

Minutes

Common Council Minutes

June 22, 1999

Minutes of a Regular Meeting of the Common Council of the City of New Berlin, Waukesha County, Wisconsin, held on Tuesday, June 22, 1999, at the New Berlin City Hall at 8:50 P.M.

Present were Mayor Gatzke, Aldermen Bullermann, Wysocki, Patzer, Scheuble, Wilkens, Chiovatero, and Kaminski. Also present were City Clerk Bill Bowers, City Attorney Paul Reilly, City Treasurer Mike Holzinger, Asst. City Planner Mark Lake, Director of Human Resources Tami Potkay, Police Lt. Frank Zsohar, Fire Chief Ron Rebatzke, and Utility Superintendent Larry Wilms.

Clerk's Report

City Clerk Bowers gave a Clerk's Report.

MINUTES

Motion by Alderman Kaminski to recommend to Council approval of the Public Hearing Minutes regarding Proposed Property Maintenance Code held on June 8, 1999. Seconded by Alderman Wilkens and carried unanimously.

Motion by Alderman Kaminski to recommend to Council approval of the Minutes of the Common Council Meeting held on June 8, 1999. Seconded by Alderman Wilkens and carried unanimously.

COMMUNICATIONS

Communication from Alderman Wysocki regarding Gambling Facilities - On File in Clerk's Office

Petition with 47 Signatures in Opposition to Rezoning Corner of Howard Avenue and Sunny Slope Road - On File in Clerk's Office

Communication from John Klante and Norman Gauer, Neighbors of 12913 W. Honey Lane - To City Attorney

Communication from Donald Gondek regarding Casinos - On File in Clerk's Office

Reconsideration Request from Alderman Kaminski regarding Gate and Fencing at Glen Park School

Motion by Alderman Kaminski to reconsider her vote on the gate and fencing at Glen Park School. Seconded by Alderman Wysocki and carried unanimously.

Motion by Alderman Chiovatero to recommend to Council a transfer of funds from account 616 (Contingency) to Account 516.810 (New Equipment) in an amount not to exceed \$3,088 to pay for a gate and fencing at Glen Park School. Seconded by Alderman Wilkens. Upon voting, the motion failed with Alderman Bullermann voting "yes".

Mayor Gatzke directed Parks and Recreation, Building Maintenance, and the Streets Division to install the gates.

Communication from Vincent J. Runnoe regarding Waiver of Interest on Late Property Tax Payment

Motion by Alderman Bullermann to recommend to Council to waive the interest on the late property tax payment in the amount of \$62.36. Seconded by Alderman Scheuble. Upon voting, the motion failed with Aldermen Bullermann and Scheuble voting "yes".

BUSINESS:

PLAN COMMISSION RECOMMENDATIONS

Alderman Kaminski reported from the meeting held on June 7, 1999:

The Pines Subdivision (Evergreen) – 12900 W. Peachtree Ln. – Preliminary Subdivision Plat

Motion by Alderman Kaminski to recommend to Council approval of The Pines (Evergreen) Preliminary Subdivision located at 12900 Peachtree Ln. subject to:

- 1) Plat as submitted shows a large amount of buildable area, buildable area would have to be modified to take into account the wooded area and grading concerns. Construction/grading of any of the wooded lots would have to be limited to the preplanned/deed restricted building envelope only.
- 2) Urban cross-section required for Peachtree Drive. Rebuilding of existing Peachtree Drive to Courtland Parkway required. Design subject to requirements of Department of Public Works and Engineering Dept.
- 3) Lots 6 thru 9 restricted to front entry only. Label to be placed on the face of the plat.
- 4) Wetland preservation restriction to be placed on the face of the plat.
- 5) Basement restriction – groundwater to be placed on the face of the plat.
- 6) Letter of no objection from the State of Wisconsin – Department of Administration required.
- 7) Unconditional letter of no objection from Waukesha County Department of Parks and Land Use required.
- 8) No construction, clearing, and/or grubbing allowed until preliminary subdivision approval is granted by the common council and engineering plans approved by the City of New Berlin – Engineering Department.
- 9) Adherence to 17.1308(10) woodland preservation required.
- 10) Satisfaction of the many concerns of the Engineering Department dealing with storm sewers, the detention pond, sanitary sewers, grading, etc. All concerns to be worked out with the City of New Berlin – Engineering Department.
- 11) Revised grading plan required.
- 12) Revised utility plan required.
- 13) Revised road plans required.
- 14) Length bearing and tie to all easements and wetland delineations required.

