

Minutes

Common Council Minutes April 13, 1999

Minutes of a Regular Meeting of the Common Council of the City of New Berlin, Waukesha County, Wisconsin, held on Tuesday, April 13, 1999, at the New Berlin City Hall at 7:47 P.M.

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

Clerk's Report

City Clerk Bowers gave a Clerk's Report.

RESOLUTIONS AND ORDINANCES

Resolution No. 99-13 "A Resolution Honoring the Catholic Memorial and New Berlin West High Schools' 1998-1999 Academic Decathlon Teams"

Motion by Alderman Zierhut to recommend to Council approval and adoption of Resolution No. 99-13. Seconded by Alderman Wilkens and carried unanimously.

Resolution No. 99-14 "A Preliminary Resolution Declaring Intent to Levy Special Assessments and Directing the Director of Public Works to Have a Report Prepared for the Installation of Water and Sewer Mains in the Westbrooke Service Area"

Motion by Alderman Bullermann to recommend to Council approval and adoption of Resolution No. 99-14. Seconded by Alderman Zierhut and carried unanimously.

Motion by Alderman Wysocki to suspend the Common Council Meeting and resume the Committee of the Whole Meeting at 8:10 p.m. Seconded by Alderman Bullermann and carried unanimously.

The Council Meeting resumed at 8:50 p.m.

ACTION ON PUBLIC HEARINGS

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

Motion by Alderman Kaminski to recommend to Council approval of the request by Bubb's Grub to rezone the property located at 13327 W. Greenfield Avenue from R-4 to B-2 subject to:

- 1) Building Architecture to be approved by the Architecture Control Committee.
- 2) Per the State of Wisconsin Commercial Building Code, wood framed buildings are limited to a maximum of 100 persons.
- 3) Parking lot to be resurfaced and appropriately striped with 9'x19' stalls.

4) Per §17.0404 a contingency plan must be on file, which describes the measures to be taken to reduce parking congestion and overcrowding if it is determined that 34 parking spaces is insufficient.

5) Building Plan to show existing building and proposed addition for both floors.

6) Plan does not address the required dumpster enclosure. Enclosure to be constructed of the same materials as the building, and the enclosure is to include a pressure treated or cedar gate. Dumpster enclosure to include refuse, tallow, and recycling dumpsters.

7) No vehicles used in the operation of the catering business will be allowed.

8) Building Permit required for any interior modifications.

9) The building to include a sprinkler system. City of New Berlin will be installing water within Greenfield Av. prior to the State project.

10) Relocate creek prior to building permit being granted.

11) Easement for relocation for the creek before the relocation of creek.

Seconded by Alderman Zierhut and carried unanimously.

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.

Motion by Alderman Bullermann to recommend to Council approval of the request by Jacobs Ridge Condos to rezone the property located at 17720 W. Lincoln Avenue from R-4 to RM-1 subject to:

1) MMSD Sewer Service Area expansion to be approved by all regulating authorities prior to Plan Commission use, site and architectural approval.

2) An 8' asphalt trail connecting the planned trails to the north and south will be required. Location of the trail to be coordinated with the Planning and Park & Rec. departments.

3) MMSD Sewer Service Area expansion approval and use, site and architecture review and approval required from the Plan Commission prior to adoption of Ordinance.

4) Developer's Agreement for the Lincoln Avenue improvements, utilities and lift station to be approved by the Board of Public Works and Common Council prior to permits being issued.

5) Architecture to be approved by the Architectural Control Committee.

6) An Impact Statement is required.

7) A metes and bounds legal description of all lands to be rezoned Rm-1/R-4/C-1/C-2 required for ordinance.

8) Per §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 §17.1309 (3) of the Municipal Code.

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

- 10) A rehabilitation plan for Lincoln Avenue is required.
- 11) A Grading Plan/Stormwater Management Plan required.
- 12) A Utility Plan required.
- 13) A Developer's Agreement required for installation of utilities.
- 14) A Landscape Plan required. Schedule of size and species of landscaping materials required. Plan should also address courtyard landscaping.
- 15) Acceleration/Deceleration lanes as well as bypass lane required within Lincoln Av.
- 16) All dumpsters required to be stored internally unless out for collection.
- 17) All utilities to be fed underground.
- 18) Building to be fully sprinklered. Alarm system required. Fire Hydrants required within 150' of all Fire Department connections. Key box required.
- 19) A lift station is required as part of this development.

