

**Common Council Minutes  
August 14, 2001**

Minutes of a Regular Meeting of the Common Council of the City of New Berlin, Waukesha County, Wisconsin, held on Tuesday, August 14, 2001, at the New Berlin City Hall at 9:45 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 Planning Mark Lake, Acting City Engineer JP Walker, and Civil Engineer Mark Handzlik.

**Clerk's Report**

City Clerk Weter gave a Clerk's Report.

**Council President's Report**

Alderman Bullermann gave a Council President's Report, which included discussion on Council Goals.

**Mayor's Report**

Mayor Wysocki gave a Mayor's Report.

**City Attorney's Report**

City Attorney Reilly gave a City Attorney's Report.

**COMMUNICATIONS**

**Communication from Tom and Dana Rebatzke re: Damage Claim for Storm Sewer Backup**  
Motion by Alderman Ament to refer this item to the Utility Committee. Seconded by Alderman Bullermann and carried with Aldermen Thomas, Wilkens, and Chiovatero voting "no".

**PLAN COMMISSION**

Alderman Ament reported from the meeting held on August 6, 2001:

**Set Public Hearing Date re: Sports & Fitness Traders - 17400 W. National Ave. - Rezone from O-1 to B-2**

Motion by Alderman Ament to direct the Plan Commission to hold a Public Hearing relative to the rezoning and make a recommendation for action to Council. Seconded by Alderman Bullermann and carried with Alderman Gallagher voting "no".

A Plan Commission Public Hearing was scheduled for October 1, 2001 at 7:00 p.m.

**Richard & Judith Mercier - 16060 W. Beloit Rd. - NE 1/4 Sec. 27 - Two-Lot Preliminary Land Division**

Motion by Alderman Ament to approve the request by Richard & Judith Mercier for a two lot preliminary land division located at 16060 W. Beloit Road, NE 1/4 Sec. 17 subject to:

- 1) Ultimate Development Plan required which addresses the future development/ultimate extension of Sovereign Drive.
- 2) Remnant parcel, (Parcel 1) will be severely limited in its development potential for the following reasons:

- a) Per the Wisconsin Wetland Inventory map of 1987, your property is currently encumbered by 3.09 acres of wetland. Prior to any land division, field delineation, surveying, and verification of the Wetlands, Primary, and Secondary Environmental Corridors shall be required.
  - b) The northern tributary of Calhoun Creek (outfall from Regal West Subdivision and drainageway from Moorland Road) requires a review by the Wisconsin DNR and/or Army Corps of Engineers (ACOE) for its potential to be a navigable waterway. Determination of Navigability shall restrict development to within 50' of the ordinary high water mark, and limit grading (requires WDNR/ACOE permit) within 500' of the navigable waterway.
  - c) The Flood Insurance Study for Calhoun Creek, November 6, 1996 shows that parcel 1 is significantly restricted to developable area.
  - d) Access to parcel 1 limited to Sovereign Drive and restricted to a medium-density single-family residential land use.
- 3) The extension of Sovereign Dr to accommodate the development of the R-4 lands, currently 3.97 acres would be limited based on the following:
- a) All utilities and infrastructure would be required to be extended to properly serve the development, including, but not limited to: Storm Sewer extension (60+ inch culvert), Sanitary Sewer extension, Water main extension, and the construction of a permanent cul-de-sac.
  - b) NRCS maps indicate that the R-4 property is a prior converted wetland.
  - c) If a wetland, or navigability determination were given to the Regal West Subdivision outfall (currently within a drainage easement) The WDNR and/or ACOE would require grading permit, water quality permits, and their issuance would be based on an alternatives analysis of the potential for development.
- 4) CSM does not include length, bearing and ties to all easements (public and private) and wetlands.
  - 5) Detailed access road/infrastructure/stormwater/grading plans for the extension of Sovereign Drive to be reviewed and approved by the Engineering Department prior to building permits being issued.
  - 6) Sewer and water plans for the extension of Sovereign Drive to be approved by all regulating authorities.
  - 7) Access permits required from the Waukesha County Department of Public Works.
  - 8) All owners to sign prior to City signing Final Plat/CSM.
  - 9) Payment of \$2703.86 in Public Site, Open Space and Trail Fees required prior to the City signing the final CSM.
  - 10) Relable Parcel 1 to Outlot 1; Parcel 2 shall be relabeled Parcel 1; Existing Outlot 1 shall be relabeled to Outlot 2. Outlot shall be encumbered by #2 and #3 and shall be required to be satisfied prior to City releasing outlot for development. Restrictions shall be placed on the face of the CSM.

Attorney Dan Heiden, 405 N. Calhoun Road, representing Mr. & Mrs. Mercier, indicated understanding of the conditions of the land division.

Seconded by Alderman Wilkens and carried with Aldermen Gallagher and Scheuble voting "no".

