

**Common Council Minutes
May 22, 2001**

Minutes of a Regular Meeting of the Common Council of the City of New Berlin, Waukesha County, Wisconsin, held on Tuesday, May 22, 2001, at the New Berlin City Hall at 7:40 P.M.

Present were Mayor Wysocki, Aldermen Bullermann, Thomas, Gallagher, Scheuble, Wilkens, Chiovarero, and Ament. Also present were City Attorney Paul Reilly, City Clerk Judy Weter, Division Engineer John Graber and Civil Engineer Mark Handzlik.

Clerk's Report

City Clerk Weter gave a Clerk's Report, indicating that the new Council Dates are June 19 and July 17 due to upcoming State Senate District 33 Elections.

Council President's Report - No Report

Mayor's Report - No Report

City Attorney's Report - No Report

COMMUNICATIONS

Communication from City Clerk Weter re: Council Meeting Dates, Election Budget - On File in Clerk's Office

Notice of Appeal and Appeal - Ronny & Deborah Eaton - To City Attorney

PLAN COMMISSION - No Report

BOARD OF PUBLIC WORKS

Alderman Chiovarero reported from the meeting held on May 7, 2001:

Vacation of 168th Street

Motion by Alderman Chiovarero that S. 168th Street from Greenfield Avenue south 120 feet to the alley be vacated after the Greenfield Avenue reconstruction is completed and retaining the easements necessary to maintain the exiting utilities. Seconded by Alderman Wilkens and carried unanimously.

Vacation of 170th Street

Motion by Alderman Chiovarero that S. 170th Street from Greenfield Avenue south 120 feet to the alley be vacated after the Greenfield Avenue reconstruction is completed and retaining the easements necessary to maintain the exiting utilities. Seconded by Alderman Bullermann and carried unanimously.

Pines at Country Estates - Developer's Agreement

Motion by Alderman Chiovatero to approve the Developer's Agreement for the Pines at Country Estates, subject to final review as to form by the City Attorney, including the possibility of a homeowner's association responsibility. Seconded by Alderman Wilkens.

Motion by Alderman Wilkens to allow the Rep. from Thompson Corp., Mark Schulz, to address the Council. Seconded by Alderman Chiovatero and carried unanimously.

Motion by Alderman Scheuble to defer this item. Seconded by Alderman Ament and failed with Alderman Scheuble voting "yes".

Motion by Alderman Scheuble to allow Mark Schulz to address the Council. Motion dies for lack of a second.

Motion by Alderman Bullermann to end debate. Seconded by Alderman Thomas and carried unanimously.

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

Waterbury Estates - Developer's Agreement

Motion by Alderman Chiovatero to approve the Developer's Agreement for Waterbury Estates, subject to final review as to form by the City Attorney. Seconded by Alderman Bullermann.

Motion by Alderman Scheuble to amend the motion so the developer puts into place financial securities to assure Item "c" under I. General on Page 1 occurs, with no specific dollar amount. Seconded by Alderman Wilkens. Upon voting, the amendment failed with Aldermen Gallagher and Scheuble voting "yes".

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

Concrete Invert Policy

Motion by Alderman Chiovatero to amend the Concrete Invert Policy to allow for the installation of concrete invert in areas where the flow line of the ditch is either greater than 4% or less than 1.25%, regardless of whether it is a replacement, an in-fill or new invert. Seconded by Alderman Bullermann.

Motion by Alderman Scheuble to allow Brian Teclaw to address the Council. Seconded by Alderman Ament and failed with Aldermen Gallagher, Scheuble and Ament voting "yes".

Motion by Alderman Gallagher to refer this item to the Stormwater Committee. Seconded by Alderman Thomas and carried with Alderman Chiovatero voting "no".

STORM WATER COMMITTEE - No Report UTILITY COMMITTEE

Alderman Gallagher reported from the meeting held on May 14, 2001:

Pilot Project - Engineering

Motion by Alderman Gallagher to authorize the City Engineer to negotiate a Professional Service Agreement with Crispell-Snyder, Consulting Engineers for performing detail investigations to inventory infiltration/inflow sources within pilot study area. Estimated total project cost \$155,000. Seconded by Alderman Bullermann.

Motion by Alderman Gallagher to defer this item. Seconded by Alderman Scheuble and carried with Aldermen Thomas, Wilkens, and Chiovaturo voting “no”.

Professional Service Agreement Phase 2 (LSSSES)

Motion by Alderman Gallagher to authorize award of a Professional Service Agreement with R.A. Smith & Associates, Consulting Engineers for the preparation of final design, plans and construction contract documents and the bidding of the Phase II Sanitary Manhole Rehabilitation Project. Estimated fee plus a contingency for \$9,085. Seconded by Alderman Ament and carried unanimously.

