

**Common Council Minutes  
February 12, 2002**

Minutes of a Regular Meeting of the Common Council of the City of New Berlin, Waukesha County, Wisconsin, held on Tuesday, February 12, 2002, at the New Berlin City Hall at 7:40 P.M.

Present were Mayor Wysocki, Aldermen Bullermann, Thomas, Gallagher, Scheuble, Wilkens, 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, Division Engineer Larry Wilms, Civil Engineer Mark Handzlik, IT Manager Sue Schaefer, and Director of Finance and Utilities Mike Holzinger. Alderman Chiovatero was excused.

**Clerk's Report**

City Clerk Weter gave a Clerk's Report.

**Council President's Report**

Alderman Bullermann gave a Council President's Report, restating a new Employee Recognition Program, to recognize employee efforts publicly and to educate the public on the quality of services by outstanding employees throughout the city.

Alderman Bullermann recognized the staff that responded to several hundred phone calls following the mailing of the first stormwater utility billing, and other people as well - Greg Kessler, Judy Weter, JP Walker, Karen Nork, Kaye Giesege, Michelle Reibe, Anne Gerard, Jay Gospodarek, Mark Handzlik, John Graber, Sherri Schulpus, Rachel Eisert, Linda Graber, Kelly Porter, Sue Hanley. Also Mark Timmers who gave up vacation time to work on the utility software.

Alderman Bullermann then read a recognition from Kris Scalzo, the Captain of Fire Station #2 in recognition of the Police Department's cooperative effort Sunday morning, January 27<sup>th</sup>. Fred Michell and Rhonda Eisold went above and beyond to help the crew of Ambulance 2 deliver a baby boy, along with Firefighter Mike Schmidt. Congratulations to all for a job well done.

The next recognition goes to Police Officer Dan Hanlon for grants that were given for laptop computers in police squads.

**Mayor's Report**

Mayor Wysocki gave a Mayor's Report.

**City Attorney's Report - No Report**

**COMMUNICATIONS**

**Reconsideration Request from Alderman Scheuble re: Parkwood Lane Storm Sewer Design and Woodshire Addition II Pond Study**

Motion by Alderman Scheuble to reconsider the Parkwood Lane Storm Sewer Design. Seconded by Alderman Thomas and carried unanimously.

Motion by Alderman Bullermann to approve a Professional Services Contract between the City of New Berlin and R.A. Smith and Associates in the amount of \$38,500, for the Parkwood Lane Storm

Sewer Design. Seconded by Alderman Ament.

Upon voting, Aldermen Bullermann, Thomas, and Wilkens voted “yes” and Aldermen Gallagher, Scheuble and Ament voting “no”. Tie vote. Mayor Wysocki voted “yes”, motion carried.

Motion by Alderman Scheuble to reconsider the Woodshire Addition II Pond Study. Seconded by Alderman Bullermann and carried unanimously.

Motion by Alderman Wilkens to approve a Professional Services Contract between the City of New Berlin and R.A. Smith and Associates in the amount of \$10,500, for the Woodshire Addition III Pond Study. Seconded by Alderman Bullermann.

Upon voting, Aldermen Bullermann, Thomas and Wilkens voted “yes” and Aldermen Gallagher, Scheuble and Ament voting “no”. Tie vote. Mayor Wysocki voted “yes”, motion carried.

**Communication from Fourth of July Commission re: “Celebrating American Heroes” Theme**  
Alderman Ament discussed the theme for this year’s Fourth of July event.

**PLAN COMMISSION**

Alderman Ament reported from the meeting held on January 7, 2002:

**Eugene J. Krahn - 15340 W. Cleveland Ave. - Two-Lot Preliminary Land Division**

Motion by Alderman Ament to approve the request by Eugene J. Krahn for a two lot preliminary land division located at 15340 W. Cleveland Avenue subject to:

- 1) Both lots shall meet the minimum requirements of ss17.04(2)(4) R-4 Lot-Density Single-Family Residential District in its entirety.
- 2) East-West lot line shall match existing lot line to the west (160.14' from Glendale Drive and/or 273.47' from Cleveland Avenue).
- 3) If a new residence is not commenced construction within one calendar year of the approval of the Final CSM, existing accessory building shall be removed. If accessory building is moved to lot with existing principal residence it shall be relocated to meet accessory building setback requirements of new lot. If accessory building is to remain (on new lot) it shall be (re)located to meet minimum accessory building setback requirements of the new lot.
- 4) Cleveland Avenue ultimate right-of-way is 65'. Only 50' has been dedicated to date. An additional 15' shall be “dedicated to Waukesha County for public road purposes” and labeled as such on the final CSM.
- 5) Cross-access easement from Blessed Savior Lutheran Church required. Easement required to be on file prior to signing the final CSM.
- 6) Access permits from Glendale Drive required from the City of New Berlin Engineering Department prior to signing the final CSM.
- 7) Building permits required from Building, Inspection and Zoning Department for any future home.
- 8) Payment of \$2,137.60 in Public Site, Open Space and Trail Fees required prior to the City signing the final CSM.

Seconded by Alderman Thomas and carried unanimously.

**Honeyager - 3949 S. Sunnyslope Rd. - SE1/4 Sec. 14 - Three-Lot Preliminary Land Division**

Motion by Alderman Ament to approve the required by Honeyager for a three lot preliminary land division located at 3949 S. Sunnyslope Road subject to:

- 1) Lot 3 (a land-locked parcel) shall be labeled an Outlot. Lot shall be considered unbuildable unless combined with a lot or lots, which have public road access.
- 2) Payment of \$4,275.20 in Public Site, Open Space and Trail Fees required prior to signing the Final CSM.

Seconded by Alderman Wilkens.

Motion by Alderman Ament to table this item. Seconded by Alderman Scheuble and carried with Alderman Wilkens voting "no".

**Harold Zastrow - 2513 S. Brookland Rd. - NE1/4 Sec. 11 - One-Lot Final Land Division**

Motion by Alderman Ament to approve the request by Harold Zastrow for a one lot final land division located at 2513 S. Brookland Road subject to:

- 1) Both lots shall meet the minimum requirements of ss17.04(2)(4) R-4 Lot-Density Single-Family Residential District in its entirety.
- 2) Change dates to 2002 and Plan Commission Secretary to Mark C. Lake.
- 3) Property will require substantial amounts of fill to bring up the pad height of the new home. Drainage swales will be required on each side of the home, and swales shall be constructed a minimum of five feet from each lot line.
- 4) Access permits required from the City of New Berlin Engineering Department prior to signing the final CSM.
- 5) Building permits required from Building, Inspection and Zoning Department for any future home.
- 6) Payment of \$2,137.60 in Public Site, Open Space and Trail Fees required prior to the City signing the final CSM.

Seconded by Alderman Thomas and carried unanimously.

Alderman Ament then reported from the meeting held on February 4, 2002:

**Holiday Inn Express Hotel & Suites - City of New Berlin Department of Community Development - 15451 W. Beloit Rd. - Rezone from B-4/R-4 to B-1/O-1, or O-2**

Motion by Alderman Ament to set a public hearing date, and that the Council, acknowledging that it has the opportunity to hold the public hearing, recommends that the public hearing be held before the Plan Commission, on the date of March 4, 2002 at 6:00 p.m., relative to the request to rezone the property located at 15451 W. Beloit Road from B-4/R-4 to B-1/O-1, or O-2. Seconded by Alderman Bullermann and carried unanimously.

**St. Constantine & Helen Greek Orthodox Church - 17955 W. Cleveland Ave. - Rezone from R-2 to I-1**

Motion by Alderman Ament to set a public hearing date, and that the Council, acknowledging that it

has the opportunity to hold the public hearing, recommends that the public hearing be held before the Plan Commission, on the date of March 4, 2002 at 6:01 p.m., relative to the request to rezone the property located at 17955 W. Cleveland Avenue from R-2 to I-1. Seconded by Alderman Bullermann and carried with Alderman Gallagher voting “no”.

#### **BOARD OF PUBLIC WORKS**

##### **Reallocation of \$700,000 from the 2001 CIP Budget to Move These Monies to Resurfacing/Reconstruction Design of Grange Avenue**

Motion by Alderman Bullermann to reallocate \$700,000 from 2001 CIP fund for Coffee Road extension to an account for phased design of Grange Avenue improvements from 124<sup>th</sup> Street to Moorland Road and right of way purchase if necessary. All left over money to be used for CIP debt reduction. Preliminary conceptual plans subject to local resident review and recommendation. Seconded by Alderman Ament.

