

**Common Council Minutes  
April 23, 2002**

Minutes of a Regular Meeting of the Common Council of the City of New Berlin, Waukesha County, Wisconsin, held on Tuesday, April 23, 2002, at the New Berlin City Hall at 7:00 P.M.

Present were Mayor Wysocki, Aldermen Bullermann, Augustine, Gallagher, Harenda, Wilkens, Chiovatero 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 Olofu Aghbaji, City Engineer JP Walker, Division Engineer Larry Wilms, Director of Finance and Utilities Mike Holzinger, Director of Human Resources Tami Potkay, Director of Streets, Parks & Recreation Mark Schroeder, and Building Maintenance Manager Bob Schulpus.

**PRESENTATION: Annual Citizen of the Year Award**

Mayor Wysocki presented the Citizen of the Year Award to this year's recipient, Kathlene N. Sisson.

Mayor Wysocki suspended the Common Council Meeting at 7:07 to convene the Committee of the Whole Meeting.

The Common Council Meeting reconvened at 7:51 p.m.

**Election of Council President**

Motion by Alderman Wilkens to nominate Alderman Tom Bullermann as Council President. Seconded by Alderman Chiovatero.

There were no further nominations.

Motion by Alderman Wilkens for unanimous ballot for Alderman Bullermann to be elected Council President. Seconded by Alderman Chiovatero and carried unanimously.

**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

**REFERRALS, DEFERRALS AND TABLED ITEMS**

**Plan Commission** - St. Constantine & Helen Greek Orthodox Church - 17955 W. Cleveland Ave. - Rezone from R-2 to I-1 - DEFERRED 4-9-02

Motion by Alderman Ament to deny the application of St. Constantine & Helen Greek Orthodox Church to

rezone the property located at 17955 W. Cleveland Ave. from R-2 Rural Estate Single Family Residential District to I-1 Institutional District based on the following conditions:

- 1) Amendments to the Zoning Ordinance. Recommendations and decisions on amendments to the Zoning Ordinance should be based on consideration of the following criteria, per New Berlin Code Section 275-22:
  - a) Whether the proposed amendment is consistent with the Master Plan and the stated purposes of this chapter.
  - b) Changes to the zoning district boundaries (rezonings). In acting on a rezoning petition, the Common Council shall consider the stated purposes of the proposed zoning district and shall approve the petition only if it finds that:
    - 1) The proposed rezoning is consistent with the Master Plan and the stated purposes of this chapter.
    - 2) Adequate public facilities and services will be available to serve the subject property while maintaining adequate levels of service to existing development.
    - 3) Provision of public facilities to accommodate development will not place an unreasonable burden on the ability of the City to provide them.
    - 4) The proposed development has taken into account impacts on surrounding properties.
    - 5) The proposed rezoning will not be used to legitimize, or "spot zone," a nonconforming use or structure.
    - 6) The proposed rezoning is the minimum action necessary to accomplish the intent of the petition, and an administrative modification, variance, or conditional use permit could not be used to achieve the same result.
- 2) Church land use is allowed within the current R-2 zoning.
- 3) The same criteria required for churches under the R-2 zoning are the same criteria for all conditional uses in the R-2 zoning district.
- 4) In a recent development of the updated Master Plan, the Commission encouraged a greater area of land for church purposes that had existed previously. One of the purposes of the City's new codes promotes the health, safety, morales, comfort, prosperity, and general welfare for the City of New Berlin without violating the establishment clause of the US Constitution.
- 5) Zoning Code 275-36 Institutional District Section (a)(1) provides appropriately located areas consistent with the New Berlin Master Plan for a full range of institutional and recreational areas to benefit residents, businesses, and workers in New Berlin.
- 6) Zoning Code 275-33 Residential District Section (a)(1) provides appropriately located areas for residential development that are consistent with the New Berlin Land Use and Urban Design Plan, and with standards of public health and safety established by this chapter and any other appropriate governmental body, and 275-33(3) Protect residents from the harmful effects of excessive noise, population density, traffic congestion, and other significant adverse environmental effects.

Seconded by Alderman Gallagher and carried with Aldermen Bullermann, Wilkens, and Chiovatero voting "no".

