

**Common Council Minutes
June 11, 2002**

Minutes of a Regular Meeting of the Common Council of the City of New Berlin, Waukesha County, Wisconsin, held on Tuesday, June 11, 2002, at the New Berlin City Hall at 7:26 P.M.

Present were Mayor Wysocki, Aldermen Bullermann, Augustine, Gallagher, Harenda, Wilkens, Chiovero and Ament. Also present were City Attorney Paul Reilly, City Clerk Judy Weter, Director of Community Development Greg Kessler, Director of Planning Mark Lake, City Engineer JP Walker, and Civil Engineer Mark Handzlik.

Clerk's Report - No Report

Council President's Report - No Report

Mayor's Report

Mayor Wysocki gave a Mayor's Report.

City Attorney's Report

City Attorney Reilly gave a City Attorney's Report.

COMMUNICATIONS

Communication from City Attorney Reilly re: Claim of Jack May - No Action

City Attorney Reilly stated that lack of action is considered a denial.

Communication from Police Chief Noordyk re: Retirement - On File in Clerk's Office

Communication from Mark Fendrick re: Waiving of Interest and Penalty on Delinquent Taxes/Response from Director of Finance

Motion by Alderman Gallagher to waive the interest and penalty in the amount of \$179.71, relative to the request by Mark Fendrick, Tax Key #1178-988. Seconded by Alderman Wilkens.

Motion by Alderman Gallagher to allow Mr. Fendrick to address the Council. Seconded by Alderman Wilkens and carried unanimously.

Upon voting on the original motion, the motion carried unanimously.

PLAN COMMISSION

Alderman Ament reported from the meeting held on June 3, 2002:

Farrell Meadows - 14201 W. Farrell Dr. - PUD - Up to 17 Duplex Homes

Motion by Alderman Ament to approve Ordinance #2167 as amended (excluding C-1 District) regarding the request to rezone the property located at 14201 West Farrell Drive from R-4.5/C-1/C-2 to Rd-1/C-2/PUD District and, subject to the application, plans on file and the following:

- 1) A City Attorney review and approval of PUD Ordinance #2167 (as amended) required prior to signature.
- 2) Adherence to NBMC Chapter 275-54(B) Woodland, tree, and vegetation protection required. Tree inventory required (in

order to determine compliance) during USA review and approval process.

Seconded by Alderman Wilkens. Upon voting, the motion failed with Aldermen Bullermann, Wilkens and Chiovatero voting "yes".

Motion by Alderman Ament to deny Ordinance #2167 as amended (excluding C-1 District) regarding the request to rezone the property located at 14201 West Farrell Drive, based on 7.526 acres in the original request was the only area to be rezoned, the other 5.673 acres should remain single family as stated in the January 9, 2001 Public Hearing. Seconded by Alderman Gallagher and carried with Aldermen Bullermann, Wilkens and Chiovatero voting "no".

Honeyager Lane - 14101 W. Howard Ave. - PUD - Up to 11 Duplex Homes

Motion by Alderman Ament to approve Ordinance #2166 as amended regarding the request to rezone the property located at 14101 West Howard Avenue from R-4.5/C-2 to Rd-1/C-2/PUD District and, subject to the application, plans on file and the following:

- 1) A City Attorney review and approval of PUD Ordinance #2166 as amended required prior to signature.
- 2) Adherence to NBMC Chapter 275-54(B) Woodland, tree, and vegetation protection required. Tree inventory required (in order to determine compliance) during USA review and approval process.

Seconded by Alderman Wilkens and carried unanimously.

