

Minutes

Common Council

August 10, 1999

Minutes of a Regular Meeting of the Common Council of the City of New Berlin, Waukesha County, Wisconsin, held on Tuesday, August 10, 1999, at the New Berlin City Hall at 9:00 P.M.

Present were Mayor Gatzke, Aldermen Bullermann, Wysocki, Patzer, Scheuble, Wilkens, Chiovatero, and Kaminski. Also present were City Clerk Bill Bowers, Asst. City Attorney Mark Blum, City Planner Steve Hoese, Asst. City Planner Mark Lake and Police Lt. Frank Zsohar.

Clerk's Report - No Report

MINUTES

Motion by Alderman Bullermann to recommend to Council approval of the Public Hearing Minutes regarding the Impact Fee Change held on July 27, 1999. Seconded by Alderman Wysocki and carried unanimously.

Motion by Alderman Bullermann to recommend to Council approval of the Public Hearing Minutes regarding the Westbrooke Area Sewer and Water Special Assessment held on July 27, 1999. Seconded by Alderman Patzer and carried unanimously.

Motion by Alderman Kaminski to recommend to Council approval of the Minutes of the Common Council Meeting held on July 27, 1999. Seconded by Alderman Chiovatero and carried unanimously.

ACTION ON PUBLIC HEARINGS

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.

Also to direct the City Attorney to prepare the proper Ordinance.

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

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. Upon voting, the motion failed unanimously.

COMMUNICATIONS

Notice of Claim - MMT, LLP and Jerry Marek - to City Attorney

Communication from City Attorney Reilly regarding Neighbor Complaint - On File in Clerk's Office

BUSINESS:

PLAN COMMISSION RECOMMENDATIONS

Alderman Kaminski reported from the meeting held on August 2, 1999:

Indus, Inc. – 2620 S. Calhoun Rd. – Co-locate Panel Antennae On Top of Water Tower and Place at Base of Tower Two Equipment Cabinets

Motion by Alderman Kaminski to recommend to Council approval of the request by Indus, Inc. to co-locate panel antennae on top of the water tower and place at the base of the tower two equipment cabinets located at 2620 S. Calhoun Road subject to:

- 1) Applicant should make every effort to work with Ameritech and other co-locators and the City of New Berlin Water Utility Department to coordinate the collocation of the antennae array on a shared framework.
- 2) Applicant should explore the possibility of a single equipment cabinet. Approved PSI prefabricated building plans and/or manufacturer's specifications for review and approval by the Planning Department and the Architectural Control Committee of the Plan Commission. Building to match existing structure.
- 3) All structural Plans to be stamped by a Wisconsin registered architect and/or engineer.

4) Landscape/ Screening Plan with plant key and plant specifications to be reviewed and approved by the Planning Department prior to installation. . This must be submitted by August 15, 1999.

5) Review and approval of the City of New Berlin – Water Utility required.

6) Antenna arrays require a 3' access tub extension, certification by a structural engineer approved by the City of New Berlin – Water utility required.

7) Approved lease required to be on file prior to any building permits being granted.

Seconded by Alderman Patzer and carried unanimously.

Indus, Inc. – 20605 W. National Ave. – Attach Indus Panel Antennae to Existing Guy Tower and Place Two Equipment Cabinets at Base

Motion by Alderman Kaminski to recommend to Council approval of the request by Indus, Inc. to attach Indus panel antennae to the existing guy tower and place two equipment cabinets at the base located at 20605 W. National Avenue subject to:

1) Applicant should explore the possibility of a single equipment cabinet. Applicant should make every effort to work with Sprint Telecom Venture and PCS Primeco, Inc. to coordinate the co-location of the equipment within shared shelter.

2) Approved PSI prefabricated building plans and/or manufacturer's specifications for review and approval by the Planning Department and the Architectural Control Committee of the Plan Commission. Building to match existing structure.

3) All structural Plans to be stamped by a Wisconsin registered architect and/or engineer.

4) Landscape/ Screening Plan with plant key, sizes and specifications to be reviewed and approved by the Planning Department prior to installation.

5) Review and approval of the City of New Berlin – Water Utility required prior to Building Permit being issued.

6) Approved lease required to be on file prior to any building permits being granted.

Seconded by Alderman Patzer and carried unanimously.

Indus, Inc. – 19885 National Ave. – Co-locate Indus' Panel Antennae on New 180' Tower and Place Two Equipment Cabinets at Base of Tower

Motion by Alderman Kaminski to recommend to Council approval of the request by Indus, Inc. to co-locate Indus' panel antennae on the new 180' tower and place two equipment cabinets at the base of the tower located at 19885 National Avenue subject to:

1) Applicant should explore the possibility of a single equipment cabinet, and make every effort to work with Waukesha County Department of Administration and the City of New Berlin Fire Department to coordinate the co-location of all equipment within a shared shelter.

