

**Common Council Minutes  
July 23, 2002**

Minutes of a Regular Meeting of the Common Council of the City of New Berlin, Waukesha County, Wisconsin, held on Tuesday, July 23, 2002, at the New Berlin City Hall at 8:30 P.M.

Present were Mayor Wysocki, Aldermen Bullermann, Augustine, Gallagher, Harenda, Wilkens, Chiovatero and Ament. Also present were City Attorney Mark Blum, City Clerk Judy Weter, Director of Finance and Utilities Mike Holzinger, Director of Community Development Greg Kessler, Director of Planning Mark Lake, Associate Planner Nikki Jones, City Engineer JP Walker, and Division Engineer Larry Wilms.

**Clerk=s Report**

City Clerk Weter gave a City Clerk=s Report.

**Council President=s Report**

Alderman Bullermann gave a Council President=s Report.

Alderman Bullermann recognized the Assessor and his staff for the revaluation and assessment efforts currently taking place in their office.

**Mayor=s Report**

Mayor Wysocki gave a Mayor=s Report.

**City Attorney=s Report - No Report**

**COMMUNICATIONS**

**Communication from CVMIC re: Sts. Constantine & Helen Greek Orthodox Church - On File in Clerk=s Office**

**Communication from Atty. Thomas Rabenn re: Waiving of Interest and Penalty on Delinquent Taxes/Response from Director of Finance**

Motion by Alderman Wilkens to deny the request to waive interest and penalty on delinquent taxes pursuant to Tax Key # 1205-978. Seconded by Alderman Bullermann and carried unanimously.

**Notice of Claim - Joyce Julian Manthey - to City Attorney**

**PLAN COMMISSION**

Alderman Ament reported from the meeting held on July 8, 2002:

**Deer Creek Hotel & Conference Center - 1401 S. Moorland R. - Two Year Extension**

Motion by Alderman Ament to recommend a two-year extension for Deer Creek Inn & Conference Center Planned Unit Development Overlay District, Ordinance No. 2128, from the date of the expiration of the Ordinance, at 1401 S. Moorland Road. Seconded by Alderman Bullermann and carried unanimously.

**Tower Moratorium**

Motion by Alderman Augustine to schedule a Public Hearing before the Plan Commission on September 9, 2002 at 6:00 p.m., to amend the zoning code to provide for a moratorium for Wireless Telecommunication Towers. Seconded by Alderman Bullermann and carried unanimously

**Caroline Rosenbaum - 21220 W. Lincoln Ave. - Rezone from R-1 Rural Estate Single-Family Residential to B-5 Rural Commercial District**

Motion by Alderman Ament to deny the Caroline Rosenbaum request to rezone the property located at 21220 W. Lincoln Ave. from R-1 to B-5, without prejudice, subject to the application, plans on file, and the following:

- 1) The proposed rezoning to a Rural Commercial District is inconsistent with the Country Residential District, which this parcel is identified as in the Master Plan and the GDMP Update to the 2020 Plan. The Country Residential areas allow for an average 5-acre density requirement. The proposed rezoning to a Rural Commercial District will allow for many additional principal uses, which are not consistent with the Country Residential Land Use Classification.
- 2) The proposed B-5, Rural Commercial District, rezoning request by the applicant as identified in section 275-34(B)(4) of the City of New Berlin Municipal Code does not provide for single-family residential quarters.
- 3) The proposed B-5, Rural Commercial District, rezoning request by the applicant as identified in section 275-34(B)(4) of the City of New Berlin Municipal Code does not identify dog kennels as a principal use within this district. Also, the current zoning district R-1/R-2, Single-Family Residential District does not identify dog kennels as a principal use within this district.
- 4) The applicant is already running a dog kennel for rescued dogs at her home. There are currently 5 kennels on the property. It also appears that two of the kennels are located on a portion of the neighbor=s property to the east. If Plan Commission were to deny this rezoning request, a violation letter regarding this matter, would be sent to the property owner. Per the City of New Berlin Municipal Code Section 152-10(E). No person shall keep more than four dogs over five months of age upon any premises with any residential district within the city as hereinafter defined, except in a dog pound established under this section.