Honeyager Fields - 3949 S. Sunnyslope Rd. - 8-Lot Subdivision

Motion by Alderman Ament to grant Preliminary Plat Approval of the request to create an 8-lot single-family detached "Honeyager Fields" Subdivision pursuant to the provisions of Section 236 Wisconsin Statutes, and Chapters 275 and 235 of the City of New Berlin Municipal Code, subject to the application, plans on file and the following:

- 1) All lots shall meet the minimum development requirements of NBMC 275-33(D) R-4.5 Medium-Density Single-Family Residential District in its entirety.
- 2) Satisfaction of the Conditional Letter of No Objection by Waukesha County Park and Land Use Department required.
- 3) State of Wisconsin Department of Administration Letter of No Objection required.
- 4) Detailed Stormwater Management Plan required. Plan should include the Honeyager/Farrell PUD.
- 5) Length bearing and tie to all easements (public and private) required.
- 6) Urban cross-section required along the south side of Howard Avenue.
- 7) Alignment of lots along the north side of Howard Avenue are incorrect. Lots also 135' wide, not 150' as measured.
- 8) Rear lot line drainage easement limited to area required for stormwater management only, not along entire rear lot line.
- 9) Second note, "All required building setbacks are to be measured from the near edge of any easement," shall be removed.
- 10) Road grades need adjustment, preliminary plat as submitted

- show road grades that are too flat.
- 11) Proposed grading plan of individual lots too flat, a minimum of a 1.5% slope required along lot lines.
 - 12) Sewer and water plans to be approved by all regulating authorities. Sanitary Sewer shall be extended, within Howard Avenue, from the Preserve at Deer Creek terminus to the eastern extent of the "Honeyager Fields" Subdivision.
 - 13) Approval of drainage, grading, utility and overall site plans by the Engineering Department is required. Separate "Plan Review" application required; contact the City Engineer for details.
 - 14) Detailed road/infrastructure/stormwater/grading plans to be reviewed and approved by the Engineering Department prior to writing of the developer's agreement.
 - 15) Developer's Agreement for all public improvements required. Separate application required. Agreement to be approved by the Board of Public Works and Common Council. Approval of all surety instruments required prior to the City signing the final Plat.
 - 16) An executed Developer's Agreement is required prior to clearing, grubbing, grading and/or utility/infrastructure work commencing.
 - 17) All non-city owned utilities, to include but not limited to; cable, telecommunication, electric, gas, etc., required to be provided underground.
 - 18) Any and all existing structures are to be razed. Razing permits are required.
 - 19) Payment of per lot fee at time of plat approval for Public Site, Open Space and Trail Fees required prior to the City of New Berlin signing the Final Plat.
- Seconded by Alderman Wilkens and carried unanimously.

Wisconsin Electric Power Co. - 1900 S. Springdale Rd. - Gas Regulator Station

Motion by Alderman Ament to approve the request by Wisconsin Electric Power Co. for a gas regulator station located at 1900 S. Springdale Road subject to:

- 1) Review and approval of equipment enclosure by the Architectural Control Committee required.
- 2) All structural plans used for the building permit to be stamped by a Wisconsin architect and/or engineer.
- 3) Approval of drainage, grading, and overall site plans by the Engineering Department required prior to issuance of Building Permit.
- 4) Barbed wire capped enclosures may be allowed for security purposes if required by the applicant.
- 5) Structure to be screened from the public, landscape plan with plant key and plant specifications to be reviewed and approved by the Planning Department prior to installation.
- 6) Permits are required from the Building, Inspections and Zoning Department. Building must meet all applicable building and fire codes. Site must be maintained per Chapter 201 of the City of New Berlin Municipal Code.
- 7) All utilities both on-site and off-site to be fed underground.

Seconded by Alderman Bullermann and carried unanimously.

Diamond Estates - 13251 W. Coldspring Rd. - SW 1/4 SEC. 24.- Two-Lot Land Division

Motion by Alderman Ament to approve the Diamond Estates two lot land division located at 13251 W. Coldspring Road, SW 1/4 Sec. 24 subject to:

- 1) Developer's Agreement for the extension of utilities from their Cold Spring Road location to the southern ROW of Cold Spring Road required prior to the City executing the final CSM.
- 2) Driveway serving existing residents on the property shall be relocated and placed centrally within the future Diamond Av. Access permit required for driveway relocation to future Diamond Av.
- 3) Payment of \$2137.60 in Public Site, Open Space & Trail Fees required prior to the City signing the Final CSM.
- 4) Subject to final review of CSM for correction of any drafting errors.

Seconded by Alderman Wilkens and carried unanimously.