2) Approved PSI prefabricated building plans and/or manufacturer's specifications for review and approval by the Planning Department and the Architectural Control Committee of the Plan Commission. Building to match existing structure at this site.

3) All structural plans to be stamped by a Wisconsin registered architect and/or engineer.

4) Landscape/ Screening Plan with plant key, sizes and specifications to be reviewed and approved by the Planning Department prior to installation.

5) Review and approval of the City of New Berlin Facilities Manager and Fire Department required.

6) Approved lease required to be on file prior to any building permits being granted.

Seconded by Alderman Patzer and carried unanimously.

North Shore Bank – 3055 S. 128th Street – Expansion of Parking Lot

Motion by Alderman Bullermann to recommend to Council denial of the request by North Shore Bank for expansion of their parking lot located at 3055 S. 128th Street for the following reason:

1) Car dealership is not a principle use of the bank, therefore parking lot is not needed.

Seconded by Alderman Patzer and carried unanimously.

Jacobs Ridge Condos – 17720 W. Lincoln Ave. – SE ¼ Sec. 4 – Four Lot Preliminary Land Division

Motion by Alderman Kaminski to recommend to Council approval of the request by Jacobs Ridge Condos for a preliminary four-lot land division located at 17720 W. Lincoln Avenue (SE ¼ Sec. 4) subject to:

1) Length and tie to wetlands and Primary Environmental Corridor required.

2) Bike and Pedestrian Access Easement and trail, per the City of New Berlin Park and Open Space Plan, to be located and built near the western property lines of lots 3 & 4.

3) Wetland Preservation Restrictions to be labeled on the face of the CSM.

4) Applicant to sign before the City of New Berlin will sign the final CSM.

5) Grading, road, and utility plans to be submitted to and approved by Engineering Department prior to final approval.

6) Developer's Agreement to be approved by Board of Public Works and Common Council prior to Final Land Division approval.

7) Construction of and acceptance of Ridgeway Drive required prior to Final Land Division approval.

8) Payment of \$3000.00 in Public Site, Open Space and Trail fees required before the City will sign the Final CSM.

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

William Rahfaldt – 2695 S. Johnson Road – SE¼ Sec. 7 – One-Lot Preliminary Land Division

Motion by Alderman Kaminski to recommend to Council denial without prejudice the request by William Rahfaldt for a one-lot preliminary land division located at 2695 S. Johnson Road (SE ¼ Sec. 7) based on the following:

1) No information has been submitted which would show that there is enough developable land for a land division. Information which would be required includes, but is not limited to submittal of the following:

- a. Proof of perc.
- b. Ultimate development plan.
- c. Field delineation of wetlands and primary environmental corridor.
- d. Topographic map showing 100-year recurring interval floodplain.

2) Waive fees for future development.

Seconded by Alderman Bullermann and carried unanimously.

Carmen Roman Gumieny – 21951 W. Lawnsdale Road – NW ¼ Sec. 30 – One-Lot Preliminary Land Division

Motion by Alderman Kaminski to recommend to Council preliminary approval of the request by Carmen Roman Gumieny for a one-lot land division located at 21951 W. Lawnsdale Road (NW ¼ Sec. 30) subject to:

1) Waukesha County Access Permit required.

2) 50' right-of-way of Lawnsdale Road to be "dedicated for public road purposes." ROW to be dedicated on both sides of Lawnsdale Road (100' ultimate ROW). Remnant parcel (outlot on the north side of Lawnsdale Road) to be joined with property to the north, Tax Key # 1227.998.002.

3) 30' drainage easement required. Location to be determined by City Engineer.

4) Principle dwelling on lot 1 (future) to be located a minimum of 50' from pond.

5) Payment of \$1000.00 in Public Site, Open Space and Trail fees required before the City will sign the Final CSM.

Seconded by Alderman Patzer and carried unanimously.

BOARD OF PUBLIC WORKS

Alderman Wysocki reported from the Meeting held on August 4, 1999:

Kruzela Communication

Alderman Wysocki updated the Council regarding the Kruzela property ditch work.

Motion by Alderman Wysocki to drop this item from the agenda. Seconded by Alderman Patzer and carried unanimously.