15) City of New Berlin Park and Rec. Department is looking for some land dedication for a "tot-lot" of ~ 1-2 acres in lieu of open space fees. If dedication is not made, payment of \$1,000.00/lot in Public Site, Open Space and Trail Fees to be paid before the City of New Berlin will sign the final plat.

16) Schedule:

March 29, 1999 – Plat Received

June 7, 1999 – Plan Commission date for final action

June 22, 1999 – Common Council date for final action

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

City of New Berlin – Utility Department - 21021 W. Sunny Crest Drive – Proposal to Fill Portion of Site to Above the 100 Year Flood Elevation

Motion by Alderman Patzer to recommend to Council approval of the request by City of New Berlin Utility Department for installation of a below ground sewage lift station, wet well structures, above ground power module, and to fill a portion of the site to above the 100 year flood elevation at 21021 Sunny Crest Drive subject to:

- 1) Secure all applicable permits from Building Inspection.
- 2) Fire extinguishers are required.
- 3) Exterior finish of utility structure should be of aggregate material, and the exterior color scheme shall be tan with brown trim.
- 4) A detailed final landscape plan is required, which needs to specify species that will be planted; existing trees shall be preserved to the extent possible.
- 5) Grading of the site above the 100-year floodplain shall be to engineering approved plans.
- 6) Project will not be done unless sewers are approved for the Westbrooke area.

Seconded by Alderman Bullermann and carried unanimously.

Milwaukee Tool & Machine Co. – 17145 W. Victor Rd. – 6,000 Sq. Ft. Addition to Existing 16,320 Sq. Ft. Building. – Proposal to Fill Portion of Site to Above the 100 Year Flood Elevation

Motion by Alderman Kaminski to recommend to Council approval of the request by Milwaukee Tool & Machine Co. to fill a portion of the site to above the 100 year flood elevation at 17145 Victor Road subject to:

- 1) Approval of the revised drainage and grading plan that submitted on 4/7/99 by the Engineering Department prior to Building Permit being issued.
- 2) Due to the extent of the proposed development, a detention pond is required under the city's current storm water management standards.
- 3) The City of New Berlin Architectural Review Committee must approve building material and exterior architecture.

4) Submittal of an overall landscaping plan done by a professional landscape architect for the entire site with existing and proposed plantings. This should include a detailed schedule of plant keys, dimensions and planting scheme, method and timetable.

5) Building addition 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. State of Wisconsin and local fire prevention bureau approval required.

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 plan. Enclosure must match exterior of building (brick with cedar gates), and must be built to accommodate both solid as well as recyclable waste dumpsters.

8) Displacement of flood storage to be mitigated by removal of existing berms. Volume of material to be removed shall be at least 3 times the volume of floodstorage displaced by the addition.

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

Applewood Senior Homes Addition – 2900 S. Moorland Road –Request to Rezone from R-5 to I-1/ PUD

Motion by Alderman Kaminski to recommend to Council approval of the request by Applewood Senior Homes Addition to rezone the property located at 2900 S. Moorland Road from R-5 to I-1 PUD subject to:

1) Second building could not be built under the existing Zoning Code R-4.5 Medium-Density Single Family Residential District. There is no provision for a second residence. §17.1304 (4) specifically limits residential parcels to one (1) principle residence.

2) An institutional District (I-1) is required because it is the closest to what a revision in the code during the GDMP process will probably allow for this type of institutional use. Other districts allowed by 17.1304 (4), such as Rm-1, B-1, O-1, O-2, M-1, and M-2 would not be appropriate because of the institutional nature of the facility.

