

**Proceedings of the Common Council Meeting
May 13, 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, May 13, 2003, at the New Berlin City Hall at 8:05 p.m.

Roll Call: Mayor Wysocki, Aldermen Bullermann, Augustine, Gallagher, Harena, Chiovero and Ament. Alderman Wilkens is excused. Also present was City Attorney Mark Blum, City Clerk Marilyn Gauger, Utility & Streets Director Ray Grzys, Community Development Director Greg Kessler, City Engineer JP Walker, Planning Services Manager David Haines, Division Engineer Eric Nitschke and Park, Recreation & Forestry Director Mark Schroeder.

Clerk's Report - None

Council President's Report

Appointments to Committees & Commissions by Alderman Bullermann for 2003:

Crime Prevention	Harena
Electrical Review	Augustine
Fire Department	Bullermann
4 th of July	Ament
Golf Course Committee	Wilkens
Housing Authority	Augustine
Landmarks Commission	Harena
Library	Wilkens
Park, Recreation & Forestry	Gallagher
Public Works	Chiovero/Ament/Harena
Safety Commission	Chiovero
School Board	Augustine
Communications Committee	Gallagher/Wilkens/Bullermann
Utility Committee	Gallagher/Ament/Harena
Stormwater Committee	Bullermann/Gallagher/Wilkens
Finance Committee	Wilkens/Augustine/Bullermann
Fire Department Adhoc	Wilkens/Harena
Leaf Burning Adhoc	Wilkens/Gallagher/Harena
City/School Board Adhoc	Chiovera/Harena

COW Liaison Appointments

Assessor	Chiovero
Building and Grounds	Wilkens
Community Development	Ament
Finance/claims/judiciary	Wilkens
Human Resource	Bullermann
Information Systems	Chiovero
Insurance	Bullermann
Legislative	Bullermann

Licenses	Chiovatero
Park, Recreation & Forestry	Gallagher
Police	Wilkins
Utilities	Ament
Youth Board	Gallagher

Appointment to Ad Hoc School Board and Council Committee

Motion by Alderman Bullermann to appoint Daniel T Lavinio to the School Board and Council Adhoc Committee. Seconded by Alderman Harenda and carried unanimously.

Mayor's Report – City of Milwaukee tabled action on the agreement for New Berlin to purchase water from the City of Milwaukee Water Utility.

City Attorney's Report - None

MISCELLANEOUS

Election of Plan Commission Council Representative

Motion by Alderman Bullermann to nominate Alderman Ament and to re-elect. Seconded by Alderman Chiovatero. Being no further nominations, motion carried unanimously.

COMMUNICATIONS

Dawn Wage re: Waiving of Penalty on Delinquent Taxes/Response from Director of Finance
Motion by Alderman Bullermann to waive the penalty and interest charges for the Estate of Viola Patzer, Tax Key #1198.975 no later than July 1, 2003. Seconded by Alderman Ament and carried with Alderman Gallagher voting no.

Betty & Clare Rhone re: Extension of Loudspeaker Permit after 10 PM

Motion by Alderman Ament to extend the Loudspeaker Permit to 11:00 p.m. Seconded by Alderman Bullermann and carried with Alderman Gallagher voting no.

PLAN COMMISSION

Hickory Hills – 14602 W Beloit Road - Rezone from I-1, R-4, C-1, C-2 to Rm-1/PUD, C-1, C-2/Schedule Public Hearing

Motion by Alderman Ament to set the public hearing before the Plan Commission for Monday, June 2, 2003 at 6:00 p.m. Seconded by Alderman Harenda and carried unanimously.

Calvary Community Church – 4895 S Calhoun Road – Rezone from A-1, C-2 to I-1, C-2/Schedule Public Hearing

Motion by Alderman Ament to set the public hearing before the Plan Commission for Monday, June 2, 2003 at 6:01 p.m. Seconded by Alderman Bullermann and carried unanimously.

Park & Open Space Plan/Resolution 03-22 “Resolution of the City of New Berlin Common Council adopting the 2020 Park and Open Space Plan for the City”

Motion by Alderman Ament to adopt Resolution 03-22. Seconded by Alderman Bullermann
Motion tied 3 to 3, upon Mayor voting yes, motion carried with Aldermen Augustine, Harenda and Ament voting no.

Lincoln Avenue & 179th Street – Filing of Relocation Order & ROW Acquisition, Water/Sewer/Road Project/Resolution 03-23 “Declaration of Public Necessity and Relocation Order of Water/Sewer/Road Project on 179th Street & Lincoln Avenue in the City of New Berlin, Waukesha County, Wisconsin”

Motion by Alderman Ament to adopt Resolution 03-23. Seconded by Alderman Gallagher and carried with Alderman Ament voting no.

