

**Common Council Minutes
September 25, 2001**

Minutes of a Regular Meeting of the Common Council of the City of New Berlin, Waukesha County, Wisconsin, held on Tuesday, September 25, 2001, at the New Berlin City Hall at 7:22 P.M.

Present were Mayor Wysocki, Aldermen Bullermann, Thomas, Gallagher, Scheuble, Wilkens, Chiovero, and Ament. Also present were City Attorney Paul Reilly, City Clerk Judy Weter, Director of Finance and Utility Mike Holzinger, 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 Mark Handzlik.

Clerk's Report

City Clerk Weter gave a Clerk's Report.

Council President's Report - No Report

Mayor's Report

Mayor Wysocki gave a Mayor's Report.

City Attorney's Report - No Report

COMMUNICATIONS/None

COMMITTEE OF THE WHOLE

Set Public Hearing Date of Proposed 2002 Budgets

Motion by Alderman Bullermann to recommend to Council that October 23, 2001 at 7:00 p.m. be set as the date for the Public Hearing on the proposed 2002 budgets. Seconded by Alderman Chiovero and carried unanimously.

Forward Operating Budget to Common Council

Motion by Alderman Bullermann to forward the operating budget for the Public Hearing. Seconded by Alderman Ament.

Director of Finance Mike Holzinger indicated the Committee of the Whole actions reflection a proposed 2002 budget with total revenues of \$30,219,953 including a general tax levy of \$18,277,597.

Motion by Alderman Thomas to increase the following 4 revenue accounts:

321.001	Sp Utility	\$33,658
322.001	Per Capita	\$10,393
327	Road Aids	\$25,904
Transfer	Stormwater Utility	\$96,930

Total Increase in Revenues: \$166,885.

Seconded by Alderman Bullermann and carried unanimously.

Motion by Alderman Bullermann to restore to the Park Equipment budget \$46,032 for snow removal in house for sidepaths that currently exist. Seconded by Alderman Scheuble and carried with

Aldermen Thomas and Gallagher voting “no”.

Motion by Alderman Thomas to remove \$200,000 from Engineering Account 511.820.01. Seconded by Alderman Ament and carried with Aldermen Scheuble and Chiovaturo voting “no”.

Motion by Alderman Thomas to remove \$35,000 from the Information Technology budget for election software from Account 515.810. Seconded by Alderman Scheuble and carried unanimously.

Motion by Alderman Thomas to remove \$5,200 from Account 516.810 for voting equipment. Seconded by Alderman Scheuble and carried unanimously.

Motion by Alderman Ament to remove \$7,000 from Streets Account 810 for the Overhead Lube System. Seconded by Alderman Thomas and carried unanimously.

CIP Budgets

Motion by Alderman Bullermann to remove \$234,000 from the engineering CIP budget for Moorland Road Sidepaths. Seconded by Alderman Thomas and carried unanimously.

Motion by Alderman Bullermann to remove \$735,400 from Alternative Transportation for Sidepaths. Seconded by Alderman Ament.

Friendly amendment to remove the entire amount of \$892,000 from Alternative Transportation for Sidepaths.

Upon voting, the motion carried unanimously.

Director of Finance Mike Holzinger indicated a debt service interest change from \$475,000 to \$300,000.

The CIP budget total is at \$10,515,000, of which \$8,960,000 is for the new Library.

Motion by Alderman Bullermann to forward to Public Hearing the adoption of total revenues of \$30,596,121 including a general tax levy of \$17,734,544, with a tax rate of \$6.7917, an increase of 4.27%. Seconded by Alderman Wilkens and carried unanimously.

PLAN COMMISSION

Alderman Ament reported from the meeting held on September 10, 2001:

Ordinance No. 2154 - Zoning Chapter 275 (formerly Chapter 17 from old Municipal Code), Ordinance No. 2155 - Subdivision Chapter 235 (formerly Chapter 18 from old Municipal Code), Resolution No. 01-27 Adopting Related Maps and GDMP (Growth and Development Master Plan)

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

Motion by Alderman Wilkens to amend the motion and delete on Page 114, Section 17.05, commercial feed lots. Seconded by Alderman Gallagher and carried with Aldermen Thomas and Gallagher voting “no”.