1999 Annual Resurfacing Contract - Award of Contract

Motion by Alderman Wysocki to recommend to Council the award of Contract R-5-99, Pulverizing and Street Rehabilitation in the amount of \$489,396.31 to the apparent low bidder Payne and Dolan, with an additional 5% for contingencies for a total cost of \$513,866.13. Funds to come from Engineering Accounts 511-820.00 and 511-820.01 and Water Utility Account 83104. Seconded by Alderman Patzer and carried unanimously.

Update on Sale of Surplus Vehicles

Motion by Alderman Wysocki to recommend to Council to approve a transfer of funds in an amount not to exceed \$15,000 from Account 616 (Contingency) to Account 562.810 (New Equipment - Streets) for the purpose of completing payment of the backhoe purchase, and to direct the City Clerk to prepare the proper Resolution. Seconded by Alderman Chiovatero and carried with Alderman Patzer voting "no".

Goals Referred from Common Council (Monitor Development)

Motion by Alderman Wysocki to recommend to Council to refer these items (1: Monitor developments to assure they will be completed as promised, and 2: Clarify and set standards for the City of New Berlin Engineering Division regarding their responsibility for the grading improvements performed by the developer on private property) to the Ad Hoc Committee to Review Developer Plans Process. Seconded by Alderman Kaminski and carried unanimously.

UTILITY COMMITTEE - No Report

MAYORAL APPOINTMENTS - No Report

SAFETY COMMISSION - No Report

REFERRALS, DEFERRALS, AND TABLED ITEMS

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

COMMITTEE OF THE WHOLE (Items from Consent Agenda)

Motion by Alderman Wysocki 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 Wysocki to recommend to Council approval of payment of Sewer Utility Claims in the amount of \$38,816.73, all of which represents payments to vendors. Seconded by Alderman Wilkens and carried unanimously.

Water Claims

Motion by Alderman Chiovatero to recommend to Council approval of the payment of Water Utility Claims in the amount of \$162,704.49, all of which represents payments to vendors. Seconded by Alderman Kaminski and carried unanimously.

LICENSES

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 Ave., on Saturday, August 28, 1999 from 1:00 p.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 Patzer and carried unanimously.

Bartender's Licenses

Motion by Alderman Patzer to recommend to Council denial of the Bartender's License for the year 1998/2000 to Jeremy E. Quandt. Seconded by Alderman Bullermann and carried unanimously.

Motion by Alderman Wysocki to recommend to Council approval of the Bartender's Licenses for the year 1998/2000 to Carol L. Kuhr, and Jennifer L. Schultz. Seconded by Alderman Patzer and carried unanimously.

MISCELLANEOUS

Ordinance No. 2080 "An Ordinance to Repeal and Recreate Section 3.10(1) of the Municipal Code of the City of New Berlin Relating to Delinquent Personal Property Taxes"

Motion by Alderman Wilkens to recommend Ordinance No. 2080 to Council. Seconded by Alderman Wysocki and carried unanimously.

Offer to Purchase FEMA Flood Damaged Home

Motion by Alderman Patzer to recommend to Council to accept the offer to purchase the property at 1801 S. Canary Lane, in an amount not to exceed \$100,000. Seconded by Alderman Bullermann and carried unanimously.

Resolution No. 99-39 "A Resolution Regarding Flood Control Planning for the Menomonee River Watershed"

Motion by Alderman Patzer to recommend Resolution No. 99-39 to Council. Seconded by Alderman Bullermann and carried unanimously.

Purchase in Installation of Glycol Pavement Heating System at Public Safety Building

Motion by Alderman Wysocki to recommend to Council that Downey/Luterbach Construction be issued the contract for the purchase and installation of the glycol pavement heating system at the Public Safety Building in the amount of \$17,849. Seconded by Alderman Bullermann and carried unanimously.

Purchase and Installation of Monopole Radio Tower at Public Safety Building

Motion by Alderman Patzer to recommend to Council that PiROD Inc. be issued the contract for the purchase and installation of the radio tower at the Public Safety Building in the amount of \$22,625. Seconded by Alderman Bullermann and carried unanimously.

Purchase and Installation of Architectural Railings at Public Safety Building

Motion by Alderman Kaminski to recommend to Council that Badger Railing be issued the contract for the purchase and installation of the railings at the Public Safety Building in the amount of \$25,900. Seconded by Alderman Wilkens and carried unanimously.

FINANCE

Claims

Motion by Alderman Kaminski to recommend to Council approval of the bi-weekly claims in the amount of \$1,273,546.22, all of which represents payments to vendors. Seconded by Alderman Chiovaturo and carried unanimously.

