

**Common Council Minutes
May 14, 2002**

Minutes of a Regular Meeting of the Common Council of the City of New Berlin, Waukesha County, Wisconsin, held on Tuesday, May 14, 2002, at the New Berlin City Hall at 7:38 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, Associate Planner Nikki Jones, City Engineer JP Walker, and Division Engineer Larry Wilms.

PRESENTATION by Dan Hanlon and Crime Prevention Committee

PRESENTATION to Eisenhower High School Academic Decathlon Team

Clerk's Report - No Report

Council President's Report

Appointments to Commissions/Boards/Committees

Later in the meeting, Council President Bullermann announced the following Appointments:

2002 Committee Assignments:

- Crime Prevention - Ald. Harenda
- Electrical Review - Ald. Augustine
- Fire Department - Ald. Bullermann
- Fourth of July - Ald. Ament
- Golf Course Committee - Ald. Wilkens
- Housing Authority - Ald. Augustine
- Landmarks Commission - Ald. Harenda
- Library - Ald. Wilkens
- Park & Rec - Ald. Gallagher
- Public Works - Ald. Harenda/Chiovero/Ament
- Safety Commission - Ald. Chiovero
- School Board - Ald. Augustine
- Stormwater Committee - Ald. Bullermann/Gallagher/Wilkens
- Technology Committee - Ald. Bullermann/Gallagher/Wilkens
- Utility Committee - Ald. Gallagher/Harenda/Ament
- Youth Board - Ald. Bullermann
- Ad Hoc Long Term Strategic Planning Committee - Ald. Bullermann/Wilkens/Chiovero

2002 COW Liaison Appointments:

- Assessor - Ald. Chiovero
- Building and Grounds - Ald. Wilkens
- Community Development - Ald. Ament
- Finance/Claims/Judiciary - Ald. Wilkens

Human Resources - Ald. Bullermann
Information Systems - Ald. Chiovatero
Insurance - Ald. Bullermann
Legislative - Ald. Bullermann
Licenses - Ald. Chiovatero
Park & Recreation Dept. - Ald. Gallagher
Police Dept. - Ald. Wilkens
Utilities - Ald. Ament

Mayor's Report - No Report

City Attorney's Report - No Report

MISCELLANEOUS

Election of Plan Commission Representative

Alderman Gallagher nominated Alderman Ament as the Plan Commission Representative.

Motion by Alderman Gallagher to close the nominations and elect Alderman Ament as the Plan Commission Representative. Seconded by Alderman Harenda and carried with Alderman Wilkens voting "no".

COMMUNICATIONS

Notice of Summons and Complaint - Rogers Estates, LLC & Coachlight Village Partnership (Thomson/Polzin Lands) - To City Attorney

Communication from DeWitt, Ross & Stevens, SC re: Saints Constantine and Helen Greek Orthodox Church Rezoning Denial - To City Attorney

Reconsideration Request from Alderman Wilkens re: Health Insurance Benefits and Premium Contributions - Civil Service

Motion by Alderman Wilkens to reconsider the Health Insurance Benefits and Premium Contributions for Civil Service. Seconded by Alderman Gallagher and carried unanimously.

Motion by Alderman Wilkens to modify Section 11-21 (A) - Medical Insurance - to read: Effective July 1, 2002, regular full-time employees shall contribute 10% of the monthly premium toward the cost of health insurance. If an employee has a spouse that is also a city employee, that employee and the employee's spouse will be entitled to only one family health insurance contract between them from the City or two single plans, and to direct the City Attorney to prepare the proper Ordinance. Seconded by Alderman Chiovatero.

Upon voting, the motion failed with Aldermen Augustine and Gallagher voting "yes".

Motion by Alderman Wilkens to modify Section 11-21 (A) - Medical Insurance - to read: Effective January 1, 2003, regular full-time employees shall contribute 7.5% of the monthly premium toward the cost of health insurance. Effective September 1, 2003, regular full-time employees shall

contribute 10% of the monthly premium toward the cost of health insurance. If an employee has a spouse that is also a city employee, that employee and the employee's spouse will be entitled to only one family health insurance contract between them from the City or two single plans, and to direct the City Attorney to prepare the proper Ordinance. Seconded by Alderman Ament and carried with Aldermen Gallagher and Harenda voting “no”.