Fountain Square Natural Area - 2951 S. 132 St. - Rezone from P-1 to C-3

A public hearing was scheduled before the Plan Commission on July 8, 2002 at 6:00 p.m.

BOARD OF PUBLIC WORKS

Alderman Chiovatero reported from the meeting held on June 3, 2002:

Intergovernmental Agreement with West Allis to Design & Reconstruct 124th Street from National Avenue to Morgan Avenue (West Allis)

Motion by Alderman Chiovatero to approve the Intergovernmental Agreement with West Allis for the Design & Reconstruction of 124th Street from National Avenue to Morgan Avenue in West Allis and approve an additional \$195,600 in funding for the Project by reallocating \$195,600 from Roadway CIP Account 4-252-370. Seconded by Alderman Bullermann and carried unanimously.

Erosion Control Permits

Motion by Alderman Chiovatero to recommend that the Erosion Control Permit and Agreement as written with the changes that may be needed in the Erosion Control Ordinance by the City Attorney be approved and adopted by the Common Council. Seconded by Alderman Wilkens and carried unanimously.

Developers Agreement - Jacob's Ridge Condominiums Multi-Family

Motion by Alderman Chiovatero to approve the Developers Agreement for Jacob's Ridge Condominiums Multi-Family with the requirements that all regulatory approvals are in place before the Agreement is executed by the City. Seconded by Alderman Harenda.

Motion by Alderman Ament to allow the applicant's attorney to address the Council. Seconded by Alderman Chiovatero and carried unanimously.

Motion by Alderman Gallagher to defer this item. Seconded by Alderman Ament and carried unanimously.

STORM WATER COMMITTEE - No Report

UTILITY COMMITTEE - No Report

LANDMARKS COMMISSION - No Report

SAFETY COMMISSION - No Report

TECHNOLOGY COMMITTEE - No Report

MAYORAL APPOINTMENTS

City Attorney - Interview and Appointment

Motion by Alderman Bullermann to approve the appointment of Attorney Mark Blum of the law firm Hippenmeyer, Reilly, Moodie and Blum, SC as the City Attorney, effective through October 31, 2003. Seconded by Alderman Chiovatero and carried with Alderman Gallagher voting "no".

Handicapped Persons Appeals Committee

Motion by Alderman Ament to reappoint Alderman Jack Chiovatero to the Handicapped Persons Appeals Committee, with an expiration date of April 30, 2003. Seconded by Alderman Harenda and carried unanimously.

ACTION ON PUBLIC HEARINGS/None

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

Stormwater Committee - Parkwood Lane Storm Sewer Report - DEFERRED 5-28-02

Motion on the Floor: Motion by Alderman Bullermann to implement recommended Alternative 7 which includes acquisition of the Pickle Building and constructing a retention pond. It is further recommended the time line be adjusted to coincide with the acquisition of the property. Seconded by Alderman Wilkens.

Upon voting, the motion carried unanimously.

CONSENT AGENDA

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

MINUTES

Minutes of the Common Council Meeting held on May 28, 2002

LICENSES

2002 License Renewals

The Council has before it a one-page report of Jamie L. McCartan's application and past record.

Motion by Alderman Gallagher to approve the Bartender License for the year 2002-2004 to Jamie L. McCartan. Seconded by Alderman Harenda and carried unanimously.

The Council has before it a one-page report of Timothy A. Schmidt's application and past record.

Motion by Alderman Gallagher to approve the Bartender License for the year 2002-2004 to Timothy A. Schmidt. Seconded by Alderman Ament and carried unanimously.

The Council has before it a one-page report of Gretchen J. Tamm's application and past record.

Motion by Alderman Gallagher to approve the Bartender License for the year 2002-2004 to Gretchen J. Tamm. Seconded by Alderman Chiovatero and carried unanimously.

The Council has before it a one-page report of Justin T. Walsh's application and past record.

Motion by Alderman Gallagher to approve the Bartender License for the year 2002-2004 to Justin T. Walsh. Seconded by Alderman Augustine and carried unanimously.