3) A PUD is required because §17.1304 (I-1 institutional District) has a 50' minimum setback from any lot line or structure and was design for large (National Regency) type structures. The current (I-1) Institutional district does not accommodate a home like atmosphere.

Seconded by Alderman Patzer.

A Public Hearing was scheduled for July 13, 1999 at 7:00 p.m.

Hansen Automotive – TYME Machine Drive-Up – 17200 W. Cleveland – TYME Machine Drive-Up

Motion by Alderman Kaminski to recommend to Council approval of the request by Hansen Automotive for a TYME Machine Drive-Up located at 17200 W. Cleveland Avenue subject to:

1) Submittal of a revised site plan drawn to scale that addresses the overall parking and landscaping for the property.

2) Parking plan must meet all the requirements stipulated in § 17.0403 in its entirety. This should also include the overall traffic circulation pattern and turning radii for the users of the money machine.

3) Landscaping plan must show existing landscaping and proposed landscaping for the entire property. This is required to calculate open space requirement for this property. The Zoning Ordinance requires a 25% open space. Building and paved area must not exceed 75%.

4) Applicant must submit plans of operation for the gas station. Hours of operation and number of employees should reflect that of the entire facility including all weekdays and weekend hours.

5) Signage on the submitted plans does not meet the City of New Berlin Sign Code. The Planning Department prior to installation must approve signage on the TYME machine.

Seconded by Alderman Patzer and carried unanimously.

Zoning Code Revision – Remove Height Restrictions for Hotels Along the Moorland Road Corridor

Motion by Alderman Kaminski to recommend to Council approval to remove height restrictions in our Code for hotels along the Moorland Road corridor, et al. to: that which is determined to be capable of service by all City of New Berlin services and private utilities.

Seconded by Alderman Patzer.

A Public Hearing was scheduled for July 13, 1999 at 7:05 p.m.

BOARD OF PUBLIC WORKS

Alderman Wysocki reported from the meeting held on June 9, 1999:

PageNet Lease Agreement

Motion by Alderman Wysocki to recommend to Council approval of the PageNet Lease Agreement for the Fire Department Tower at 2600 S. Calhoun Road subject to staff and City Attorney approval. Seconded by Alderman Patzer.

Motion by Alderman Wysocki to table this item. Seconded by Alderman Wilkens and carried unanimously.

Special Assessment Ordinance

Motion by Alderman Wysocki to recommend to Council approval of the Special Assessment Ordinance as created by the City Attorney with suggested changes by the City Clerk, and to direct the City Clerk to prepare the proper Ordinance. Seconded by Alderman Patzer and carried with Alderman Wilkens voting "no".

Waukesha Medical Clinic - Development Agreement

Motion by Alderman Wysocki to recommend to Council approval of the Development Agreement with Waukesha Health Care Inc., for Waukesha Medical Clinic - New Berlin subject to review/approval by the City Attorney. Seconded by Alderman Patzer.

Motion by Alderman Kaminski to allow Matt Witthauer with Waukesha Memorial Hospital to address the Council. Seconded by Alderman Chiovaturo and carried unanimously.

Motion by Alderman Chiovatero to amend the motion to add the following sentence to Page 2, Section II, B: The on-site fire hydrant and lateral, and building lateral shall remain private property and shall be serviced and maintained by the developer, successor or assigns. Seconded by Alderman Wilkens and carried unanimously.

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

UTILITY COMMITTEE

Alderman Bullermann reported from the meeting held on June 16, 1999:

Allocation of RCA Funds for Utility Garage Site

Motion by Alderman Bullermann to recommend to Council approval of the allocation of \$25,000 of Wastewater Utility Reserve Capacity Assessment Fees - Account No. 800-000-31.00, to the 1999 utility capital improvements budget to Capital CIP No. 99-Capital WW-07, for which payment is made to the Park and Recreation Department for required work/improvements and the land utilized by the Utility Division for their recently constructed vehicle garage. Seconded by Alderman Wysocki and carried unanimously.

