

**Common Council Minutes
January 9, 2001**

Minutes of a Regular Meeting of the Common Council of the City of New Berlin, Waukesha County, Wisconsin, held on Tuesday, January 9, 2001, at the New Berlin City Hall at 10:35 P.M.

Present were Mayor Gatzke, Aldermen Wysocki, Patzer, Scheuble, Wilkens, Chiovatero, and Kaminski. Also present were City Attorney Paul Reilly, City Clerk Judy Weter, Asst. Director of Planning Mark Lake, Associate Planners David Haines and Greg Kessler, Planning Tech Nikki Jones, GIS Tech Diana Kanter, and City Engineer Jeff Chase. Alderman Bullermann was excused.

ACTION ON PUBLIC HEARINGS

Honeyager Lane - 14101 W. Howard Ave. - PUD - 16 Duplex Homes

Motion on the Floor: Motion by Alderman Kaminski to approve the request by Honeyager Lane to rezone the property located at 14101 W. Howard from R-4.5 to Rd-1/PUD Overlay District subject to:

- 1) A City Attorney approved PUD document, which satisfies the conditions of §17.0329, required.
- 2) Use, Site and Architecture approval required prior to signing of the ordinance.
- 3) Hook-up to municipal sewer and/or water shall be required within one year of becoming available.
- 4) Proposed development requires wetland mitigation so that several lots and the appropriate infrastructure may be developed.
- 5) Minimum lot depth shall be 170'.
- 6) All buildings shall be separated by a minimum of 30' (eave to eave) with a minimum front yard setback and rear yard setback of 30'.
- 7) Adherence to §17.1308 (10) Woodland Preservation required. Tree Inventory required to determine compliance.
- 8) Ownership of identified outlots and wetlands shall be labeled on Plat/CSM.
- 9) Storm Water Management Plan required. Plan relies on offsite stormwater management in violation of the Storm Water Management Ordinance.

Seconded by Alderman Patzer.

Motion by Alderman Wilkens to end debate. Seconded by Alderman Kaminski and carried with Aldermen Wysocki and Patzer voting "no".

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

Farrell Meadows - 14201 W. Farrell Dr. - PUD - 13 Duplex Homes

Motion on the Floor: Motion by Alderman Kaminski to approve the request by Farrell Meadows to rezone the property located at 14201 W. Farrell from R-4.5 to Rd-1/PUD Overlay District subject to:

- 1) A City Attorney approved PUD document, which satisfies the conditions of §17.0329, required.

- 2) Use, Site and Architecture approval required prior to signing of the ordinance.
- 3) Hook-up to municipal sewer and/or water shall be required within one year of becoming available.
- 4) Proposed development requires wetland mitigation so that several lots and the appropriate infrastructure may be developed.
- 5) Minimum lot depth shall be 170'.
- 6) All buildings shall be separated by a minimum of 30' (eave to eave) with a minimum front yard setback and rear yard setback of 30'.
- 7) Adherence to §17.1308 (10) Woodland Preservation required. Tree Inventory required to determine compliance.
- 8) Ownership of identified outlots and wetlands shall be labeled on Plat/CSM.
- 9) Storm Water Management Plan required. Plan relies on offsite stormwater management in violation of the Storm Water Management Ordinance.

Seconded by Alderman Patzer and carried with Alderman Scheuble voting "no".

REFERRALS, DEFERRALS, AND TABLED ITEMS

Ordinance No. 2125 "City of New Berlin Cable Television Ordinance" - TABLED 12-12-00

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

Motion by Alderman Wysocki to adopt and approve Ordinance No. 2125. Seconded by Alderman Wilkens and carried unanimously.

Clerk's Report - No Report

Council President's Report

Council President Kaminski gave a Council President's Report, along with requesting Aldermen to be prepared to discuss goals at the next Council meeting on January 23, 2001.

Mayor's Report

Mayor Gatzke gave a Mayor's Report.

City Attorney's Report - No Report

COMMUNICATIONS

Communication from the Town of Vernon/Resolution re: Midwest Power Plant - on File in Clerk's Office

Notice of Claim - Peter Neuman, Jr. - to City Attorney

Notice of Summons and Complaint - Citizen Power, Inc. and Andrea Frank - to City Attorney

Notice of Summons and Complaint - Habermehl Electric, Inc. - to City Attorney

PLAN COMMISSION

Alderman Kaminski reported from the meeting held on January 8, 2001:

Telecorp - 1855 S. Sunnyslope Rd. - New Telecommunications Array on an Existing Telecommunications Tower - Conditional Use

Motion by Alderman Kaminski to approve the request by Telecorp for new telecommunications array on an existing telecommunications tower located at 1855 S. Sunnyslope Road subject to:

- 1) Site and array must meet the conditions of §17.0503(3) of the City of New Berlin Municipal Code.
- 2) All structural plans used for the building permit to be stamped by a Wisconsin architect and/or engineer.
- 3) Cabinet enclosure required to be screened from the public, landscape plan with plant key and plant specifications according to section §17.0503(3)(j) to be reviewed and approved by the Planning Department prior to installation.
- 4) Barbed wire capped enclosures are not allowed. Fence to be installed without barbed wire on top.
- 5) Permits are required from the Building, Inspections and Zoning Department. Cabinet enclosure must meet all applicable building and fire codes. Site must be maintained per § 14.25 of the Non-residential Property Maintenance Code.
- 6) Coordinated access with WEPCO required. Easement for coordinated access to be on file.
- 1) Approval of drainage, grading, and overall site plans by the Engineering Department required prior to issuance of Building Permit.

Seconded by Alderman Patzer and carried unanimously.

Paul Lindemann - 17970 W. Small Rd. - Se1/4 Sec. 33 - Preliminary Two-Lot Land Division

Motion by Alderman Kaminski to approve the request by Paul Lindemann for a preliminary two-lot land division located at 17970 W. Small Road subject to:

- 1) Per § 17.0306 (4) minimum lot width shall be 200'.
- 2) Existing well and septic field locations to be placed on Final CSM.
- 3) Public Site and Trail Fees of \$2,137.60 required prior to the City of New Berlin signing the Final CSM.
- 4) Owner and Surveyor required to sign prior to the City signing the Final CSM.
- 5) Applicant will be required to dedicate the remainder of Small Road ROW. Final CSM should show the ROW 50' from the center line of Small Road.
- 6) Shared access requirement to be determined by the City Engineer. 30' x 60' (both lots) access easement may be required.

Seconded by Alderman Patzer and carried unanimously.

Resolution in Support of Waukesha Land Development Workgroup Recommendation to Implement Development Review Checklists/Council Resolution No. 01-02

Motion by Alderman Kaminski to approve and adopt Council Resolution No. 01-02, "A Resolution in Support of Waukesha Land Development Workgroup Recommendation to Implement Development Review Checklists". Seconded by Alderman Chiovatero and carried unanimously.

Denial of Resolution in Support of Waukesha County Land Development Workgroup Recommendation to Restrict the Use of Certified Survey Maps for Certain Land Divisions/Council Resolution No. 01-03

Motion by Alderman Kaminski to deny Council Resolution No. 01-03, "A Resolution in Support of Waukesha County Land Development Workgroup Recommendation to Restrict the Use of Certified Survey Maps for Certain Land Division" (New Definition of a Subdivision). Seconded by Alderman Patzer and carried unanimously.

BOARD OF PUBLIC WORKS - No Report

STORM WATER COMMITTEE - No Report

UTILITY COMMITTEE - No Report

LANDMARKS COMMISSION - No Report

SAFETY COMMISSION - No Report

TECHNOLOGY COMMITTEE - No Report

MAYORAL APPOINTMENTS - None

ACTION ON PUBLIC HEARINGS

Pro Health Care PUD - 13700-13900 W. National Avenue and 13755 W. Fieldpointe Drive

Motion on the Floor: Motion by Alderman Wilkens to approve the request by Pro Health Care, Inc. to rezone the area north of Fieldpointe Drive to P-1/PUD and the area to the south of Fieldpointe Drive to I-1/PUD, subject to the application, plans on file, and the following:

- 1) Use, Site and Architectural approval required for any future improvements to this property.
- 2) Grading/filling as part of future improvements shall be performed by ProHealth Care, Inc per a grading plan submitted to the City.
- 3) Sewer and water plans for future improvements to be approved by all regulating authorities.
- 4) As this area develops, the existing and proposed residential and/or office buildings land coverage may not exceed 50 percent of Area 2, and a minimum of open space requirement of 30 percent of Area 2 will be maintained, and in no case shall the independent living apartments, or their equivalent, exceed 14 units per acre of Area 2 in total.
- 5) All plans for the improvements to the public way are to be approved and completed prior to building permits being issued.

6) Conformance to and participation in Regional Stormwater Management Plan required. Seconded by Alderman Kaminski and carried unanimously.

REFERRALS, DEFERRALS AND TABLED ITEMS

Reaffirmation of Land Use Plan Update - DEFERRED 12-26-00

Motion by Alderman Wysocki to reaffirm what the adopted Land Use Plan Update stated as regards this specific area (a mile west of the I-43 and Racine Ave.) as of the date of the Council action on the Growth & Development Master Plan Update. Seconded by Alderman Patzer.

Item discussed, no action taken. Alderman Wysocki withdrew the motion.

CONSENT AGENDA

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

UTILITY & FINANCE

Claims

From December 27, 2000:

Approve the Sewer Utility claims in the amount of \$100,698.57, Water Utility claims in the amount of \$82,714.46, and bi-weekly claims in the amount of \$423,927.74, all of which represents payments to vendors, and Tax Refunds (Overpayments) in the amount of \$77,800.53.

