

Minutes

Common Council Minutes

July 13, 1999

Minutes of a Regular Meeting of the Common Council of the City of New Berlin, Waukesha County, Wisconsin, held on Tuesday, July 13, 1999, at the New Berlin City Hall at 11:00 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, City Planner Steve Hoese, Asst. City Planner Mark Lake, Director of BIZ Bob Sigrist, Building Maintenance Manager Bob Schulpius, Director of Human Resources Tami Potkay, Executive Assistant Jennifer Johnson, Police Chief Chuck Schroeder, Police Lts. Frank Zsohar, Steve Morris, Tom Struebing, and Mark Perlewitz, DPW Hamid Hashemizadeh, Utility Superintendent Larry Wilms, and Streets Superintendent Lee Ystad.

Clerk's Report

City Clerk Bowers gave a Clerk's Report.

MINUTES

Motion by Alderman Wilkens to recommend to Council approval of the Public Hearing Minutes regarding Moorland Road Golf Center (Thomas Major) held on June 22, 1999. Seconded by Alderman Kaminski and carried unanimously.

Motion by Alderman Kaminski to recommend to Council approval of the Minutes of the Common Council Meeting held on June 22, 1999. Seconded by Alderman Wilkens and carried unanimously.

COMMUNICATIONS

Notice of Claim - Earl Leigeb/Heritage Mutual Insurance Company - To City Attorney

Petition with 3 Signatures in Opposition to Rezoning Corner of Howard Avenue and Sunny Slope Road - On File in Clerk's Office

Communication from Waukesha County Dept. of Transportation regarding Traffic Signal at Moorland Road and Mayflower Drive

Motion by Alderman Wilkens to refer this item to the Committee of the Whole. Seconded by Alderman Wysocki and carried unanimously.

Communication regarding Rita Smith Request to Waive Interest of Late Property Tax Payment

Motion by Alderman Bullermann to recommend to Council to waive the late property tax penalty for Rita Smith. Seconded by Alderman Scheuble.

Motion by Alderman Patzer to end debate. Seconded by Alderman Chiovatero and carried unanimously.

Upon voting, the motion failed with Aldermen Bullermann and Scheuble voting "yes".

Communication from William Schomisch regarding Waiver of Interest on Late Property Tax Payment

Motion by Alderman Bullermann to recommend to Council to waive the late property tax penalty for William Schomisch. Seconded by Alderman Scheuble. Upon voting, the motion failed with Aldermen Bullermann and Scheuble voting "yes".

Communication from Robert McCalvy regarding Waiver of Interest on Late Property Tax Payment

Motion by Alderman Bullermann to recommend to Council to deny the waiver of late property tax penalty for Robert McCalvy. Seconded by Alderman Wysocki and carried unanimously.

Notice of Claim - Scott Ziegler - To City Attorney

Communication from Conrad F. Holling - President of Brookridge Condominium Assoc. regarding Opposition to Ten-Story Hotel on Southwest Corner of Greenfield Ave. and Moorland Road - On File in Clerk's Office

Communication from Matthew Anderson, owner of Just Matty's Requesting Time Changes of Outdoor Event

Motion by Alderman Scheuble to allow Matthew Anderson to address the Council. Seconded by Alderman Wilkens and carried unanimously.

Motion by Alderman Patzer to recommend to Council to amend the time changes to Matthew Anderson's outdoor event to be held at Just Matty's, 13838 W. College Ave., on August 20 - 22, 1999, to allow the outdoor music on all three days until 11:00 p.m., outdoor service of alcohol on Friday and Saturday until 1:00 a.m., and outdoor service of alcohol on Sunday until 11 p.m. Any complaints from neighbors, etc. that require police response will result in immediate revocation of outdoor amendment. Seconded by Alderman Bullermann and carried unanimously.

