.61 acres, would only allow you to have 22 units.
- 5) Per §17.0312(3) senior multi-family buildings may not be closer than 50' to a ROW or lotline. Second building is proposed to be 15' from the northern lot line.
- 6) Per §17.0312(4)(a) the minimum area required for multi-family developments is 6,200ft. <sup>2</sup>/dwelling unit. The existing project required 2.85 acres.
- 7) Acquire significant amount of property to bring the units per acre into compliance within City standards at .8 acres minimum.
- 8) Two buildings to remain separate.
- 9) Site plan to be reviewed by staff.
- 10) Removal of existing buildings required.

11) Revised landscaping plan.

12) Subject to vacation of Dakota Street.

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

**Layton State Bank – 4850 S. Moorland Road – Bank**

Motion by Alderman Kaminski to recommend to Council approval of the request by Layton State Bank for a bank at 4850 S. Moorland Road subject to:

1) Waukesha County DOT Access permits required.

2) Waukesha County DOT requires a left turn lane at access point on southbound Moorland Road.

3) Plan proposes a pylon sign. Per Westridge signage guidelines, only monument signs will be approved.

4) Submittal of revised plans that addresses the following concerns raised by the Engineering Department:

- a. Drainage and grading plan; parking lots along the west and south are both between 880'-881' no spot grades given.
- b. Where are the proposed curb cuts for drainage?
- c. Stormwater Plan required.
- d. Revised access plans required addressing final Waukesha County DOT Plans
- e. All site drainage and grading plans must be approved by the Engineering Department prior to Building Permit being issued.

5) Building must be maintained per § 14.25 of the Non-residential Property Maintenance Code. No outside storage shall be permitted on the lot.

6) Building addition must meet all applicable building and fire codes. Building must be fully sprinklered.

7) Fire Hydrant is required within 150 feet of the City of New Berlin Fire Department connections.

8) All onsite and offsite improvements to be constructed by applicant.

Seconded by Alderman Zierhut and carried unanimously.

**Citizen's Bank of Mukwonago at New Berlin – 5450 S. Moorland Road – Bank**

Motion by Alderman Kaminski to recommend to Council approval of the request by Citizen's Bank of Mukwonago at New Berlin for a bank located at 5450 S. Moorland Road subject to:

1) Submittal of a revised site plan that addresses Engineering Department concerns, which includes the rationale for not centering the building on the lot. If plan is to split lot, then laterals must be extended now since existing sewer and water laterals will be located on the wrong lot. Site plan must include the proposed/ anticipated property line to be able to determine setbacks for this and future projects.

2) Submittal of a revised drainage and grading plan that utilizes the topographical contours from the right lot. The proposed drainage plan used topography from the wrong lot. Drainage pattern is completely different from the existing contours. Proposed detention pond South of bank does not work with submitted plans. Accurate existing grades needed from survey.

3) The building elevation in relation to the existing grades is \_5 feet higher than the submitted plan indicates.

4) The City of New Berlin Architectural Review Committee must approve building material and exterior architecture.

5) Building must meet all applicable building and fire codes. Building must be fully sprinklered.

6) Fire Hydrant is required within 150 feet of the City of New Berlin Fire Department connections.

7) Dumpsters must be properly screened from the street and public view in accordance with the City of New Berlin Municipal Code § 17.1304(14). Location of dumpster enclosure must be clearly designated and the materials for construction including thickness of the concrete slab must be indicated on the revised site plan. Enclosure must match brick exterior of building, and must be built to accommodate both solid as well as recyclable waste dumpsters.

Seconded by Alderman Zierhut and carried unanimously.

#### **Stormy Acres – 21130 W. Edinborough – Lot 22, Final CSM**

Motion by Alderman Kaminski to recommend to Council approval of the final CSM as part of the Preliminary Plat for Stormy Acres, 21130 W. Edinborough, Lot 22 subject to:

1) Public Site and Open Space and Trail fees of \$1,000 have been waived due to the (future) 21.35-acre park dedication.