Motion by Alderman Wilkens to divide the question. Seconded by Alderman Scheuble.

Motion by Alderman Bullermann to table this item. Seconded by Alderman Gallagher and carried with Aldermen Scheuble and Ament voting “no”.

Since the motion to divide was not voted on, Council voted on tabling the whole motion.

##### **Right-of-Way Vacation/Forest Point at Westridge - 4701 S. Hunter Lane (Approx.)**

Motion by Alderman Ament to direct the City Attorney to prepare the appropriate paperwork that would lead to the vacation of Hunter Court. Seconded by Alderman Wilkens and carried unanimously.

##### **Intergovernmental Agreement with West Allis - Design & Reconstruction of 124<sup>th</sup> Street from National Avenue to Morgan Avenue**

Motion by Alderman Wilkens to direct the City Attorney to prepare the proper Resolution for the City of New Berlin to enter into an Intergovernmental Agreement with West Allis subject to review as to form by the City Attorney for the design and reconstruction of 124<sup>th</sup> Street from National Avenue to Morgan Avenue in West Allis. Seconded by Alderman Thomas and carried unanimously.

#### **STORM WATER COMMITTEE/No Report**

#### **UTILITY COMMITTEE**

Alderman Gallagher reported from the meeting held on February 6, 2002:

##### **Water and Wastewater 2002 Budgets**

Motion by Alderman Gallagher to approve the 2002 Water Budget. Seconded by Alderman Thomas and carried with Alderman Scheuble voting “no”.

Motion by Alderman Gallagher to approve the 2002 Water CIP Budget. Seconded by Alderman Thomas and carried with Alderman Scheuble voting “no”.

Motion by Alderman Gallagher to approve the 2002 Wastewater Budget. Seconded by Alderman Thomas and carried with Alderman Scheuble voting “no”.

Motion by Alderman Gallagher to approve the 2002 Wastewater CIP Budget. Seconded by Alderman Thomas and carried with Alderman Scheuble voting “no”.

### **Sanitary Manhole Rehabilitation Project K-348**

Motion by Alderman Gallagher to execute a Professional Services Agreement with R.A. Smith & Associates, Consulting Engineers, for field inventory-confirmation, and the preparation of final design, plans and construction contract documents and the bidding of the Phase II Sanitary Manhole Rehabilitation Project #K-348 for the remainder of the sewer service area in the City for a cost not to exceed \$36,900, and to be funded by Wastewater Utility Account #831.04. Seconded by Alderman Thomas and carried with Aldermen Scheuble and Ament voting “no”.

### **R.A. Smith Contract for Services**

Motion by Alderman Gallagher to approve the contract for services with R.A. Smith & Associates, Consulting Engineers, to install ten portable meters and download data on a weekly basis from February 4, 2002 through November 1, 2002 at a cost not to exceed \$20,000. Seconded by Alderman Thomas. Upon voting, Aldermen Bullermann, Thomas, and Wilkens voted “yes”, and Aldermen Gallagher, Scheuble, and Ament voted “no”. Tie vote. Mayor Wysocki voted “yes”, motion carried.

### **Purchase Request by Menomonee Falls for Brookfield Treatment Plant Capacity**

Motion by Alderman Gallagher to direct staff to enter into negotiations for sale of remaining capacity. Seconded by Alderman Ament.

Motion by Alderman Bullermann to table this item. Seconded by Alderman Wilkens. Upon voting, Aldermen Bullermann, Scheuble, and Wilkens voted “yes”, and Aldermen Thomas, Gallagher and Ament voting “no”. Tie vote. Mayor Wysocki voted “yes”, motion carried.

### **LANDMARKS COMMISSION - No Report**

### **SAFETY COMMISSION**

#### **“No Parking” Request - Service Road at Greenfield Ave. and 124<sup>th</sup> St./Resolution No. 02-05 “A Resolution to Prohibit Parking on the Greenfield Avenue Service Road”**

Motion by Alderman Ament to have “No Parking” signs placed on the dead end on far east end of service road, “No Parking from December 1<sup>st</sup> through April 1<sup>st</sup>”; South side of the service road “No “Parking” signs starting on the west side of the driveway at 12415 W. Greenfield going west for 25 feet, then “No Parking” signs from 12525 W. Greenfield (service road) west to Greenfield Ave; and North side of the service road “No Parking” signs starting 30 feet west of the east dead end of the service road and west to Greenfield Ave., and approve Resolution No. 02-05. Seconded by Alderman Bullermann.