Communication from City Clerk Weter re: Official Newspaper - On File in Clerk’s Office

Communication from Citizens for Responsible Government re: Public Meeting Notice - On File in Clerk’s Office

Request to Reconsider Vote on Council President from Aldermen Gallagher

Motion by Alderman Gallagher to reconsider. Seconded by Alderman Ament. Upon voting, the motion failed with Aldermen Augustine, Gallagher and Ament voting “yes”.

PLAN COMMISSION

Alderman Ament reported from the meeting held on April 22, 2002:

CDBG Set-Aside Funds Resolution/Resolution No. 02-11 “A Resolution Authorizing the Submittal of a Waukesha County Community Development Block Grant - Set-Aside Application by Nikki Jones and the Subsequent Appropriation of City of New Berlin Resources to Develop New Entryway Signage for the New Berlin Industrial Park”

(Aldermen Bullermann stepped out at this time)

Motion by Alderman Ament to adopt Resolution No. 02-11. Seconded by Alderman Wilkens and carried unanimously.

CDBG 2003 Application Resolution/Resolution No. 02-12 “A Resolution Authorizing the Submittal of a Waukesha County Community Development Block Grant (CDBG) Application by Nikki Jones and the Subsequent Appropriation of City of New Berlin Resources to Create a Comprehensive Redevelopment Guide for the New Berlin Industrial Park”

Motion by Alderman Ament to adopt Resolution No. 02-12. Seconded by Alderman Harenda and carried unanimously.

Alderman Ament then reported from the meeting held on May 6, 2002:

Honeyager - 3949 S. Sunnyslope Rd. - SE 1/4 Sec. 14 - Three Lot Final Land Division

Motion by Alderman Ament to approve the request by Honeyager for a three lot final land division located at 3949 S. Sunny Slope Road subject to:

- 1) Clean up any drafting errors identified by staff, including but not limited to; incorrect signature page format (missing information, spelling errors), Alignment of lots north of Howard Avenue, and lot 2 western lot line incorrectly dimensioned @203.81’, should be 173.81’.
- 2) Length bearing and tie to all wetlands and easements (public and private) required.
- 3) All owners as of the date of signing, to sign prior to City signing the final CSM.

- 4) Surveyor's signature and seal required on all pages of the Final CSM.
 - 5) Payment of \$4,275.2 in Public Site, Open Space and Trail Fees required prior to signing the Final CSM.
- Seconded by Alderman Wilkens and carried unanimously.

(Alderman Bullermann returned to the meeting at this time.)

Honeyager/Farrell Land Division - 3949 S. Sunny Slope Rd. - Ne ¼ Sec. 23 - Final Land Division

Motion by Alderman Ament to approve the request by Honeyager/Farrell Land Division final land division located at 3949 S. Sunny Slope Road subject to:

- 1) Clean Up any drafting errors identified by staff.
- 2) Honeyager Lane and Farrell Drive (extended) shall be "Dedicated to the City of New Berlin for public road purposes."
- 3) Length bearing and tie to all wetlands and easements (public and private) required.
- 4) All owners, as of the date of signing, shall sign prior to City signing the final CSM. Parcel 1 requires transfer of land from KASCO. Copy of transfer, Deed or the Additional of KASCO signatures required prior to City signing the final CSM.
- 5) Surveyor's signature and seal required on all pages of the Final CSM.
- 6) Payment of \$2,137.6 in Public Site, Open Space and Trail Fees required prior to signing the Final CSM.
- 7) CSM identified with the creation of Parcel #1 needs to be recorded prior to this CSM being recorded.
- 8) PUD Ordinance approval required prior to signing of final CSM.
- 9) Army Corps of Engineers and DNR approval of field delineation wetland required prior to signing of final CSM.

Seconded by Alderman Wilkens and carried unanimously.