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

3) According to the Zoning Ordinance Section 17.0325 (1)(l) "Single-family dwellings on not more than a 20,000 square foot building site within a 5 acre parcel provided that the dwelling shall comply with the requirements for the R-1 district, and shall provide for a minimum disturbance of the natural resource features as determined by the Plan Commission."

4) Surety instruments from Developers Agreement received prior to final approval.

Seconded by Alderman Zierhut and carried unanimously.

#### **Stormy Acres – 21105 W. Edinborough – Lot 23, Final CSM**

Motion by Alderman Kaminski to recommend to Council approval of the final CSM as part of the Preliminary Plat for Stormy Acres, 21105 W. Edinborough, Lot 23 subject to:

1) Public Site and Open Space and Trail fees of \$1,000 have been waived due to the (future) 21.35-acre park dedication.

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

3) According to the Zoning Ordinance Section 17.0325 (1)(l) "Single-family dwellings on not more than a 20,000 square foot building site within a 5 acre parcel provided that the dwelling shall comply with the requirements for the R-1 district, and shall provide for a minimum disturbance of the natural resource features as determined by the Plan Commission."

4) Surety instruments from Developers Agreement received prior to final approval.

Seconded by Alderman Stuckert and carried unanimously.

#### **Stormy Acres – 21155 W. Edinborough – Lot 24, Final CSM**

Motion by Alderman Kaminski to recommend to Council approval of the final CSM as part of the Preliminary Plat for Stormy Acres, 21155 W. Edinborough, Lot 24 subject to:

1) Public Site and Open Space and Trail fees of \$1,000 have been waived due to the (future) 21.35-acre park dedication.

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

3) According to the Zoning Ordinance Section 17.0325 (1)(l) "Single-family dwellings on not more than a 20,000 square foot building site within a 5 acre parcel provided that the dwelling shall comply with the requirements for the R-1 district, and shall provide for a minimum disturbance of the natural resource features as determined by the Plan Commission."

4) Surety instruments from Developers Agreement received prior to final approval.

Seconded by Alderman Stuckert and carried unanimously.

#### **Steve & Kathy Grzendzielewski – 19305 W. Highland Dr. – Two-Lot Final Land Division**

Motion by Alderman Kaminski to recommend to Council approval of the request by Steve & Kathy Grzendzielewski for a two-lot final land division located at 19305 W. Highland Drive subject to:

1) Payment of \$1,000.00 in Public Site, Open Space and Trail Fees to be paid before City will sign the final CSM.

2) Sign developer's agreement for the extension of Highland Drive prior to the City signing the final CSM.

3) CSM to reflect 1999 dates.

4) Owner to sign prior to the City signing the final CSM.

Seconded by Alderman Zierhut and carried unanimously.

#### **Communication from Steven K. Hoese, Director of Planning regarding Recommendation to Rezone Old Police Station at 17165 W. Glendale Drive from I-1 to M-1**

A Public Hearing was scheduled for April 13 at 7:10 p.m.

#### **BOARD OF PUBLIC WORKS**

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

### **Correction to Final Assessment Roll for the Sunny Slope Water Main**

Motion by Alderman Stuckert to recommend to Council that the assessment for the 1 1/4" diameter water service lateral to 1502 S. Sunny Slope Road, Tax Key: 1154.112, be removed from the Final Assessment Roll for the water main installed on Sunny Slope Road, and to direct the City Clerk to prepare the proper Resolution. Seconded by Alderman Zierhut and carried unanimously.

### **Developer's Agreement/Rolling Meadows Estates**

Motion by Alderman Patzer to recommend to Council approval of the Developers Agreement of Rolling Meadow Estates. Seconded by Alderman Wysocki and carried with Alderman Stuckert voting present.

### **Developer's Agreement/Highland Drive Extension**

Motion by Alderman Stuckert to recommend to Council approval of the Developer's Agreement of Highland Drive Extension. Seconded by Alderman Zierhut and carried unanimously.