Seconded by Zierhut and carried unanimously.

Rezoning Request at 17165 W. Glendale Drive (Old Police Building)/Rezone from I-1 to M-1

Motion by Alderman Wysocki to recommend to Council to rezone the property used for the old Police Station located at 17165 W. Glendale Drive from I-1 to M-1. Seconded by Alderman Zierhut and carried unanimously.

Vacation of Dakota Street

Motion by Alderman Wysocki to recommend to Council approval of the vacation of Dakota Street, and to direct the City Clerk and City Attorney to prepare the proper Resolution. Seconded by Alderman Zierhut and carried unanimously.

MINUTES

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

Motion by Alderman Wysocki to recommend to Council approval of the Minutes of the Special Common Council Meeting held on March 30, 1999. Seconded by Alderman Zierhut and carried unanimously.

COMMUNICATIONS

Communication from James Heiden regarding Property Tax Penalty/Response from City Treasurer Holzinger

Motion by Alderman Zierhut to deny the delinquent payment waiver request by James Heiden. Seconded by Alderman Kaminski and carried unanimously.

Notice of Claim - Annetta M. Foshey/Recommendation of Denial from City Atty. Reilly

Motion by Alderman Patzer to recommend to Council denial of the Annetta M. Foshey claim, per the recommendation of City Attorney Reilly. Seconded by Alderman Zierhut and carried unanimously.

BUSINESS:

PLAN COMMISSION RECOMMENDATIONS

Alderman Kaminski reported from the meeting held this evening:

Waukesha Medical Clinic – New Berlin – NW ¼ Sec. 13 – Final Two Lot Land Division

Motion by Alderman Kaminski to recommend to Council approval of the request by Waukesha Medical Clinic-New Berlin for a final two lot land re-division located at 13900 W. National Avenue, NW ¼ Sec. 13 subject to:

- 1) All Proposed cross-easements to be properly labeled.
- 2) Waukesha County DOT access permit required.
- 3) Owners to sign CSM prior to the City signing the CSM
- 4) CSM to reflect all recent ROW acquisitions which reflect 100' ROW as part of 1998 Sunny Slope Road improvements. Ultimate right-of-way (ROW) of Sunny Slope Road is 100'. If ROW acquisitions have not been made, an additional 17' of dedicated ROW is required.
- 5) Add note on plat. "Access to National Avenue restrict to right turn in and right turn out only."
- 6) Parcel 2 Sunny Slope Road access restricted to northern most 60' of Sunny Slope Road frontage. Show area of inaccessibility as x-ed out.
- 7) Modify condition number 1 to include labeling of dedicated sanitary sewer and water easements.

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

Kenneth W. Sharping - NW 1/4 Sec. 33 - 5595 S. Martin Rd. – Preliminary Land Division

Motion by Alderman Kaminski to recommend to Council approval of the request by Kenneth W. Sharping for a preliminary three lot land division located at 5595 S. Martin Road, NW ¼ Sec. 33 subject to:

- 1) Applicant must submit a percolation test done by a State Certified Sanitary Engineer prior to final land division.
- 2) Payment of a balance of \$300.00 application fee because application was submitted in error as a two-lot land division. This is a three-lot land division.
- 3) Payment of \$2,000.00 in Public Site, Open Space and Trail Fees to be paid before City will sign the final CSM.
- 4) Need to show well and septic location for the proposed lots.

- 5) Sign developer's agreement for the extension of Overlook Drive prior to the City signing the final CSM.
- 6) CSM to reflect 1999 dates.
- 7) Owner to sign prior to the City signing the final CSM.
- 8) A grading and drainage plan is required to demonstrate how the site will adequately drain.
- 9) ROW must be acquired from 5565 S. Martin Road to allow for the construction of Overlook Drive extension or road needs to be reconfigured to the North. Driveways and access will be limited to Overlook Drive.
- 10) Ultimate Right-of-Way of Martin Road needs to be dedicated on final CSM.
- 11) As required, stormwater easements be dedicated on final CSM.