Motion by Alderman Ament to amend the motion and remove on Page 296, item 219, 5th line, “including park and open space site uses and country estate residential uses”. Seconded by Alderman Scheuble. Upon voting, the motion failed unanimously.

Motion by Alderman Ament to amend the motion and add “use” on Page 61, under 4a. Seconded by Alderman Wilkens and carried unanimously.

Motion by Alderman Scheuble to amend the motion to change on Page 75, for R4.5, lot width of 110' and lot depth of 136.3'. Seconded by Alderman Gallagher and carried with Aldermen Thomas, Wilkens and Ament voting “no”.

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

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

Motion by Alderman Wilkens to amend the motion and change to “3 acres” on Page 47. Seconded by Alderman Bullermann. Upon voting, the motion failed with Aldermen Bullermann, Wilkens and Chiovatero voting “yes”.

Motion by Alderman Wilkens to allow the Chairman of the Plan Commission (Mayor Wysocki) to address the Council. Seconded by Alderman Chiovatero and carried unanimously.

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

Motion by Alderman Ament to approve and adopt **Resolution No. 01-27**, “A Resolution Approving the Growth and Development Management Plan, the City’s Zoning Ordinance & Development Ordinance, and the Future Land Use Map as Prepared by the City of New Berlin Department of Community Development.” Seconded by Alderman Scheuble.

Motion by Alderman Ament to amend the motion and remove references to Johnson Road Extension on Page 19. Seconded by Alderman Scheuble and carried unanimously.

Motion by Alderman Wilkens to amend the motion and remove references to Johnson Road Extension on Page 25. Seconded by Alderman Gallagher and carried unanimously.

Motion by Alderman Ament to amend the motion and remove references to Johnson Road Extension on Page 24. Seconded by Alderman Gallagher and carried unanimously.

Motion by Alderman Scheuble to amend the motion and remove the color identifier that talks about residential rural estate from Section 36 and replace with urban residential. Seconded by Alderman Ament and carried unanimously.

Motion by Alderman Gallagher to amend the motion and change the lot immediately to the west of the Jacob’s Ridge development to urban residential. Seconded by Alderman Ament and carried with Alderman Bullermann voting “no”.

Motion by Alderman Scheuble to amend the motion that the current sewer service area in Exhibit A be identified as such in Future Land Use Plan. Seconded by Alderman Ament and carried unanimously.

Motion by Alderman Scheuble to amend the motion and remove suburban commercial area and replace with residential estate at the southwest corner of Grange Ave. and Sunnyslope Rd. Seconded by Alderman Wilkens and carried with Aldermen Bullermann and Thomas voting “no”.

Motion by Alderman Ament to amend the motion and remove suburban commercial area and replace with rural commercial area at Johnson Road and Greenfield Avenue. Seconded by Alderman Gallagher and carried with Alderman Bullermann voting “no”.

Motion by Alderman Scheuble to amend the motion and remove the industrial park extension beyond the sewer service area on Moorland Road. Seconded by Alderman Ament.

Alderman Scheuble withdrew the motion.

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

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

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

Motion by Alderman Ament to set a public hearing in front of Plan Commission. Seconded by Alderman Bullermann and carried unanimously.

A Public Hearing was scheduled for November 5, 2001 at 6:01 p.m.

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

Motion by Alderman Ament to set a public hearing in front of Plan Commission. Seconded by Alderman Wilkens and carried unanimously.

A Public Hearing was scheduled for November 5, 2001 at 6:00 p.m.

BOARD OF PUBLIC WORKS

Alderman Chiovaturo reported from the meeting held on September 10, 2001:

City of Muskego Drainage Issues - Intergovernmental Agreement

Motion by Alderman Chiovaturo to enter into a governmental 66.0301 agreement as it relates to storm water management and Tess Corners issues between City of Muskego and City of New Berlin with regard to the attached Scope of Services. Seconded by Alderman Bullermann and carried unanimously.

Evaluation of Final Decision on Ditches in Rolling Meadows

Motion by Alderman Chiovaturo to recommend the City’s policy of placement of concrete inverts remain in effect with the exception where the developer accepts maintenance responsibility for 10 years for reinforcement matting as an alternative with the exception. Seconded by Alderman Ament

and carried with Alderman Scheuble voting “no”.