**COMMUNICATIONS**

**Notice of Claim - Mike Danko-** To City Attorney

**PLAN COMMISSION** - No Report

**BOARD OF PUBLIC WORKS** - No Report

**STORM WATER COMMITTEE** - No Report

**UTILITY COMMITTEE**

Alderman Gallagher reported from the meeting held this evening:

**Second Phase Rehabilitation of Well No. 8 - Award of Contract**

Motion by Alderman Gallagher to approve the award of Construction Contract W-139-B, Well #8 Pump Replacement - ReBid, to the lowest qualified responsible responsive Bidder, Layne-Northwest Company, Inc., Pewaukee, WI, in an amount of \$68,864, for project #W-139-B, and waive any irregularities, for a total project cost in the amount of \$98,000.

Seconded by Alderman Ament and carried unanimously.

Alderman Gallagher then reported from the meeting held on April 3, 2002:

**Award of Contract for Sewer System Evaluation Survey (LSES)**

Motion by Alderman Gallagher to approve final payment for Professional Services Agreement with R.A. Smith & Associates, Consulting Engineers, for changes in the scope of work for technical services on LSES Project in the amount of \$117,514.57, bringing the total payments to the maximum authorized amount of \$688,762.90 for Project #K-328, and to be funded by Wastewater Retained Earnings. Seconded by Alderman Wilkens and carried with Alderman Ament voting "no".

**Reallocation of Approved Project Funds, Phase II Manhole Rehabilitation**

Motion by Alderman Gallagher to authorize staff to proceed with Scope of Work and resultant contract cost increases for Kim Construction, Inc. for Contract "B" in an amount not exceeding \$17,500 for Contingency funds for Project #K-344. This results in contingency for Contract "A" being reduced to \$102,987. The total project costs remain as originally authorized at \$1,262,500 from Wastewater Utility Account #831.04. Seconded by Alderman Ament and carried unanimously.

**Engineering Agreement Approval for Lake Michigan Water Study**

Motion by Alderman Gallagher to authorize award of a Professional Services Agreement with Ruckert-Mielke, Consulting Engineers for Technical Services associated with negotiations at a cost not to exceed \$12,840.00 and Radionuclide Evaluation Phase at a cost not to exceed \$47,792 to facilitate Lake Michigan Water Supply for City to be funded by Water Utility Account #923.42. Seconded by Alderman Chiovatero and carried unanimously.

**Appraisal Authorization for Lake Michigan Proposed Booster Station**

Motion by Alderman Gallagher to authorize staff to secure proposals and proceed with retaining appraisal services for the full taking of a lot or lots in the vicinity of 124<sup>th</sup> Street and Grange Avenue suitable for future use as the site of the Grange Avenue Water Booster Pumping Station for a professional services fee not to exceed \$3,500 to come from Account #923.42. Seconded by Alderman Ament and carried unanimously.

**WEPCO Easement at Tower #3**

Motion by Alderman Gallagher to approve the utility easement with Wisconsin Electric Power Company, agent, for a public easement on City Water Utility lands located at the Water Tower #3 site on Parcel Key #1255-991-008. Seconded by Alderman Wilkens and carried unanimously.

**LANDMARKS COMMISSION** - No Report

**SAFETY COMMISSION** - No Report

**TECHNOLOGY COMMITTEE** - No Report

**PARKS & RECREATION COMMISSION**

Alderman Gallagher reported from the meeting held on April 15, 2002:

**Hickory Grove Window Replacement Phase III - Award of Contract**

Motion by Alderman Gallagher to award the contract to Ver Halen Pella in the amount of \$75,864, for materials and labor for Phase III Window Replacement at Hickory Grove Center. Seconded by Alderman Wilkens and carried with Aldermen Augustine, Gallagher, and Ament voting "no".

**ProHealth Care Park - Resolution Authorizing the Submittal of a State Grant Application/ Resolution No. 02-09**

Motion by Alderman Gallagher to approve Resolution No. 02-09 "A Resolution Authorizing the Application for Outdoor Recreation Aids Park Land Development" (Phase I Development at ProHealth Care Park). Seconded by Alderman Augustine.