Seconded by Alderman Zierhut and carried unanimously.

Echo Farms - 21900 W. Lawnsdale – Lot 14 and 15 Final Land Division

Motion by Alderman Kaminski to recommend to Council approval of the request by Echo Farms for Lot 14 and 15 final land division located at 21900 W. Lawnsdale subject to:

- 1) Payment of \$1,000.00/lot (\$2,000) in Public Site, Open Space, and Trail Fees.
- 2) Signature page needs to reflect 1999 dates.
- 3) Owners must sign before the city will sign the Final CSM.
- 4) Proof of Perc required prior to the City signing the Final CSM.

Seconded by Alderman Zierhut and carried unanimously.

BOARD OF PUBLIC WORKS

Alderman Wysocki reported from the meeting held this evening:

Correction to the Grange Avenue Watermain Assessment

Motion by Alderman Wysocki to recommend to Council to remove the special assessment for 14710 W. Grange Ave., Tax Key No. 1256.996, from the Grange Avenue Watermain Assessment, and to direct the City Clerk to prepare the proper Resolution. Seconded by Alderman Zierhut and carried unanimously.

Malone Park Storm Sewer

Motion by Alderman Wysocki to recommend to Council the award of Contract U-1-99 Malone Park Storm Sewer Relay in the amount of \$94,345.00 to the apparent low bidder D.F. Tomasini Construction Inc., with 15% contingency for a total cost of \$108,496.75, with funds coming from 1999 CIP Account No. 251-775. Seconded by Alderman Zierhut and carried unanimously.

Civic and Casper Drive Reconstruction

Motion by Alderman Wysocki to recommend to Council award of contract RU-1-99, Civic Drive Road Reconstruction, to the low bidder, Payne & Dolan, in the amount of \$543,019.35, with remaining engineering and contingency costs to be identified from surplus accounts from other capital funds. Seconded by Alderman Zierhut and carried unanimously.

UTILITY COMMITTEE

Alderman Bullermann reported from the meeting held on March 29, 1999:

Direct Debit Payment (Referred from Board of Public Works)

Motion by Alderman Bullermann to recommend to Council to enter an Automated Clearing House agreement with Bank One, Wisconsin to provide Direct Debit Payment service for payment to utility bills. Seconded by Alderman Wysocki. Upon voting, the motion failed with Alderman Wysocki voting "yes".

Ameritech Easement Request - 16250 W. National Ave.

Motion by Alderman Bullermann to recommend to Council to execute a Telephone Utility easement with Ameritech Wisconsin across Utility Division property at 16250 W. National Avenue (Key 1174-976) to permit service to be extended for the New Public Safety Building. Seconded by Alderman Zierhut and carried unanimously.

SEWRPC Committee Aquifers/Resolution No. 99-15

Motion by Alderman Bullermann to recommend Resolution No. 99-15 to Council. Seconded by Alderman Zierhut and carried unanimously.

MAYORAL APPOINTMENTS

Board of Appeals

Motion by Alderman Zierhut to recommend to Council the Mayoral Appointment of Perry J. Liljestrand to the Board of Appeals, with an expiration date of April 30, 2002. Seconded by Alderman Wysocki and carried unanimously.

Motion by Alderman Zierhut to recommend to Council the Mayoral Appointment of Milton A. Galke to the Board of Appeals, with an expiration date of April 30, 2001. Seconded by Alderman Wysocki and carried unanimously.

Motion by Alderman Zierhut to recommend to Council the Mayoral Appointment of Sally J. Boya to the Board of Appeals, with an expiration date of April 30, 2002. Seconded by Alderman Wysocki and carried unanimously.

Fire and Police Commission

Motion by Alderman Zierhut to recommend to Council the Mayoral Appointment of Irene C. Lorbiecki to the Fire and Police Commission, with an expiration date of April 30, 2004. Seconded by Alderman Wysocki and carried unanimously.