Part Time Help

Motion by Alderman Bullermann to recommend to Council that the Utility (Water and Wastewater) be authorized to exceed their 1999 budget by an amount not to exceed \$12,000 (\$6,000 Water, and \$6,000 Wastewater), to fill part time positions as anticipated. Affected accounts are: Water - 631.02, 673.02, and 677.02 and Sewer - 831.02, 850.22. Seconded by Alderman Wysocki.

Friendly amendment by Alderman Patzer to direct the City Treasurer to identify where funds will come from.

Upon voting, the motion carried unanimously.

MAYORAL APPOINTMENTS

Electrical Review Board

Motion by Alderman Kaminski to recommend to Council the Mayoral Appointment of Jack W. Dahlke to the Electrical Review Board, with an expiration date of August 31, 1999. Seconded by Alderman Chiovatero and carried unanimously.

ACTION ON PUBLIC HEARINGS

Thomas Major Rezoning from A-1 to P-1 at 5900 South Moorland Road

Motion by Alderman Patzer to recommend to Council approval of the request by Moorland Road Golf Center to rezone the property at 5900 S. Moorland Road from A-1 to P-1 subject to:

1) Use/site and architectural approval required.

2) Coordination with Don Reed of the Southeastern Wisconsin Planning Commission (SEWRPC) on using the secondary environmental corridor required.

3) Landscaping Plan in use application to address the protection of the wetlands and land to the south by errant golf balls through natural means, not by netting. Coordination with Don Reed of SEWRPC on the proper retrieval of balls required.

4) Stormwater Management Plan to be reviewed by SEWRPC for its potential regional impacts.

5) Access Permit from the Waukesha County DOT required.

6) Zoning to be coincident with lease as a golf complex. If use ceases for a period of 12 months, zoning reverts to A-1.

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

UTILITY

Sewer Claims

Motion by Alderman Wilkens to recommend to Council approval of payment of Sewer Utility Claims in the amount of \$71,944.23, all of which represents payments to vendors. Seconded by Alderman Chiovatero and carried unanimously.

Water Claims

Motion by Alderman Wilkens to recommend to Council approval of the payment of Water Utility Claims in the amount of \$81,300.37, all of which represents payments to vendors. Seconded by Alderman Kaminski and carried unanimously.

LICENSES

Bartender's Licenses

Motion by Alderman Scheuble to recommend to Council approval of the Bartender's Licenses for the year 1998/2000 to Matthew C. Craft, Emmylou T. Hoeft, Kelly J. Kopchinski, Jonathan J. Kypuros, Bradley W. Metzger, and Patricia A. Peterson. Seconded by Alderman Wilkens and carried unanimously.

Amendment to "Class B" Retailers License

Motion by Alderman Bullermann to recommend to Council approval of the amendment to the "Class B" Retailers License to include the "Parking Lot Area" for Nickel's Pub, 13915 W. Greenfield Avenue, on 3

separate occasions: Saturday, July 10, from 3:00 p.m. until 6:30 p.m.; Saturday, July 24, from 12:00 p.m. to 7:00 p.m.; and Saturday, October 2, Weather Permitting with an Alternate Date of October 9, from 11:00 a.m. to 7:00 p.m. Any complaints from neighbors, etc. that require police response will result in immediate revocation of outdoor amendment. Seconded by Alderman Wilkens and carried unanimously.

PERSONNEL

Authorization to Fill Position of Associate Planner and Any Residual Vacancies

Motion by Alderman Kaminski to recommend to Council authorization to fill the position of Associate Planner and any residual vacancies. Seconded by Alderman Wilkens and carried unanimously.

MISCELLANEOUS

Public Safety Building - Bid for Division 17 (Telecommunications & Security)

Motion by Alderman Bullermann to recommend to Council that Advance Cabling Solutions be awarded the bid in the amount of \$63,358.74, for Sections 17721 and 17722, and Penetrator Sound and Lighting be awarded the bid in the amount of \$182,051.23, for Sections 17000, 17040, 17050, 17070, 17100, 17200, 17300 & 17900, for security systems and telecommunications cabling for the Public Safety Building. Seconded by Alderman Wysocki and carried unanimously.