BUSINESS:

PLAN COMMISSION RECOMMENDATIONS

Alderman Kaminski reported from the meeting held on June 21, 1999:

Consultant Contract - Name of Sub-Consultant

Motion by Alderman Kaminski to recommend to Council that Greg Dale of McBride, Dale, Clarion be named the sub-consultant for the Growth Development Management Plan program. Seconded by Alderman Chiovaturo and carried unanimously.

Alderman Kaminski reported from the meeting held on June 28, 1999:

Gerald & Wendi Demshar - 14825 W. Cleveland Ave. SW ¼ Sec. 11- Final Land Division

Motion by Alderman Kaminski to recommend to Council approval of the request by Gerald & Wendi Demshar for a final land division located at 14825 W. Cleveland Avenue SW ¼ Sec. 11 subject to:

1) Access (culvert) permit required from the City of New Berlin - Engineering Department before any building permit will be issued.

- 2) Correct Plan Commission Secretary's name to Steven K. Hoese.
- 3) Existing storage sheds are to be removed. Per. §17.0503(1)(a)(1) of the City of New Berlin municipal code, accessory buildings are only allowed if there is currently a principle dwelling on the property, and they must meet the proper setbacks.
- 4) Payment of \$1000.00 in Public Site, Open Space and Trail fees required before the City will sign the Final CSM.
- 5) Applicant to sign before the City of New Berlin will sign the final CSM.

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

Heather Griggs - 1505 S. Arcadian Dr. NW 1/4 Sec. 1 - Preliminary Land Division

Motion by Alderman Kaminski to recommend to Council denial of the request by Heather Griggs for a preliminary land division located at 1505 S. Arcadian, NW ¼ Sec. 1 based on the following:

- 1) This land division does not fit in with the fabric of the neighborhood.
- 2) The land division would create two lots; Lot two @ 33,260 sq. ft. would be considerably less than the average lot size of the area @ 45,068 sq. ft.; and lot one @ 20, 001 sq. ft. would be the smallest interior lot in the Arcadian Hills Subdivision.
- 3) There is no sewer lateral to the proposed lot 1.
- 4) Topography and tree coverage would limit the development of the property.
- 5) Future application will be accepted without prejudice if it includes parcel to the West. Combined application to allow for no more than three lots substantially divided equally.

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

The Preserve at Weatherstone Meadows - 4177 S. Sunnyslope Road, PUD Condominiums

Motion by Alderman Kaminski to recommend to Council approval of the PUD for The Preserve at Weatherstone Meadows for a 36-unit condominium development located at 4177 S. Sunnyslope Road subject to:

- 1) Divided entrance to be extended further west to satisfy the emergency access requirement.
- 2) Reconfiguration of buildings 30, and 11 or 12 to allow for an open space corridor required.
- 3) Southwestern pedestrian trail to connect regional trail and golf course required.
- 4) Extensive engineering concerns dealing with drainage to be addressed.
- 5) The City of New Berlin Architectural Review Committee must approve building materials and exterior architecture. Revised plans elevations and rendering required.
- 6) Landscaping plan, which addresses species, sizes and quantities of trees and shrubs required.

- 7) Sewer and water plans to be approved by all regulating authorities.
- 8) Buildings must meet all applicable building and fire codes.
- 9) Adherence to §17.1308(10) Woodland Preservation required. Tree inventory required to determine compliance.
- 10) PUD document which satisfies the conditions of per §17.0329 required.
- 11) Payment of \$1,000/building in Public Site, Open Space and Trail Fees required.
- 12) Entrance monumentation plan required.

Seconded by Alderman Wilkens.

A Public Hearing was scheduled for August 10, 1999 at 7:00 P.M.

Asia House Restaurant - 20355 W. Greenfield Avenue - Request to Remove Lands Rezoned for Restaurant Use at Southeast Corner of Johnson and Greenfield Due to Alternate Construction and Remodeling of Facility on National Avenue

Motion by Alderman Patzer to recommend to Council to rezone the property located at 20300 W. Greenfield Avenue from B-2 to R-2. Seconded by Alderman Bullermann.