Approve the Bartender License Renewal for the years 2002-2004 to: Amy J. Abbiehl, Dawn M. Adams, Margaret A. Aitchison, Olympia B. Alexis, Joyce M. Armeli, Thomas J. Astemborski, Julie A. Austin, Laura M. Bargamian, Scott C. Beadle, Brenda L. Bednarski, Karlene J. Berg, Joyce L. Brinkman, Cindy Brunclik, Daniel N. Bujanovich, Chris S. Burr, Roslyn A. Calloway, Nicole M. Cervero, Raedeen M. Collins, William M. Conners, Douglas W. Curler, Michael A. Czarapata, Jaydee L. Dahlon, Joseph A. Damask, Karen M. Davis, Barbara A. Dorgay, Jean M. Dunks, James A. Erskine, Kathleen M. Farber, Michael J. Flood, Kathryn A. Fons, Katherine J. Fortier, Jamie L. Foshey, Lynn J. Frank, Vincent R. Franz, Jennifer M. Gnas, Patt Goerke, Bradley N. Goss, Donald J. Grimm, Patricia A. Grivas, Patricia A. Gross, Brenda K. Grunenwald, Cheryl A. Guenther, Julie A. Hakala, Michael J. Harvey, Sunny K. Hebel, Robert R. Hedtcke, Penny M. Heisler, Mary F. Hernandez, Diane M. Heyel, June A. Hobmeier, Joanne A. Holden, Patrick K. Howell, Christine L. Jackson, Cynthia M. Jakubowski, Michelle I. Janasik, Michelle A. Jenkins, Sandy A. Jeske, Nicole S. Johnson, Laurie A. Jones, Connie M. Julson, Daniel P. Kamps, Mark A. Kemmeter, Betty E. Kleinmeyer, Edna L. Klinger, Evelyn R. Korom, Ronald L. Kotlarek, Sheila M. Krawczyk, Karen K. Kruschke, Sheila Kubiayk, Faye A. Kupka-Reichert, Barbara Laing, Wendy A. Larkin, Shirley A. Liebl, William G. Lindemann, Martin J. Lindquist, Philip E. Lorum, Melvin K. Malchow, Jennifer L. Marquardt, Nicole C. Martin, Donna L. Mayek, Thomas C. McFadzen, Kimberley A. Meersman, Sara E. Meuer, Melissa A. Miller, J. Nathan Morris, Barry K. Moy, Ellen W. Moy, Barbara J.

Mudgett, David M. Muenzberg, Deborah R. Muldoon, Timothy P. Myles, Carrie A. Nakielski, Kathleen M. Nelsen, Donna L. Nelson, Susan E. Nersesian, Janice M. Newman, Laurie A. Nowak, Gina L. Nowak, Holly A. Ochs, Ben P. Palmer, Suzana Pena, Monique O. Peplinski, Patricia A. Peterson, Frank N. Petrusich, Victoria M. Polivka, Joseph R. Pond, Edward C. Price, Sarah K. Pyzik, Candace M. Quast, Andrew C. Radjenovich, Kimberly L. Rados, Susan M. Rasinske, Agnes K. Rehm, Gini E. Reid, Dawn M. Reimesch, Heidi N. Reise, Nicole M. Ringsby, Rita C. Roberts, Barbar Rodewald, Juli A. Rowinski, Cheryl A. Scherbert, Therese Schlueter, Tracy A. Schmatzhagen, Sharon E. Schoenleber, Robert A. Schopf, Marilyn G. Schreck, Amy L. Schroeder, Brad R. Schroeder, Garry R. Schroeder, Lorrie L. Schroeder, Susan J. Schroeder, Terri L. Schroeder, Jacqueline M. Searles, Kenneth W. Sharping, Susan C. Sherman, Tammy L. Sieglaff, Ryan H. Sims, Judith A. Smukowski, Chris C. Snow, Steven J. Spaeth, Angi L. Stark, David R. Strelitz, Todd M. Szmania, Dawn M. Tenant-Czysz, Marjorie T. Tesch, Brian J. Tessmann, Margaret R. Thoma, Gina L. Tolson, Lynda A. Trapp, Michele K. Ullman, Wallace R. Van Doser, Michael J. Vance, Ricca E. Voboril, Nicole L. Voelkel, Michael J. Waedekin, Sally A. Weiley, Dorothy L. Wiese, Tara A. Wilber, Valerie, J. Williamson, Darin E. Wisniewski, Suzanne M. Young, Curtiss J. Youngberg, and Nick J. Zbichorski.

