

**Common Council Minutes  
December 10, 2002**

Minutes of a Regular Meeting of the Common Council of the City of New Berlin, Waukesha County, Wisconsin, held on Tuesday, December 10, 2002, at the New Berlin City Hall at 9:54 P.M.

Present were Mayor Wysocki, Aldermen Bullermann, Augustine, Gallagher, Harenda, Wilkens, Chiovatero and Ament. Also present were City Attorney Mark Blum, Deputy City Clerk Nancy Hoffmann, Director of Community Development Greg Kessler, Associate Planner David Haines, City Engineer JP Walker, Director of Streets, Parks and Recreation Mark Schroeder, Police Chief Dan Noordyk and Police Lieutenant Gary Blunt.

**Clerk's Report** - No Report

**Council President's Report**

Council President Bullermann gave a Council President's Report.

**Mayor's Report** - No Report

**City Attorney's Report** - No Report

**COMMUNICATIONS**

**Communication from PSC re: Addendum to Application of Muskego Energy** - on File in Clerk's Office, notices will be sent to residents within 1,000 ft.

**Notice of Claim and Claim - New Valley Sand & Gravel** - to City Attorney

**Notice of Claim - Matthew Sobczak** - to City Attorney

**Communication from New Berlin Public Schools re: Use of City Hall to Broadcast Board of Education Meetings**

Motion by Alderman Augustine to allow the New Berlin Public Schools to use City Hall to broadcast their Board of Education Meetings as requested for the year 2003, with the exception of May 27, 2003, and December 15, 2003, and with the understanding that City of New Berlin Meetings take precedence when conflicts occur. Seconded by Alderman Harenda and carried unanimously.

**PLAN COMMISSION**

Alderman Ament reported from the meeting held on December 2, 2002:

**Southwest Metal Finishing - City of New Berlin Department of Community Development - 16775 W. Dakota St. - Rezone from M-1/C-2 to M-1/C-2 - Survey Delineation of C-2 Conservancy Boundary**

Motion by Alderman Ament to approve the request to rezone the delineated and surveyed C-2, Wetland District boundary located at 16775 West Dakota Street, adopt this C-2

Wetland District boundary and update the Zoning Map accordingly. Seconded by Alderman Gallagher and carried unanimously.

**Tower Moratorium/Ordinance No. 2191**

Motion by Alderman Ament to recommend to Council approval of the adoption of an ordinance for a six month moratorium on new communication facilities, Ordinance No. 2191 "An Ordinance to Impose a Six Month Moratorium on New Communication Facilities". Seconded by Alderman Augustine and carried with Aldermen Bullermann, Gallagher, and Chiovatero voting "no".

**Crestview Place – 16850 & 16860 W. Observatory Rd. – Rezone Property from O-1 to B-2 and RM-1/PUD**

Motion by Alderman Ament to forward to Common Council to request a Public Hearing be set for January 6, 2003 before the Plan Commission regarding the request to rezone the property located at 16850 W. Observatory Road from O-1 to B-2 and rezone the property located at 16860 W. Observatory Road from O-1 to Rm-1/PUD. Seconded by Alderman Bullermann and carried unanimously.

**BOARD OF PUBLIC WORKS** - No Report

**STORM WATER COMMITTEE** - No Report

**UTILITY COMMITTEE** - No Report

**LANDMARKS COMMISSION** - No Report

**SAFETY COMMISSION** - No Report

**TECHNOLOGY COMMITTEE**

Alderman Bullermann reported from the meeting held on August 26, 2002:

**Refer Committee Appointments to Mayor's Office**

Motion by Alderman Bullermann to refer committee appointments to the Mayor's Office for reasons of consistency and continuity. Seconded by Alderman Harenda and carried unanimously.

**PARKS & RECREATION COMMISSION**

Alderman Gallagher reported from the meeting held on November 18, 2002:

**Establishment of Golf Course Greens Fees for 2003**

Motion by Alderman Gallagher to approve the 2003 Greens Fees for New Berlin Hills Golf Course as recommended by the Golf Course Committee. Seconded by Alderman Wilkens and carried unanimously.

