

**Common Council Minutes
October 9, 2001**

Minutes of a Regular Meeting of the Common Council of the City of New Berlin, Waukesha County, Wisconsin, held on Tuesday, October 9, 2001, at the New Berlin City Hall at 7:26 P.M.

Present were Mayor Wysocki, Aldermen Bullermann, Thomas, Gallagher, Scheuble, 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 Planners David Haines and Nikki Jones, City Engineer JP Walker, and Civil Engineer Larry Wilms. Alderman Wilkens was excused.

PRESENTATION: Check from Money Raised for the September 11th Disaster Victims by The Lady Raptors Team from the New Berlin Soccer Club.

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

COMMUNICATIONS

Veto of Ordinance No. 2154 - Zoning Chapter 275 and 2155 - Subdivision Chapter, and Resolution No. 01-27 - Adopting Related Maps and GDMP (Growth and Development Master Plan)

Motion by Alderman Scheuble to amend the agenda and move up the Communication from Alderman Scheuble re: Reconsideration of Votes on Ordinance Nos. 2154, 2155, and Resolution No. 01-27. Seconded by Alderman Gallagher. Upon voting, the motion failed with Aldermen Scheuble and Ament voting "yes".

1. Communication from Mayor Wysocki/Possible Action on Veto
Motion by Alderman Scheuble to override the veto. Seconded by Alderman Ament.

Motion by Alderman Scheuble to table this item until next Tuesday, October 16th. Motion dies for lack of a second.

Upon voting, the motion failed with Aldermen Gallagher and Ament voting "yes", Aldermen Bullermann, Thomas and Chiovatero voting "no", and Alderman Scheuble voting present.

The veto stands, the motions in front of Council are as follows:

Motion by Alderman Ament to approve and adopt Ordinance No. 2154. Seconded by Alderman Scheuble.

Motion by Alderman Ament to approve and adopt Ordinance No. 2155. Seconded by Alderman Thomas.

Motion by Alderman Bullermann to defer until a Special Common Council Meeting to be held on October 16, 2001. Seconded by Alderman Scheuble.

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

Upon voting on the motion to defer, the motion carried with Aldermen Thomas and Ament voting “no”.

Later in the meeting, Alderman Chiovatero requested to reconsider the motion to defer.

Motion by Alderman Chiovatero to reconsider the deferral. Seconded by Alderman Thomas and carried unanimously.

Motion on the Floor: Motion by Alderman Bullermann to defer until the Special Common Council Meeting to be held on October 16, 2001. Seconded by Alderman Scheuble.

Alderman Bullermann withdrew his motion.

Motion by Alderman Scheuble to approve and adopt Ordinance No. 2154. Seconded by Alderman Thomas.

Motion by Alderman Gallagher to defer this item until the Special Common Council Meeting to be held on October 16, 2001. Seconded by Alderman Bullermann. Upon voting, the motion failed with Aldermen Bullermann and Gallagher voting “yes”.

Upon voting on the motion to adopt, the motion carried with Aldermen Bullermann and Gallagher voting “no”.

Motion by Alderman Thomas to approve and adopt Ordinance No. 2155. Seconded by Alderman Scheuble.

Motion by Alderman Thomas to amend the motion and change Page 45, (C) 4. Density to 3 acres. Seconded by Alderman Bullermann.

Motion by Alderman Thomas to end debate. Motion dies for lack of a second.

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

Motion by Alderman Gallagher to table the motion as amended until the Special Common Council Meeting to be held on October 16, 2001 so all Aldermen are present. Seconded by Alderman Scheuble and carried with Alderman Chiovatero voting “no”.

2. Communication from City Attorney re: Veto Actions

It was noted that the Common Council may comment on the GDMP but not make changes to the plan.

3. Communication from Alderman Ament Requesting Moratorium/Possible Action on Moratorium Motion by Alderman Ament to request the City Attorney to draw up the necessary legal papers/ordinance for a 6-month moratorium/pause on all new developments & land divisions until Council has a definitive decision on Ordinance No. 2154, Ordinance No. 2155 & Resolution No. 01-27. This action would not include small or home additions or remodeling efforts, Westridge, TIF or any developments already approved or under way, with a Public Hearing to be held on November 13, 2001. Seconded by Alderman Scheuble.

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

4. Communication from Alderman Scheuble re: Reconsideration of Votes on Ordinance Nos. 2154, 2155, and Resolution No. 01-27 - No Action

Notice of Claim - James Stirling - to City Attorney, to be discussed in Closed Session.

Communication from City Attorney re: Dodge Construction Company, Inc. vs. City of New Berlin - On File in Clerk's Office

PLAN COMMISSION

Alderman Ament reported from the meeting held on October 1, 2001: **William and Kathryn Stoffers - NW1/4 Sec. 27 - 16540 W. Beloit Rd. - Two-Lot Preliminary Land Division**

Motion by Alderman Ament to approve the request by William and Kathryn Stoffers for a two-lot preliminary land division located at NW1/4 Sec. 26, 16540 W. Beloit Road subject to:

- 1) Both lots shall meet the minimum requirements of Sec. 17.04(2)(5) R4.5 Medium-Density Single-Family Residential District in its entirety.
- 2) Ultimate right-of-way of Beloit Road shall be dedicated prior to signing the final CSM. Currently on 33' dedicated, where the Jurisdictional Highway Plan for Waukesha County/City of New Berlin requires 50'.
- 3) All non-city owned utilities, to include but not limited to; cable, telecommunication, electric, gas, etc., required to be provided under ground.
- 4) Any future development or land division would require review and approval by Plan Commission and Common Council.
- 5) Payment of \$2137.60 in Public Site, Open Space and Trail Fees required prior to the City signing the final CSM.
- 6) Access permits required from the Waukesha County Department of Public Works prior to signing the final CSM. Existing drive may be required to be re-aligned to allow for a joint access to Beloit Road.
- 7) Building permits required from Building, Inspection and Zoning Department for any future home. Future single-family dwelling

shall be required to have an exposure along the western/northwestern side.