Motion by Alderman Augustine to amend the following: 3<sup>rd</sup> Paragraph, delete "athletic fields", and replace with "one soccer/overlay baseball field". Seconded by Alderman Ament and carried with Aldermen Harenda, Wilkens, and Chiovatero voting "no".

Motion by Alderman Bullermann to reconsider. Seconded by Alderman Wilkens and carried with Alderman Gallagher voting "no".

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

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

**Kelly Lakes Park - Resolution Authorizing the Submittal of a State Grant Application/ Resolution No. 02-10**

Motion by Alderman Gallagher to approve Resolution No. 02-10 "A

Resolution Authorizing the Application for Chapter NR 191 Lake Protection Grants Wetland Restoration Incentive Program and Wetland Restoration Program" (Kelly Lakes Park and Land Acquired by the Kelly Lakes Association). Seconded by Alderman Harenda.

Motion by Alderman Gallagher to allow Mike Cascio to address the Council. Seconded by Alderman Wilkens and carried unanimously.

Motion by Alderman Gallagher to refer this item to the Stormwater Committee for recommendation. Seconded by Alderman Ament and carried with Aldermen Harenda, Wilkens, and Chiovatero voting "no".

#### **CIVIL SERVICE COMMISSION**

##### **2002 Proposed Salary Ranges for Non-Represented Employees**

Motion by Alderman Bullermann to recommend that the 2002 Proposed Salary Ranges for Non-represented Employees be passed on to the Common Council for approval, adjusting the 2001 salary ranges by 3.5% to reflect the 2002 Salary Range. Seconded by Alderman Chiovatero.

Motion by Alderman Gallagher to amend the motion from 3.5% to 1.5%. Seconded by Alderman Augustine. Upon voting the motion failed with Aldermen Augustine and Gallagher voting "yes".

Upon voting on the original motion, the motion carried with Alderman Gallagher voting "no".

##### **Health Insurance Benefits and Premium Contributions**

Motion by Alderman Wilkens to modify:

11-21 (A).Medical Insurance. to read: Effective July 1, 2002, regular full-time employees shall contribute 5% 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.

Motion by Alderman Wilkens to amend the motion from 5% to 10%. Seconded by Alderman Gallagher and carried with Aldermen Bullermann and Chiovatero voting "no".

Upon voting on the motion as amended, the motion carried with Aldermen Bullermann, Chiovatero and Ament voting "no".

##### **Retiree Health Insurance**

Motion by Alderman Wilkens to recognize 100% of unused sick leave for calculation of the insurance premium bank for post retirement benefits.

This provision shall only apply to employees classified as civil service who retire in the year 2002, and have a minimum of 20 years of service. Upon exhaustion of the insurance premium bank, employees may continue coverage in the City's health insurance program at their sole expense until the employee and/or spouse reach Medicare eligibility.

Seconded by Alderman Bullermann and carried unanimously.

**Departmental Reorganization Efforts/Creation of Utilities and Streets Operations Department**

Motion by Alderman Ament to recommend the following to Council:

1. Remove the streets division from the Streets, Parks and Recreation Department and retitle this department and all relevant job descriptions to Forestry, Parks and Recreation.
2. Remove the utilities division from the Finance and Utilities Department and retitle this Department and all relevant job descriptions to Finance and Administration Department.
3. Create a Utilities & Streets Operations Department by combining the streets division and utilities division and creating a stormwater division.
4. Create and fill the position of Director of Utilities & Streets Operations (Civil Service).
5. Create and fill the position of Office Coordinator - Utilities & Streets (Civil Service).
6. Create and fill the position of Stormwater Supervisor (Civil Service).
7. Fill the position of Utility Supervisor (Civil Service).
8. Direct the Decision Band Committee to band the positions of Director of Utilities & Streets Operations and Stormwater Supervisor.
9. Eliminate the positions of Utility Operations Manager and Streets Superintendent.

And to direct the City Attorney to prepare the proper Ordinances modifying Chapter 11 as follows:

**§ 11-5 Civil Service Positions**

Remove: Streets Superintendent, Utility Operations Manager  
Retitle: Director of Finance and Utilities to Director of Finance and Administration  
Director of Streets, Parks and Recreation to Director of Forestry, Parks and Recreation  
Add: Director of Utilities & Streets Operations, Office Coordinator (Utilities & Streets), Stormwater Supervisor, Utility Supervisor.