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

Alderman Chiovatero reported from the Meeting held on August 6, 2001:

##### **Professional Services Agreement Amendment/K-327 Deer Creek Sanitary Interceptor**

Motion by Alderman Chiovatero to approve amendment of Professional Services Agreement with Graef-Anhalt-Schloemer & Assoc. in the amount of \$24,108 for performing work beyond the Scope of Services for Project #K-329 to be funded by Wastewater Utility Account No. 107. Seconded by Alderman Wilkens and carried with Alderman Ament voting "no".

**STORM WATER COMMITTEE** - No Report

#### **UTILITY COMMITTEE**

Alderman Gallagher reported from the Meeting held on July 31, 2001:

##### **Wireless Antenna Installation for Sprint PCS**

Motion by Alderman Gallagher to approve authorization for Spring PCS to attach wireless telecommunication antennas at the stem of the water tank located at 15450 Rockridge, and that they be allowed to make such attachment provided Sprint PCS complies with Planning Department requirements, has a signed contract with the City and that all installation drawings and specifications are approved by the city's designated engineering consultant. The applicant must also provide a signed document by an engineer registered in the State of Wisconsin attesting to the structural integrity of the installation. Also, with the stipulation that the language be amended to include fiscal impact and market study. Seconded by Alderman Thomas and carried unanimously.

**LANDMARKS COMMISSION** - No Report

**SAFETY COMMISSION** - No Report

#### **TECHNOLOGY COMMITTEE**

Alderman Bullermann reported from the meeting held on July 25, 2001:

##### **Adoption of IS Study**

Motion by Alderman Bullermann to adopt the Information Technology Plan dated March 2001, prepared by Schenck & Associates S.C. as a working plan. Seconded by Alderman Wilkens and carried with Aldermen Scheuble and Ament voting "no".

#### **MAYORAL APPOINTMENTS**

Motion by Alderman Wilkens to approve the following appointments:

##### **Fourth of July Commission**

Reappoint Nancy C. Bertsch to the Fourth of July Commission, with an expiration date of August 1, 2005.

##### **Youth Advisory Board**

Appoint John Goodell to the Youth Advisory Board, with an expiration date of February 4, 2003.

Seconded by Alderman Chiovatero and carried unanimously.

**ACTION ON PUBLIC HEARINGS/None**

**REFERRALS, DEFERRALS AND TABLED ITEMS**

**Utility Committee - Water Utility Rate Increase - DEFERRED 7-24-01**

Motion by Alderman Gallagher to increase the Water Utility rates by 25.5% to yield a 4% rate of return, and to direct staff and consultants to forward a rate increase to the Public Service Commission. Seconded by Alderman Bullermann.

Motion by Alderman Scheuble to table this item until we hear water report from the consultants at the Utility Committee meeting. Motion dies for lack of a second.

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

**Action on Public Hearings - Ordinance to Establish Stormwater Utility Rates - DEFERRED 7-17-01/Resolution No. 01-23 "Adjustment Factors for Storm Water Utility Customers"/Resolution No. 01-24 "Storm Water Utility Rates"/Ordinance No. 2147 "An Ordinance to Repeal Ordinance No. 2133 and Create an Ordinance Establishing a Stormwater Utility"**

City Clerk Weter gave the only necessary reading of Ordinance No. 2147.

Motion by Alderman Bullermann to approve and adopt Ordinance No. 2147, with amendment on Page 3, under Undeveloped Property, add a period after the word "surface", deleting "as well as land currently in agriculture", and add the following: "Vacant land currently in agriculture shall be considered undevelopable property". Also on Page 4, under sub (e), remove "a" before the word "non-residential", all per the recommendation of City Attorney Paul Reilly. Seconded by Alderman Thomas.

Motion by Alderman Scheuble to amend the Ordinance to strike clause H3 on Page 4. Seconded by Alderman Gallagher. Upon voting, the motion failed with Aldermen Gallagher and Scheuble voting "yes".

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

Motion by Alderman Bullermann to approve and adopt Resolution No. 01-24. Seconded by Alderman Thomas and carried with Aldermen Gallagher and Scheuble voting "no".

Motion by Alderman Bullermann to approve and adopt Resolution No. 01-23, with the amendment of the last paragraph to read as follows: "...the Stormwater Committee per appeal by customer may allow a lowered adjustment multiplier under State Statute 263-7(H), provided that the adjustment is reasonable and not unjustly discriminatory.". Seconded by Alderman Wilkens and carried with Aldermen Gallagher and Scheuble voting "no".

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

## **MINUTES**

Minutes of the Public Hearings held on July 17 & July 24, 2001

Minutes of the Common Council Meetings held on July 17 & July 24, 2001

## **UTILITY & FINANCE**

### **Claims**

From July 25, 2001:

Approve payment of Water Utility Claims in the amount of \$41,285.20, Sewer Utility Claims in the amount of \$86,886.86, and Bi-weekly Claims in the amount of \$756,976.15, all of which represents payments to vendors.

From August 15, 2001:

Approve payment of Water Utility Claims in the amount of \$197,825.17, Sewer Utility Claims in the amount of \$338,657.80, and Bi-weekly Claims in the amount of \$1,009,511.63, all of which represents payments to vendors.

