

**Common Council Minutes
June 19, 2001**

Minutes of a Regular Meeting of the Common Council of the City of New Berlin, Waukesha County, Wisconsin, held on Tuesday, June 19, 2001, at the New Berlin City Hall at 9:45 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 Utilities Mike Holzinger, Director of Community Development Greg Kessler, Director of Planning Mark Lake, Associate Planner/Mapping Coordinator David Haines, Acting City Engineer JP Walker, and Division Engineer Larry Wilms.

Clerk's Report

City Clerk Weter gave a Clerk's Report.

Council President's Report

Alderman Bullermann gave a Council President's Report.

Mayor's Report

Mayor Wysocki gave a Mayor's Report.

City Attorney's Report - No Report

COMMUNICATIONS

Notice of Claim and Claim - Dodge Construction Company/City Attorney Recommendation - Motion by Alderman Ament to deny the Dodge Construction Company Claim, per the recommendation of City Attorney Paul Reilly. Seconded by Alderman Wilkens and carried unanimously.

Communication from Historical Society re: Fire Station - on File in Clerk's Office and copy to Director of BIZ Bob Sigrist.

PLAN COMMISSION

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

Joyce & Bruce Boehlen - NW1/4 Sec. 7 - 21655 W. Lincoln Ave. - Two-Lot Preliminary Land Division

Motion by Alderman Ament to deny without prejudice the request by Joyce & Bruce Boehlen for a two-lot preliminary land division located at 21655 W. Lincoln Avenue NW1/4 Sec. 7 based on the following:

- 1) Per City of New Berlin Municipal Code Section 17.04(2)(B)(1) "...The district is intended to provide for detached single-family residences and limited agricultural uses, at densities not to exceed 0.2 or 1 residential unit per 5 gross acres for conventional single-family detached development, ... not served by public sanitary sewer or water facilities."
- 2) Ordinance change accommodating land divisions of less than 5 acres required.

Seconded by Alderman Bullermann and carried unanimously.

Set Public Hearing Date re: Zoning Ordinance, Land Division Ordinance (Development Code), GDMP, and Related Maps

Motion by Alderman Ament to forward to Council a Resolution recommending changes to the Zoning Ordinance, the Land Division Ordinance (Development Code), and the GDMP and related maps including additional changes as required and to recommend scheduling a public hearing for said changes. Seconded by Alderman Thomas.

A Public Hearing was scheduled for July 24, 2001 at 7:00 p.m. A Special Common Council Meeting will follow in the event Council is ready to adopt the provisions. An Informational Meeting will be held that evening from 5 p.m. to 7 p.m.

The Pines of Country Estates - 12900 W. Peachtree Ln. - Final Subdivision

Motion by Alderman Ament to approve the request by The Pines of Country Estates for a final subdivision located at 12900 W. Peachtree Lane subject to:

- 1) Clean up of all drafting errors prior to City signing final Plat.
- 2) Full compliance with the executed Developer's Agreement shall be required prior to City signing the final Plat.
- 1) Based on the estimate prepared by the City Assessor in accordance with Section 18.10, the required fee for your requested residential development is as follows:

Public Site Fee:	\$670 per lot x 14 lots = \$ 9,380
Open Space Fee:	\$130 per lot x 14 lots = \$ 1,820
Trail Fee:	\$200 per lot x 14 lots = <u>\$ 2,800</u>
Total:	\$14,000
- 2) Schedule:
 - December 28, 2000 - Plat Received
 - February 26, 2001 - 60-day time limit expires
 - February 5, 2001 - Plan Commission date for final action
 - February 13, 2001 - Common Council date for final action
 - Extension March 13, 2001 - Common Council date for final action
 - Extension June 12, 2001 - Common Council date for final action
 - Extension June 26, 2001 - Common Council date for final action

Seconded by Alderman Bullermann. Upon voting, the motion failed with Aldermen Thomas, Gallagher, Scheuble and Ament voting "no".

Motion by Alderman Scheuble to deny the request. Seconded by Alderman Gallagher.
Alderman Scheuble withdrew the motion.

Motion by Alderman Ament to reconsider. Seconded by Alderman Wilkens and carried with Alderman Gallagher voting "no".

Motion by Alderman Ament to approve the request by The Pines of Country Estates for a final subdivision located at 12900 W. Peachtree Lane subject to:

- 1) Clean up of all drafting errors prior to City signing final Plat.
- 2) Full compliance with the executed Developer's Agreement shall be required prior to City signing the final Plat.

3) Based on the estimate prepared by the City Assessor in accordance with Section 18.10, the required fee for your requested residential development is as follows:

Public Site Fee: \$670 per lot x 14 lots = \$ 9,380
Open Space Fee: \$130 per lot x 14 lots = \$ 1,820
Trail Fee: \$200 per lot x 14 lots = \$ 2,800
Total: \$14,000

4) Schedule:

December 28, 2000 - Plat Received
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Seconded by Alderman Bullermann and carried with Aldermen Gallagher and Scheuble voting "no".

