

COMMON COUNCIL MEETING
Tuesday, April 13, 2004

Please note: Minutes are unofficial until approved by the Common Council at the next regularly scheduled meeting.

Minutes of a Regular Meeting of the Common Council of the City of New Berlin, Waukesha County, Wisconsin, held on Tuesday, April 13, 2004 at the New Berlin City Hall at 7:25 P.M.

This meeting was noticed on April 8, 2004 in accordance with Open Meeting law.

ROLL CALL Mayor Wysocki, Aldermen Bullermann, Augustine, Gallagher, Harenda, Wilkens, Chiovatero and Ament. Also present: City Attorney Mark Blum, City Clerk Marilyn Gauger, Deputy City Clerk Rachel Eisert, Director of Utilities and Streets Ray Grzys, Community Development Director Greg Kessler, City Engineer JP Walker, Planning Services Manager David Haines, Director of Human Resources Tami Potkay, Human Resources/Safety Administrator Pat Hermann and Director of Parks, Recreation and Forestry Mark Schroeder.

REPORTS

City Clerk – Thank you to Deputy City Clerk Rachel Eisert and Election Clerk Sherri Schulpus for all the work they did to make sure the Election was set up properly and ran smoothly. Thank you to the many poll workers who get up very early and work round the clock and bring back the results to City Hall. Thank you to Pat and John from the Streets Department that make sure everything is delivered on time and working properly. Thank you to the New Berlin School District maintenance staff at Glen Park, New Berlin Center and Eisenhower Schools that make sure the set ups are done timely and thank you to Deb Delikat and Bill Dunn from the Fire Department that make sure the Fire Station doors are open for the poll workers.

Earth Day Festival is Saturday, April 24, 2004 from 12:00 PM to 3:00 PM at Calhoun Park. Free of charge. Rain Date is Sunday, April 24, 2004.

Council President – Alderman Bullermann indicated this is his last regular meeting (he was elected County Supervisor for the 29th District) and invited all residents to next week's ceremony to swear in the new Aldermen.

Mayor - none
City Attorney - none

COMMUNICATIONS/None

COMMITTEE, COMMISSION AND BOARD RECOMMENDATIONS

PLAN COMMISSION

Ordinance No. 2232 to rezone from Rm-1 Multi-Family Residential District to O-3 Transitional Office District for property located 14775 W National Avenue

Motion by Alderman Ament to adopt Ordinance No. 2232 to rezone from Rm-1 Multi-Family Residential District to O-3 Transitional Office District for property located 14775 W National Avenue and accept Plan Commission report. Seconded by Alderman Gallagher and carried unanimously.

Set a Public Hearing before Plan Commission for Monday, May 3, 2004 at 6:00 PM

Motion by Alderman Ament to set a Public Hearing before Plan Commission for Monday, May 3, 2004 at 6:00 PM to rezone property located at 1580 S Springdale Road. Seconded by Alderman Augustine and carried unanimously.

Set a Public Hearing before Plan Commission on Monday, May 3, 2004 at 6:09 PM

Motion by Alderman Ament to set a Public Hearing before Plan Commission on Monday, May 3, 2004 at 6:09 PM to consider Chapter 235 Amendment. Seconded by Alderman Gallagher and carried unanimously.

Authorize the Department of Community Development to establish consultant cost recovery fees for development applications

Motion by Alderman Ament to authorize the Department of Community Development to establish consultant cost recovery fees for development applications. Seconded by Alderman Bullermann and carried unanimously.

Authorize the expenditure of contingency funds in an amount not to exceed \$20,000 to hire Mr. Randall Arendt to assist the City

Motion by Alderman Ament to authorize the expenditure from the Planning Department Consultant Account #530-211 in an amount not to exceed \$20,000 to hire Mr. Randall Arendt to assist the City and accept the Plan Commission report. Seconded by Alderman Harenda and carried with Aldermen Gallagher, Wilkens and Chiovaturo voting "no".

Mayor Wysocki deviated from the agenda.

ORDINANCES/RESOLUTIONS

Ordinance No. 2233 "Ordinance To Rezone 17000 W Cleveland Avenue from C-1 to M-1"

Motion by Alderman Wilkens to adopt Ordinance No. 2233. Seconded by Alderman Bullermann and carried with Alderman Gallagher and Ament voting "no".

