

**PROCEEDINGS OF THE COMMON COUNCIL MEETING  
TUESDAY, AUGUST 12, 2003**

**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, August 12, 2003 at the New Berlin City Hall at 9:00 PM.

**ROLL CALL:** Mayor Wysocki, Aldermen Bullermann, Augustine, Gallagher, Harenda, Wilkens, Chiovatero and Ament. Also present: City Attorney Mark Blum, City Clerk Marilyn Gauger, Director of Community Development Greg Kessler, Planning Services Manager David Haines, City Engineer JP Walker, and Director of Utilities & Streets Ray Grzys.

*This meeting was noticed on August 7, 2003 in accordance with Open Meetings law.*

**REPORTS**

Clerk - none

Council President - none

Mayor - Mayor Wysocki gave a Mayor's Report.

City Attorney - none

**COMMUNICATIONS**

**Notice of Summons and Complaint – Decade Land Opportunity Fund and Michael Sweet – to City Attorney**

**Notice of Claim – Thomas D. Launius – to City Attorney**

**COMMITTEE, COMMISSION AND BOARD RECOMMENDATIONS**

**PLAN COMMISSION**

**Farrell Meadows PUD, 14201 W. Farrell – Rezone from R-4, C-1, C-2 to Rd-1/PUD, C-1/PUD, C-2/Ordinance No. 2211 “Farrell Meadows Planned Unit Development District”**

Motion by Alderman Ament that based upon the recommendation of the Plan Commission at a meeting held August 4, 2003, I do hereby move that the Common Council of the City of New Berlin adopt Ordinance No. 2211 “Farrell Meadows Planned Unit Development District” and approve the rezoning of the property at 14201 W Farrell from R-4, C-1, C-2 to Rd-1/PUD, C-1/PUD and C-2 with the following conditions and that the Mayor and City Clerk be authorized to execute Ordinance No. 2211 on behalf of the City of New Berlin:

1. The Honeyager Use Approval (File #U-93-01) is amended to include development of the Farrell property. The Farrell and Honeyager properties are to be developed simultaneously.
2. A traffic impact analysis that includes the Farrell, Honeyager, and Kasian properties is to be submitted prior to Farrell, Honeyager, and Kasian Use Approvals.
3. A Developer's Agreement is required for all public improvements. The Developer's Agreement shall be approved before any construction can take place.
4. The City must accept all improvements in the Developer's Agreement before Building Permits for the condominium units will be issued.
5. One condominium plat for the entire development shall be recorded before individual Building Permits will be issued.

Seconded by Alderman Bullermann and carried unanimously.

**Badger Pattern/Wangard Partners – 2525 S. 162 St. – NE1/4 Sec. 10 – Two-Lot Final Land Division**

Motion by Alderman Ament to approve the Badger Pattern/Wangard Partners request for a Two-Lot Final Land Division, to be located at 2525 S. 162 St., subject to the application, plans on file, and the following conditions:

1. Correct all drafting errors and ambiguities as identified by staff.
2. All owners must sign prior to City signing the CSM.

Seconded by Alderman Augustine and carried unanimously.

**New Berlin City Center – 15155 W. National Avenue – SW1/4 Sec. 14 – Four Lot Land Division**

Motion by Alderman Ament to approve the New Berlin City Center request for a Four-Lot Land Division, to be located at 15155 W. National Ave., subject to the application, plans on file, and the following conditions:

1. Correct all drafting errors and ambiguities as identified by Staff.
2. Remove “TO BE” from the dedication of Main Street as a public street.
3. Outlot 1, which contains the stormwater ponds shall be owned by an association of property owners within City Center.
4. Developer’s Agreement required for public improvements and private utilities.
5. All owners must sign prior to City signing the CSM.
6. Payment of Park & Open Space Fees are required prior to the City signing the CSM.

Seconded by Alderman Harenda and carried unanimously.