Approve all license renewals presented, subject to approval by the Inspection Department, and payment of personal property taxes and delinquent liquor bills.

UTILITY & FINANCE

Claims

Approve payment of Water Utility Claims in the amount of \$247,503.77, Sewer Utility Claims in the amount of \$297,936.40, and Bi-weekly Claims in the amount of \$633,879.60, all of which represents payments to vendors.

MISCELLANEOUS

Disband Engineering Review Committee

Disband the Engineering Review Committee.

2002 License Renewals

The Council has before it a one-page report of Robyn M. Gaffney's application and past record.

Motion by Alderman Ament to approve the Bartender License for the year 2002-2004 to Robyn M. Gaffney. Seconded by Alderman Gallagher and carried with Alderman Wilkens voting "no".

The Council has before it a one-page report of Adam W. Haut's application and past record.

Motion by Alderman Chiovatero to approve the Bartender License for the year 2002-2004 to Adam W. Haut. Seconded by Alderman Gallagher and carried with Alderman Wilkens voting "no".

The Council has before it a one-page report of Michelle E. Kuehl's application and past record.

Motion by Alderman Gallagher to approve the Bartender License for the year 2002-2004 to Michelle E. Kuehl. Seconded by Alderman Bullermann and carried with Alderman Wilkens voting “no”.

The Council has before it a one-page report of David S. Mangan’s application and past record.

Motion by Alderman Bullermann to approve the Bartender License for the year 2002-2004 to David S. Mangan. Seconded by Alderman Chiovatero and carried with Alderman Wilkens voting “no”.

The Council has before it a one-page report of Mark A. Nagy’s application and past record.

Motion by Alderman Gallagher to approve the Bartender License for the year 2002-2004 to Mark A. Nagy. Seconded by Alderman Ament and carried with Alderman Wilkens voting “no”.

The Council has before it a one-page report of Gaetano A. Verdone’s application and past record.

Motion by Alderman Ament to approve the Bartender License for the year 2002-2004 to Gaetano A. Verdone. Seconded by Alderman Gallagher and carried with Aldermen Wilkens and Chiovatero voting “no”.

RESOLUTIONS AND ORDINANCES

Ordinance No. 2170 “Ordinance Repealing and Recreating Section 11-21(A) of the City of New Berlin Municipal Code Pertaining to Medical Insurance” (3rd Reading)

City Clerk Weter gave the third and final reading of Ordinance No. 2170.

Motion by Alderman Wilkens to approve Ordinance No. 2170. Seconded by Alderman Ament and carried with Alderman Gallagher voting “no”.

Ordinance No. 2171 “Ordinance Amending Section 11-5 of the City of New Berlin Municipal Code Adding the Positions of Director of Utilities and Streets Operations, Office Coordinator (Utilities & Streets), Stormwater Supervisor and Utility Supervisor” (3rd Reading)

City Clerk Weter gave the third and final reading of Ordinance No. 2171.

Motion by Alderman Ament to approve Ordinance No. 2171. Seconded by Alderman Bullermann and carried unanimously.

Ordinance No. 2172 “Ordinance Amending Section 11-5 of the City of New Berlin Municipal Code Removing the Positions of Streets Superintendent and Utility Operations manager and Renaming the Positions of Director of Finance and Utilities to Director of Finance and Administration and Director of Streets, Perks and Recreation to Director of Forestry, Parks and Recreation” (3rd Reading)

City Clerk Weter gave the third and final reading of Ordinance No. 2172.

Motion by Alderman Bullermann to approve Ordinance No. 2172. Seconded by Alderman Harenda and carried unanimously.

Ordinance No. 2173 “Ordinance Amending Section 11-7 of the City of New Berlin Municipal

Code Adding the Position of Director of Utilities & Streets Operations and Renaming the Position of Director of Finance and Utilities to Director of Finance and Administration and Director of Streets, Parks and Recreation to Director of Forestry, Parks and Recreation” (3rd Reading)

City Clerk Weter gave the third and final reading of Ordinance No. 2173.

