

**Common Council Minutes
March 12, 2002**

Minutes of a Regular Meeting of the Common Council of the City of New Berlin, Waukesha County, Wisconsin, held on Tuesday, March 12, 2002, at the New Berlin City Hall at 7:38 P.M.

Present were Mayor Wysocki, Aldermen Bullermann, Thomas, Gallagher, Scheuble, Wilkens, Chiovatero and Ament. Also present were Assistant City Attorney Tom Schmitzer, City Clerk Judy Weter, Director of Community Development Greg Kessler, Director of Planning Mark Lake, City Engineer JP Walker, Division Engineer Larry Wilms, Civil Engineer Mark Handzlik, and City Assessor Paul Koller.

Clerk's Report - City Clerk Weter gave a Clerk's Report.

Council President's Report - No Report

Mayor's Report - No Report

City Attorney's Report

Asst. City Attorney Tom Schmitzer gave a City Attorney's Report.

COMMUNICATIONS

Communication from Andrea L. Koonce re: Waiving of Interest and Penalty on Delinquent Taxes/Response from Director of Finance and Utilities

Motion by Alderman Ament to waive the interest and penalty relative to the request by Andrea L. Koonce, Tax Key #1168-009. Seconded by Alderman Gallagher. Upon voting, the motion failed with Alderman Scheuble voting "yes".

Communication from Wisconsin Electric re: Policy on Motorized Vehicles and Hunting - On File in Clerk's Office

Notice of Claim - Edwin Dombrowski - To City Attorney

Reconsideration Request from Alderman Scheuble re: Midwest Power Resolution No. 02-08
Alderman Scheuble requested that his reconsideration be withdrawn.

Motion by Alderman Scheuble to drop this item from the agenda. Seconded by Alderman Wilkens and carried unanimously.

PLAN COMMISSION

Alderman Ament reported from the Meeting held on March 4, 2002:

Rogers/Thomson/Polzin Lands - 5265 S. Racine Avenue - 60-Lot Subdivision

Motion by Alderman Ament to deny without prejudice the request by Rogers/Thomson/Polzin Lands for a 60 lot conservation subdivision located at 5265 S. Racine Avenue based on the following:

- 1) Application fails to meet the overall West side density requirements of the updated Master Plan agreed upon and approved by this Plan Commission as of August 24, 2001.
- 2) Under Municipal Code 275-13(E)(1) the Plan Commission may exercise its judgement according to that plan, therefore, apply the code as it currently exists.

Seconded by Alderman Gallagher.

Motion by Alderman Wilkens to defer this item. Seconded by Alderman Bullermann.

Motion by Alderman Wilkens to allow the applicant's Attorney to address the Council. Seconded by Alderman Bullermann and carried unanimously.

Upon voting to defer, the motion failed with Aldermen Bullermann, Wilkens, and Chiovatero voting "yes".

Motion by Alderman Bullermann to allow Dean Frederick to address the Council. Seconded by Alderman Thomas and carried unanimously.

Motion by Alderman Scheuble to amend the motion and add another reason for denial, based on the fact that they did not satisfy Municipal Code Section 18.05 (2) & (d). Seconded by Alderman Gallagher. Upon voting, the motion failed with Alderman Scheuble voting "yes".

Upon voting on the original motion to deny, the motion carried with Alderman Wilkens voting "no".

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 to the Layne-Northwest Co., Inc. of Pewaukee, WI for Optional Alternate Bid in the lump sum amount of \$105,000, for Project #W-139, second phase of rehabilitating Well #8, and waive any irregularities in their bid, for a total project cost in an amount not to exceed \$131,000, and to be funded by Water Utility Account #631.04. Seconded by Alderman Wilkens.

Motion by Alderman Gallagher to refer this item back to the Utility Committee. Seconded by Alderman Wilkens and carried unanimously.

Professional Services Agreement for Future Water Needs/Planning and Design

Motion by Alderman Gallagher to approve the award of contract for

Professional Engineering Design services to Ruekert & Mielke, Inc. in an amount not to exceed \$70,500 for Well #11, Pumphouse, Pump and connection main design, and to be funded by Water Utility Account #923.42. Seconded by Alderman Wilkens and carried with Alderman Scheuble voting "no".

LANDMARKS COMMISSION - No Report

SAFETY COMMISSION - No Report

TECHNOLOGY COMMITTEE - No Report

MAYORAL APPOINTMENTS

Civil Service

Motion by Alderman Chiovatero to appoint Sue Robison-Matheson to the Civil Service Commission, with an expiration date of June 30, 2006. Seconded by Alderman Ament and carried unanimously.

ACTION ON PUBLIC HEARINGS/None

REFERRALS, DEFERRALS AND TABLED ITEMS

Action on Public Hearings - H & R Equipment - 17770 W. National Ave. - Rezone from B-2 to B-3 - TABLED 5-8-01

Motion by Alderman Bullermann to remove this item from the table. Seconded by Alderman Gallagher and carried unanimously.

Motion by Alderman Wilkens to drop this item from the agenda. Seconded by Alderman Thomas and carried unanimously.

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

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

Communications - From Howard and Claire Cook re: Waiving of Interest and Penalty on Delinquent Taxes/Response from Director of Finance and Utilities - TABLED 2-26-02

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

Motion on the Floor: Motion by Alderman Wilkens to waive the interest and penalty relative to the request by Howard and Claire Cook, Tax Key #1242.259. Seconded by Alderman Bullermann. Upon voting, the motion carried with Aldermen Thomas, Gallagher and Ament voting "no".

CONSENT AGENDA

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

MINUTES

Minutes of the Common Council Meeting held on February 26, 2002

UTILITY & FINANCE

Claims

Approve payment of Water Utility Claims in the amount of \$136,384.91, Sewer Utility Claims in the amount of \$3,427,366.40, of that amount \$3,326 803.00 represents payment to MMSD, and the remaining amount of \$100,563.40 represents payments to vendors, and Bi-weekly Claims in the amount of \$665,470.29, all of which represents payments to vendors.

LICENSES

Bartender Licenses

Approve the Bartender Licenses for the year 2000-2002 to Michelle L. Boche, Karen M. Girsch, Cynthia M. Jakubowski, Bethany M. Larson, Debbie L. Meyer, Bryan M. Mullins and Paul S. Palama.

Class "B" Fermented Malt License

Approve the Class "B" Fermented Malt Beverage License for the year 2001-2002 to Moorland Road Golf Center LLC, Thomas Major, Agent at 5900 South Moorland Road, subject to the Agent completing the Responsible Beverage Service Course.

Bartender License

The Council has before it a one-page report of Ben Palmer's application and past record.

Motion by Alderman Gallagher to approve the Bartender License for the year 2000-2002 to Ben Palmer. Seconded by Alderman Bullermann. Upon voting, the motion carried with Aldermen Wilkens, Chiovatero and Ament voting "no".

RESOLUTIONS AND ORDINANCES/None

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

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.

- Claim of Advanced Communication Specialists -

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

Motion by Alderman Bullermann to issue a Personal Property Tax Refund to Advanced Communication Specialists for 2001 taxes in the amount of \$10,252.56, due to the taxpayer having properly filed a claim under State Statute 74.35 "Recovery of Unlawful Tax". Seconded by Alderman Thomas and carried unanimously.

Motion by Alderman Thomas to adjourn the meeting at 9:13 p.m. Seconded by Alderman Scheuble and carried unanimously.

**Judy Weter
City Clerk**

JW/nh