A Public Hearing was schedule for August 10, 1999 at 7:05 P.M.

Jacob's Ridge Condominiums - 17720 W. Lincoln Ave. SE¼ Sec. 4 - One-lot Preliminary and Final Land Division

Motion by Alderman Kaminski to recommend to Council approval of the request by Jacob's Ridge Condominiums for a one-lot land division, preliminary and final located at 17720 W. Lincoln Avenue, SE ¼ Sec. 4 subject to:

- 1) Length and tie to wetlands required.
- 2) Wetland Preservation Restrictions to be labeled on the face of the CSM.
- 3) Payment of \$1000.00 in Public Site, Open Space and Trail fees required before the City will sign the Final CSM.
- 4) Applicant to sign before the City of New Berlin will sign the final CSM.

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

BOARD OF PUBLIC WORKS

Alderman Wysocki reported from the meeting held on July 7, 1999:

Purchase of Backhoe for Streets Division

Motion by Alderman Wysocki to recommend to Council a transfer of funds in the amount of \$20,000 from Account 616 (Contingency) to Account 562.810 (New Equipment) to purchase a used back hoe, trailer, and attachments. Seconded by Alderman Patzer.

Motion by Alderman Patzer to end debate. Seconded by Alderman Bullermann and carried unanimously.

Upon voting on the original motion, the motion carried unanimously.

Motion by Alderman Wysocki to recommend to Council that the subsequent proceeds from the sale of five (5) trucks be applied to the remaining sale price not to exceed \$60,325, and to direct the DPW or Streets Superintendent to negotiate with the best price for the equipment. Seconded by Alderman Bullermann.

Motion by Alderman Bullermann to end debate. Seconded by Alderman Patzer and carried unanimously.

Upon voting, the motion carried unanimously.

Greenfield Avenue Maintenance Agreement with Brookfield

Motion by Alderman Wysocki to recommend to Council to authorize the City Attorney and the DPW to negotiate a contract with the City of Brookfield, wherein the City of Brookfield agrees to maintain Greenfield Avenue (STH 59). Seconded by Alderman Patzer and carried unanimously.

Westridge Marcus Development Agreement

Motion by Alderman Wysocki to recommend to Council approval of the Westridge Marcus Development Agreement as prepared by the City Attorney, subject to review by the Director of Planning. Seconded by Alderman Patzer and carried unanimously.

UTILITY COMMITTEE

Alderman Bullermann reported from the meeting held on July 6, 1999:

Award of Contract for Sewer System Evaluation Survey

Motion by Alderman Bullermann to recommend to Council hiring of R.A. Smith and Associates, Inc. of Brookfield, Wisconsin, for our limited sewer system evaluation survey in the amount of \$499,365.00 plus 15% for work scope adjustment, early rehab project design and bidding services, and contingencies. Funds to come from Account No. 831-04, in the approved budget. Seconded by Alderman Patzer.

Motion by Alderman Patzer to allow Mark Maderer of RA Smith and Kevin Ahern of ADS Environmental to address the Council. Seconded by Alderman Bullermann and carried unanimously.

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

MAYORAL APPOINTMENTS/None

ACTION ON PUBLIC HEARINGS

Applewood Senior Homes Addition - 2900 South 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 and carried with Alderman Wysocki voting "no" and Alderman Patzer voting present.

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.

Motion by Alderman Wysocki to refer this item to the Plan Commission. Seconded by Alderman Kaminski and carried unanimously.

SAFETY COMMISSION - No Report

CUSTOMER SERVICE COMMITTEE

Automated Citizens Information System

Motion by Alderman Wilkens to recommend to Council a transfer of funds in the amount of \$25,000 from Account No. 616 Contingency to Account No. 501.810 New Equipment, and to purchase the Automated Citizens Information System (ACIS) from Tele-Works in the amount of \$25,000. Seconded by Alderman Chiovero. Upon voting, the motion failed with Aldermen Wilkens and Chiovero voting "yes".

