

**PROCEEDINGS OF THE COMMON COUNCIL MEETING
TUESDAY, JULY 22, 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, July 22, 2003 at the New Berlin City Hall at 7:32 PM.

ROLL CALL: Mayor Wysocki, Aldermen Bullermann, Augustine, Gallagher, Harenda, Wilkens, Chiovero and Ament. Also present: Assistant City Attorney Thomas Schmitzer, City Clerk Marilyn Gauger, City Engineer JP Walker, Director of Utilities & Streets Ray Grzys and Associate Planner Olofu Agbaji.

This meeting was noticed on July 17, 2003 in accordance with Open Meetings law.

REPORTS

Clerk - none

Council President - none

Mayor - none

City Attorney - none

COMMUNICATIONS

Notice of Claim – Tim Kostusak

Refer to City Attorney

Communication from Dan Coakley re: Waiving of Penalty on Delinquent Taxes/Response from Director of Finance

Motion by Alderman Gallagher to deny waiving the \$77.68 late tax penalty for Daniel A Coakley, tax key #1248-047. Seconded by Alderman Chiovero and carried unanimously.

COMMITTEE, COMMISSION AND BOARD RECOMMENDATIONS

PLAN COMMISSION

Calvary Community Church – 4895 S. Calhoun Rd. – 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”

Motion by Alderman Ament to table. Seconded by Alderman Chiovero and carried unanimously.

Antonino’s Italian Ristorante – 1413 S. 170 St. – Rezone from R-5 to B-2/Schedule Public Hearing

Motion by Alderman Ament to set the public hearing at Plan Commission for Monday, August 4, 2003 at 6:00 p.m. Seconded by Alderman Gallagher and carried unanimously.

City of New Berlin – 2300 S. Sunny Slope Rd. – Rezone from I-1/C-2 to I-1/C-2 – Update Wetland Boundaries/Schedule Public Hearing

Motion by Alderman Ament to set the public hearing at Plan Commission for Monday, August 4, 2003 at 6:01 p.m. Seconded by Alderman Gallagher and carried unanimously.

STORM WATER COMMITTEE

Reallocation of 2003 Funds for Construction for the Woodshire Ditch Enclosure/Resolution No. 03-31 “A Resolution Amending the 2003 City of New Berlin Storm Water CIP Account”

Motion by Alderman Gallagher to adopt Resolution 03-31. Seconded by Alderman Bullermann and carried unanimously.

UTILITY COMMITTEE

Change Order Request No. 4 – T.V. John & Son Well 11

Motion by Alderman Gallagher to authorize change order request #4 from T.V. John & Son Inc for revising chemical feed system, additional cost to connect existing water main and to adjust (deduct) on estimated quantity of materials for fill changes at a cost of \$5,424.34. Seconded by Alderman Harenda and carried unanimously.

PARKS & RECREATION COMMISSION

Contract Award – New Berlin Hills Stream Bank Stabilization Project

Motion by Alderman Gallagher to award the contract to Henry R Marohl, Inc in the amount of \$189,417 from Account #4.252.595 for the stream bank stabilization project at New Berlin Hills. Seconded by Alderman Wilkens and carried unanimously.

Contract Award – ProHealth Care Park Phase I Construction

Motion by Alderman Gallagher to award the contract to Capitol Pavers, Inc in the amount of \$266,727 from Account #200.232 for Phase I construction of ProHealth Care Park. Seconded by Alderman Augustine and carried unanimously.

ETHICS BOARD

Amendment to Code of Ethics - Chapter 28-8/Ordinance No. 2208 “An Ordinance to Amend Section 28-8A – Ethics Code of the Municipal Code of the City of New Berlin Relating to the Inclusion of the City of New Berlin Fire Department” (1st Reading)

City Clerk Gauger gave the 1st reading.

Motion by Alderman Bullermann to waive the 2nd and 3rd reading. Seconded by Alderman Gallagher and carried unanimously.

Motion by Alderman Bullermann to adopt Ordinance No. 2208. Seconded by Alderman Ament and carried with Alderman Wilkens voting no.

REFERRALS, DEFERRALS, & TABLED ITEMS

Plan Commission - Crestview Place – 16850 & 16860 W. Observatory Road – Rezone Property from O-1 to Rd-1/PUD, B-2, and P-1 – TABLED 6-10-03

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

Motion by Alderman Ament to approve the rezone for Crestview Place, 16850 & 16860 W Observatory Road from O-1 to Rd-1PUD, B-2 and P-1 and adopt Ordinance No. 2210 with the following conditions:

1. Plan of Operation
 - a) This development shall have a maximum of 22 units (11 two- unit buildings).
2. Environmental Study - City will require documentation that there are no environmental concerns raised for this property prior to issuance of any Use Approvals.
3. Architectural Plans
 - a) Architectural Review Committee must approve exterior architecture and finalize the general architectural guidelines within the PUD document prior to final approval.
4. Site Plan - The following issues shall be resolved prior to Use Approval:
 - a) Submittal of a tree survey with the road and building layout that reflects the approved density and shows that setbacks are to building overhangs and not foundations is required during the Use, Site and Architectural approval process.
 - b) The Limits of Disturbance (LOD) boundary shall be shown on all revised site/ grading plans as required by §275-54A.
 - c) Erosion control plan needs to include silt fence along Observatory Road and National Avenue. A stoned staging area, an area for job shacks, construction parking shall be designated at the time of Use, Site and Architectural approval process.
5. Storm Water Utility
 - a) Developer will be required to meet the requirements of the City of New Berlin Storm Water Management Ordinance and MMSD Chapter 13 in its entirety at the time of Use Approval. Prior to issuance of Zoning Permit, the Storm Water Division Engineer must approve the overall storm water plan and detention pond.
 - b) Storm sewer laterals are required for duplexes to connect sump pumps.
 - c) Public drainage easement will be required to drain Observatory Road culverts and ditches.
6. Traffic
 - a) All traffic enhancements required by the Waukesha County DOT or the City of New Berlin at the time of the Use Approval shall be the responsibility of the developer.
 - b) Staff will review the commercial building for a Use Approval and each tenant in the multi-tenant building will need a separate re-occupancy permit for the Department of Community Development.
 - c) Due to proposed site layout there should be no parking on street to allow for fire vehicle movement.
7. Landscaping Plan - The following issues shall be resolved prior to Use Approval:
 - a) A landscaping plan prepared according to Section 275-54, 275-55, and 275-56. This will include a tree survey of existing trees on the property and a replacement plan.
 - b) The Limits of Disturbance (LOD) boundary shall be shown on the landscaping plan as required by §275-54A.
8. General
 - a) Preliminary building plans and all associated building materials shall be included at the time of Use, Site and Architectural approval process.
 - b) Building plans shall meet the Wisconsin Uniform Dwelling Code for 1 and 2 family residences at the time of Use, Site and Architectural approval process.
 - c) Apply and obtain appropriate building, plumbing and electrical permits at the time of Use, Site and Architectural approval process.
 - d) Site plan shows access to dumpster and parking for National Avenue commercial buildings across Trade Twins property. An access agreement will be necessary between the two property owners at the time of Use, Site and Architectural approval process.

e) Site entry garages on Buildings 2 and 6 may be difficult to maneuver. At the time of Use, Site and Architectural approval process the applicant will have to work through this on the site plan.

f) Buildings are close in some spots (25 to 20 feet), which should be enough for fire access, but the landscape plan shows trees impeding access through those already narrow areas.

Friendly amendment to revise the PUD document to allow a maximum of 10 buildings (20 units), revise density to 3.44 and revise height not to exceed 27'. The draft dated 5/5/03 will be changed accordingly.

Seconded by Alderman Bullermann and carried unanimously

CONSENT AGENDA

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

Utility and Finance

Claims

From: July 9, 2003

Approval of payment of Water Utility claims in the amount of \$259,783.89; Sewer Utility claims in the amount of \$870,283.84 of that amount \$262,001.84 represents payments to MMSD and the remainder amount of \$608,282.00 represents payments to vendors; and Bi-weekly claims in the amount of \$887,381.64 all of which represent payments to vendors.

From: July 23, 2003

Approval of payment of Water Utility claims in the amount of \$325,659.30; Sewer Utility claims in the amount of \$347,819.44; and Bi-weekly claims in the amount of \$345,648.08 all of which represent payments to vendors.

Licenses

Bartender Licenses

Issued July 9, 2003

Approval of the Bartender Licenses for the year 2002-2004 to Alison R Cefalu, Nicholas M Guida Jr., Wendy W Harbath and Joshua J Ziarek.

For July 22, 2003

Approval of the Bartender Licenses for the year 2002-2004 to Erin E Maierle, Ann M Koerner, Catherine S Brandemuehl, Roy R Blankenheim, Darren W Haack, Darren Z Almagro, Callen L Morgan, Heidel L Dallman and Roy A Bennett.

Amendment to "Class B" Retailers License

Approval of the amendment to the "Class B" Retailers License to include the "Parking Lot Area" for Mustang Shelly's, 18540 W National Avenue, Sunday, August 24, 2003 thru Monday, September 1, 2003 from 10:00 AM to 10:00 PM. *Owner must provide trained staff to direct people in and out of the parking lot, the staff must be trained and wear fluorescent safety vests (flashlight at night) and have handheld stop signs and they must be sober. Also owner must provide professional security people (at least two) on premise during event.* Any complaints

from neighbors, etc. that require police response will result in immediate revocation of outdoor amendment.

Miscellaneous

New Berlin's Annual Historic Day

Approval to close National Avenue from Barton Road west to West Side Pub on Sunday, September 8, 2003 from 11:00 AM to 5:00 PM for New Berlin's Annual Historic Day.

Minutes – June 24, 2003

Motion by Ament to approve the June 24, 2003 minutes. Seconded by Alderman Harenda and carried with Alderman Wilkens abstaining.

Licenses

Bartender Licenses

Motion by Alderman Bullermann to recommend to Council approval of the Bartender License for the year 2002-2004 to Paul C Carter. Seconded by Alderman Gallagher and carried with Aldermen Harenda, Wilkens and Chiovatero voting no.

Miscellaneous

Extension of City Attorney Contract for 2004 and 2005

Motion by Alderman Ament to recommend to Council to approve a two (2) year extension of current contract provisions for legal services provided by Hippenmeyer, Reilly, Moodie & Blum, S.C. for the City of New Berlin and approve the appointment of Attorney Mark G Blum as City Attorney for the same period. Seconded by Alderman Bullermann and carried with Alderman Gallagher abstaining.

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” (1st Reading)

City Clerk gave the 1st reading of Ordinance No. 2207.

ADJOURN

Motion by Alderman Augustine to adjourn at 8:05 PM. Seconded by Alderman Bullermann and carried unanimously.

Respectfully submitted as City Clerk

Marilyn Gauger, CMC