### **MAYORAL APPOINTMENTS - None**

### **ACTION ON PUBLIC HEARINGS**

#### **Mark Wimmer (Caring Communities) Rezoning Request at 13900 West National Avenue**

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 spaced (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.

Motion by Alderman Wysocki to table this item. Seconded by Alderman Zierhut.

Alderman Wysocki withdrew his motion.

Motion by Alderman Wysocki to allow the traffic engineer for this project to address the Council.  
Seconded by Alderman Zierhut and carried unanimously.

Motion by Alderman Wysocki to table this item. Seconded by Alderman Zierhut and carried with Aldermen Bullermann, Patzer and Kaminski voting "no".

### **Vacation of a Portion of Dakota Street Dedication**

Motion by Alderman Wysocki to recommend to Council that the portion of Dakota Street from Moorland Road east approximately 575 ft. be vacated and to direct the City Clerk to draft the proper Resolution.  
Seconded by Alderman Zierhut and carried unanimously.

A Public Hearing was scheduled for the remainder of the Dakota Street Vacation for April 13 at 7:15 p.m.

**SAFETY COMMISSION** - No Report

**TECHNOLOGY COMMITTEE** - No Report

**LEGISLATIVE COMMITTEE** - No Report

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

**Ordinance No. 2056** - "An 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

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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 Zierhut to recommend to Council approval of payment of Sewer Utility Claims in the amount of \$66,509.11, all of which represents payments to vendors. Seconded by Alderman Wilkens and carried unanimously.

##### **Water Claims**

Motion by Alderman Zierhut to recommend to Council approval of the payment of Water Utility Claims in the amount of \$88,876.63, all of which represents payments to vendors. Seconded by Alderman Kaminski and carried unanimously.

#### **LICENSES**

## **Bartender's License**

Motion by Alderman Zierhut to recommend to Council approval of the Bartenders License for the year 1998/2000 to Anthony U. Lopez. Seconded by Alderman Wilkens and carried unanimously.

## **PERSONNEL**

### **Authorization to Fill Position of Division Engineer - Streets/Public Works**

Motion by Alderman Bullermann to recommend to Council approval to fill the Division Engineer - Streets/Public Works position and any residual vacancies. Seconded by Alderman Zierhut and carried unanimously.

### **Authorization to Fill Position of Streets Mechanic**

Motion by Alderman Bullermann to recommend to Council approval to fill the Streets Division Mechanic position and any residual vacancies. Seconded by Alderman Zierhut and carried unanimously.

## **FINANCE**

### **Public Safety Building Hollow Metal Contract**

Motion by Alderman Patzer to recommend to Council acceptance of the bid from R.H. Seifert Co., Inc. for the contract of the Hollow Metal Frames and Doors for the Public Safety Building in the amount of \$34,911. Seconded by Alderman Wilkens and carried unanimously.

### **Claims**

Motion by Alderman Zierhut to recommend to Council approval of the bi-weekly claims in the amount of \$341,291.20, all of which represents payments to vendors. Seconded by Alderman Kaminski and carried unanimously.

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## **MISCELLANEOUS**

### **Milwaukee County Bus Service to Industrial Parks**

Motion by Alderman Bullermann to recommend to Council to direct the City Clerk to prepare the proper Resolution stating the Council's opposition to the bus service as currently proposed by Milwaukee and Waukesha Counties. Seconded by Alderman Patzer and carried with Aldermen Stuckert, Wilkens and Zierhut voting "no".

## **FINANCE**

### **1999 Capital Improvement Program**

Motion by Alderman Wysocki to recommend to Council approval of the 1999 Capital Improvement Budget as amended in the amount of \$4,403,870; to direct Springstead to prepare the financing recommendations; to authorize the City Treasurer to sign the Declaration of Official Intent; and that any proceeds from the sale of the current Police Building be used to reduce the debt from borrowing. Seconded by Alderman Zierhut and carried unanimously.

## **Municipal Court Request for Additional Funds**

Motion by Alderman Bullermann to recommend to Council a transfer of funds from account 616 (Contingency) to account 508.110.05 (1998 funds) in the amount of \$1,082 and to direct the City Treasurer to remit the funds to the Judge for his clerical help. Seconded by Alderman Wilkens.