City Campus Open House Budget

Motion by Alderman Wilkens to recommend to Council a transfer of funds from Account No. 616 Contingency to Account No. 501-336 Promotions/Relations in the amount of \$8,000 for the Open House and Logo Shop, and that the original \$5,000 for the Logo Shop merchandise be repaid to the General Funds as profits permit. Seconded by Alderman Chiovero and carried with Aldermen Wysocki and Patzer voting "no".

REFERRALS, DEFERRALS, AND TABLED ITEMS

1. Fire Department Contract - TABLED 6-22-99 - No Report

2. PageNet Lease Agreement - TABLED 6-22-99

Motion by Alderman Wysocki to remove this item from the table. Seconded by Alderman Bullermann and carried unanimously.

Motion on the Floor: 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 refer this item to the Plan Commission. Seconded by Alderman Patzer and carried unanimously.

COMMITTEE OF THE WHOLE (Items from Consent Agenda)

Motion by Alderman Wilkens to recommend to Council to approve the following items from the consent agenda. Seconded by Alderman Bullermann 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 \$294,186.52. Of that amount \$249,770.95 represents payment to MMSD and the remaining amount of \$44,415.57 represents payments to vendors. Seconded by Alderman Patzer and carried unanimously.

Water Claims

Motion by Alderman Patzer to recommend to Council approval of the payment of Water Utility Claims in the amount of \$202,675.14, all of which represents payments to vendors. Seconded by Alderman Kaminski and carried unanimously.

LICENSES

Bartender's Licenses

Motion by Alderman Wysocki to recommend to Council approval of the Bartender's Licenses for the year 1998/2000 to Kari L. Anderson, Michael A. Ausprung, Angela M. Clementi, Nicole M. Feist, Sandra A. Jeske, William G. Lindemann, Patti L. Paoletti, Heidi N. Reise, Rochell A. Ryan, Eileen A. Schultz, and David J. Zamzow. Seconded by Alderman Patzer and carried unanimously.

MISCELLANEOUS

Humane Animal Welfare Society (HAWS) Contract

Motion by Alderman Bullermann to recommend to Council approval of the Humane Animal Welfare Society (HAWS) Contract for the period of July 1, 1999 to June 30, 2000. Seconded by Alderman Wysocki and carried unanimously.

Contact for Y2K Questions

Motion by Alderman Patzer to recommend to appoint City Clerk Bill Bowers as the "point person" in answering questions about the City's Y2K efforts. Seconded by Alderman Bullermann and carried unanimously.

Public Safety Building Emergency Generator

Motion by Alderman Bullermann to recommend to Council that Magaw Electric be selected to install the Public Safety Building Emergency Generator in an amount not to exceed \$39,361, with funds to come from the Public Safety Building account. Seconded by Alderman Patzer and carried unanimously.

Public Safety Building Remaining Electrical Wiring

Motion by Alderman Patzer to recommend to Council that Advanced Technology Electrical Contractors be selected to install the Public Safety Building remaining electrical wiring in an amount not to exceed \$27,975.00, with funds to come from the Public Safety Building account. Seconded by Alderman Wysocki and carried unanimously.

FINANCE

Claims

From June 25, 1999:

Motion by Alderman Patzer to recommend to Council approval of the bi-weekly claims in the amount of \$192,680.39, all of which represents payments to vendors. Seconded by Alderman Bullermann and carried unanimously.

For July 14, 1999:

Motion by Alderman Wysocki to recommend to Council approval of the bi-weekly claims in the amount of \$946,302.20, all of which represents payments to vendors. Seconded by Alderman Patzer and carried unanimously.

MISCELLANEOUS

Insurance Requirements for Fireworks

Motion by Alderman Wysocki to recommend to Council that the Liability Insurance requirements for Fireworks be increased from One Million Dollars (\$1,000,000) to Two million Dollars (\$2,000,000). Seconded by Alderman Bullermann and carried with Alderman Patzer voting "no".