BOARD OF PUBLIC WORKS

Resolution No. 04-16 "A Resolution Transferring Approved Funds For Design and Real Estate Acquisition Services for the Calhoun Road Design Project"

Motion by Alderman Chiovaturo to adopt Resolution No. 04-16. Seconded by Alderman Wilkens and carried unanimously.

City Street Light Agreement with WE Energies for Night Aura street lighting to include maintenance and energy charge

Motion by Alderman Chiovaturo to approve the City Street Light Agreement with WE Energies for Night Aura street lighting to include maintenance of approximately \$28.00 per pole and energy charge of approximately \$6.38 per pole. Seconded by Alderman Wilkens.

Motion by Alderman Wilkens to table this item to give time to work on policy with Mayor Wysocki and the Director of Community Development Greg Kessler. Seconded by Alderman Chiovaturo and carried unanimously.

Developers Agreement for Rogers Glen Subdivision

Motion by Alderman Chiovaturo to approve the Developers Agreement for Rogers Glen Subdivision, which lists the responsibilities of the parties in the Development. Seconded by Alderman Wilkens and carried unanimously.

LIBRARY BOARD

Resolution No. 04- 22 "A Resolution To Approve Joint Underground Utility Distribution Easement with WEPCO and Time Warner"

Motion by Alderman Wilkens to adopt Resolution No. 04- 22. Seconded by Alderman Harenda and carried unanimously.

CIVIL SERVICE COMMISSION

Motion by Alderman Gallagher to approve the Request For Proposal for Civil Service Code Review from Carlson Dettmann Consulting not to exceed \$7,500.00 from Contingency Account 616. Seconded by Alderman Ament and carried with Alderman Wilkens and Chiovaturo voting "no".

STORMWATER COMMITTEE

Award of Contract A for the construction of the Gatewood Subdivision Drainage Improvements

Motion by Alderman Bullermann to award Contract A for the construction of the Gatewood Subdivision Drainage Improvements to the lowest responsive, responsible bidder, Underground Pipeline, Inc in the amount of \$511,531.60 with contingencies totaling \$107,650.50 for a total project cost of \$619,181.60 with source of funds Storm Water Utility CIP Account #4-252-645. Seconded by Alderman Augustine and carried unanimously.

Award of Contract B for the construction of the Gatewood Subdivision Drainage Improvements

Motion by Alderman Bullermann to award Contract B for the construction of the Gatewood Subdivision Drainage Improvements to the lowest responsive, responsible bidder, Underground Pipeline, Inc in the

amount of \$452,653.20 with contingencies totaling \$100,950.00 for a total project cost of \$553,603.20 with source of funds Storm Water Utility CIP Account #4-252-645. Seconded by Alderman Augustine and carried unanimously.

7 minute break taken at 9:15 p.m.

UTILITY COMMITTEE

Wastewater Utility expenditure to cover a cost differential for extending sanitary sewer from Spruce Road through property acquired by the Utility to Howard Avenue

Motion by Alderman Gallagher to approve the Wastewater Utility expenditure of \$35,285.00 to cover a cost differential for extending sanitary sewer from Spruce Road through property acquired by the Utility to Howard Avenue with source of funds from Acct #343 that is funded through Impact Fees. Seconded by Alderman Harenda and carried with Alderman Ament voting "no".

MAYORAL APPOINTMENTS

Community Development Authority

Motion by Alderman Bullermann to approve the appointments of Alderman Augustine and Alderman Harenda to the Community Development Authority with the term expiring April 2005, and Danielle Cast with the term expiring 5/31/2008. Seconded by Alderman Augustine and carried unanimously.

Board of Appeals

Motion by Alderman Ament to approve the re-appointment of John J Goetter to the Board of Appeals with the term expiring 4-30-2007. Seconded by Alderman Harenda and carried unanimously.

Board of Review

Motion by Alderman Ament to approve the appointment of Benjamin E Olson as Alternate No. 2 to Board of Review with a term expiring 5-31-2006 that replaces William Dreyer who resigned. Seconded by Alderman Bullermann and carried unanimously.