## **LICENSES**

### **Bartender Licenses**

Approve the Bartender License for the year 2000-2002 to Jamie L. Foshey, Molly K. Ramstack, Jolene L. Ropak and Gerald T. Treder.

## **MISCELLANEOUS**

### **Award of Contract - Phase I Hickory Grove Window Replacement**

Award contract with the low bidder, Ver Halen Pella in the amount of \$42,312 for materials and labor to replace the existing windows in Hickory Grove Center with energy efficient units, with funding coming the 2001 CIP account 252-310.

### **Liability Insurance Premiums**

Accept the Liability Insurance Proposal Option No. 1 (\$50,000 SIR) from CVMIC for policy years 2002, 2003 and 2004 and authorize the Mayor to sign the necessary acceptance.

### **Snow Removal Policy re: Sidepaths**

Direct the City Attorney to draft an ordinance or appropriate policy statement that effectively closes the sidepaths in the city from November 15<sup>th</sup> each year until April 15<sup>th</sup> each year.

## **LICENSES**

### **Bartender Licenses**

The Council has before it a 1-page report of Jennifer M. Gnas' application and past record.

Motion by Alderman Wilkens to deny the Bartender License to Jennifer M. Gnas, based on the record before the Council. Seconded by Alderman Thomas and carried with Aldermen Bullermann, Gallagher, and Scheuble voting "no".

The Council has before it a 1-page report of David R. Mills' application and past record.

Motion by Alderman Bullermann to allow David R. Mills to address the Council. Seconded by Alderman Scheuble and carried with Alderman Gallagher voting “no”.

Motion by Alderman Bullermann to deny the Bartender License to David R. Mills, based upon incomplete information on the application. Seconded by Alderman Thomas and failed with Alderman Thomas voting “yes”.

Motion by Alderman Bullermann to approve a 6-month Bartender License to David R. Mills, to expire February 12, 2002. If there are any problems, the Clerk will revoke the license after 6 months; if no problems, the Clerk will approve until June 30, 2002. Seconded by Alderman Scheuble and carried with Aldermen Thomas and Gallagher voting “no”.

### **RESOLUTIONS AND ORDINANCES**

#### **Resolution No. 01-22 “Resolution Releasing the City of New Berlin’s Interest in a Road Reservation on Property Located at 12808 West Honey Lane and 12802 West Honey Lane”**

Motion by Alderman Gallagher to approve and adopt Resolution No. 01-22. Seconded by Alderman Bullermann and carried unanimously.

#### **Ordinance No. 2140 “Ordinance Amending Section 4.04 of the City of New Berlin Municipal Code Adding the Positions of Administrative Secretary - Fire Department and Human Resources Clerk” (3<sup>rd</sup> Reading)**

City Clerk Weter gave the third and final reading of Ordinance No. 2140.

Motion by Alderman Bullermann to approve and adopt Ordinance No. 2140. Seconded by Alderman Wilkens and carried with Aldermen Gallagher, Scheuble and Ament voting “no”.

#### **Ordinance No. 2141 “An Ordinance Redistricting the Boundaries of the Seven Aldermanic Districts in the City of New Berlin” (2<sup>nd</sup> Reading)**

City Clerk Weter gave the second reading of Ordinance No. 2141.

Motion by Alderman Bullermann to waive the third reading of Ordinance No. 2141. Seconded by Alderman Gallagher. A 3/4 vote, or 6 votes is necessary to carry. Motion failed.

#### **Ordinance No. 2143 “Ordinance Repealing and Recreating Section 4.18(3)(a) of the City of New Berlin Municipal Code to Designate Unclassified Service Personnel and to Change the Salary Range for Office Coordinator - Community Development to a Salary Range of Seven” (2<sup>nd</sup> Reading)**

City Clerk Weter gave the second reading of Ordinance No. 2143.

Motion by Alderman Thomas to waive the third reading of Ordinance No. 2143. Seconded by Alderman Gallagher. A 3/4 vote, or 6 votes is necessary to carry. Motion failed.

#### **Ordinance No. 2145 “Ordinance Repealing and Recreating Section 4.13(3)(a) of the City of New Berlin Municipal Code to Change the Salary Range for Director of Human Resources to Salary Range of Sixteen” (2<sup>nd</sup> Reading)**

City Clerk Weter gave the second reading of Ordinance No. 2145.

Motion by Alderman Gallagher to waive the third reading of Ordinance No. 2145. Seconded by Alderman Ament. A 3/4 vote, or 6 votes is necessary to carry. Motion failed.

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

- Bartlett’s Restaurant Personal Property Tax Claim -

Motion by Alderman Thomas move into Open Session. Seconded by Alderman Gallagher and carried unanimously.

#### OPEN SESSION

Motion by Alderman Wilkens to adjourn the meeting at 11:55 p.m. Seconded by Alderman Ament and carried unanimously.

**Judy Weter  
City Clerk**

JW/nh