

**Common Council Minutes
December 11, 2001**

Minutes of a Regular Meeting of the Common Council of the City of New Berlin, Waukesha County, Wisconsin, held on Tuesday, December 11, 2001, at the New Berlin City Hall at 9:02 P.M.

Present were Mayor Wysocki, Aldermen Bullermann, Thomas, Gallagher, Scheuble, Wilkens, Chiovatero and Ament. Also present were City Attorney Paul Reilly, City Clerk Judy Weter, Director of Finance and Utilities Mike Holzinger, Director of Community Development Greg Kessler, Director of Planning Mark Lake, Director of Streets, Parks & Rec Mark Schroeder, and Deputy City Assessor Mary Hlavinka.

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 - No Report

YOUTH ADVISORY BOARD

Youth Board Composition

Motion by Alderman Scheuble to allow for a fifth member to be selected and appointed by the appropriate subcommittee of the Youth Board allowing for all rights and privileges of an appointed board member with the exception of voting privilege. Seconded by Alderman Ament and carried unanimously.

RESOLUTIONS AND ORDINANCES

Ordinance No. 2165 "An Ordinance to Rezone the Property at 2762-2900 S. Moorland Road from O-1, I-1, R-4.5 to O-3/PUD, I-1/PUD, and R-4.5/PUD"

City Clerk Weter gave the only necessary reading of Ordinance No. 2165.

Motion by Alderman Thomas to approve and adopt Ordinance No. 2165. Seconded by Alderman Ament and carried with Aldermen Wilkens and Chiovatero voting "no".

COMMUNICATIONS

Communication from New Berlin Public Schools re: Use of City Hall to Broadcast Board of Education Meetings

Consensus to allow the New Berlin Public Schools to use City Hall to broadcast their Board of Education Meeting for January, 2002 only as listed.

Reconsideration Request from Alderman Gallagher re: Well #11 Award of Construction Contract W-138

Motion by Alderman Gallagher to reconsider. Seconded by Alderman Scheuble and carried unanimously.

This item will be discussed after Closed Session.

Communication from Gary Koth re: Cell Tower in ProHealth Care Park - On File in Clerk's Office

PLAN COMMISSION

Alderman Ament reported from the meeting held on December 3, 2001:

Development Code Chapter 235 (18) and Zoning Code Chapter 275 (17) - 3:1 Density vs. 5:1 Density

Consensus to reaffirm the Plan Commission's recommendation of density as stated in the original code, to remain at 5:1.

Tans Drive - Wisconsin Rustic Road Resolution/Resolution No. 01-32

Motion by Alderman Scheuble to approve and adopt Resolution No. 01-32, "A Resolution to Recommend State of Wisconsin Rustic Road Designation of Tans Drive". Seconded by Alderman Ament and carried with Aldermen Bullermann, Wilkens and Chiovatero voting "no".

Area Rental & Sales Co. LLC - 16205 W. Rogers - Propane Tank Replacement - Conditional Use

Motion by Alderman Ament to approve the request by Area Rental & Sales Co. LLC for a propane tank located at 16205 W. Rogers subject to:

- 1) All customer and employee parking shall be contained on site. Parking of vehicles, equipment and trucks on the lawn or on the public street shall not be permitted. Outdoor display of equipment or merchandise shall not be permitted.
- 2) Approval of the City of New Berlin Fire Department is required prior to issuance of Building Permit for the propane tanks.
- 3) No automobile service and repairs is permitted on this business. For this to occur, applicant shall be required to apply for and receive approval from the Plan Commission and the City of New Berlin Fire Department.
- 4) Landscaping screening shall be enhanced with 8 additional plants as agreed upon with staff. Installed landscaping will be inspected in May to ensure that the outdoor storage area is significantly screened from public view.

Seconded by Alderman Thomas and carried unanimously.

I-94 & Calhoun Road Interchange Resolution/Resolution No. 01-33

Motion by Alderman Ament to approve and adopt Resolution No. 01-33, "Resolution in Support of the Implementation of the Transportation System Improvement at the Intersection of I-94 and Calhoun Road". Seconded by Alderman Wilkens and carried unanimously.

National Energy Properties - Trombo - 14775 W. National Ave. - Rezone Rm-1 to B-2 for Dunkin Donuts, Baskin Robbins, and Togo's Restaurant

Motion by Alderman Ament to remove this item from the agenda. Seconded by Alderman Bullermann.

