

**CITY OF NEW BERLIN  
COMMON COUNCIL MEETING MINUTES  
TUESDAY, SEPTEMBER 28, 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, September 28, 2004 at the New Berlin City Hall at 8:02 P.M.

***This meeting was noticed on September 24, 2004 in accordance with Open Meeting law.***

**ROLL CALL** Mayor Wysocki, Aldermen Hopkins, Gallagher, Harenda, Hegeman, Chiovatero and Ament. Ald. Augustine arrived at 8:45 PM. Also present: City Attorney Mark Blum, Acting City Clerk Jean Marena, Greg Kessler, Director of Community Development, J. P. Walker, City Engineer, Nikki Jones, Associate Planner, Olofu Agbaji, Associate Planner, Ron Schildt, Division Engineer – Transportation, and Ray Grzys, Director of the Department of Utilities & Streets

**REPORTS**

**City Clerk** - None

**Council President** - None

**Mayor** - Mayor Wysocki announced Applefest will be held on Sunday, October 3<sup>rd</sup> at Historic Park in conjunction with the Fire Department's 50<sup>th</sup> anniversary. Mayor Wysocki presented a revised 2005 Budget schedule. He will present the 2005 Budget to the Committee of the Whole on September 29<sup>th</sup> and September 30<sup>th</sup>.

**City Attorney** - None

**COMMUNICATIONS**

- Letter from Robert M. Dugan regarding sewer capacity received and on file in the City Clerk's office.
- Waukesha County Budget materials from Supv. Bullermann received and on file in the City Clerk's office.
- Intent to File Claim for Lien from Sigma Development, Intent to File Claim for Lien from Payne and Dolan, Intent to File Claim for Line from Zenith Tech Inc. and Intent to File Claim for Lien from D. F. Tomasini received and referred to the City Attorney.

**COMMITTEE, COMMISSION AND BOARD RECOMMENDATIONS**

**Plan Commission**

**Resolution #04-48 that approves the Biltmore Estates Subdivision preliminary plat for the property located at 19205 W. Lawnsdale Road and accept the Plan Commission Report.**

Motion by Alderman Ament to approve Resolution #04-48 Approving the Preliminary Plat for Biltmore Estates and accept the Plan Commission Report. Seconded by Ald. Harenda. Motion by Alderman Ament to amend the Plan Commission Report at the request of Greg Kessler to add 1) e) Applicant shall add the Secondary Environmental Corridor and Isolated Natural Resource Area as identified by SEWRPC on the construction plans and Final Plat. Seconded by Alderman Harenda and carried unanimously. Motion by Alderman Harenda to amend 1. 1) d) ii) to delete asterisk after '20,000' and amend 1. 1) d) iii) to add to last sentence "under 1) d) ii)". Seconded by Alderman Ament and carried unanimously. Motion as amended carried unanimously.

**Resolution #04-49 that approves the Woodland Meadows Subdivision preliminary plat for the property located at 3335 S. Catamount Dr. and accept the Plan Commission Report.**

Motion by Alderman Ament to approve Resolution #04-49 Approving the Preliminary Plat for Woodland Meadows and accepting the Plan Commission Report. Seconded by Alderman Chiovatero and carried unanimously.

**Ordinance #2244 that approves the rezoning of property known as City of New Berlin located at 6600 S. Crowbar Road from M-2 to Q-1 and accept the Plan Commission Report.**

Motion by Alderman Ament to approve Ordinance #2244 Ordinance to Rezone 6600 S Crowbar Rd. from M-2 to Q-1. Seconded by Alderman Harenda and carried unanimously.

**Ordinance #2245 amending Chapter 275 Zoning, regarding the parking lot setback in the M-1 and M-2 Zoning Districts.**

Motion by Alderman Ament to approve Ordinance #2245 Ordinance to Revise 275-35D(4) of the Zoning Code of the City of New Berlin. Seconded by Alderman Hopkins and carried unanimously.

**Certified Survey Map for the property located at 15425 Rock Ridge Road and accept the Plan Commission Report.**

Motion by Alderman Ament to approve two-lot land division at 15425 West Rock Ridge Road and accept the Plan Commission report. Seconded by Alderman Hopkins. Discussion was held on the trigger for the need to connect the access road to Small Rd. and it was agreed in accordance with No. 6) of the Plan Commission report that the next parcel to be developed will trigger the need to connect. Motion carried unanimously.

**Certified Survey Map for the property located at 14599 W. Cleveland Avenue and accept the Plan Commission Report.**

Motion by Alderman Ament to approve two-lot land division at 14599 W. Cleveland and accept the Plan Commission report. Seconded by Alderman Hopkins and carried unanimously.