Farrell Meadows - 14201 W. Farrell Dr. - PUD - 12 Duplex Homes

Motion by Alderman Ament to recommend adoption of Ordinance #2167 referring to the request by Farrell Meadows to rezone the property located at 14201 W. Farrell Drive from R-4.5 to Rd-1/C-2/PUD. Seconded by Alderman Wilkens.

Motion by Alderman Ament to refer this item to the Plan Commission to cover C-1 delineation on site plan and modifications of building sites as required. Seconded by Alderman Gallagher.

Motion by Alderman Wilkens to allow Mr. Honeyager to address the Council. Seconded by Alderman Bullermann and carried unanimously.

Upon voting on the motion to refer, the motion carried with Aldermen Bullermann, Wilkens and Chiovatero voting "no".

Honeyager - 14101 W. Howard Ave. - PUD - 16 Duplex Homes

Motion by Alderman Ament to recommend adoption of Ordinance #2166 referring to the request by Honeyager to rezone the property located at 14101 W. Howard Avenue from R-4.5 to Rd-1/C-2/PUD. Seconded by Alderman Wilkens.

Motion by Alderman Ament to refer this item to the Plan Commission. Seconded by Alderman Gallagher and carried with Aldermen Bullermann, Wilkens and Chiovaturo voting "no".

Diamond Estates - 13251 W. Coldspring Rd. - Eight-Lot Subdivision

Motion by Alderman Ament to recommend denial without prejudice the request by Diamond Estates for an eight-lot subdivision located at 13251 W. Coldspring based on the following:

- 1) Diamond Estates Subdivision is located within Basin NB 3. Milwaukee Metropolitan Sewerage District and the City of New Berlin Engineering Department have determined that there is no available sanitary sewer capacity in Basin NB3 to allow for a Sanitary Sewer Extension to serve Diamond Estates Subdivision.
- 2) Not consistent with Master Plan or Development Code. Development in the Urban Residential Area of the City requires public utilities which are not available at this time.
- 3) Subdivision does not take into account location of existing buildings on property.

Seconded by Alderman Harenda and carried unanimously.

Caroline Rosenbaum - 21220 W. Lincoln Ave. - Commercial Dog Kennel for Rescue Dogs

A Public Hearing was scheduled to be held before the Plan Commission on June 3, 2002 relative to the request to rezone the property located at 21220 W. Lincoln Avenue from R-2 to B-5. Notice will be sent 1,000 ft. from the property.

Heather Griggs - 1505 S. Arcadian - Nw ¼ Sec. 1 - One-Lot Land Division

Motion by Alderman Wilkens to approve the request by Heather Griggs for a one-lot final land division located at 1505 S. Arcadian, subject to the following:

- 1) Approval of grading, drainage and stormwater plans drawn with USGS Datum shall be required prior to building permits being issued.
- 2) Applicant shall be required to construct a stormwater management facility in the area to control for drainage and for stormwater management prior to building permits being issued.
- 3) As part of a normal building permit, applicant shall be required to extend Sanitary sewer to this parcel and shall be required to drill a well.
- 4) Ultimate right-of-way (ROW) of Meadow Lane and Arcadian Drive is 60'. Dedication of an additional 5' on both Arcadian Drive and Meadow Lane shall require bringing the ROW from 50' to 60'. An additional 5' protective berm beyond ditch for a total of 10' additional right-of-way and/or drainage easement

- is needed.
- 5) Applicant's Maximum Limit of Disturbance (LOD) may disturb no more than 60% of total gross area of the area to be developed, including driveways per Section 275-54(A)(3) of the Municipal Ordinance.
 - 6) Owner must sign prior to City signing the final CSM.
 - 7) Payment of \$2,137.60 in Public Site, and Open Space & Trail Fees required prior to the City signing the Final CSM.

Seconded by Alderman Gallagher and carried unanimously.