Sigma Development – Approximately 15155 W National Avenue – SW1/4 Section 14, Land Division for Library Site

Motion by Alderman Ament to approve the request by Sigma Development for a three-lot land division, subject to the application, plans on file and the following conditions:

- 1) Library Lane shall be renamed “Main Street”
- 2) Documentation of the applicant’s ownership of Tesch Private Road shall be provided prior to City signing the CSM.
- 3) The existing house to the south of Lot 2 shall continue to have access through Tesch private Road until Coffee Street and Library Lane (Main Street) are constructed.
- 4) The public ROW for Library Lane (Main Street) shall end where the west corner of Lot 1 intersects the ROW. A 60’ -wide public right of access easement shall be shown instead of the ROW dedication from that location to the southern property line of Lot 2. This easement shall also provide for access to Parcel 1 of CSM 7554 (Old Kmart). (See graphic “Recommended CSM” in staff report)
- 5) The developer of Lot 2 shall construct a private road, meeting City standards, on the access easement to a point acceptable by the City.
- 6) An executed Developer’s Agreement is required for all public improvement within Library Lane (Main Street) ROW prior to development on Lots 2 & 3. The Developer’s Agreement shall address appropriate grading transitions between the ROW and Lots 1 & 3.
- 7) The exact location and width of the public utility easement in Lot 1 shall be coordinated with the Library.
- 8) All owners must sign prior to the City signing the CSM.
- 9) Payment of Park and Open Space fees are required prior to the City signing the CSM.

Seconded by Alderman Harenda.

Motion by Alderman Ament to amend the motion to revise conditions #4 and #5 to read as follows:

- 4) The public ROW for Library Lane (Main Street) shall end where the connection to Parcel 1 of CSM 7554 (Old Kmart) is made. This is approximately 212’ from the southern boundary of Lot 2. From this point there will be a 20’-wide emergency access and public pedestrian and bicycle easement extending to the southern boundary of Lot 2. See attached graphic.
- 5) The developer of Lot 2 shall construct a 12”-wide emergency access, pedestrian and bicycle path within the 20’ wide easement.

These conditions are based on the assumption that a connection to the old Kmart parcel will be constructed at City expense.

Seconded by Alderman Bullermann and carried unanimously.

Upon voting on original motion as amended, motion carried unanimously.

Resolution and Requested Action Statement for the New Berlin Industrial Park Plan/Resolution 03-21 “Authorize the City of New Berlin Community Development Authority to Prepare and Implement a Redevelopment Plan for the New Berlin, Moorland Road, and MSI/Lincoln Avenue Industrial Parks”

Motion by Alderman Ament to adopt Resolution 03-21. Seconded by Alderman Augustine and carried unanimously.

BOARD OF PUBLIC WORKS

Topographic Survey of Grange and Coffee Road/Award of Professional Services

Motion by Alderman Bullermann to re-consider the original motion to correct the contract amount. Seconded by Alderman Harenda and carried unanimously.

Motion by Alderman Bullermann, seconded by Alderman Augustine to deny the original motion that was approved at the last Council meeting that read as follows:

“Motion by Alderman Harenda to award the Professional Services Contract for the topographic surveys of Grange Avenue from Moorland Road to 124th Street and Coffee Road from National Avenue to ½ mile west of Moorland Road to the lowest, responsive, responsible bidder, Bonestroo, Rosene, Anderlik & Associates in the amount of \$34,155.00 from Acct #252-575 Grange Avenue Design and Acct #252-570 Coffee Road Design. Seconded by Alderman Augustine and carried unanimously.”

Motion by Alderman Chiovatero to award the Professional Services Contract for the topographic surveys of Grange Avenue from Moorland Road to 124th Street and Coffee Road from National Avenue to ½ mile west of Moorland Road to the lowest, responsive, responsible bidder, Bonestroo, Rosene, Anderlik & Associates for the total **corrected (includes contingency)** amount of \$39,300 from Acct #252-575 Grange Avenue Design and Acct #252-570 Coffee Road Design. Seconded by Alderman Harenda and carried unanimously.

STORM WATER COMMITTEE

Discussion and Possible Action to Approve Payment to Steffes Construction for Close Out of Calhoun Creek Streambank Stabilization Project Contract with Steffes Construction and Settlement Agreement with Steffes Construction

Action to be taken after Closed Session.