Public Safety Building - Bid for Wood Doors

Motion by Alderman Wysocki to recommend to Council that Cape Townsend, Inc. be awarded the bid in the amount of \$22,560, for the wood doors within the Public Safety Building. Seconded by Alderman Bullermann and carried unanimously.

Public Safety Building - Bid for Finish Hardware

Motion by Alderman Patzer to recommend to Council that LaForce, Inc. be awarded the bid in the amount of \$44,342, for the finish hardware within the Public Safety Building. Seconded by Alderman Wysocki and carried unanimously.

Public Safety Building - Bid for Interior Walls (Gypsum & metal Stud)

Motion by Alderman Wysocki to recommend to Council that Carlsen Kane Inc. be award the bid in the amount of \$172,600.00 for the interior walls (stud and drywall) within the Public Safety Building. Seconded by Alderman Bullermann and carried unanimously.

FINANCE

Claims

Motion by Alderman Wysocki to recommend to Council approval of the bi-weekly claims in the amount of \$1,254,772.62. Of that amount, \$629,766.60 represents payment to Luterbach Construction for Payment No. 10 of the Police Safety Building, and \$575,006.02 represents payments to vendors. Seconded by Alderman Patzer and carried unanimously.

MISCELLANEOUS

Repairs to Fire Truck #606

Motion by Alderman Bullermann to recommend to Council a Transfer of Funds from Account 616 (Contingency to Account 523.232 (Repair and Maintenance - Vehicles) in the amount of \$40,000 to repair the water pump on Fire Pumper #606, and to direct the City Clerk to prepare the proper Resolution. Seconded by Alderman Wilkens and carried with Alderman Patzer voting "no".

RESOLUTIONS AND ORDINANCES

Ordinance No. 2075 "An Ordinance to Repeal and Recreate Section 13.05 of the Municipal Code of the City of New Berlin Relating to Water Use Restrictions" (3rd Reading)

City Clerk Bowers gave the third and final reading of Ordinance No. 2075.

Motion by Alderman Bullermann to recommend to Council approval and adoption of Ordinance No. 2075. Seconded by Alderman Patzer and carried unanimously.

Ordinance No. 2076 "An Ordinance to Repeal and Recreate Section 13.09(3)(e) of the Municipal Code of the City of New Berlin Relating to the Fee Charged for Well Permits" (2nd Reading)

City Clerk Bowers gave the second reading of Ordinance No. 2076.

Resolution No. 99-34 "Transfer of Funds"

Motion by Alderman Bullermann to recommend to Council approval and adoption of Resolution No. 99-34. Seconded by Alderman Patzer 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 Wysocki to move into Closed Session at 10:15 p.m. Seconded by Alderman Wilkens. 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)(e) & (g) of the Wisconsin State Statutes.

(5) 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.

- Fire Department Contract -

- Sale of Police Department Building -

(7) 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.

- Foshey Claim -

Motion by Alderman Patzer to move into Open Session at 10:55 p.m. Seconded by Alderman Wysocki and carried unanimously.

OPEN SESSION

Possible Action on Fire Department Contract

Motion by Alderman Bullermann to table this item. Seconded by Alderman Chiovatero and carried unanimously.

Possible Action on Sale of Police Department Building

Motion by Alderman to recommend to Council to authorize the Mayor and City Clerk to sign Amendment No. 1 and to authorize the Mayor and City Clerk at closing to sign all the necessary documents, including the Environmental Indemnification Agreement. Seconded by Alderman Chiovatero and carried unanimously.

Possible Action on Foshey Claim

Motion by Alderman Chiovatero to recommend to Council to settle the Annetta Foshey claim in the amount of \$2,197.56. Seconded by Alderman Wysocki and carried unanimously.

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

William Bowers
City Clerk

WB/nh