Parking Lot Paving Projects

Motion by Alderman Chiovatero to approve the contract for the parking lot paving projects for the Water Utility Garage, Fire Station #2, and AAA Grinding to the apparent low bidder, Payne and Dolan in the amount of \$54,921.25, with funding to come from appropriate accounts. Seconded by Alderman and carried unanimously.

STORM WATER COMMITTEE - No Report

UTILITY COMMITTEE

Alderman Gallagher reported from the meeting held on September 18, 2001:

Lake Michigan Water Study

Motion by Alderman Gallagher to direct staff to begin negotiations with the City of Milwaukee for the potential purchase of water. Seconded by Alderman Thomas and carried unanimously.

Motion by Alderman Gallagher to direct staff to develop a proposal to present to the DNR, and the Great Lakes Council of Governors for the diversion of Lake Michigan Water beyond the Continental Divide. Seconded by Alderman Thomas and carried unanimously.

Well No. 8 Repairs

Motion by Alderman Gallagher to proceed with remedial action to repair Well No. 8. Seconded by Alderman Thomas and carried unanimously.

LANDMARKS COMMISSION - No Report

SAFETY COMMISSION

Alderman Chiovatero reported from the meeting held on September 12, 2001:

Request for No Parking Signs - Emmer Drive

Motion by Alderman Chiovatero to modify an existing ordinance to have all industrial parks in the city have no parking signs posted on streets, and to direct the City Clerk to prepare the proper Ordinance. Seconded by Alderman Ament 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

Civil Service Commission - Office Coordinator Titles - TABLED 8-28-01 - No Report

Civil Service Commission - Add Payroll Supervisor and Office Coordinator - Municipal Court to Civil Service - TABLED 8-28-01 - No Report

Communications - Reconsideration Request from Alderman Gallagher re: Bartender License - DEFERRED 9-11-01

Motion on the Floor: Motion by Alderman Gallagher to deny the Bartender License to Ron D. Schuckert, based on the record before the Council. Seconded by Alderman Wilkens. Upon voting, the motion to deny carried unanimously.

Resolution and Ordinances - Ordinance No. 2152 “Ordinance to Rezone the Property at 17720 West Lincoln Avenue” (Jacob’s Ridge) - TABLED 9-11-01

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

Motion by Alderman Bullermann to approve and adopt Ordinance No. 2152. Seconded by Alderman Wilkens.

Motion by Alderman Gallagher to allow the developer to address the Council. Seconded by Alderman Ament and carried unanimously.

Upon voting, the motion carried with Aldermen Gallagher, Scheuble, and Ament voting “no”.

CONSENT AGENDA

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

MINUTES

Minutes of the Common Council Meeting held on September 11, 2001

UTILITY & FINANCE

Claims

Approve payment of Water Utility Claims in the amount of \$158,714,90, Sewer Utility Claims in the amount of \$79,440.51, and Bi-weekly Claims in the amount of \$1,135,445.80, all of which represents payments to vendors.

LICENSES

Bartender Licenses

Approve the Bartender License for the year 2000-2002 to Rebekah J. Capps and Jessica E. Liedtke.

Amendment to “Class B” Retailers License

Approve the amendment to the “Class B” Retailers License to include the “Parking Lot Area” for West Side Pub, 20385 W. National Avenue, on Saturday, October 13, 2001 from 2:00 p.m. to 10:00 p.m., and Sunday, October 14, 2001 from 2:00 p.m. to 10:00 p.m. (Live music from 4:00 to 10:00 p.m. both days). Any complaints from neighbors, etc. that require police response will result in immediate revocation of outdoor amendment and/or live music.

MISCELLANEOUS

Budget Amendments for Special Elections/Resolution No. 01-25 “A Resolution Amending the 2001 City of New Berlin Operational Budget for Special Elections”

Adopt and approve Resolution No. 01-25.

LICENSES

Bartender Licenses

The Council has before it a 1-page report of Anna M. Dam’s application and past record.

Motion by Alderman Scheuble to approve a 6-month License to Anna M. Dam. Seconded by Alderman Ament. Upon voting, the motion failed with Aldermen Gallagher and Scheuble voting “yes”.

MISCELLANEOUS

City Attorney Contract

Motion by Alderman Bullermann to approve the contract for City Attorney services with Hippenmeyer, Reilly, Moodie and Blum, S.C., from October 24, 2001 to October 23, 2003. Seconded by Alderman Ament.