Plan Commission

Motion by Alderman Augustine to approve the re-appointment of Brian Teclaw to the Plan Commission with a term expiring 4-30-2007. Seconded by Alderman Bullermann and carried with Alderman Gallagher, Wilkens and Chiovatero voting "no".

Police & Fire Commission

Motion by Alderman Ament to approve the re-appointment of Irene (Renee) Lorbiecki to the Police and Fire Commission with a term expiring 4-30-2009. Seconded by Alderman Bullermann and carried unanimously.

Safety Commission

Motion by Alderman Ament to approve the re-appointment of Lynn Dahlvik to the Safety Commission with a term expiring 4-30-2006. Seconded by Alderman Chiovatero and carried unanimously.

Special Assessment Review Committee

Motion by Alderman Ament to approve the re-appointments of Dennis E Winchell & Leonard R Zurkowski to the Special Assessment Review Committee with a term expiring 4-1-2007. Seconded by Alderman Bullermann and carried unanimously.

DEFERRALS, REFERRAL & TABLED ITEMS

Civil Service Commission

Recommend to Council to band the following positions as follows: Court Manager, Utility Manager, Director of Streets and Utilities and direct the City Attorney to prepare the proper ordinance/TABLED 3-23-04

Motion by Alderman Bullermann to remove from the table. Seconded by Alderman Harenda and carried unanimously.

Motion by Alderman Bullermann to approve the banding for the position of Office Manager – Municipal Court at C-4-3, salary range 9, effective July 1, 2003. Seconded by Alderman Harenda and carried unanimously.

Motion by Alderman Bullermann to approve the banding for the position of Utility Manager at D-6-2, salary range 13, effective January 28, 2004. Seconded by Alderman Wilkens and carried unanimously.

Motion by Alderman Augustine to approve the banding for the position of Director of Utilities and Streets at D-7-1, salary range 15, effective January 28, 2004. Seconded by Alderman Bullermann and carried unanimously.

Motion by Alderman Bullermann to adopt Ordinance No. 2234 "An Ordinance Amending Section 11-5 of the Municipal Code of the City of New Berlin to Remove The Position of Office Coordinator (Courts) and To Add The Position Of Office Manager-Municipal Court and Utility Manager". Seconded by Alderman Wilkens and carried unanimously.

Motion by Alderman Bullermann to adopt Ordinance No. 2235 "An Ordinance Amending Section 11-19 (1) of the Municipal Code of the City of New Berlin To Amend The Salary Range of The Director of Utilities and Street Operations And To Establish Salary Range For the Utility Manager and Office Manager-Municipal Court". Seconded by Alderman Harenda and carried unanimously.

CONSENT AGENDA

Motion by Alderman Wilkens to approve the following items from the Consent Agenda. Seconded by Alderman Bullermann and carried unanimously.

CLAIMS

Approval of Water Utility Claims in the amount of \$49,647.12; Sewer Utility claims in the amount of \$262,656.27, of that amount \$256,764.75 represents payments to MMSD and the remaining amount of \$5,891.52 represents payment to vendors; and Bi-weekly claims in the amount of \$1,039,264.48 all of which represents payment to vendors.

LICENSES

Bartender Licenses

Approval of the Bartender Licenses for the year 2002-2004 to Rebecca M Rудity and Lori L. Koehn

Approval of amendment to the "Class B" Retailers License to include the "Parking Lot Area" for Mustang Shelly's, 18540 W. National Ave., Saturday May 1st, 2004 from 11:00am to 10:00pm and Sunday May 2nd, 2004 from 9:00am to 9:00pm.

Approval of amendment to the "Class B" Retailers License to include the "Back Lot Area" for Matty's Bar & Grille, 14460 W. College Ave., on Friday, August 20, 2004 from 3:00 PM to 1:00 AM, Saturday, August 21, 2004 from 2:00 PM to 1:00 AM, and Sunday, August 22, 2004 from 2:00 PM to 1:00 AM. (Live music on Friday from 8:00 PM to 12:00 AM, Saturday from 1:00 PM to 12:00 AM and Sunday from 1:00 PM to 11:00 PM).

