

**Common Council Minutes
February 27, 2001**

Minutes of a Regular Meeting of the Common Council of the City of New Berlin, Waukesha County, Wisconsin, held on Tuesday, February 27, 2001, at the New Berlin City Hall at 11:20 P.M.

Present were Mayor Gatzke, Aldermen Bullermann, Wysocki, Patzer, Scheuble, Wilkens, Chiovero, and Kaminski. Also present were City Attorney Paul Reilly, City Clerk Judy Weter, Director of Community Development Greg Kessler, Director of Planning Mark Lake, City Engineer Jeff Chase, and Associate Planner Nikki Jones.

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

Communication from Attorney T. Michael Schober re: Midwest Power - on File in Clerk's Office

Communication from Plan Commission: Plan Commission By-Laws - on File in Clerk's Office

Communication from City Attorney Paul Reilly re: Denial of Claim of Thomas and Vicki Schamens

Motion by Alderman Bullermann to deny the Thomas and Vicki Schamens claim, per the recommendation of City Attorney Paul Reilly. Seconded by Alderman Patzer and carried unanimously.

ACTION ON PUBLIC HEARINGS

Revisions to Chapters 17 & 18/Ordinance No. 2134 - Zoning Code Ordinance and Ordinance No. 2135 - Development Ordinance

Motion by Alderman Kaminski to approve and adopt the updated/revised City of New Berlin Chapter 17 (Zoning Ordinance - Ordinance No. 2134) and Chapter 18 (Development Ordinance - Ordinance No. 2135), its design standards and guidelines, subject to the plans on file and the following:

- 1) Consultants shall make all formatting changes and the formatting should be identical in both Chapter 17 (Zoning Ordinance) and Chapter 18 (Development Ordinance).
- 2) Consultants shall list all necessary definitions and include any additional definitions that have been requested by staff. All definition should appear in both Chapter 17 and Chapter 18.

- 3) Consultants shall address all unanswered staff questions and concerns that are highlighted within the documents.
 - 4) Consultants shall include all references within the document, and be consistent with the references and titles used throughout both documents.
 - 5) Consultants shall refer to The City of Muskego, WI Durham Hill Design Guidelines when defining Rural Commercial Guidelines.
 - 6) Consultants shall review revised sign portion for legality and make any necessary changes.
- Seconded by Alderman Wilkens.

Motion by Alderman Scheuble to defer this item with the request to have another Public Hearing held to be coordinating of future land use plan and the implications of the zoning ordinances, prior to the next Common Council Meeting. Seconded by Alderman Wysocki. Upon voting, the motion failed with Aldermen Wysocki and Scheuble voting “yes”.

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

REFERRALS, DEFERRALS AND TABLED ITEMS

Resolution No. 01-06 “A Resolution for Inclusion Under the State of Wisconsin Deferred Compensation Plan” - DEFERRED 2-15-01

Motion on the Floor: Motion by Alderman Chiovatero to approve and adopt Resolution No. 01-06. Seconded by Alderman Wilkens and carried unanimously.

CONSENT AGENDA

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

MINUTES

Minutes of the Common Council Meeting held on February 15, 2001

UTILITY & FINANCE

Claims

Approve payment of Sewer Utility Claims in the amount of \$16,020.18, Water Utility Claims in the amount of \$125,691.85, and Bi-weekly claims in the amount of \$566,719.61, all of which represents payments to vendors.

DEFERRED ITEMS

Payment of Claim to Ruckert & Mielke

Approve payment of the Bi-weekly claim in the amount of \$12,239.44, which represents payment to Ruckert & Mielke.

Council Rule 14 Amendment - Public Hearings

Motion by Alderman Bullermann to recommend to Council to revise Common Council Rule 14 as follows:

Public Hearings may be scheduled for an evening which is agreeable to the majority of the Council and the following procedures shall apply:

- 1) Presentations shall be limited to the public hearing purpose.
 - 2) Presentation shall not deal in personalities or personal attacks on members of the Council or City employees.
 - 3) Presentations are not to be designed for purposes of engaging others in a debate in this forum.
 - 4) No Council member may address the council during the hearing.
 - 5) In the interest of avoiding repetitive testimony, the chairperson may want to encourage persons with the same viewpoint to appoint a spokesperson.
 - 6) Written testimony will be accepted until 4:00 p.m. one business day prior to the public hearing in lieu of verbal testimony at the hearing itself.
 - 7) Comments are to be limited to ONE three minute presentation per person. This limitation does not apply to questions for the purpose of clarification.
 - 8) The format for hearings will be staff presentation, questions for the purpose of clarification and comments neither in favor of nor opposed to, petitioner comments, public comments in favor of, comments opposed to and Council questions.
 - 9) Public Hearings are limited to 4 hours in length.
 - 10) Anyone desiring to make a formal presentation and thus be allowed to speak beyond the 3 minutes as identified in Item 7 should make a formal request in advance of their presentation to Council to be approved by majority vote.
- Seconded by Alderman Patzer and carried with Alderman Scheuble voting "no".

RECONSIDERATION OF AMENDMENT TO COUNCIL RULE NO. 11 - LIMITATION OF DEBATE

Motion by Alderman Scheuble that any Alderman who has been referenced in a negative fashion may have opportunity to respond prior the end of debate. Motion dies for lack of a second.

Motion by Alderman Scheuble to reconsider the vote and amend with clarification that any alderman who has not had an opportunity to speak twice may do so prior to voting on a motion to end debate. Motion dies for lack of a second.

RESOLUTIONS AND ORDINANCES

Ordinance No. 2133 "An Ordinance Establishing a Stormwater Utility and Setting Rates for Stormwater Management Services" (2nd Reading)

City Clerk Weter gave the second reading of Ordinance No. 2133.

Motion by Alderman Scheuble to request another public information session and another Public Hearing on this issue before the next Council Meeting. Seconded by Alderman Wysocki. Upon

voting, the motion failed with Aldermen Wysocki, Patzer and Scheuble voting “yes”.

Motion by Alderman Bullermann to move into Closed Session. Seconded by Alderman Patzer. Upon voting, Alderman Bullermann voted “yes”, Alderman Wysocki voted “yes”, Alderman Patzer voted “yes”, Alderman Scheuble voted “yes”, Alderman Wilkens voted “yes”, Alderman Chiovatero voted “yes”, and Alderman Kaminski 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.

- David Breese Claim -

Motion by Alderman Kaminski move into Open Session. Seconded by Alderman Chiovatero and carried unanimously.

OPEN SESSION

Possible Action on David Breese Claim

Motion by Alderman Bullermann to authorize the City Attorney to settle the David Breese Claim. Seconded by Alderman Wysocki and carried unanimously.

Motion by Alderman Chiovatero to adjourn the meeting at 12:07 a.m. Seconded by Alderman Kaminski and carried unanimously.

**Judy Weter
City Clerk**

JW/nh