Alderman Ament withdrew the motion.

Motion by Alderman Ament to deny the request by National Energy Properties to rezone the property located at 14775 W. National Avenue from Rm-1 to B-2 for the following reasons:

- 1) Submittal of a detailed traffic impact analysis for the proposed development at this location. This analysis shall take the Preserve at Deer Creek Planned Unit Development and the proposed City Center Development into account.
- 2) Access permits required from Waukesha County Department of Transportation.

- 3) A tree inventory of the property shall be required. Applicant shall be required to retain the services of a certified arborist to document the trees and provide a replacement schedule as outlined in Section 17.08 (3) (B) of the City of New Berlin Zoning Ordinance.
- 4) Adequate facilities for storm water management required.
- 5) Applicant shall be required to resolve the existing grading and drainage problems at this site with the Department of Community Development (Engineering).
- 6) Incompatible with GDMP.

Seconded by Alderman Wilkens and carried unanimously.

Crestview Place - 16850 W. Observatory Rd. - Rezone from O-1 to Rm-1/PUD for Seven Multi-Family Buildings

Motion by Alderman Ament to deny the request by Crestview Place to rezone the property located at 16850 W. Observatory Road from O-1 to Rm-1/PUD for the following reasons:

- 1) The Department of Community Development, Plan Commission, and Common Council have determined that there are enough multi-family units; either zoned, planned, under construction, or recently built and no new multi-family rezoning requests should be granted until more single-family detached developments are planned and/or built.
- 2) The New Berlin Center Master Plan (1977) proposed the subject property should be used for City Park expansion.
- 3) Densities of existing multi-family projects approved over the last few years have not been greater than roughly 5.5 units/acre. A density of 5.5 units/acre would allow for a maximum of 38 units. Revised plan as submitted is 6.98 acres and includes four 8-unit and four 2-unit or 40 units.

Seconded by Alderman Thomas and carried unanimously.

Michael Kolupar - NW1/4 Sec. 24 - 13725 W. Howard Ave. - Final Two-Lot Land Division

Motion by Alderman Ament to approve the request by Michael Kolupar for a final two-lot land division located at NW1/4 Sec. 24, 13725 W. Howard Ave. subject to:

- 1) A deed restriction, and revised label on the face of the CSM, requiring “Kolupar Lane shall be dedicated and extended (constructed to City of New Berlin standards) to the Southern extent of Lot 2 prior to any building permits for Lot 2 being granted”. Access permits required from the City of New Berlin-Engineering Department.
- 2) Existing home (13725 W. Howard Ave.) fronting on existing private road will require an address change to Kolupar Lane.
- 3) Existing shed, located on lot 2, shall be removed within one year of the signing of this CSM. Removal requirement shall be waived when, and only when, a building permit for lot 2 has been applied for and granted.
- 4) Clean up any drafting errors as may be required prior to signing of the final CSM.
- 5) 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 Wilkens and carried with Aldermen Scheuble, Wilkens and Chiovatero voting “no”.

Richard A. Gaggioli PE - 5239 S. Guerin Pass - One-Lot Preliminary Land Division

Motion by Alderman Ament to approve the request by Richard A. Gaggioli PE for a one-lot preliminary land division located at 5239 S. Guerin Pass subject to:

- 1) Both lots shall meeting the minimum requirements of ss. 17.04(2)(5) R-4.5 Medium-Density Single-Family Residential District in its entirety.
- 2) Common access agreement required for ingress & egress of lot 1 (12).

- 3) The garage for the future principle residence on lot 2 (vacant lot 11) shall be restricted to the southern lot line.
- 4) Front setback of lot 2 (vacant lot 11) shall be measured by drawing an arc (with a radius of 140' and centered on a point in Guerin Pass) from the northeastern corner of existing principle residence within lot 10 to the south, to the northeastern corner of the existing principle residence located on lot 1 (lot 12).
- 5) 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 Wilkens.

Motion by Alderman Scheuble to allow the applicant to address the Council. Seconded by Alderman Wilkens and carried with Aldermen Bullermann, Gallagher, and Ament voting “no”.