Handicapped Persons Appeals Committee

Motion by Alderman Zierhut to recommend to Council the Mayoral Appointment of Alderman Lizbeth A. Kaminski to the Handicapped Persons Appeals Committee, with an expiration date of April 30, 2000. Seconded by Alderman Wysocki and carried unanimously.

Parks & Recreation Commission

Motion by Alderman Zierhut to recommend to Council the Mayoral Appointments of William J. Christel, Anthony J. Mescher, and Charles W. Bedwell to the Parks & Recreation Commission, all with expiration dates of April 30, 2002. Seconded by Alderman Wysocki and carried unanimously.

Plan Commission

Motion by Alderman Zierhut to recommend to Council the Mayoral Appointment of Douglas G. Barnes to the Plan Commission, with an expiration date of April 30, 2002. Seconded by Alderman Wysocki and carried unanimously.

Safety Commission

Motion by Alderman Zierhut to recommend to Council the Mayoral Appointments of Stephen R. Bartelt and James L. Polczynski to the Safety Commission, both with expiration dates of April 30, 2002. Seconded by Alderman Wysocki and carried unanimously.

Special Assessment Review Committee

Motion by Alderman Zierhut to recommend to Council the Mayoral Appointment of Denis J. Wagner and Perry J. Liljestrand to the Special Assessment Review Committee, both with expiration dates of April 30, 2002. Seconded by Alderman Wysocki and carried unanimously.

Weed Commissioner

Motion by Alderman Zierhut to recommend to Council the Mayoral Appointment of Duane Hause as the Weed Commissioner, with an expiration date of April 30, 2000. Seconded by Alderman Wysocki and carried unanimously.

SAFETY COMMISSION - No Report

TECHNOLOGY COMMITTEE - No Report

REFERRALS, DEFERRALS, AND TABLED ITEMS/None

COMMITTEE OF THE WHOLE (Items from Consent Agenda)

Motion by Alderman Zierhut to recommend to Council to approve the following items from the consent agenda. Seconded by Alderman Wilkens 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 \$283,221.49. Of that amount \$244,763.43 represents payments to MMSD and the remaining amount of \$38,458.06 represents payments to vendors. Seconded by Alderman Kaminski 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 \$100,296.03, all of which represents payments to vendors. Seconded by Alderman Wysocki 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 Richard E. Anderson, Linda A. Chmielewski, Stephen Curran, David J. Platta, Shawn D. Price, Chris I. Severson, and Todd M. Truebenbach. Seconded by Alderman Kaminski and carried unanimously.

MISCELLANEOUS

Renaming of Civic Drive

Motion by Alderman Zierhut to recommend to Council that Civic Drive be renamed to Al Stigler Parkway. Seconded by Alderman Kaminski and carried unanimously.

Negotiation Team for Fire Department Contract

Motion by Alderman Patzer to recommend to Council appointment of Alderman Kaminski, Alderman Stuckert, Alderman Bullermann, and Human Resources Director Tami Potkay as the negotiation team for the next contract with the New Berlin Volunteer Fire Department. Seconded by Alderman Zierhut and carried unanimously.

Blue Chip Grant Application

Motion by Alderman Zierhut to recommend to Council approval of the submittal of an application for the 1999 Waukesha County Economic Development Corporation's Blue Chip Incentive Grant. Seconded by Alderman Wilkens and carried unanimously.

Waiver of Appearance of Conflict by Atty. T. Michael Schober

Motion by Alderman Bullermann to recommend to Council authorization for the Mayor to waive the appearance of conflict with Attorney T. Michael Schober regarding the Johnson Sand and Gravel site. Seconded by Alderman Zierhut and carried unanimously.

PERSONNEL

Authorization to Fill Position of Receptionist/Election Clerk

Motion by Alderman Wysocki to recommend to Council authorization to fill the position of Receptionist/Election Clerk. Seconded by Alderman Bullermann and carried unanimously.