Motion by Alderman Scheuble to table this item. Motion dies for lack of a second.

Upon voting, the motion carried with Alderman Gallagher voting “no”.

### **TECHNOLOGY COMMITTEE**

Alderman Bullermann reported from the meeting held on January 14, 2002:

#### **Voice Mail**

Motion by Alderman Bullermann to approve the agreement with Norstan to lease telephone voice mail equipment for 49 months at a cost of \$481.92 per month, plus \$55.12 per month maintenance agreement (total \$537.04). Funds are included in the 2002 budget Account No. 515-243.05 for the lease and Account No. 515-233.01 for the maintenance. Future years will need to be included in the appropriate years budget. Seconded by Alderman Wilkens.

Motion by Alderman Gallagher to table this item. Seconded by Alderman Bullermann and carried with Alderman Wilkens voting “no”.

## **MAYORAL APPOINTMENTS**

### **Board of Review**

Motion by Alderman Gallagher to appoint Gary R. Beier to the Board of Review with an expiration date of May 31, 2002. Seconded by Alderman Thomas and carried unanimously.

Motion by Alderman Gallagher to appoint Wendy Matel to the Board of Review with an expiration date of May 31, 2007. Seconded by Alderman Thomas and carried unanimously.

Motion by Alderman Gallagher to appoint William C. Dreyer to the Board of Review with an expiration date of May 31, 2006. Seconded by Alderman Thomas and carried unanimously.

Motion by Alderman Gallagher to appoint Jerome C. Hudy to the Board of Review with an expiration date of May 31, 2005. Seconded by Alderman Thomas and carried unanimously.

### **Customer Service Committee**

Motion by Alderman Gallagher to reappoint Katie Schulz, Jennifer Johnson, and Danielle Cast to the Customer Service Committee, all with expiration dates of December 31, 2002. Seconded by Alderman Thomas and carried unanimously.

### **Special Assessment Review Committee**

Motion by Alderman Gallagher to reappoint Denis J. Wagner to the Special Assessment Review Committee with an expiration date of April 1, 2005. Seconded by Alderman Thomas and carried unanimously.

Motion by Alderman Gallagher to appoint Leonard R. Zurkowski to the Special Assessment Review Committee with an expiration date of April 1, 2004. Seconded by Alderman Thomas and carried unanimously.

### **Youth Advisory Board**

Motion by Alderman Gallagher to appoint Joe Gradel, Catherine E. Bonner, Megin Rozman, Michael D. Moths, Charles D. Kleczka, Kristine Czubkowski, Greg D. Bybee, and Robert Bakic to the Youth Advisory Board, all with expiration dates of February 2, 2004. Seconded by Alderman Thomas and carried unanimously.

Motion by Alderman Gallagher to appoint Tiffany Kiefer to the Youth Advisory Board with an expiration date of February 5, 2003. Seconded by Alderman Thomas 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

**CONSENT AGENDA**

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

**MINUTES**

Minutes of the Common Council Meeting held on January 8, 2002

**UTILITY & FINANCE**

**Claims**

For January 23, 2002:

For 2001

Approve payment of Water Utility Claims in the amount of \$139,753.09, Sewer Utility Claims in the amount of \$71,239.54, and Bi-weekly Claims in the amount of \$343,984.16, all of which represents payments to vendors; and tax refunds in the amount of \$60,900.31.

For 2002

Approve payment of Bi-weekly Claims in the amount of \$329,263.68, all of which represents payments to vendors.

For February 13, 2002:

Approve of payment of Water Utility Claims in the amount of \$143,456.82, Sewer Utility Claims in the amount of \$233,990.99, and Bi-weekly Claims in the amount of \$651,252.38, all of which represents payments to vendors.