LANDMARKS COMMISSION - No Report

SAFETY COMMISSION - No Report

TECHNOLOGY COMMITTEE - No Report

CIVIL SERVICE COMMISSION

From the meeting held on May 15, 2001:

Modification to Chapter 4

Motion by Alderman Bullermann to direct the City Attorney to prepare an ordinance modifying Section 4.04 of the Municipal Code to add Administrative Secretary - Fire Department, Human Resources Clerk. Seconded by Alderman Wilkens and carried unanimously

MAYORAL APPOINTMENTS/None

ACTION ON PUBLIC HEARINGS/None

REFERRALS, DEFERRALS AND TABLED ITEMS

Utility Committee - Water Utility Rate Increase - TABLED 4-10-01

Action on Public Hearings - Ordinance to Establish Stormwater Utility Rates - TABLED 4-10-01

Ordinance No. 2139 “An Ordinance to Rezone the Property at 17720 West Lincoln Avenue (Jacob’s Ridge Rezoning)” - TABLED 4-10-01

Action on Public Hearings - H & R Equipment - 17770 W. National Ave. - Rezone from B-2 to B-3 - TABLED 5-8-01

Resolutions & Ordinances - Ordinance No. 2137 - TABLED 5-8-01

CONSENT AGENDA

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

MINUTES

Minutes of the Public Hearing re: Danny Road Vacation on May 8, 2001

Minutes of the Public Hearing re: H & R Equipment Rezoning on May 8, 2001

Minutes of the Common Council Meeting held on May 8, 2001

UTILITY & FINANCE

Claims

Approve payment of Water Utility Claims in the amount of \$32,778.21, Sewer Utility Claims in the amount of \$278,417.28, and Bi-weekly Claims in the amount of \$434,627.48, all of which represents payments to vendors.

LICENSES

Bartender Licenses

Approve the Bartender Licenses for the year 2000-2002 to Mark A. Dilley, Derrick D. Douglas, Ronald L. Kotlarek, Douglas C. Rullmann, Todd M. Szmania, Brian J. Tessmann, Curtiss J. Youngberg and Nikki J. Zbichorski.

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 West National Avenue, on Saturday, June 23, 2001 from 4:00 p.m. to 10:00 p.m. (Live music from 6:00 p.m. to 10:00 p.m.). Any complaints from neighbors, etc. that require police response will result in immediate revocation of outdoor amendment and/or live music.

MISCELLANEOUS

Purchase of Pickup Truck for Engineering Division

Recommend expenditure of \$19,725 for the purchase of a 2001 Ford 4X4 pickup truck for use by the Engineering Division. Funding for this purchase is from surplus 2001 CIP account (252-360) rubber-tired front-end loader.

LICENSES

Bartender Licenses

Motion by Alderman Scheuble to approve the Bartender License for the year 2000-2002 to Tracey L. Zettel. Seconded by Alderman Bullermann and carried with Aldermen Thomas, Wilkens and Chiovatero voting "no".

The Council has before it a 1-page report of Jason A. Rockenfield's application and past record.

Motion by Alderman Scheuble to approve of a 6-month Bartender License to Jason A. Rockenfield. Seconded by Alderman Gallagher. Upon voting, the motion failed with Aldermen Gallagher and Scheuble voting "yes".

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

RESOLUTIONS AND ORDINANCES

Resolution No. 01-14 "Resolution Providing for the Publication, Filing, Inspection and Adoption of a Code of General Ordinances"

Motion by Alderman Bullermann to approve and adopt Resolution No. 01-14. Seconded by Alderman Thomas and carried unanimously.

Resolution No. 01-15 "Resolution Changing Polling Places for 2001 Special Elections"

Motion by Alderman Thomas to approve and adopt Resolution No. 01-15. Seconded by Alderman Bullermann and carried unanimously.

Motion by Alderman Bullermann to move into Closed Session at 10:00 p.m. 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)(c) & (g) of the Wisconsin State Statutes.

- c) Considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility.

- Employment of Acting Fire Chief -

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.

- James Scheid Claim -

- Thomas and Dana Rebatzke Claim -

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

OPEN SESSION

Possible Action on James Scheid Claim and Thomas and Dana Rebatzke Claim

Motion by Alderman Bullermann to deny the James Scheid Claim of March 24, 2001 regarding sewer backup, and the Thomas and Dana Rebatzke Claim, per the recommendation of City Attorney Paul Reilly. Seconded by Alderman Thomas and carried with Alderman Scheuble voting "no".

Motion by Alderman Thomas to adjourn the meeting at 10:38 p.m. Seconded by Alderman Bullermann and carried unanimously.

**Judy Weter
City Clerk**

JW/nh