TABLED ITEMS

Relocation Order for Sunnyslope Road Construction Improvements/Resolution No. 99-7

Motion by Alderman Bullermann to recommend the adoption of Resolution No. 99-7 to Council. Seconded by Alderman Wysocki and carried unanimously.

FINANCE

Bonding for 1999 Capital Improvement Program Promissory Note Issue/Resolution No. 99-16

Motion by Alderman Zierhut to recommend Resolution No. 99-16 to Council. Seconded by Alderman Kaminski and carried unanimously.

Bonding for Greenfield Avenue Watermain Project/Resolution No. 99-17

Motion by Alderman Zierhut to recommend Resolution No. 99-17 to Council. Seconded by Alderman Kaminski and carried unanimously.

1991 Water Revenue Refunding Bond Issue/Resolution No. 99-18

Motion by Alderman Zierhut to recommend Resolution No. 99-18 to Council. Seconded by Alderman Kaminski and carried unanimously.

Claims

Motion by Alderman Zierhut to recommend to Council approval of the bi-weekly claims in the amount of \$1,139,191.84, all of which represents payments to vendors. Seconded by Alderman Kaminski and carried unanimously.

RESOLUTIONS AND ORDINANCES

Resolution No. 99-7 "Relocation Order of the City of New Berlin, Waukesha County, Wisconsin"

Motion by Alderman Patzer to recommend to Council approval and adoption of Resolution No. 99-7. Seconded by Alderman Zierhut and carried unanimously.

Resolution No. 99-15 "A Resolution Approving the Regional Aquifer Performance Simulation Modeling Program Prospectus"

Motion by Alderman Bullermann to recommend to Council approval and adoption of Resolution No. 99-15. Seconded by Alderman Kaminski and carried unanimously.

Resolution No. 99-16 "Resolution Providing for the Sale of \$1,500,000 General Obligation Promissory Notes, Series 1999A"

Motion by Alderman Zierhut to recommend to Council approval and adoption of Resolution No. 99-16. Seconded by Alderman Wilkens and carried unanimously.

Resolution No. 99-17 "Resolution Providing for the Sale of Not to Exceed \$2,460,000 Water System Revenue Bonds, Series 1999B"

Motion by Alderman Zierhut to recommend to Council approval and adoption of Resolution No. 99-17. Seconded by Alderman Wilkens and carried unanimously.

Resolution No. 99-18 "Resolution Providing for the Sale of Not to Exceed \$2,460,000 Water System Revenue Refunding Bonds, Series 1999C"

Motion by Alderman Zierhut to recommend to Council approval and adoption of Resolution No. 99-18. Seconded by Alderman Wilkens 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" (3rd Reading)

City Clerk Bowers gave the third and final reading of Ordinance No. 2070.

Motion by Alderman Bullermann to recommend to Council approval and adoption of Ordinance No. 2070. Seconded by Alderman Zierhut and carried unanimously.

Council President's Report

Council President Wysocki gave a Council President's Report.

Mayor's Report

Mayor Gatzke gave a Mayor's Report.

City Attorney's Report

City Attorney Reilly have a City Attorney's Report.

Motion by Alderman Zierhut to move into Closed Session. Seconded by Alderman Wilkens. Upon voting, Alderman Bullermann voted "yes", Alderman Wysocki voted "yes", Alderman Patzer 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)(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.

- Award of Condemnation/Kalashian -

- Kalashian Lawsuit -

- Terry Kent Claim -

Motion by Alderman Zierhut to move into Open Session. Seconded by Alderman Kaminski and carried unanimously.

OPEN SESSION

Possible Action on Award of Condemnation

Motion by Alderman Zierhut to recommend to Council approval of the award of condemnation in the amount of \$50,001 for the Kalashian Property. Seconded by Alderman Kaminski and carried unanimously.

Possible Action on Terry Kent Claim

Motion by Alderman Zierhut to recommend to Council approval of the Terry Kent Claim in the amount of \$2,127.90. Seconded by Alderman Bullermann and carried unanimously.

Motion by Alderman Zierhut to adjourn the meeting at 9:40 p.m. Seconded by Alderman Wilkens and carried unanimously.

William Bowers
City Clerk

WB/nh