**LICENSES**

**Bartender Licenses**

Approve the Bartender Licenses for the year 2000-2002 to Randie L. Alf, Cynthia L. Clarke, Sherri D. Murray-Brito, Gina L. Nowak, Deborah E. Riesh, and Tracy A. Shackelford.

**MISCELLANEOUS**

**Release Towne Corporate Park Letter of Credit**

Release the Letter of Credit required by the Towne Corporate Park of New Berlin Developer's Agreement.

**2002 Budget Impact from Possible Reduction in Shared Revenues**

Direct the Mayor to review the 2002 budget (capital and operating) to identify potential areas of reduction in costs and/or services in order to be prepared in case the State Legislature eliminates the City of New Berlin's 2002 Shared Revenues.

**Westridge Pond**

Defer this issue to the Stormwater Utility and the Park and Rec Commission to analyze the City's interest in acquiring approximately 17 acres as it pertains to each entity, prepare a report of their findings and present the report to the Council.

**21<sup>st</sup> Century Vision/Resolution No. 02-07 “Resolution Indicating Opposition to the Proposed Legislation that Would Implement the “21<sup>st</sup> Century Vision for Waukesha County Municipalities”**

Approve and adopt Resolution No. 02-07.

**Countywide Communications Center/Shared Dispatch**

Direct the mayor to draft a letter to County Executive Dan Finley rejecting New Berlin's participation in the Countywide Communications Center/Shared Dispatch.

**TABLED ITEMS**

**Security Policy Regarding Alderman Access to City Hall** - Tabled 11-27-01 - No Action

**Transfer of Unused 2001 Road Maintenance Funds to Reserve Account** - Tabled 12-11-01 - No Action

**LICENSES**

**Bartender License**

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

Motion by Alderman Wilkens to deny the Bartender License for the year 2000-2002 to Nicolas J. Kehoe, based on the record before the Council. Seconded by Alderman Thomas. Upon voting, Aldermen Bullermann, Thomas, and Wilkens voted “yes”, and Aldermen Gallagher, Scheuble and Ament voting “no”. Tie vote, Mayor Wysocki voted “yes”, motion carried.

**Outdoor Music**

Motion by Alderman Bullermann to allow bands playing at the St. Elizabeth Ann Seton Church Festival to perform until 11 p.m. on Friday and Saturday, July 19 & 20, 2002 and until 7 p.m. on Sunday, July 21, 2002. Seconded by Alderman Scheuble and carried with Alderman Gallagher voting “no”.

**RESOLUTIONS AND ORDINANCES**

**Resolution No. 02-06 “Resolution Amending Rule 16 of the Rules for the Government of the Common Council of the City of New Berlin to Appoint a Council Liaison to the Youth Advisory Board”**

Motion by Alderman Gallagher to approve and adopt Resolution No. 02-06. Seconded by Alderman Bullermann and carried unanimously.

**Ordinance No. 2166 “The Honeyager Planned Unit Development Overlay District”**

Motion by Alderman Ament to table this item. Seconded by Alderman Gallagher and carried with Alderman Wilkens voting “no”.

**Ordinance No. 2167 “The Farrell Meadows Planned Unit Development Overlay District”**

Motion by Alderman Ament to table this item. Seconded by Alderman Gallagher and carried with Aldermen Thomas and Wilkens voting “no”.

Motion by Alderman Ament to move into Closed Session at 9:10 p.m. Seconded by Alderman Bullermann 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.

- Eileen Waltenberry Claim -

- Hales Corners Lutheran Church Litigation -

- Possible Litigation with Midwest Power -

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

#### OPEN SESSION

##### **Possible Action on Eileen Waltenberry Claim**

Motion by Alderman Gallagher to recommend to Council to deny the Eileen Waltenberry claim, per the recommendation of City Attorney Paul Reilly. Seconded by Alderman Thomas and carried unanimously.

##### **Possible Action on Hales Corners Lutheran Church Litigation**

Motion by Alderman Wilkens to approve the settlement with Hales Corners Lutheran Church in the amount of \$78,000. Seconded by Alderman Scheuble and carried unanimously.

##### **Possible Action on Possible Litigation with Midwest Power - No Action**

Motion by Alderman Wilkens to adjourn the meeting at 10:06 p.m. Seconded by Alderman Thomas and carried unanimously.

**Judy Weter  
City Clerk**

JW/nh