BOARD OF PUBLIC WORKS

Alderman Chiovero reported from the meeting held on May 6, 2002:

Reallocation of \$700,000 in 2001 CIP Roadway Account

Motion by Alderman Chiovero to recommend that an amount not to exceed \$487,000 originally reallocated from the proposed Coffee Road Extension be reallocated to cover the design in 2003 and necessary right-of-way acquisitions in 2004 for the redesign and future reconstruction of Coffee Road between Moorland Road and National Ave. Seconded by Alderman Wilkens and carried with Alderman Ament voting "no".

Pilot Study for Trying a Flex-Seal Slurry on Streets in Meadowmere Subdivision

Motion by Alderman Chiovero to recommend that as part of the 2002 Roadway Maintenance Project a Pilot Study Program be approved for applying a new slurry seal product on 2.2 miles of streets in the Meadowmere Subdivision, at a cost of \$40,000 with funds from Acct. 511-820-01. Seconded by Alderman Wilkens and carried unanimously.

PASER Presentation

Motion by Alderman Chiovero to recommend that the roadway segments identified in the attached 2002 road maintenance street list and estimating cost worksheet be approved and direct the Engineering Division to proceed with preparing the necessary contract documents to proceed with advertising the projects for bids. Seconded by Alderman Bullermann and carried unanimously.

Motion by Alderman Gallagher to move into Closed Session at 9:04 p.m. Seconded by Alderman Ament 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.

- Possible Litigation with Sts. Constantine & Helen Greek Orthodox Church -

Motion by Alderman Ament to move into Open Session at 11:00 p.m. Seconded by Alderman Harenda and carried unanimously.

OPEN SESSION

STORM WATER COMMITTEE

Kelly Lakes Grant Application

Motion by Alderman Bullermann to deny the Kelly Lakes Grant Application because of the need for more pertinent information on how this grant application coincides with our Stormwater Management Plan. Seconded by Alderman Wilkens and carried unanimously.

UTILITY COMMITTEE

Alderman Gallagher reported from the meeting held on May 1, 2002:

Authorize Right of Way Purchase of Well No. 11

Motion by Alderman Gallagher to authorize staff to make an offer to purchase and to secure necessary right-of-way for construction of Well No. 11 Pumphouse and the connecting main(s) and an 18 month Option-to-Purchase for the Marcus 1 Site as provided by written Appraisal Report and Chapter 32, Wisconsin State Statutes, to be funded by Account 9-310. Seconded by Alderman Ament and carried unanimously.

Temporary Operation of Well No. 11

Motion by Alderman Gallagher to authorize staff to proceed with the purchase of necessary materials and services to implement interim or temporary operation of proposed Well No. 11, known as the Marcus 2 well site, in an amount not to exceed \$34,450, to be funded by Account 9-310. Seconded by Alderman Bullermann and carried unanimously.

Contract Change Order Well No. 8

Motion by Alderman Gallagher to authorize staff to proceed with Contract Change Order and resultant net contract cost adjustments for Layne-Northwest Company, Inc., for Project W-139-A in an amount of \$1,449.96 of Contingency funds approved for Project, resulting in the contingency for Contract being reduced to \$10,300.04. The total project cost remains as originally authorized at \$45,500, from Water Utility Account #631.04. Seconded by Alderman Ament and carried unanimously.

Authorize Land Survey Services

Motion by Alderman Gallagher to authorize Ruekert-Mielke to perform land survey of Wetland Boundary on the Marcus well site property in an amount not to exceed \$1,450. Seconded by Alderman Ament and carried unanimously.

Hales Corners Lutheran Church, Request to Obtain Milwaukee Water

Motion by Alderman Gallagher to adopt the Utility Committee's recommendation to decline support of the Hales Corners Lutheran Church's proposal to acquire City of Milwaukee (Lake Michigan) Water service for their proposed project on Janesville Road at 124th Street in lieu of requiring

construction of a looping water main through their project and use of City Water for their project. Seconded by Alderman Ament and carried unanimously.

LANDMARKS COMMISSION - No Report

SAFETY COMMISSION - No Report

TECHNOLOGY COMMITTEE - No Report

MAYORAL APPOINTMENTS

Board of Review

Motion by Alderman Wilkens to appoint Amy Narus to the Board of Review, with an expiration date of May 31, 2003. Seconded by Alderman Gallagher and carried unanimously.