Building Maintenance Staffing

Motion by Alderman Wilkens to recommend to Council to create and fill the position of Building Maintenance Technician effective August 1, 1999. Seconded by Alderman Kaminski and carried with Alderman Wysocki voting "no".

RESOLUTIONS AND ORDINANCES

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" (3rd Reading)

City Clerk Bowers gave the third and final reading of Ordinance No. 2076.

Motion by Alderman Patzer to recommend to Council approval and adoption of Ordinance No. 2076. Seconded by Alderman Wilkens and carried unanimously.

Ordinance No. 2077 "An Ordinance to Create Section 12.03(1)(b) of the Municipal Code of the City of New Berlin Relating to the Sale of Fermented Malt Beverages in Public Parks (1st Reading)

City Clerk Bowers gave the first reading of Ordinance No. 2077.

Motion by Alderman Bullermann to waive the second and third readings of Ordinance No. 2077. Seconded by Alderman Patzer and carried unanimously.

Motion by Alderman Bullermann to recommend to Council approval and adoption of Ordinance No. 2077. Seconded by Alderman Patzer and carried unanimously.

Ordinance No. 2078 "An Ordinance Repealing Sections 3.12: 13.03 and 13.04 of the Municipal Code of the City of New Berlin Pertaining to Special Assessment Policy and Procedures and Sewer and Water Main connection Charges and Creation Section 13.03 Pertaining to Special Assessments and Connection Charges for Municipal Utilities" (1st Reading)

City Clerk Bowers gave the first reading of Ordinance No. 2078.

Resolution No. 99-35 "Transfer of Funds"

Motion by Alderman Wysocki to recommend to Council approval and adoption of Resolution No. 99-35. Seconded by Alderman Bullermann and carried with Alderman Patzer voting "no".

Council President's Report - No Report

Mayor's Report

Mayor Gatzke gave a Mayor's Report.

City Attorney's Report

City Attorney Reilly gave a City Attorney's Report.

Motion by Alderman Chiovatero to move into Closed Session. Seconded by Alderman Kaminski. 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)(c) & (g) of the Wisconsin State Statutes.

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

- Police Participation in Group Health Insurance -

- Position Classification -

(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.

- Keith Heun Claim -

- Department of Labor Claim -

Motion by Alderman Patzer to move into Open Session at 1:45a.m. Seconded by Alderman Bullermann and carried unanimously.

OPEN SESSION

Possible Action on Police Participation in Group Health Insurance

Motion by Alderman Bullermann to recommend to Council to allow Police Chief Charles Schroeder, Lieutenant Tom Struebing, Lieutenant Steve Morris, and Lieutenant Mark Perlewitz, upon their individual retirements, to participate in the City of New Berlin's group insurance plan at prevailing rates and at their own expense coupled with their prevailing percentage of accumulated sick days applicable towards premiums (single or family plan) until each employee and their spouse reach Medicare eligibility. Seconded by Alderman Patzer and carried unanimously.

Possible Action on Position Classification

Motion by Alderman Kaminski to recommend to Council authorization to reclassify the two part-time Clerical Assistant positions in the Park and Recreation Department to Clerk/Typist positions. Seconded by Alderman Wilkens and carried unanimously.

Possible Action on Keith Heun Claim

Motion by Alderman Wilkens to recommend to Council to settle the Keith Heun claim in the amount of \$6,648.41, per the recommendation of City Attorney Reilly. Seconded by Alderman Patzer and carried unanimously.

Possible Action on Department of Labor Claim

Motion by Alderman Bullermann to recommend to Council to retain the Senesczko Law Offices to represent the City in the Department of Labor Claim that currently stands in front of the City. Seconded by Alderman Wilkens and carried unanimously.

Motion by Alderman Wysocki to adjourn the meeting at 1:50 a.m. Seconded by Alderman Scheuble and carried unanimously.

William Bowers
City Clerk

WB/nh