Seconded by Alderman Gallagher and carried unanimously.

**BOARD OF PUBLIC WORKS - No Report**

**STORM WATER COMMITTEE - No Report**

**UTILITY COMMITTEE**

Alderman Gallagher reported from the meeting held on July 10, 2002: **Authorize Right of Way for Utility and Trail Easement**  
Motion by Alderman Gallagher to retain a negotiator on behalf of

the City to secure the entire parcel (Key number 1208-988-003) to accommodate needed water and wastewater easement as provided by Chapter 32, Wisconsin State Statutes, to be funded by Sewer Utility Account # 310. Second by Alderman Wilkens and carried unanimously.

**Well #11 - Change Scope of Professional Services**

Motion by Alderman Gallagher to approve of change in scope in Professional Services on Well # 11 project to include Project Management at a cost not to exceed \$6,000 from Water Utility Account # 923.42. Seconded by Alderman Wilkens and carried unanimously.

**Priority Basin - Manhole Rehab**

Motion by Alderman Gallagher to approve of Professional Services Agreement with R.A. Smith for random field inspections of manhole rehabilitation work for project #K-333 with a cost not to exceed \$27,100 to be funded by Sewer Utility Account #831.04. Seconded by Alderman Wilkens and carried unanimously.

**Milwaukee Water - Professional Service Design Contract**

Motion by Alderman Gallagher to award the contract for professional services to Ruckert/Mielke for preliminary and final design, plans and contract documents to facilitate Lake Michigan Water supply for a cost not to exceed \$365,800 to be funded by Water Utility Account # 923.42. Seconded by Alderman Bullermann.

Motion by Alderman Bullermann to allow Mr. Dude to address the Council. Seconded by Alderman Ament and carried unanimously.

Motion by Alderman Bullermann to allow Mr. Steve Schultz from Ruckert & Mielke to address the Council. Seconded by Alderman Augustine and carried with Alderman Gallagher voting Aye.

Upon voting, the motion carried with Aldermen Gallagher and Ament voting Aye.

**Professional Service Agreement - Phase II Manhole Rehab**

Motion by Alderman Gallagher to approve of professional services agreement to R.A. Smith to prepare a plan for updating utility asset management software with Phase I & II manhole rehabilitation procedures as an extension to project #K-344 at a cost not to exceed \$2,500 and be funded by Sewer Utility Account # 831.04. Seconded by Alderman Wilkens and carried unanimously.

**LANDMARKS COMMISSION** - No Report

**SAFETY COMMISSION** - No Report

**TECHNOLOGY COMMITTEE** - No Report

**MAYORAL APPOINTMENTS**/None

**ACTION ON PUBLIC HEARINGS**

**Vacation of Hunter Court/Resolution No. 02-17 AResolution Vacating Hunter Court**

Motion by Alderman Bullermann to adopt Resolution No. 02-17. Seconded by Alderman Wilkens and carried unanimously.

**REFERRALS, DEFERRALS AND TABLED ITEMS**

**Technology Committee** - Future of Technology Committee - TABLED 1-8-02 - No Action

**Technology Committee** - Voice Mail - TABLED 2-12-02 - No Action

**Resolutions and Ordinances** - Ordinance No. 2174 AOrdinance Amending Section 11-19(C)(1) of the City of New Berlin Municipal Code Removing Utility Operations Manager and Streets Superintendent and Renaming Director of Finance to Director of Finance and Administration with a Salary Range of \_\_\_\_\_ and Renaming Director of Streets, Parks and Recreation to Director of Forestry, Parks and Recreation with a Salary Range of \_\_\_\_\_ - TABLED 6-11-02 - No Action

**Parks & Recreation Commission** - Adoption of Park and Open Space Plan/Resolution of the City of New Berlin Common Council Adopting the 2002 Park and Open Space Plan for the City - TABLED 6-25-02 - No Action

**CONSENT AGENDA**

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

**UTILITY & FINANCE**

**Claims**

Approve payment of Water Utility Claims in the amount of \$65,593.96; Sewer Utility Claims in the amount of \$21,645.95, and Bi-weekly Claims in the amount of \$389,096.88, all of which represents payments to vendors.