Motion Health & Wellness Center - 14985 W. Beloit Rd. - Rezone A-2 to O-2 - Wellness Center - Revised Plans

Motion by Alderman Ament approve the request by Motion Health & Wellness Center to rezone the property located at 14985 W. Beloit Road from A-2 to O-2 subject to the following:

- 1) Legal description of lands to be rezoned to O-2, legal descriptions of field delineated wetlands and secondary environmental corridor required prior to writing of ordinance.
- 2) Use, Site and Architectural approval required for any modifications to the existing use or structures on the property.

Seconded by Alderman Bullermann.

A Public Hearing was scheduled for July 17th at 7:00 p.m.

BOARD OF PUBLIC WORKS - No Report

STORM WATER COMMITTEE - No Report

UTILITY COMMITTEE

Alderman Gallagher reported from the Meeting held on May 23, 2001:

Sand and Gravel Geophysical Study

Motion by Alderman Gallagher to approve authorization for City Engineer to secure necessary Professional and Well Drilling Services and to negotiate a suitable agreement with the property owner to acquire the necessary land interests for a test well and to drill a test well for the Water Utility for a cost not to exceed \$85,000, that will be funded by Water Utility Account #923.42. Seconded by Alderman Chiovatero.

Motion by Alderman Wilkens to defer this item. Seconded by Alderman Chiovatero and carried with Aldermen Gallagher and Ament voting "no".

LANDMARKS COMMISSION - No Report

SAFETY COMMISSION

Alderman Chiovatero reported from the meeting held on June 13, 2001:

Hope St. Cut Through in to Kelly Point Subdivision

Motion by Alderman Chiovatero to make it illegal for unauthorized vehicles to use these types of cut throughs, and to direct the City Attorney to prepare the proper Ordinance. Seconded by Alderman Thomas.

Motion by Alderman Wilkens to defer this item. Seconded by Alderman Chiovatero and carried unanimously.

TECHNOLOGY COMMITTEE - No Report

MAYORAL APPOINTMENTS

Motion by Alderman Bullermann to approve the following appointments:

Board of Review

Reappoint Raymond A. West to the Board of Review, with an expiration date of May 31, 2006.

Civil Service Commission

Reappoint Jerome C. Hudy to the Civil Service Commission, with an expiration date of June 30, 2006.

Library Board

Reappoint Jo A. Boardman and Pamela J. Hyps to the Library Board, both with an expiration date of June 30, 2004.

Safety Commission

Appoint Ronald Schildt to the Safety Commission, with a non-expiration date.

Plan Commission

Appoint Paul Gihring to the Plan Commission, with an expiration date of April 30, 2004. Seconded by Alderman Gallagher and carried unanimously.

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

Motion by Alderman Bullermann to remove this item from the table.

Seconded by Alderman Gallagher and carried unanimously.

Motion on the Floor: Motion by Alderman Kaminski to approve and adopt Ordinance No. 2139. Seconded by Alderman Patzer.

Upon voting, the motion failed with Aldermen Bullermann, Wilkens, and Chiovatero voting "yes".

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 "Ordinance Repealing and Recreating Section 4.18(3) (a) of the City of New Berlin Municipal Code to Designate Unclassified Service Personnel; to Change the Salary Range for Director of Human Resources to Salary Range of Sixteen; to Change the Salary Range for Office Coordinator - Community Development to a Salary Range of Seven; and to Add the Position of Office Coordinator - Finance and Utilities with a Salary Range of Five - TABLED 5-8-01
Motion by Alderman Bullermann to remove this item from the agenda. Seconded by Alderman Ament and carried unanimously.

Motion by Alderman Bullermann to approve and adopt Ordinance No. 2137. Seconded by Alderman Wilkens. Upon voting, the motion failed with Aldermen Bullermann, Wilkens and Chiovatero voting "yes".

Motion by Alderman Thomas to reconsider. Seconded by Alderman Scheuble.
Alderman Thomas withdrew the motion.

Motion by Alderman Thomas to recommend that an Ordinance be drafted only for the Community Development Office Coordinator and Finance and Utilities Office Coordinator positions. Seconded by Alderman Ament.

Motion by Alderman Bullermann to amend the motion to have 3 separate ordinances drafted for the 3 positions. Seconded by Alderman Ament and carried unanimously.

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

Utility Committee - Pilot Project/Engineering - DEFERRED 5-22-01
Motion on the Floor: 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 Thomas to end debate. Seconded by Alderman Scheuble and carried unanimously.

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

CONSENT AGENDA

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

MINUTES

Minutes of the Common Council Meeting held on May 22, 2001

UTILITY & FINANCE

Claims

Approve payment of Water Utility Claims in the amount of \$168,419.16, Sewer Utility Claims in the amount of \$255,391.03, and Bi-weekly Claims in the amount of \$789,436.58, all of which represents payments to vendors.

LICENSES

Bartender Licenses

Approve the Bartender License for the year 2000-2002 to Donna L. Ballo, Kevin P. Carr, William M. Conners, Daniel P. Foshager, Jenifer M. Haertle, Roxanne M. Jankowski, Diana V. LaFever, Melissa A. Miller, Stephanie M. Miller, William K. Phillips, Candace M. Quast and Jessica A. Rice.