**§ 11-7 Appointing Authority**

Retitle: Director of Finance and Utilities to Director of Finance and Administration

Director of Streets, Parks and Recreation to Director of  
Forestry, Parks and Recreation  
Add: Director of Utilities & Streets Operations  
Seconded by Alderman Gallagher and carried with Alderman Chiovatero  
voting "no".

#### **MAYORAL APPOINTMENTS**

##### **Board of Appeals**

Motion by Alderman Ament to reappoint James L. Klappa to the Board of Appeals, with an expiration date of April 30, 2005. Seconded by Alderman Harenda and carried unanimously.

##### **Landmarks Commission**

Motion by Alderman Ament to appoint Laurie M. DeMoss to the Landmarks Commission, with an expiration date of October 1, 2002. Seconded by Alderman Harenda and carried unanimously.

##### **Safety Commission**

Motion by Alderman Gallagher to appoint Lynne A. Dahlvik to the Safety Commission, with an expiration date of April 30, 2004. Seconded by Alderman Ament and carried with Alderman Bullermann voting "no".

##### **Special Assessment Review Committee**

Motion by Alderman Ament to appoint Robert A. Hoelzl to the Special Assessment Review Committee, with an expiration date of April 1, 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

#### **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 March 26, 2002

Minutes of the Common Council Meeting held on April 16, 2002

#### **UTILITY & FINANCE**

##### **Claims**

Approve payment of Water Utility Claims in the amount of \$126,103.62, Sewer Utility Claims in the amount of \$77,732.68, and Bi-weekly Claims in the amount of \$524,577.87, all of which represents payments to vendors.

#### **LICENSES**

### **Bartender Licenses**

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

Deny the Bartender License for the year 2000-2002 to Ruthi M. Gossette, based upon an incomplete application and failure to disclose violations.

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

Deny the Bartender License for the year 2000-2002 to Jason M. Jackson, based upon an incomplete application and failure to disclose violations.

Approve the Bartender Licenses for the year 2000-2002 to Barb A. Dorgay, Kathleen M. Farber, Sara E. Meuer, Barbara J. Mudgett, James W. Rosenberger, Kerry L. Strizie and Trish L. Yingling.

### **Bartender Licenses**

The Council has before it a two-page report of Keeley A. Dineen's application and past record.

Motion by Alderman Wilkens to deny the Bartender License for the year 2000-2002 to Keeley A. Dineen, based on the record before Council, including underage violations. Seconded by Alderman Bullermann and carried unanimously.

### **Amendment to "Class B" Retailers Licenses**

Motion by Alderman Harenda to approve the amendment of the "Class B" Retailers License to include the "Parking Lot Area" for Mustang Shelly's Roadhouse, Ltd., 18540 W. National Ave., on Saturday, May 4, 2002 from 11 a.m. to 10 p.m. and Sunday, May 5, 2002 from 9 a.m. to 10 p.m. Any complaints from neighbors, etc. that require police response will result in immediate revocation of outdoor amendment. Seconded by Alderman Wilkens and carried unanimously.

Motion by Alderman Wilkens to approve the amendment of the "Class B" Retailers License to include the "Parking Lot Area" for Legacy Fine Dining, 14955 W. National Ave., on Monday, May 13, 2002, from 5 p.m. to 11 p.m. Any complaints from neighbors, etc. that require police response will result in immediate revocation of outdoor amendment. Seconded by Alderman Ament and carried unanimously.

## **RESOLUTIONS AND ORDINANCES**

**Ordinance No. 2169 "An Ordinance to Rezone the Property at 15451 W. Beloit Road"**(Holiday Inn Express)

City Clerk Weter gave the only necessary reading of Ordinance No. 2169.

Motion by Alderman Bullermann to approve Ordinance No. 2169. Seconded by Alderman Ament and carried unanimously.

Motion by Alderman Augustine to adjourn the meeting at 10:55 p.m. Seconded by Alderman Harenda and

carried unanimously.

JW/nh

**Judy Weter  
City Clerk**