**MAYORAL APPOINTMENTS**

**Community Development Authority**

Motion by Alderman Harenda to appoint Kenneth A. Harenda and Thomas Augustine to the Community Development Authority, both with expiration dates of April 30, 2004; Robert J. Dude to the Community Development Authority with an expiration date of May 31, 2007; John Fillar to the Community Development Authority with an expiration date of May 31, 2006; Douglas G. Barnes to the Community Development Authority with an expiration date of May 31, 2005; and Danielle C. Cast to the Community Development Authority with an expiration date of May 31, 2004. Seconded by Alderman Wilkens.

Friendly Amendment that the list would be as follows: Robert Dude for 4 years, John Fillar for 3 years, Doug Barnes for 2 years, and Danielle Cast for 1 year.

Upon voting, the motion carried unanimously.

### **Youth Advisory Board**

Motion by Alderman Gallagher to appoint Eric R. Schmidt to the Youth Advisory Board with an expiration date of June 30, 2003. Seconded by Alderman Bullermann and carried unanimously.

### **ACTION ON PUBLIC HEARINGS/None**

### **REFERRALS, DEFERRALS AND TABLED ITEMS**

**Board of Public Works** - Lyndenwood Condominiums (formerly Forest Ridge) Developers Agreement - TABLED 11-12-02

Motion by Alderman Ament to remove this item from the table. Seconded by Alderman Wilkens and carried unanimously.

Motion by Alderman Chiovatero to approve the Developers Agreement as amended per City Engineer, subject to final review as to form by the City Attorney. Seconded by Alderman Wilkens and carried unanimously.

### **CONSENT AGENDA**

Motion by Alderman Ament, seconded by Alderman Harenda carried unanimously to approve the following items from the consent agenda:

### **MINUTES**

Minutes of the Public Hearing held on November 12, 2002 re: Moorland Road Special Assessments

Minutes of the Common Council Meetings held on November 12, 2002

### **UTILITY & FINANCE**

#### **Claims**

From November 27, 2002:

Approve payment of Water Utility Claims in the amount of \$40,850.34; Sewer Utility Claims in the amount of \$5,346.96, and Bi-weekly Claims in the amount of \$313,707.30, all of which represents payments to vendors.

For December 11, 2002:

Approve payment of Water Utility Claims in the amount of \$74,207.03; Sewer Utility Claims in the amount of \$38,216.96, and Bi-weekly Claims in the amount of \$795,978.36, all of which represents payments to vendors.

Recommend pre-approval of claims.

### **Bartender Licenses**

Approve the Bartender Licenses for the year 2002-2004 to Richard L. Esser.

### **Rubbish Collection Licenses**

Approve the Rubbish Collection Licenses for the year 2003 to Best Disposal Inc./Curtis Christie, President; Superior of Wisconsin, Inc. An Onyx North America Company/Paul R. Jenks, President; and Waste Management/Sam Phillips, District Manager.

### **MISCELLANEOUS**

#### **Possible Action on Adoption of Library Site Purchase Agreement**

Approve the purchase agreement with Real Cap LLC for the purchase of 4.21 acres near the intersection of National Avenue and Coffee Road extended, for a total purchase price of \$842,000 subject to the terms of the agreement to the purchase of real estate which is incorporated herein.

#### **Appointment of City Clerk**

Confirm Mayor Wysocki's appointment of Marilyn Gauger to the position of City Clerk effective December 30, 2002, and provide for two weeks of paid vacation in 2003.

#### **Terms of Office and Residency Requirements for Youth Advisory Board Members**

Approval to: extend the existing terms of the Board's members to June 30, 2003, and that term expirations by June 30 of appropriate year from that point forward; require that members appointed are attending middle or high school; allow a member leaving middle or high school during his/her term to continue serving on the board until said term expires. However, said member may not be reappointed; require that members have permanent residence in the City of New Berlin (already required).