Deny the Bartender License to Mary E. Uihlein, based on the record before the Council, and the fact that the applicant did not reveal history on the application.

Deny the Bartender License to Rebecca A. Mueller, based on the record before the Council.

Amendment to "Class B" Retailers License

Approve the amendment to the "Class B" Retailers License to include the "Parking Lot Area" for Senor Luna, 1901 S. Calhoun Rd., on Saturday, September 1, 2001 from 12:00 noon to 12:00 midnight, and Sunday, September 2, 2001 from 12:00 noon to 12:00 midnight (Live music from 12:00 noon 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.

2001 License Renewals

Approve all license renewals presented, subject to approval by the Inspection Department, and payment of personal property taxes and delinquent liquor bills.

MISCELLANEOUS

Resolution Authorizing the City of New Berlin to Borrow the Sum of \$4,925,000 by Issuing General Obligation Promissory Notes, Series 2001 Pursuant to Section 67.12(12) of the Wisconsin Statutes and Authorizing the Sale of the Notes/Resolution No. 01-18

Recommend Resolution No. 01-18 to Council.

LICENSES

Appeal to Denial of Bartender License

The Council has before it a 2-page report of Jason A. Rockenfield's application and past record.

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

Bartender License

Motion by Alderman Scheuble to approve a 6-month Bartender License to James A. Erskine, to expire December 11, 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. Seconded by Alderman Wilkens and carried with Alderman Thomas voting "no".

MISCELLANEOUS

Redistricting - Ward Plan

Motion by Alderman Bullermann to select Alternative Plan D of the four ward plans, and recommend the resolution adopting the selected ward plan and introduce the ordinance for aldermanic districts by having the first reading on June 19, 2001. Seconded by Alderman Wilkens.

Motion by Alderman Bullermann to end debate. Seconded by Alderman Wilkens and failed with Aldermen Bullermann, Wilkens, Chiovatero, and Ament voting "yes". (A 3/4 vote is required to end debate)

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

Motion by Alderman Gallagher to end debate. Seconded by Alderman Bullermann and carried with Alderman Scheuble voting "no".

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

Transition Officer - Fire Department

Motion by Alderman Bullermann to recommend to Council to fund a Transition Officer position in The New Berlin Fire Department from Account #616 - Contingency. Seconded by Alderman Wilkens and carried with Alderman Scheuble voting "no".

RESOLUTIONS AND ORDINANCES

Resolution No. 01-16 "Resolution Regarding Adjustment of Wards, Adopting a County Supervisory District Plan, and Designation of the Polling Places in the City of New Berlin"

Motion by Alderman Bullermann to approve and adopt Resolution No. 01-16. Seconded by Alderman Gallagher and carried with Aldermen Thomas and Scheuble voting "no".

Resolution No. 01-17 "A Resolution Amending the 2001 City of New Berlin Operational Budget re: Fire Department"

Motion by Alderman Wilkens to approve and adopt Resolution No. 01-17. Seconded by Alderman Bullermann and carried with Alderman Scheuble voting "no".

Resolution No. 01-18 "A Resolution Authorizing the City of New Berlin to Borrow the Sum of \$4,925,000 by Issuing General Obligation Promissory Notes, Series 2001 Pursuant to Section 67.12(12) of the Wisconsin Statutes and Authorizing the Sale of the Notes"

Motion by Alderman Wilkens to approve and adopt Resolution No. 01-18. Seconded by Alderman Chiovatero 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" (1st Reading)

City Clerk Weter gave the first reading of Ordinance No. 2140.

Ordinance No. 2141 "An Ordinance Redistricting the Boundaries of the Seven Aldermanic Districts in the City of New Berlin" (1st Reading)

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

Ordinance No. 2142 "An Ordinance to Revise and Consolidate, Amend, Supplement and Codify the General Ordinances of the City of New Berlin" (1st Reading)

City Clerk Weter gave the first reading of Ordinance No. 2142.

Motion by Alderman Wilkens to waive the second and third reading of Ordinance No. 2142. Seconded by Alderman Bullermann and carried with Alderman Scheuble voting "no".

Motion by Alderman Wilkens to approve and adopt Ordinance No. 2142. Seconded by Alderman Bullermann and carried with Alderman Scheuble voting "no".

Motion by Alderman Bullermann to move into Closed Session. Seconded by Alderman Ament. 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.

- Review of Agreement with Acting Fire Chief -

- (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 Pop up Trailer Claim -

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

OPEN SESSION

Possible Action on Agreement with Fire Chief

Motion by Alderman Bullermann to authorize the Mayor to sign the agreement with the Acting Fire Chief. Seconded by Alderman Wilkens and carried with Alderman Scheuble voting "no".

Possible Action on James Scheid Pop up Trailer Claim

Motion by Alderman Chiovatero to recommend to Council to settle the James Scheid Pop up Trailer claim in the amount of \$700.79, per the recommendation of City Attorney Paul Reilly. Seconded by Alderman Bullermann and carried unanimously.

Motion by Alderman Scheuble to adjourn the meeting at 12:45 a.m. Seconded by Alderman Ament and carried unanimously.

**Judy Weter
City Clerk**

JW/nh