Motion by Alderman Ament to approve Ordinance No. 2173. Seconded by Alderman Gallagher and carried unanimously.

Ordinance No. 2174 “Ordinance 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 ____” (3rd Reading)

City Clerk Weter gave the third and final reading of Ordinance No. 2174.

Motion by Alderman Bullermann to table Ordinance No. 2174. Seconded by Alderman Wilkens and carried unanimously.

Ordinance No. 2175 “Ordinance Amending Section 11-19(C)(1) of the City of New Berlin Municipal Code Creating Director of Utilities & Streets Operations with a Salary Range of ____; Office Coordinator (Utilities & Streets) with a Salary Range of ____; Stormwater Supervisor with a Salary Range of ____; and Utility Supervisor with a Salary Range of ____” (3rd Reading)

City Clerk Weter gave the third and final reading of Ordinance No. 2175.

Motion by Alderman Bullermann to table Ordinance No. 2175. Seconded by Alderman Wilkens and carried unanimously.

Ordinance No. 2176 “Ordinance Repealing and Recreating Section 152-1(C) and (D) of the City of New Berlin Municipal Code Pertaining to License Fees” (1st Reading)

City Clerk Weter gave the first reading of Ordinance No. 2176.

Motion by Alderman Ament to waive the second and third readings of Ordinance No. 2176. Seconded by Alderman Chiovaturo and carried unanimously.

Motion by Alderman Ament to approve Ordinance No. 2176. Seconded by Alderman Bullermann and carried unanimously.

Ordinance No. 2177 “Ordinance Repealing and Recreating Sections 124-1(F)(1) and (2) of the City of New Berlin Municipal Code Pertaining to Fire Prevention Enforcement” (1st Reading)

City Clerk Weter gave the first reading of Ordinance No. 2177.

Motion by Alderman Ament to waive the second and third readings of Ordinance No. 2177. Seconded by Alderman Wilkens and carried with Alderman Gallagher voting “no”.

Motion by Alderman Ament to approve Ordinance No. 2177. Seconded by Alderman Bullermann and carried with Alderman Gallagher voting “no”.

Ordinance No. 2178 “Ordinance Repealing and Recreating Section 124-3 of the City of New Berlin Municipal Code Pertaining to Adopting State Fire Prevention Regulations” (1st Reading)
City Clerk Weter gave the first reading of Ordinance No. 2178.

Motion by Alderman Ament to waive the second and third readings of Ordinance No. 2178. Seconded by Alderman Bullermann and carried with Alderman Gallagher voting “no”.

Motion by Alderman Bullermann to approve Ordinance No. 2178. Seconded by Alderman Ament.

Motion by Alderman Ament to reconsider waiving of second and third readings. Seconded by Alderman Gallagher. Upon voting, the motion carried with Alderman Bullermann voting “no”.

Motion by Alderman Ament to waive the second and third readings of Ordinance No. 2178. Seconded by Alderman Bullermann. Upon voting, Aldermen Augustine, Gallagher and Harenda voted “no”. A 3/4 vote, or 6 votes is necessary to carry. Motion failed.

Ordinance No. 2179 “Ordinance Repealing and Recreating Section 124-4 of the City of New Berlin Municipal Code Pertaining to Adoption of NFPA Standards” (1st Reading)
City Clerk Weter gave the first reading of Ordinance No. 2179.

Motion by Alderman Bullermann to waive the second and third readings of Ordinance No. 2179. Seconded by Alderman Wilkens. Upon voting, Aldermen Gallagher, Harenda and Ament voted “no”. A 3/4 vote, or 6 votes is necessary to carry. Motion failed.

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)(e) of the Wisconsin State Statutes.

- (e) Deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified business whenever competitive or bargaining reasons require a Closed Session.

- Collective Bargaining -

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

OPEN SESSION

Motion by Alderman Chiovatero to adjourn the meeting at 9:55 p.m. Seconded by Alderman Wilkens and carried unanimously.

**Judy Weter
City Clerk**

JW/nh