**Set a Public Hearing at the October 4, 2004, Plan Commission meeting regarding the petition to rezone the property located at 5165 S. Racine Avenue from R-1/R-2, C-1 and C-2 to R-1/R-2, C-1 and C-2.**

Motion by Alderman Ament to set Public Hearing at the October 4, 2004 Plan Commission meeting regarding the petition to rezone the property located at 5165 S Racine Avenue from R-1/R-2, C-1 and C-2 to R-1/R-2, C-1 and C-2. Seconded by Alderman Gallagher. Motion by Alderman Ament to amend hearing date to November 1, 2004. Seconded by Alderman Gallagher. Motion as amended carried unanimously.

**Board of Public Works**

**Computer TakeBack Campaign**

Motion by Alderman Chiovatero to support the Computer TakeBack Campaign. Seconded by Alderman Harenda. Aldermen Ament and Gallagher expressed concern about the program. Alderman Ament asked that our State Representative be invited to a Public Works or Council meeting to further discuss. Mayor Wysocki explained the recycling purpose of the program. Alderman Chiovatero indicated the program would provide better ways of recycling by producers. Motion failed 4-3 with Aldermen Hopkins, Harenda and Chiovatero voting 'yes'; Aldermen Gallagher, Hegeman and Ament voting 'no' and Mayor Wysocki breaking the tie with a 'no' vote

**Winter Hours of operation change for the Recycling Center**

Motion by Alderman Chiovatero to set Winter Hours of operation for the Recycling Center effective December 11, 2004 through April 2, 2005 to Saturdays only from 8:00 AM to 4:00 PM (eliminating Tuesdays). Seconded by Alderman Ament and carried unanimously.

**Citywide Streets and Decorative Lighting Policy**

Motion by Alderman Chiovatero to approve the Citywide Streets and Decorative Lighting Policy. Seconded by Alderman Hopkins. Alderman Gallagher moved to Table. Seconded by Alderman Harenda and carried unanimously.

Alderman Augustine arrived at the meeting (8:45 PM)

**Stormwater Committee**

**Rejection of all bids received September 9, 2004 for the Tess Corners Creek Pond Project and Rebid on October 21, 2004**

Motion by Alderman Harenda to reject all bids received September 9, 2004 for the Tess Corners Creek Pond Project and Rebid on October 21, 2004. Seconded by Alderman Hegeman. City Engineer J. P. Walker explained the process involved. Motion carried unanimously.

**Approval of Stormwater Operating Budget for 2005**

Motion by Alderman Harenda to approve the Stormwater Operating Budget for 2005. Seconded by Alderman Hopkins and motion carried.

**Approval of Stormwater CIP Budget for 2005**

Motion by Alderman Harenda to approve the Stormwater CIP Budget for 2005. Seconded by Alderman Gallagher and motion carried.

**Award of Contract for Preparation of a Stormwater Quality Management Plan for the New Berlin Industrial Parks to HNTB in the amount of \$121,404.00.**

Motion by Alderman Harenda to award the contract for preparation of a Stormwater Quality Management Plan for the New Berlin Industrial Parks to HNTB in the amount of \$121,404.00. Seconded by Alderman Hopkins and motion carried.

**Reallocation of Stormwater Utility funds to Inez Drive Storm Sewer Project (\$28,000 from Storm Water Utility Funds and \$100,000 from Malone Park Underground Stormwater Facility**

Motion by Alderman Harenda to approve reallocation of Stormwater Utility funds to Inez Drive Storm Sewer Project (\$28,000 from Stormwater Utility Funds and \$100,000 from Malone Park Underground Stormwater Facility. Seconded by Alderman Ament and carried unanimously.

**Utility Committee**

**Award Construction contract – Well Pumphouse #8**

Motion by Alderman Gallagher to award the building addition contract for Well Pumphouse #8 to Ray Stadler Construction, Inc. of Wauwatosa in the amount of \$88,000. Also included are legal engineering service, administration and contingencies at a cost of \$16,000. The total construction project cost is not to exceed \$104,000. Seconded by Alderman Harenda and carried unanimously.

**Approve Agreement with Aquifer Science & Technology for Engineering Service dealing with the Radium Consent Order**

Removed from agenda (Tabled by Utility Committee).