**BOARD OF PUBLIC WORKS**

**Reallocation of Design Funds from Grange Avenue/Resolution No. 03-33 “A Resolution Amending a 2003 City of New Berlin CIP Account from Grange Avenue Design to Lincoln Avenue Roadway Reconstruction Project”**

Motion by Alderman Chiovatero to approve the transfer of a portion of the approved design funds from Grange Avenue Account (252-575) to the Lincoln Avenue Roadway Reconstruction Project Account (252-576), and adopt Resolution No. 03-33. Seconded by Alderman Harenda and carried unanimously.

**UTILITY COMMITTEE**

**Radium Study – Approval of Master Plan**

Motion by Alderman Gallagher to approve the final Radionuclide Rule Compliance Master Plan for the City of New Berlin Water Utility, as presented by Ruckert & Mielke. Seconded by Alderman Bullermann and carried unanimously.

**Preliminary Special Assessment Resolution – Janesville Road/Schedule Public Hearing**

Motion by Alderman Gallagher to recommend to Council to set the informational meeting/public hearing for Tuesday, September 9, 2003 at 7:01 p.m. in Council Chambers. Seconded by Alderman Ament and carried unanimously.

**Award Construction Contract for Watermain and Water Services Replacement on 170<sup>th</sup> Street Between Lincoln and Rogers Drive**

Motion by Alderman Gallagher to award the construction contract W-142 for 179<sup>th</sup> Street Watermain Replacement to the lowest responsive, responsible bidder, Globe Contractors, Inc.,

Pewaukee, WI, for \$264,530 for Project #W-142 and waive any irregularities, for a total project cost not to exceed \$331,800 from Utility A/C #343. Source of Funds: Charge to Water Utility Account #343 and funded by Working Capital and included in the approved year 2003 CIP Budgets. Seconded by Alderman Harenda and carried unanimously.

## **MAYORAL APPOINTMENTS**

### **Civil Service Commission**

Motion by Alderman Augustine to appoint Gary G. Gray to the Civil Service Commission, with an expiration date of June 30, 2006. Seconded by Alderman Bullermann and carried unanimously.

### **Fourth of July Commission**

Motion by Alderman Bullermann to reappoint James Belland to the Fourth of July Commission, with an expiration date of August 1, 2007. Seconded by Alderman Ament and carried unanimously.

### **Parks & Recreation Commission**

Motion by Alderman Ament to appoint Michael K. McAdams to the Parks & Recreation Commission, with an expiration date of April 30, 2004. Seconded by Alderman Wilkens and carried unanimously.

### **Youth Advisory Board**

Motion by Alderman Chiovatero to appoint Kristi Prokop to the Youth Advisory Board, with an expiration date of May 31, 2004. Seconded by Alderman Augustine and carried unanimously.

## **REFERRALS, DEFERRALS, & TABLED ITEMS**

**Plan Commission – Calvary Community Church – 4895 S. Calhoun Road – Rezone from A-1, C-2 to I-1, C-2/Ordinance No. 2209 “An Ordinance to Rezone Property at 4895 S. Calhoun Road from A-2 Agricultural District, C-2 Shoreland Wetland District to I-1 Institutional District, C-2 Shoreland Wetland District” – No action taken.**

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## **CONSENT AGENDA**

Motion by Alderman Ament to approve the following items from consent agenda. Seconded by Alderman Wilkens and carried unanimously.

### **Minutes**

Approval of Minutes of the Common Council Meeting held on July 22, 2003

## **UTILITY AND FINANCE**

### **Claims**

Approval of payment of Water Utility claims in the amount of \$152,226.64; Sewer Utility claims in the amount of \$163,000.92; and Bi-weekly claims in the amount of \$1,008,324.77 all of which represent payments to vendors.

## **LICENSES**

### **Bartender Licenses**

Approve the Bartender License for the year 2002-2004 to Amy E. Hoff.

Approve the Bartender License for the year 2002-2004 to Wendy L. Lanigan.