Motion by Alderman Scheuble to place this item at the foot of the agenda, after Closed Session. Seconded by Alderman Ament and carried with Aldermen Bullermann and Wilkens voting “no”.

RESOLUTIONS AND ORDINANCES

Resolution No. 01-26 “Town of Vernon Town Board and the Village of Big Bend Village Board Consolidation”

Motion by Alderman Thomas to approve and adopt Resolution No. 01-26. Seconded by Alderman Wilkens and carried unanimously.

Ordinance No. 2148 “Ordinance Repealing and Recreating Section 51-2(D) of the City of New Berlin Municipal Code Pertaining to Committee of the Whole Meetings” (2nd Reading)
City Clerk Weter gave the second reading of Ordinance No. 2148.

Ordinance No. 2149 “Ordinance Repealing and Recreating Section 152-1(E) of the City of New Berlin Municipal Code Pertaining to Provisional Operator’s Licenses” (2nd Reading)
City Clerk Weter gave the second reading of Ordinance No. 2149.

Ordinance No. 2150 “Ordinance Amending Section 11-19(C)(1) of the City of New Berlin Municipal Code Creating Fire Chief with a Salary Range of Eighteen” (2nd Reading)
City Clerk Weter gave the second reading of Ordinance No. 2150.

Motion by Alderman Ament to waive the third reading of Ordinance No. 2150. Seconded by Alderman Bullermann and carried with Alderman Scheuble voting “no”.

Motion by Alderman Bullermann to approve and adopt Ordinance No. 2150. Seconded by Alderman Wilkens and carried unanimously.

Ordinance No. 2151 “Ordinance Amending Section 11-7 of the City of New Berlin Municipal Code Adding the Position of Fire Chief” (2nd Reading)
City Clerk Weter gave the second reading of Ordinance No. 2151.

Motion by Alderman Thomas to waive the third reading of Ordinance No. 2151. Seconded by Alderman Wilkens and carried with Alderman Scheuble voting “no”.

Motion by Alderman Ament to approve and adopt Ordinance No. 2151. Seconded by Alderman Wilkens and carried unanimously.

**Ordinance No. 2153 “An Ordinance to Rezone the Property at 14985 West Beloit Road”
(Motion Health & Wellness)**

City Clerk Weter gave the only necessary reading of Ordinance No. 2153.

Motion by Alderman Bullermann to approve and adopt Ordinance No. 2153. Seconded by Alderman Chiovatero and carried with Aldermen Scheuble and Ament voting “no”.

“Ordinance to Repeal and Recreate Section 230-2 Closing City Sidewalks/Sidepaths in the City of New Berlin Between November 15 and April 15 and Setting Maintenance Requirements of Sidewalks and Sidepaths for the Period of April 16 to November 14” (1st Reading) - Communication from City Attorney Paul Reilly

Motion by Alderman Bullermann to drop this item from the agenda. Seconded by Alderman Scheuble and carried with Aldermen Thomas and Gallagher voting “no”.

Motion by Alderman Ament to move into Closed Session. Seconded by Alderman Chiovatero. Upon voting, Alderman Bullermann voted “yes”, Alderman Thomas voted “yes”, Alderman Gallagher voting “yes”, Alderman Scheuble voted “yes”, Alderman Wilkens voted “yes”, Alderman Chiovatero voted “yes”, and Alderman Ament voted “yes”.

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 is or likely to become involved.

- Robert Richards Claim -

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.

- City Attorney Contract -

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

OPEN SESSION

Possible Action on Robert Richards Claim

Motion by Alderman Wilkens to settle the Robert Richards claim in the amount of \$133.15, per the recommendation of City Attorney Reilly. Seconded by Alderman Ament and carried

unanimously.

Possible Action on City Attorney Contract

Motion by Alderman Bullermann to approve the contract for City Attorney services with Hippenmeyer, Reilly, Moodie and Blum, S.C., from October 24, 2001 to October 23, 2003. Seconded by Alderman Ament.

Motion by Alderman Scheuble to postpone until we obtain competitive bids. Motion dies for lack of a second.

Upon voting on the original motion, the motion carried with Aldermen Gallagher and Scheuble voting “no”.

Motion by Alderman Wilkens to adjourn the meeting at 11:45 p.m. Seconded by Alderman Ament and carried unanimously.

**Judy Weter
City Clerk**

JW/nh