**DEFERRALS, REFERRAL & TABLED ITEMS**

**Plan Commission**

**Adopt Ordinance No. 2236 An Ordinance To Rezone Wildwood Preserve from A-2, R-1/R-2, and C-2 to A-2, R-1/R-2, R-3, and C-2. /DEFERRED 5-11-04/TABLED 5-25-04**

Motion by Alderman Harenda to remove this item from the table. Seconded by Alderman Hegeman and carried unanimously. A 3-page statement was read by Alderman Harenda. Motion by Alderman Harenda to refer to the Plan Commission for review relative to letter received from the DNR. Seconded by Alderman Ament. Comments made by Mayor Wysocki, Alderman Ament and a representative from Wimmer Bros. Motion carried 4-3, with Aldermen Hopkins, Augustine, Harenda and Ament voting 'yes' and Aldermen Gallagher, Hegeman and Chiovatero voting 'no'.

**Three (3) year extension from the date of the expiration of the first extension for Deer Creek Inn & Conference Center PUD Overlay District, Ordinance #2128, located at 1401 S. Moorland Road and accept the Plan Commission Report. /TABLED 8-24-04/TABLED 9-7-04**

No motion offered to remove from the table.

**CONSENT AGENDA**

Motion by Alderman Harenda to approve the following items on the amended consent agenda. Seconded by Alderman Chiovatero and carried unanimously.

**MINUTES**

Common Council Minutes from Meeting held on September 7, 2004

**CLAIMS**

Approval of Water Utility Claims in the amount of \$787,065.69, Sewer Utility claims in the amount of \$295,104.13, of that amount \$273,576.07 represents payments to MMSD and Bi-weekly claims in the amount of \$2,376,515.33 all of which represents payment to vendors.

**LICENSES**

**Bartender Licenses**

Request for Bartender License for the year 2004-2006 to Erin A Grober

Request for Bartender Licenses for the year 2004-2006 to Mary E Miller, Marnie E Wolf, Rebecca L Stefan, Cody D Star, Mary C Muschelewicz, Craig D Edzer, Mary F Zamaites, Aprilynn T Niemczyk, Ashley A Bvcholtz, Sam I Abraham, Christopher A Mathieu, Anthony M Jacobson, Eugene L Fischer, Melissa A Horn, Catalina N Fischer, Megan R Palmer, Judith Y Selby, James M Lenartz, Kimberly A Gartmann, Susan L. Wilson, Daniel J. Schauer, Glenn E. Arntzen, Michelle A. Herbst and Angela Farris.

#### **MISCELLANEOUS**

Request from Eisenhower High School for a Fireworks Permit for October 1, 2004 Homecoming Game  
Request from New Berlin West High School for a Fireworks Permit for October 15, 2004 Homecoming Game.

Resolution No. 04-50 – Resolution Authorizing Amendments to \$4,750,000 City of New Berlin, Wisconsin Industrial Development Revenue Bonds, Series 1998 (Southwest Metal Finishing, Inc. and S & F Limited Liability Company of Wisconsin Project) Issued on May 27, 1998

Request for approval of lease agreement to lease Engine No. 9 (formerly known as Engine 604) to the New Berlin Historical Society

#### **TABLED ITEMS**

Resolution No. 04-46 Resolution to Appoint Acting Clerk/Tabled 9-7-04

#### ***The following items were removed from the Consent Agenda***

##### **Bartender Licenses**

Motion by Alderman Hopkins to deny bartender license for Kirsten E. Schroeder due to recent violations. Seconded by Alderman Chiovaturo and carried unanimously.

##### **ORDINANCES/RESOLUTIONS**

##### **Resolution No. 04-47 A Resolution Approving Rental Housing Project of the Housing Authority of the City of Waukesha, Wisconsin (Steeple View, Inc. Project).**

Motion by Alderman Harenda to adopt Resolution No. 04-47 A Resolution Approving Rental Housing Project of the Housing Authority of the City of Waukesha, Wisconsin (Steeple View, Inc. Project). Seconded by Alderman Hopkins and carried unanimously.

##### **CLOSED SESSION**

Acting City Clerk Marendia read the following:

The basis for the items to be discussed in Closed Session are as enumerated in Section 19.85 (1) (e) and (g) of the Wisconsin State Statutes, (e) 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; more specifically Collective Bargaining Update. And, (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, more specifically Possible Lien Claim for City Center.

Motion by Alderman Ament to convene in Closed Session. Seconded by Alderman Hegeman and carried per roll call vote.

Motion by Alderman Ament to reconvene in Open Session. Seconded by Alderman Hegeman and carried unanimously.

##### **OPEN SESSION**

##### **ADJOURN**

Motion by Alderman Augustine to adjourn at 10:40 PM. Seconded by Alderman Hopkins and carried unanimously.

Respectfully submitted,

Jean K. Marendia, CMC  
Acting City Clerk

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