Motion by Alderman Bullermann to recommend to Council to amend the motion to authorize the City Treasurer to remit \$1,082.08 to the Judge for his clerical help and to delete any reference to a transfer of funds. Seconded by Alderman Wysocki and carried unanimously.

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

## **RESOLUTIONS AND ORDINANCES**

**Ordinance No. 2069 "An Ordinance Renumbering Section 9.30 and 9.35 and Creation Section 9.30 of the Municipal Code of the City of New Berlin Regarding Records to be Maintained by Hotels, Motels, Inns and Other Transient Lodging Facilities" (1<sup>st</sup> Reading)**

City Clerk Bowers gave the first reading of Ordinance No. 2069.

Motion by Alderman Zierhut to waive the second and third readings of Ordinance No. 2069. Seconded by Alderman Wilkens and carried unanimously.

Motion by Alderman Wysocki to recommend to Council approval and adoption of Ordinance No. 2069. Seconded by Alderman Bullermann and carried unanimously.

**Ordinance No. 2070 "An Ordinance to Create Section 14.085 of the Municipal Code of the City of New Berlin Regarding Fire and Emergency Cost Recovery" (1<sup>st</sup> Reading)**

City Clerk Bowers gave the first reading of Ordinance No. 2070.

Motion by Alderman Bullermann to waive the second and third readings of Ordinance No. 2070. Seconded by Alderman Zierhut.

Alderman Bullermann withdrew his motion.

**Ordinance No. 2071 "An Ordinance Repealing and Recreating Section 12.195 of the Municipal Code of the City of New Berlin Relating to Massage Therapy Business and Massage Therapists" (1<sup>st</sup> Reading)**

City Clerk Bowers gave the first reading of Ordinance No. 2071.

Motion by Alderman Zierhut to waive the second and third readings of Ordinance No. 2071. Seconded by Alderman Patzer and carried unanimously.

Motion by Alderman Zierhut to recommend to Council approval and adoption of Ordinance No. 2071. Seconded by Alderman Stuckert and carried unanimously.

**Council President's Report - No Report**

**Mayor's Report**

Mayor Gatzke gave a Mayor's Report.

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

Motion by Alderman Kaminski to recommend to Council to move into Closed Session. Seconded by Alderman Zierhut. Upon voting, Alderman Bullermann voted "yes", Alderman Wysocki voted "yes", Alderman Patzer voted "yes", Alderman Stuckert voted "yes", Alderman Wilkens voted "yes", Alderman Zierhut 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)(c) (e) and (g) of the Wisconsin State Statutes.

(c) Considering employment, promotion, compensation or employment evaluation data of any public employee over which the government body has jurisdiction or exercises responsibility.

- Status of Employee -

(e) Deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified business whenever competitive or bargaining reasons require a Closed Session.

- Sale of Police Building -

- Kalashian Property -

(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.

- Keith Heun Claim -

- Steven Schroeder Lawsuit -

Alderman Bullermann left before Open Session resumed.

Motion by Alderman Kaminski to move into Open Session 10:55 p.m. Seconded by Alderman Zierhut and carried unanimously.

**OPEN SESSION**

**Possible Action on Status of Employee**

Motion by Alderman Zierhut to approve the separation agreement as presented by the Director of Human Resources. Seconded by Alderman Wilkens and carried unanimously.

**Possible Action on Sale of Police Building**

Motion by Alderman Zierhut to recommend to Council to accept the counter offer for the sale of the Police Building. Seconded by Alderman Kaminski and carried unanimously.

**Possible Action on Kalashian Property/Jurisdictional Offer**

Motion by Alderman Zierhut to recommend to Council a jurisdictional offer extended to Mr. Kalashian in the amount of \$50,000. Seconded by Alderman Wilkens and carried unanimously.

Motion by Alderman Zierhut to adjourn the meeting at 11:00 p.m. Seconded by Alderman Wilkens and carried unanimously.

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

WB/nh