Approval of the Bartender Licenses for the year 2002-2004 to Cheryl A. Chaney-Morgan, Rebecca A. Dietsche, Donna L. Goedde, Maranda J. Ingram, Jeffrey A. Kasian, Thomas J. Kasian, Jeffrey D. Kirley, Lynn A. Kling, Nicole M. Ringsby, Barbara M. Schaich, Christine M. Seaver and Lynda N. Wollich.

**Reserve “Class B” Retailers License**

Approval of the Reserve "Class B" Fermented Malt Beverage and Intoxicating Liquor License for the year 2003-2004 to Roaring Fork LLC. d/b/a Qdoba Mexican Grill, Eric G. Wagner, Agent 15600 West National Avenue, subject to approval by the Inspection Department.

**Reserve “Class B” Retailer License Grant**

Approval of the grant application to Roaring Fork LLC. d/b/a Qdoba Mexican Grill, Eric G. Wagner, Agent, for a Reserve “Class B” Retailers License.

**Reserve “Class B” Retailer License**

Approval of the Reserve "Class B" Fermented Malt Beverage and Intoxicating Liquor License for the year 2003-2004 to The Noodle Shop, Co. – Colorado, Inc. d/b/a Noodles & Company, Wayne Kimmell, Agent 15600 West National Avenue, subject to approval by the Inspection Department.

**Reserve “Class B” Retailer License Grant**

Approval of the grant application to The Noodle Shop, Co. – Colorado, INC. d/b/a Noodles & Company, Wayne Kimmell, Agent, for a Reserve “Class B” Retailers License.

**Amendment to “Class B” Retailers Licenses**

Approval of the amendment to the “Class B” Retailers License to include the “Parking Lot Area” for approximately ten picnic tables for additional seating if needed during the week of Harley Fest for West Side Pub, 20385 W. National Ave., Monday, August 25, 2003 thru Monday September 1, 2003 from 7:00 am to 2:00 am. Any complaints from neighbors, etc. that require police response will result in immediate revocation of outdoor amendment.

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 September 20, 2003 (September 27, 2003 rain date) ending at 7:00 pm. Any complaints from neighbors, etc. that require police response will result in immediate revocation of this outdoor amendment.

**MISCELLANEOUS**

**Schedule Public Hearing Date for Intent to Levy Special Assessments for the Installation of Sanitary Sewer System to Service Areas Along Moorland Road (South of Heatherly Drive)**

Set the informational meeting/public hearing for Tuesday, September 9, 2003 at 7:00 p.m. in Council Chambers.

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**LICENSES**

**Bartender License**

Motion by Alderman Bullermann to recommend to Council denial of the Bartender License for the year 2002-2004 to Susan L. Schoenecker, based upon the record before Council and application not being completed correctly. Seconded by Alderman Wilkens and carried unanimously.

## **RESOLUTIONS AND ORDINANCES**

### **Ordinance No. 2207 “Ordinance to Amend Section 275-41(c)(16) of the Municipal Code of the City of New Berlin with Respect to Wireless Communication Facilities” (2<sup>nd</sup> Reading)**

City Clerk gave the 2<sup>nd</sup> reading of Ordinance No. 2207.

Motion by Alderman Harenda to move into Closed Session at 9:35 p.m. Seconded by Alderman Bullermann and carried unanimously.

## **CLOSED SESSION**

The basis for the items to be discussed in Closed Session are as enumerated in Section 19.85(1)(g) of the Wisconsin State Statutes.

- (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 is or likely to become involved.

- Ratification of Final Settlement Agreement – Boyd Property –

Motion by Alderman Ament to move into Open Session. Seconded by Alderman Wilkens and carried unanimously.

## **OPEN SESSION**

### **Possible Action on Ratification of Final Settlement Agreement – Boyd Property**

Motion by Alderman Wilkens to ratify the settlement agreement between the City of New Berlin and George Boyd, as presented by the City Attorney. Seconded by Alderman Harenda and carried unanimously.

## **ADJOURN**

Motion by Alderman Augustine to adjourn at 9:50 PM. Seconded by Alderman Ament and carried unanimously.

**Respectfully submitted as Deputy City Clerk  
Nancy Hoffmann**