Customer Service Committee

Motion by Alderman Wilkens to appoint Nancy Kleczka to the Customer Service Committee, with an expiration date of December 31, 2003. Seconded by Alderman Gallagher and carried unanimously.

Parks & Recreation Commission

Motion by Alderman Wilkens to appoint Vernon E. Radtke to the Parks & Recreation Commissioner, with an expiration date of April 30, 2005. Seconded by Alderman Gallagher 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

CONSENT AGENDA

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

MINUTES

Minutes of the Common Council Meeting held on April 23, 2002

UTILITY & FINANCE

Claims

Approve payment of Water Utility Claims in the amount of \$202,058.42, Sewer Utility Claims in the amount of \$91,294.05, and Bi-weekly Claims in the amount of \$401,845.37, all of which represents payments to vendors.

LICENSES

Bartender Licenses

Approve the Bartender Licenses for the year 2000-2002 to Diana M. Feld, Sherry C. Rejman and Lisa C. Simon.

Liquor License Fee

Direct the City Attorney to draft an Ordinance amending Section 152-1 of the Municipal Code to (1) reflect Wisconsin Statutes and (2) to permit the City to retain a portion of the license fee to cover costs when licenses are denied.

Leaf Burning

Council to ask Streets Division to investigate this issue and report back to Committee of the Whole: 1) Could the waste haulers handle an increased volume of bagged leaves in the fall? 2) For those wishing to use the recycling center, could the center handle a 3 to 4 times increase in volume of leaves? This action is intended for the moment to only address leaf burning, not to propose a ban on general burning until the results of leaf burning could be evaluated.

State Adoption of the International Building Code, International Fire Code, NFPA 1 Fire Prevention Code and NFPA 101 Life Safety Code

Direct the City Attorney to draft an Ordinance to update the current City of New Berlin Fire Prevention Code Chapter 124.

LICENSES

Bartender Licenses

Motion by Alderman Harenda to approve the Bartender License for the year 2000-2002 to Jennifer L. Bunker. Seconded by Alderman Gallagher and carried with Alderman Wilkens and Chiovaturo voting "no".

IT Services Policy

Motion by Alderman Bullermann to adopt the IT Services Policy. Seconded by Alderman Wilkens and carried with Alderman Gallagher voting "no".

Retain Special Legal Counsel for Sts. Constantine and Helen Greek Orthodox Church Possible Litigation

Motion by Alderman Gallagher to authorize the Mayor and staff to retain Professor Marci A. Hamilton to represent the City of New Berlin for purposes of defending any litigation brought against the City of New Berlin by Sts. Constantine and Helen Greek Orthodox Church. The fee will be \$400 per hour, with a \$5,000 retainer, with funds from contingency account 616 to be transferred to the City Attorney account 508-232-01. Seconded by Alderman Ament and carried unanimously.

RESOLUTIONS AND ORDINANCES

Introduction of a Resolution to Vacate Hunter Court - A Public Hearing was scheduled for July 9, 2002 at 7:00 p.m.

Ordinance No. 2170 "Ordinance Repealing and Recreating Section 11-21(A) of the City of New

Berlin Municipal Code Pertaining to Medical Insurance” (1st Reading)
City Clerk Weter gave the first reading of Ordinance No. 2170.

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” (1st Reading)
City Clerk Weter gave the first reading of Ordinance No. 2171.

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, Parks and Recreation to Director of Forestry, Parks and Recreation” (1st Reading)
City Clerk Weter gave the first reading of Ordinance No. 2172.

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” (1st Reading)
City Clerk Weter gave the first reading of Ordinance No. 2173.

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 ____” (1st Reading)
City Clerk Weter gave the first reading of Ordinance No. 2174.

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 ____” (1st Reading)
City Clerk Weter gave the first reading of Ordinance No. 2175.

Motion by Alderman Harenda to adjourn the meeting at 11:15 p.m. Seconded by Alderman Ament and carried unanimously.

Judy Weter
City Clerk

JW/nh