#### **Appointment of Poll Workers for 2003 and 2004**

Approve the Poll Workers per the attached list to Nancy Hoffmann's memo dated November 25, 2002, for the 2003 and 2004 Elections.

#### **Joint Powers Agreement with Muskego for 911 Emergency System/Resolution No. 02-33**

Adopt Resolution No. 02-33 "Resolution Adopting a Joint Powers Agreement for the 911 Emergency System".

#### **Joint Powers Agreement with Waukesha County for 911 Emergency System**

Approve the Joint Powers Agreement - County 911 Emergency System.

**DNR Brownfield Site Assessment Contract**

Approve the contract to hire Giles Engineering Associates, Inc., to assist the City with the 2002 Wisconsin DNR Brownfield Site assessment Grant.

**Amendment to New Berlin Community Development Authority By-Laws**

Amend Article IV of the CDA by-laws by adding the following appointment terms for the CDA commissioners:

- a) Two of the commissioners shall be members of the Council and shall serve during their term of office as Council members. The Mayor shall also serve during his/her term of office.
- b) The first appointments of the 4 non-Council members shall be for the following terms: 1 for one year and one each for terms of 2, 3, and 4 years. Thereafter the terms of non-Council members shall be 4 years and until their successors are appointed and qualified.

**Legal Expenses - Outside Legal Services/Resolution No. 02-34 "A Resolution Amending the 2002 City of New Berlin Operational Budget Transferring Funds to the City Attorney Account"**

Adopt Resolution No. 02-34, authorizing the transfer of \$15,000 from the Contingency Fund #616 to City Attorney - Outside Services - Attorney #508-212-01.

**2003 CIP Budget**

Include an amount of \$842,000 identified under Library - 2003 for the Library land site, and adopt the Capital Improvement Budget, in the amount of \$6,460,620.

Authorize the Director of Finance and Administration to sign a Declaration of Intent to borrow money for the 2003 CIP budget.

**Discussion and Possible Action to Approve Purchase Agreement for Acquisition of the Site for City Well No. 11, as well as Related Access Easements and an Option to Purchase the Site for Proposed City Well No. 12**

Approve a Purchase Agreement with Stephen Marcus and Diane Gershowitz for the acquisition of 1.0 acres for the construction of Well No. 11 as well as related access easements and an option to purchase the site of proposed Well No. 12, for a total price of \$16,200, subject to the terms of the agreement for purchase of the real estate, and also subject to receipt of acceptable plat for the siting of Utility lines which would be acceptable to staff.

**Terms of Office and Residency Requirements for Youth Advisory Board Members**

Motion by Alderman Wilkens to approve to allow a current member who relocates to a nearby community during his/her term to continue serving on the Board until said term expires, not to exceed 12 months. However, said member may not be reappointed. Seconded by Alderman Bullermann and carried with Aldermen Gallagher and Ament voting "no".

**Legal Expenses - Labor Attorney - Employment Matters/Resolution No. 02-35 “A Resolution Amending the 2002 City of New Berlin Operational Budget Transferring Funds to the Labor Attorney Account”**

Motion by Alderman Ament to adopt Resolution No. 02-35, authorizing the transfer of \$125,000 from the Contingency Fund #616 to Human Resources - Labor Attorney #504-213. Seconded by Alderman Harenda and carried with Alderman Chiovatero voting “no”.

**RESOLUTIONS AND ORDINANCES**

**Resolution No. 02-32 “A Resolution Amending the 2002 City of New Berlin Operational Budget Relating to Wage and Benefit Adjustments”**

Motion by Alderman Bullermann to adopt Resolution No. 02-32. Seconded by Alderman Chiovatero and carried with Alderman Gallagher voting “no”.

Motion by Alderman Ament to adjourn the meeting at 11:00 p.m. Seconded by Alderman Bullermann and carried unanimously.

**Nancy Hoffmann  
Deputy City Clerk**

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