For January 10, 2001

(2000)

Approve the Sewer Utility claims in the amount of \$315,221.08, of which \$271,136.78 represents payments to MMSD and \$44,084.30 represents payments to vendors; Water Utility claims in the amount of \$58,067.53, and bi-weekly claims in the amount of \$424,439.18, both amounts representing payments to vendors.

(2001)

Approve the payment of bi-weekly claims in the amount of \$57,765.88, all of which represents payments to vendors, and Tax Refunds (Overpayments) in the amount of \$148,207.21.

LICENSES

6-Month Review of Probationary Bartenders Licenses

The Council has before it a 1-page report of Nicole M. Shindel's application and past record.

Deny the Bartender License for the remaining year 2000-2002 to Nicole M. Schindel, based on the record before the Council.

Bartender Licenses

The Council has before it a 1-page report of Kristy L. Fabricius' application and past record.

Approve a 6-month Bartender License to Kristy L. Fabricius, to expire July 10, 2001. 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.

Approve the Bartender Licenses for the year 2000-2002 to Christine L. Jackson and Kimberly L. Rados.

Agent Change - "Class B" Retailer's License

Approve the change of Agent on record for Diamondback Management, Inc. D/B/A Tumbleweed Mesquite Grill & Bar, 4900 S. Moorland Rd., to Sara E. Murphy.

Rubbish Collection Licenses

Approve the Rubbish Collection License for the year 2001 to Waste Management/Dennis Drephal, Division Manager.

MISCELLANEOUS

2001 Waukesha County Community Development Block Grant/Resolution No. 01-01

Recommend Resolution No. 01-01 to Council.

Request to Eliminate Water/Sewer Billing Penalties of Timothy Schuster

Eliminate year 2000 billing penalties for the water/sewer bill, for Tim Schuster at 13939 W. Ferguson Road, amounting to \$157.02 and to allow Mr. Schuster to pay his water/sewer bill for year 2000 in divided payments over 6 months due on or before June 15, 2001.

Municipal Bail Schedule Adjustment

Adopt the updated Municipal Bail Schedule and correct the fines for Open Burning violations, per the attached list to Lt. Zsohar's memo dated December 5, 2000.

Fire Station #5 Tower Lease

Approve the ground lease and construction agreement with VoiceStream PCS II for a new replacement tower at Fire Station #5. The term is for 10 years with an option for four additional 10-year terms beginning January 9, 2001.

MINUTES

Minutes of the Public Hearing re: ProHealth Rezoning held on December 12, 2000

Minutes of the Common Council Meeting held on December 12, 2000

Minutes of the Common Council Meeting held on December 26, 2000

Motion by Alderman Scheuble to defer the above Minutes. Seconded by Alderman Patzer and carried unanimously.

RESOLUTIONS AND ORDINANCES

Resolution No. 01-01 "A Resolution Authorizing the Acceptance and Expending of a Waukesha County Community Development Block Grant"

Motion by Alderman Patzer to approve and adopt Resolution No. 01-01. Seconded by Alderman Kaminski and carried unanimously.

Ordinance No. 2128 “The Deer Creek Inn & Conference Center Planned Unit Development Overlay District”

City Clerk Weter gave the only necessary reading of Ordinance No. 2128.

Motion by Alderman Patzer to approve and adopt Ordinance No. 2128. Seconded by Alderman Chiovatero and carried with Alderman Scheuble voting present and Alderman Wysocki voting "no".

Ordinance No. 2129 “Ordinance Creating Section 9.275 and Amending Section 25.04 of the City of New Berlin Municipal Code Prohibiting Possession of Ignition Devices on School Premises and Setting of the Cash Deposit for Violation of Section 9.275" (1st Reading)

City Clerk Weter gave the first reading of Ordinance No. 2129.

Ordinance No. 2130 “Ordinance Creating section 1.06(2) and Amending Section 1.06 of the City of New Berlin Municipal Code regarding Salaries and Compensation of Elected Officers” (1st Reading)

City Clerk Weter gave the first reading of Ordinance No. 2130.

Motion by Alderman Patzer to move into Closed Session. Seconded by Alderman Wysocki. 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)(c) & (e) 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.
- 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.
 - Possible Ratification of AFSCME Contract -
 - Position of Community Development Director -

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

OPEN SESSION

Possible Action on Ratification of AFSCME Contract

Motion by Alderman Chiovatero to ratify the AFSCME Contract.
Seconded by Alderman Kaminski and carried with Alderman Scheuble
voting "no".

Motion by Alderman Wysocki to adjourn the meeting at 1:00 a.m.
Seconded by Alderman Patzer and carried unanimously.

**Judy Weter
City Clerk**

JW/nh