**LICENSES**

**Bartender Licenses**

Approve the Bartender Licenses for the year 2002-2004 to Donna L. Ballo, Debra L. Cashmore, Diana M. Feld, Katherine J. Fink, Joseph D. Hartung, Jason M. Jackson, Robert H. Keelan, Andrew J. Perez, Deborah E. Reish, Sherry C. Rejman, Vincent Ricco, Karen A. Rozek, Christine D. Shaffer, Lisa C. Simon and Erin S. Sudmalis.

**A Class B Retailers License**

Approve the A Class B Retailers License for the year 2002-2003 to Antonino's Inc., Maria Lopiparo, Agent at 17001 West Greenfield Avenue, subject to agent completing the Responsible

Beverage Service Course, and subject to approval from the Inspection and Community Development Departments.

Approve the AClass B≅ Retailers License for the year 2002-2003 to Midwest Hotel & Conference Center, Inc., Stan S. Jones, Agent at Holiday Inn, 15451 West Beloit Road, subject to agent completing the Responsible Beverage Service Course and approval from the Community Development Department.

## **MISCELLANEOUS**

**Ward Boundaries/Resolution No. 02-16 AResolution Regarding Adjustment of Wards≅**  
Adopt Resolution No. 02-16.

### **Waiving of Tax Penalty for Shelly Zinda/CK Ventures**

Approve the request of CK Ventures LLC to waive interest and penalty on delinquent taxes pursuant to Tax Key #1190-029-002.

## **MINUTES**

Motion by Alderman Chiovatero to approve the Minutes of the Public Hearing re: Vacation of Hunter Court held on July 9, 2002. Seconded by Alderman Ament and carried with Aldermen Bullermann and Wilkens voting present.

Motion by Alderman Chiovatero to approve the Minutes of the Public Hearing re: Park & Open Space Plan held on July 9, 2002. Seconded by Alderman Ament and carried with Aldermen Bullermann and Wilkens voting present.

Motion by Alderman Chiovatero to approve the Minutes of the Common Council Meeting held on July 9, 2002. Seconded by Alderman Ament and carried with Aldermen Bullermann and Wilkens voting present.

## **LICENSES**

### **Bartender License**

Motion by Alderman Chiovatero to recommend to Council denial of the Bartender License for the year 2002-2004 to Rebekah Capps. Seconded by Alderman Wilkens and carried with Alderman Ament voting Anon≅.

## **RESOLUTIONS AND ORDINANCES**

**Ordinance No. 2180 AOrdinance Re-Titling >Director of Streets, Parks and Recreation= to >Director of Forestry, Parks and Recreation= or >Director of Utilities and Streets Operations= and Re-Titling >Director of Finance and Utilities= to >Director of Finance and Administration= or >Director of Utilities and Streets Operations= Pursuant to the Attached Exhibit A≅ (3<sup>rd</sup> Reading)**

City Clerk Weter gave the third and final reading of Ordinance No. 2180.

Motion by Alderman Bullermann to approve Ordinance No. 2180. Seconded by Alderman

Gallagher and carried unanimously.

Motion by Alderman Ament to move into Closed Session. Seconded by Alderman Chiovatero 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 it is or is likely to become involved.

**- Steven Robertson Claim -**

Motion by Alderman Bullermann to move into Open Session. Seconded by Alderman Chiovatero and carried unanimously.

**OPEN SESSION**

**Possible Action on Steven Robertson Claim**

Motion by Alderman Chiovatero to direct the City Attorney to settle the Steven Robertson claim in an amount not to exceed \$1,173.94. Seconded by Alderman Ament and carried unanimously.

Motion by Alderman Wilkens to adjourn the meeting at 10:00 p.m. Seconded by Alderman Harenda and carried unanimously.

**Judy Weter  
City Clerk**

JW/nh