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

BOARD OF PUBLIC WORKS

Alderman Chiovatero reported from the meeting held this evening:

Traffic Signals - National Avenue at 147th Street/Resolution No. 01-36

Motion by Alderman Chiovatero to approve Resolution 01-36, petitioning the Waukesha County Department of Transportation to recognize the need for traffic signals at National Avenue and 147th Street and amend the Resolution to state traffic signals at National Avenue and 147th or alternative site as determined by traffic study. Seconded by Alderman Wilkens and carried with Aldermen Bullermann, Gallagher, and Ament voting “no”.

Award of Contract W-139 - Well #8 Rehab

Motion by Alderman Chiovatero to approve the award of Construction Contract W-139 to the responsible low bidder, Layne-Northwest, a Division of Layne Christenson Company in an amount of \$27,845 for Project W-139, and waive any irregularities, for a total project cost in the amount of \$45,500. Seconded by Alderman Ament.

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

Upon voting on the original motion, the motion carried with Alderman Scheuble voting “no”.

STORM WATER COMMITTEE - No Report

UTILITY COMMITTEE

Alderman Gallagher reported from the meeting held on December 5, 2001:

Milwaukee Water Negotiations Update

Motion by Alderman Gallagher to continue negotiations with the City of Milwaukee and for staff to provide the required information to Milwaukee Water. Seconded by Alderman Thomas and carried unanimously.

LANDMARKS COMMISSION - No Report

SAFETY COMMISSION - No Report

PARKS & RECREATION COMMISSION

Alderman Gallagher reported from the meeting held on November 26, 2001:

Establishment of Golf Course Greens Fees for 2002

Motion by Alderman Gallagher to approve the 2002 Greens Fees for New Berlin Hills Golf Course as recommended per the attached by the Golf Course Committee. Seconded by Alderman Wilkens and carried unanimously.

MAYORAL APPOINTMENTS/None

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 - No Report

CONSENT AGENDA

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

MINUTES

Minutes of the Common Council Meeting held on November 27, 2001

UTILITY & FINANCE

Claims

Approve payment of Water Utility Claims in the amount of \$83,092.83, Sewer Utility Claims in the amount of \$36,530.00, and Bi-weekly Claims in the amount of \$563,479.08, all of which represents payments to vendors.

LICENSES

Bartender Licenses

Approve Bartender Licenses for the year 2000-2002 to David M. Janske, Deborah R. Muldoon, Nicole L. Voelkel, Tara A. Wilber and Darin E. Wisniewski.

Rubbish Collection Licenses

Approve Rubbish Collection License for the year 2002 to Waste Management/Dennis Drephal, Division Manager, subject to the receipt of the License Fee by December 31, 2001.

Approve Rubbish Collection Licenses for the year 2002 to Best Disposal, Inc./Bill Katzman, President, and Superior of Wisconsin, Inc./Paul R. Jenks, President.

MISCELLANEOUS

Telephone Contract

Direct the City to enter into a five-year phone service contract with TDS Metrocom, to replace our current phone service supplier, Ameritech.

Resolution for the Application, Acceptance, and Expending of a 2002 Wisconsin DNR Urban Forestry Grant/Resolution No. 01-31

Approve and adopt Resolution No. 01-31, "A Resolution Authorizing the Application, Acceptance, and Expending of a State of Wisconsin Department of Natural Resources Urban Forestry Grant Program - National Avenue Street Tree Planting Project".

"A Resolution Authorizing the City of New Berlin to Borrow the Sum of \$1,625,000 by Issuing General Obligation Promissory Notes, Series 2001B pursuant to section 67.12(12) of the Wisconsin Statutes and Authorizing the Sale of the Notes"/Resolution No. 01-35

Approve and adopt Resolution No. 01-35.

MISCELLANEOUS

Wage and Benefit Adjustments/Resolution No. 01-34

Motion by Alderman Bullermann to approve and adopt Resolution No. 01-34, "A Resolution Amending the 2001 City of New Berlin Operational Budget Relating to Wage and Benefit Adjustments". Seconded by Alderman Wilkens and carried with Aldermen Gallagher, Scheuble and Ament voting "no".