- 8) Tree line along the western property line shall be maintained to the greatest extent possible to limit the drainage impacts to the property to the west.

Seconded by Alderman Thomas.

Upon voting, Aldermen Bullermann, Thomas, and Chiovatero voted "yes", and Aldermen Gallagher, Scheuble, and Ament voted "no". Tie vote. Mayor Wysocki voted "no", motion failed.

Motion by Alderman Gallagher to deny the request by William and Kathryn Stoffers for a two-lot preliminary land division located at NW1/4 Sec. 27, 16540 W. Beloit Road, until the zoning code is in order, and based on it not in keeping with the principles of the Master Plan, regarding the principles and policy of trying to preserve our woodlands, and placement of new environmental importance that was not in place at the time this property was zoned R-4, and given the greater emphasis now on our environmental protection of woodlands. Seconded by Alderman Scheuble.

Motion by Alderman Scheuble to refer this item to the Plan Commission. Seconded by Alderman Thomas and carried with Alderman Gallagher voting "no".

Later in the meeting, Alderman Ament requested to reconsider the motion to refer to Plan Commission. (During this discussion, Alderman Scheuble left the meeting, therefore, no quorum and no final vote on the last motion of this issue.)

Motion by Alderman Ament to reconsider the referral to Plan Commission. Seconded by Alderman Thomas and carried with Alderman Scheuble voting "no".

Motion on the Floor: Motion by Alderman Scheuble to refer this item to the Plan Commission. Seconded by Alderman Thomas.

Alderman Thomas withdrew the second to the motion.

Motion by Alderman Scheuble to refer this item to the Plan Commission. Motion dies for lack of a second.

Motion on the Floor: Motion by Alderman Gallagher to deny the request by William and Kathryn Stoffers for a two-lot preliminary land division located at NW1/4 Sec. 27, 16540 W. Beloit Road, until the zoning code is in order, and based on it not in keeping with the principles of the Master Plan, regarding the principles and policy of trying to preserve our woodlands, and placement of new environmental importance that was not in place at the time this property was zoned R-4, and given the greater emphasis now on our environmental protection of woodlands. Seconded by Alderman Scheuble.

BOARD OF PUBLIC WORKS

Alderman Chiovatero reported from the meeting held on October 1, 2001:

Reallocation of Westridge Phase III TIF Funds

Motion by Alderman Chiovero to authorize the reallocation of funding previously approved for floodplain mitigation on Calhoun Creek to construction of a stormwater management facility, thus completing the goals of the Westridge Storm Water Management Plan. Seconded by Alderman Bullermann and carried unanimously.

Obtain Appraisals for Vacant Lot on Howard Avenue

Motion by Alderman Chiovero to authorize staff to proceed with obtaining independent approvals for the full taking of a vacant lot or partial taking for a 60-foot wide right-of-way through the vacant lot located on Howard Avenue with Tax Key 1208.988.003. The parcel is currently owned by Richard and Betty Tesch at 14180 W. Howard Avenue. Seconded by Alderman Bullermann and carried with Aldermen Gallagher and Scheuble voting “no”.

STORM WATER COMMITTEE - No Report

UTILITY COMMITTEE

Alderman Gallagher reported from the meeting held on October 3, 2001:

179th Street and Lincoln Avenue Sanitary Sewer and Water Main Preliminary Special Assessment/Resolution No. 01-28 “A Preliminary Resolution Declaring Intent to Levy Special Assessments and Directing the City Engineer to Prepare a Report for the Installation of Sanitary Sewer and Water Main Systems Along 179th Street and Lincoln Avenue”

Motion by Alderman Gallagher to proceed with Resolution No. 01-28. Seconded by Alderman Ament and carried with Alderman Scheuble voting “no”.

Wastewater CIP - Jacobs Ridge Lift Station Oversizing

Motion by Alderman Gallagher to recommend the addition to the Wastewater CIP budget of the Jacobs Ridge Lift Station at an estimated cost of \$577,000. Funding sources to be developer paying 60%, and Wastewater Impact Fees paying 40% of costs for oversizing of lift station. Seconded by Alderman Ament.

Motion by Alderman Gallagher to amend the motion that funding sources to be developer paying 78%, and Wastewater Impact Fees paying 22%. Seconded by Alderman Scheuble and carried unanimously.

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

LANDMARKS COMMISSION - No Report

SAFETY COMMISSION - No Report

MAYORAL APPOINTMENTS

Crime Prevention Committee

Motion by Alderman Gallagher to approve the reappointments of Debra A. Weber and Marie Elliott to the Crime Prevention Committee, both with an expiration date of October 1, 2002, and the reappointments of Elizabeth McMullen and Shirley Mueller to the Crime Prevention Committee, both with an expiration date of October 1, 2003. Seconded by Alderman Bullermann and carried unanimously.

Landmarks Commission

Motion by Alderman Gallagher to approve the reappointments of Bartholomew Williams and Jackie Hermann, and the appointment of Tim Herrick to the Landmarks Commission, all with an expiration date of October 1, 2004. Seconded by Alderman Bullermann and carried unanimously.

Aldermen Bullermann and Scheuble left at 10:31 p.m., during discussion of reconsidering the Plan Commission land division item, and there was no quorum left.

**Judy Weter
City Clerk**

JW/nh