MISCELLANEOUS

Council Information Packets for Residents

Motion by Alderman Patzer to recommend to Council that two (2) sets of the information provided to Council for the Committee of the Whole and Common Council meetings be created and be on file in the Office of the City Clerk and the Library for review by residents. Photocopies of the information is available at the normal rate charged for copies, and a CD can be purchased with the information for \$5.00. Seconded by Alderman Bullermann.

Consensus to direct the City Clerk to identify costs of a coin-operated copy machine for public use at City Hall.

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

Fees for Bowhunting

Motion by Alderman Patzer to recommend to Council that the fee for bowhunting covered under Section 9.01(6)(b)(iii) be \$10 for both residents and non-residents. Seconded by Alderman Kaminski and carried unanimously.

RESOLUTIONS AND ORDINANCES

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 Create Section 13.03 Pertaining to Special Assessments and Connection Charges for Municipal Utilities" (3rd Reading)

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

Motion by Alderman Bullermann to recommend to Council approval and adoption of Ordinance No. 2078. Seconded by Alderman Wysocki and carried with Aldermen Scheuble and Wilkens voting "no".

Ordinance No. 2080 "An Ordinance to Repeal and Recreate Section 3.10(1) of the Municipal Code of the City of New Berlin Relating to Delinquent Personal Property Taxes" (1st Reading)

City Clerk Bowers gave the first reading of Ordinance No. 2080.

Motion by Alderman Wilkens to waive the second and third readings of Ordinance No. 2080. Seconded by Alderman Chiovatero and carried with Alderman Scheuble voting "no".

Motion by Alderman Wilkens to recommend to Council approval and adoption of Ordinance No. 2080. Seconded by Alderman Kaminski and carried unanimously.

Ordinance No. 2081 "An Ordinance to Rezone the Property at 17720 West Lincoln Avenue"

City Clerk Bowers gave the only necessary reading of Ordinance No. 2081.

Motion by Alderman Kaminski to recommend to Council approval and adoption of Ordinance No. 2081. Seconded by Alderman Wilkens and carried with Alderman Scheuble voting "no".

Ordinance No. 2082 "An Ordinance to Rezone the Property at 13327 West Greenfield Avenue"

City Clerk Bowers gave the only necessary reading of Ordinance No. 2082.

Motion by Alderman Patzer to recommend to Council approval and adoption of Ordinance No. 2082. Seconded by Alderman Bullermann and carried unanimously.

Ordinance No. 2083 "An Ordinance to Rezone the Property at 17165 West Glendale Drive"

City Clerk Bowers gave the only necessary reading of Ordinance No. 2083.

Motion by Alderman Kaminski to recommend to Council approval and adoption of Ordinance No. 2083. Seconded by Alderman Wilkens and carried unanimously.

Ordinance No. 2084 "An Ordinance to Rezone the Property at 13900 West National Avenue"

City Clerk Bowers gave the only necessary reading of Ordinance No. 2084.

Motion by Alderman Bullermann to recommend to Council approval and adoption of Ordinance No. 2084. Seconded by Alderman Patzer and carried with Aldermen Wysocki and Scheuble voting "no".

Ordinance No. 2085 "An Ordinance to Rezone the Property at 5900 South Moorland Road"

City Clerk Bowers gave the only necessary reading of Ordinance No. 2085.

Motion by Alderman Kaminski to recommend to Council approval and adoption of Ordinance No. 2085. Seconded by Alderman Wilkens and carried unanimously.

Resolution No. 99-39 "A Resolution Regarding Flood Control Planning for the Menomonee River Watershed"

Motion by Alderman Bullermann to recommend to Council approval and adoption of Resolution No. 99-39. Seconded by Alderman Patzer and carried unanimously.

Legislative Report

Alderman Wysocki gave a Legislative Report.

Council President's Report

Alderman Wilkens 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 Wysocki to move into Closed Session at 10:15 p.m. Seconded by Alderman Bullermann. 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.

- Hotel and Conference Center Financing -

(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.

- Fire Station #2 Concrete Work -

- MMT Claim -

- Earl Leigeb Claim -

Motion by Alderman Bullermann to move into Open Session at 10:35 a.m. Seconded by Alderman Patzer and carried unanimously.

OPEN SESSION

Possible Action on MMT Claim

Motion by Alderman Wysocki to recommend to Council to deny the MMT, LLP and Jerry Marek Claim, per the recommendation of City Attorney Paul Reilly. Seconded by Alderman Bullermann and carried unanimously.

Motion by Alderman Patzer to adjourn the meeting at 10:37 a.m. Seconded by Alderman Wysocki and carried unanimously.

William Bowers
City Clerk

WB/nh