Approval of Amendment to Bonestroo for Calhoun Park Engineer Services

Motion by Alderman Bullermann to approve the Amendment to Professional Services Agreement with Bonestroo, Rosene, Anderlik and Associates, Inc for an additional fee of \$20,335.00 for a total amended project cost of \$69,749.10. Seconded by Alderman Ament and carried unanimously.

UTILITY COMMITTEE

Professional Services Agreement Flow Monitoring

Motion by Alderman Gallagher to approve a Professional Services Agreement with R.A. Smith and Associates for flow monitoring data collection and analysis to identify and quantify the I & I for Basin #9 within the sewer system, using rainfall data for a fee not to exceed \$54,700 funded by Wastewater Utility A/C #831.04. Seconded by Alderman Ament and carried unanimously.

Change Order Request – TV John and Son Inc – Well #11

Motion by Alderman Gallagher to approve project changes in the amount of \$46,509.55 (Change #2 for \$21,972.55; Change #3 for \$24,537.00) for Well #11 from TV John and Son Inc to be funded by Water Utility A/C #314 for a total revised project cost of \$461,709.55. Seconded by Alderman Bullermann and carried unanimously.

LANDMARKS COMMISSION/No Report

SAFETY COMMISSION/No Report

MAYORAL APPOINTMENTS

Plan Commission

Motion by Alderman Ament to re-appoint Brian J Felda to Plan Commission with an expiration date of 4-30-06. Seconded by Alderman Bullermann and carried unanimously.

Civil Service Commission

Motion by Alderman Bullermann to appoint Helen Uhan to Civil Service Commission with an expiration date of 6-30-04. Seconded by Alderman Ament and carried unanimously.

CONSENT AGENDA

Motion by Alderman Augustine to approve the following items from the consent agenda. Seconded by Alderman Bullermann and carried with Alderman Ament voting no.

MINUTES

Approval of Minutes of the Common Council Meetings held on April 22, 2003

UTILITY & FINANCE

Claims

For May 13, 2003:

Approval of payment of Water Utility Claims in the amount of \$193,798.10; Sewer Utility Claims in the amount of \$45,038.41; and Bi-weekly Claims in the amount of \$716,103.68, all of which represents payments to vendors.

Licenses

Approval of Bartender licenses for the year 2002-2004 to Deborah A Adlam, Mary A Bohte, Christopher J Fieweger, Roxanne M Jankowski, Debbie J Niles, Tatiana A Shvetsova, Leonard L Vasquez, Tom R Vinje and Heather L Vitale.

MISCELLANEOUS

Bartender License Fees

Approval of increase from \$35 to \$45 for a 2 year license effective July 1, 2004

DEFERRED ITEM

Adopt Resolution No. 03-16 “A Resolution Amending the 2003 City of New Berlin CIP Budget Transferring Funds to the City Center Implementation”

Approval of Resolution No. 03-16

MISCELLANEOUS

Bartender License

Motion by Alderman Gallagher to approve the Bartender License for year 2002-2004 for Debbi J Bronk. Seconded by Alderman Bullermann and carried with Alderman Chiovaturo voting no.

RESOLUTIONS AND ORDINANCES/None

CLOSED SESSION

City Clerk Gauger read the following:

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 it is or is likely to become involved.

- Willie Lawton Claim
- New Berlin Volunteer Fire Department
- Steffes Construction Claim

CLOSED SESSION

Motion by Alderman Ament to go to Closed Session at 9:30 PM. Seconded by Alderman Chiovaturo with voting as follows: Alderman Bullermann – yes; Alderman Augustine – yes; Alderman Gallagher – yes; Alderman Harenda – yes; Alderman Chiovaturo – yes; Alderman Ament – yes. Roll Call vote carried unanimously.

OPEN SESSION

Motion by Alderman Bullermann to reconvene in Open Session at 10:05 p.m. Seconded by Alderman Augustine and carried unanimously.

Possible Action on Willie Lawton Claim

Motion by Alderman Bullermann to recommend to Council to approve the Willie Lawton Claim in the amount of \$573.76 per the recommendation of City Attorney Mark Blum. Seconded by Alderman Chiovaturo and carried unanimously.

Possible Action on Settlement Agreement with Steffes Construction

Motion by Alderman Bullermann to approve the Settlement Agreement with Steffes Construction as outlined by City Attorney with an additional provision for indemnification agreement against any claims by sub-contractors or material suppliers. Seconded by Alderman Ament and carried unanimously.

ADJOURN

Motion by Alderman Augustine to adjourn the meeting at 10:07 p.m. Seconded by Alderman Harenda and carried unanimously.

Respectfully submitted as City Clerk:

Marilyn Gauger, CMC

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