MISCELLANEOUS

Approval to initiate and direct the Department of Community Development and staff to proceed with a rezoning application for the former Midwest Power site aka Johnson Sand & Gravel for a M-2 zoning classification/Alderman Harenda.

Approval to accept the dedicated easement from Poplar Creek Church for the purpose of Alternative Transportation Trail for the sum of \$1.00.

Approval of extension of the loud speaker permit issued by the Police department to Holy Apostles Congregation, 16000 W. National Ave., to have the bands play on Friday, June 25, 2004 to 10:30 pm, and Saturday, June 26, 2004 to 10:30 pm., and also allow the carnival rides to be in operation until the above times.

Approval of Resolution No. 04-21 "A Resolution Amending the 2004 Operational Budget Relating to Health Insurance and Retirement Adjustments"

Introduction of Resolution No. 04-17 "A Resolution Vacating and Discontinuing A Portion Of the Service Drive on the South Side of Cleveland Avenue from 167th Street To 245 feet West of 167th Street in the City of New Berlin"

Introduction of Resolution No. 04- 18 "A Resolution Vacating a Portion Of 166th Street in the City of New Berlin"

Introduction of Resolution No. 04-19 "A Resolution Vacating and Discontinuing A Portion Of 168th Street in the City of New Berlin"

Introduction of Resolution No. 04-20 "A Resolution Vacating and Discontinuing A Portion Of 170th Street in the City of New Berlin"

Approval of Resolution No. 04-15 "A Resolution To Amend the 2004 Parks, Recreation & Forestry Budget to Increase Revenue And Expense Accounts for the DNR Gypsy Moth Grant"

MINUTES

Motion by Alderman Chiovatero to amend the March 23, 2004 minutes under Board of Public Works to read: Motion by Alderman Chiovatero to "support" in place of "review". Seconded by Alderman Wilkens and carried with Alderman Ament voting "no".

Motion by Alderman Chiovatero to approve the March 23, 2004 minutes as amended. Seconded by Alderman Augustine and carried unanimously.

ORDINANCES/RESOLUTIONS

Ordinance No. 2227 "City of New Berlin Infiltration And Inflow Mitigation Ordinance" (3rd reading)

Motion by Alderman Gallagher to adopt Ordinance No. 2227. Seconded by Alderman Wilkens and carried unanimously.

City Clerk Gauger gave the 2nd reading of:

Ordinance No. 2229 "Ordinance to Create Section 152-1(E)(3) of the Municipal Code regarding withholding of licenses and permits due to unpaid forfeitures"

Ordinance No. 2230 "Ordinance To Revise, Amend, Supplement and Codify The Zoning Code and Subdivision Code of the City of New Berlin"

Motion by Alderman Wilkens to adopt Ordinance No. 2230. Seconded by Alderman Bullermann and carried unanimously.

Ordinance No. 2231 "Ordinance To Amend the General Ordinances of the City of New Berlin, Wisconsin"

Motion by Alderman Wilkens to adopt Ordinance No. 2231. Seconded by Alderman Harenda and carried unanimously.

City Clerk Gauger read the following:

CLOSED SESSION

The basis for the items to be discussed in Closed Session are as enumerated in Section 19.85 (1)(c) of the Wisconsin State Statutes, considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility; more specifically 2004 salary ranges and matrix for civil service/non-represented employees.

Motion by Alderman Ament to go to Closed Session at 10:00 PM. Seconded by Alderman Wilkens and carried per roll call vote.

Motion by Alderman Ament to reconvene in Open Session at 11:05 PM. Seconded by Alderman Wilkens and carried unanimously.

OPEN SESSION

Possible action on the 2004 wage structure non-represented employees

Motion by Alderman Chiovatero to adjust the 2003 salary ranges for the pay for performance program at 3% in accordance with the General Administrative; to adopt the proposed amended matrix as presented and to calculate the performance percentage of midpoints from the 2003 salary ranges all to be effective January 1, 2004. Seconded by Alderman Wilkens and carried with Alderman Gallagher voting "no".

ADJOURN

Motion by Alderman Wilkens to adjourn at 11:08 PM. Seconded by Alderman Bullermann and carried unanimously.

**Respectfully submitted as City Clerk
Marilyn Gauger**