RESOLUTIONS AND ORDINANCES

Ordinance No. 2159 "Ordinance Amending Section 11-5 and 11-19(C)(1) of the City of New Berlin Municipal Code Renaming Office Coordinator Streets, Parks & Recreation to Administrative Coordinator Streets, Parks and Recreation and Renaming Office Coordinator Community Development to Administrative Coordinator Community Development" (3rd Reading)

City Clerk Weter gave the third and final reading of Ordinance No. 2159.

Motion by Alderman Bullermann to approve and adopt Ordinance No. 2159. Seconded by Alderman Wilkens and carried with Aldermen Gallagher and Ament voting "no".

Ordinance No. 2160 "Ordinance Amending Section 11-5 and 11-19(C)(1) of the City of New Berlin Municipal Code Adding the Position of Payroll Supervisor with a Salary Range of Six" (3rd Reading)

City Clerk Weter gave the third and final reading of Ordinance No. 2160.

Motion by Alderman Bullermann to approve and adopt Ordinance No. 2160. Seconded by Alderman Wilkens and carried with Aldermen Gallagher, Scheuble and Ament voting "no".

Ordinance No. 2161 "Ordinance Amending Section 1-18(2)(A) of the City of New Berlin Municipal Code Establishing Bail Amount for Violation of Transient Lodging Facility Regulations" (3rd Reading)

City Clerk Weter gave the third and final reading of Ordinance No. 2161.

Motion by Alderman Thomas to approve and adopt Ordinance No. 2161. Seconded by Alderman Bullermann and carried unanimously.

Ordinance No. 2162 “Ordinance Repealing and Recreating Section 6-2(A) of the City of New Berlin Municipal Code Relating to Board of Review Alternate Members” (1st Reading)

City Clerk Weter gave the first reading of Ordinance No. 2162.

Motion by Alderman Scheuble to waive the second and third readings of Ordinance No. 2162.
Seconded by Alderman Bullermann and carried unanimously.

Motion by Alderman Thomas to approve and adopt Ordinance No. 2162. Seconded by Alderman Wilkens and carried unanimously.

Ordinance No. 2163 “Ordinance Creating Section 6-2(C) of the City of New Berlin Municipal Code Relating to Confidentiality of Income and Expenses Provided to Assessor for Assessment Purposes” (1st Reading)

City Clerk Weter gave the first reading of Ordinance No. 2163.

Motion by Alderman Thomas to waive the second and third readings of Ordinance No. 2163.
Seconded by Alderman Bullermann and carried unanimously.

Motion by Alderman Thomas to approve and adopt Ordinance No. 2163. Seconded by Alderman Bullermann and carried unanimously.

Ordinance No. 2164 “Ordinance Amending Section 11-19(C)(1) of the City of New Berlin Municipal Code Creating Fire Inspection Coordinator with a Salary Range of Ten” (1st Reading)

City Clerk Weter gave the first reading of Ordinance No. 2164.

Motion by Alderman Bullermann to waive the second and third readings of Ordinance No. 2164.
Seconded by Alderman Wilkens and carried with Alderman Scheuble voting “no”.

Motion by Alderman Bullermann to approve and adopt Ordinance No. 2164. Seconded by Alderman Thomas and carried with Aldermen Gallagher and Scheuble voting “no”.

Motion by Alderman Gallagher to move into Closed Session. Seconded by Alderman Thomas 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.

- Milwaukee Water Negotiations Update -

Motion by Alderman Thomas to move into Open Session at 12:38 a.m. Seconded by Alderman Ament and carried unanimously.

OPEN SESSION

Possible Action on Reconsideration Request from Alderman Gallagher re: Well #11 Award of Construction Contract W-138

Motion by Alderman Gallagher to approve the award of Construction Contract W-138 to the lowest responsive bidder, Water Well Solutions Service Group, Inc. of Hartland, WI, in the amount of \$121,711.00 for Project #W-138, and waive any irregularities, for a total project cost in the amount of \$173,000 to be funded by Water Utility Account #923.42 and Impact Fees. Seconded by Alderman Thomas.

Motion by Alderman Bullermann to end debate. Seconded by Alderman Thomas and carried with Alderman Scheuble voting “no”.

Upon voting on the original motion, the motion carried with Alderman Scheuble voting “no”.

Motion by Alderman Thomas to adjourn the meeting at 12:40 a.m. Seconded by Alderman Ament and carried unanimously.

**Judy Weter
City Clerk**

JW/nh