

Minutes

Common Council

June 8, 1999

Minutes of a Regular Meeting of the Common Council of the City of New Berlin, Waukesha County, Wisconsin, held on Tuesday, June 8, 1999, at the New Berlin City Hall at 11:25 P.M.

Present were Mayor Gatzke, Aldermen Bullermann, Wysocki, Patzer, Scheuble, Wilkens, Chiovatero, and Kaminski. Also present were City Clerk Bill Bowers, City Attorney Paul Reilly, and City Treasurer Mike Holzinger.

Clerk's Report

City Clerk Bowers gave a Clerk's Report.

MINUTES

Motion by Alderman Wysocki to recommend to Council approval of the Special Minutes of the Common Council Meeting held on May 18, 1999. Seconded by Alderman Bullermann and carried unanimously.

Motion by Alderman Bullermann to recommend to Council approval of the Minutes of the Common Council Meeting held on May 25, 1999. Seconded by Alderman Patzer and carried unanimously.

COMMUNICATIONS

Notice of Claim - Wendy Tumey - To City Attorney

Communication from Ron Retherford regarding Opposition to Casino - On File in Clerk's Office

Petition with 233 Signatures Opposing a Waukesha County Casino - On File in Clerk's Office

Communication from Judith and Linus Sepsey regarding Opposition to Casino/Petition with 46 Signatures Opposing a Waukesha County Casino - On File in Clerk's Office

BUSINESS:

PLAN COMMISSION RECOMMENDATIONS -No Report

BOARD OF PUBLIC WORKS - No Report

UTILITY COMMITTEE - No Report

MAYORAL APPOINTMENTS

Landmarks Commission

Motion by Alderman Bullermann to recommend to Council the Mayoral Appointment of Kay A. Jashinsky to the Landmarks Commission, with an expiration date of October 1, 2002. Seconded by Alderman Patzer and carried unanimously.

Safety Commission

Motion by Alderman Bullermann to recommend to Council the Mayoral Appointment of Kenneth T. Czyzewski to the Safety Commission, with an expiration date of April 30, 2000. Seconded by Alderman Patzer and carried unanimously.

ACTION ON PUBLIC HEARINGS

Proposed Property Maintenance Code/Ordinance No. 2074 "An Ordinance to Repeal and Recreate Section 14.25 of the Municipal Code of the City of New Berlin Relating to Property Maintenance"

Motion by Alderman Wilkens to refer this item to the Property Maintenance Code Committee. Seconded by Alderman Patzer.

Motion by Alderman Chiovatero to end debate. Seconded by Alderman Bullermann and carried with Alderman Wysocki voting "no".

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

SAFETY COMMISSION - No Report

TECHNOLOGY COMMITTEE

Internet/E-Mail Policies

Motion by Alderman Bullermann to refer this issue back to the Technology Committee. Seconded by Alderman Wysocki and carried unanimously.

REFERRALS, DEFERRALS, AND TABLED ITEMS/None

COMMITTEE OF THE WHOLE (Items from Consent Agenda)

Motion by Alderman Kaminski to recommend to Council to approve the following items from the consent agenda. Seconded by Alderman Chiovatero and carried unanimously.

UTILITY

Sewer Claims

Motion by Alderman Wysocki to recommend to Council approval of payment of Sewer Utility Claims in the amount of \$45,646.01, all of which represents payments to vendors. Seconded by Alderman Bullermann and carried unanimously.

Water Claims

Motion by Alderman Chiovatero to recommend to Council approval of the payment of Water Utility Claims in the amount of \$69,225.37, all of which represents payments to vendors. Seconded by Alderman Wilkens and carried unanimously.

LICENSES

Bartender's Licenses

Motion by Alderman Wilkens to recommend to Council approval of the Bartender's Licenses for the year 1998/2000 to Donna C. Burgdorff, Jaydee L. Dahlson, Thomas J. Delaney, Michael T. Heimbach, Jennifer L. Lein, David M. Muenzberg, and Kathryn M. Rewolinski. Seconded by Alderman Scheuble and carried unanimously.

1999 License Renewals

Motion by Alderman Scheuble to recommend to Council approval of all license renewals presented, subject to satisfactory Inspection Department report and proof of payment of personal property taxes, State taxes and delinquent liquor bills. Seconded by Alderman Kaminski and carried unanimously.

Fermented Malt Beverage Licensing for Service in Malone Park

Motion by Alderman Kaminski to recommend to Council that the Clerk be directed to draft an ordinance exempting city employees from licensing requirements for the sale of Fermented Malt Beverages in City parks as allowed in §125.06(6) of the Wisconsin State Statutes, and to direct the City Clerk to draft the proper Ordinance. Seconded by Alderman Patzer and carried unanimously.

MISCELLANEOUS

Casper/Civic Drive Reconstruction

Motion by Alderman Kaminski to recommend to Council approval of the use of the Public Safety Building Contingency Account Funds to pay the unbudgeted costs as part of the Casper/Civic Drive reconstruction and the Malone Park Storm Sewer Projects. Any funds used in this manner will be reimbursed from the proceeds from the sale of the existing Police Building, and direct the City Clerk to prepare the proper Resolution. Seconded by Alderman Bullermann and carried unanimously.

RESOLUTIONS & ORDINANCES

Consideration of Adoption of the Initial Resolution and a resolution waiving the public bidding requirements in connection with the issuance by the City of New Berlin of Industrial Revenue Bonds in an amount not to exceed \$2,000,000 on behalf of JNP Investments, LLC, and GS Hydraulic Sales, Inc. to finance the costs of the acquisition of land, construction of a manufacturing facility and acquisition of manufacturing equipment. Information with respect to the job impact of the Project will be available at the time of consideration of the Initial Resolution

Motion by Alderman Patzer to recommend Resolution Nos. 99-32 and 99-33 to Council. Seconded by Alderman Bullermann and carried unanimously.

FINANCE

Auditing Services Extension

Motion by Alderman Wysocki to recommend to Council the extension of the report due date to Virchow, Krause & Company, LLP for providing the Financial Auditing Services for the year 1998. Seconded by Alderman Patzer and carried unanimously.

Claims

Motion by Alderman Wysocki to recommend to Council approval of the bi-weekly claims in the amount of \$326,521.76, all of which represents payments to vendors. Seconded by Alderman Patzer and carried unanimously.

MISCELLANEOUS

Gate and Fencing at Glen Park School

Motion by Alderman Chiovatero to recommend to Council a transfer of funds from account 616 (Contingency) to account 516.810 (New Equipment) in an amount not to exceed \$3,088 to pay for a gate and fencing at Glen Park School. Seconded by Alderman Wilkens and carried with Aldermen Wysocki, Patzer and Scheuble voting "no".

TABLED ITEMS:

Lease for Replacement Tower Behind City Hall

Motion by Alderman Patzer to recommend to Council approval of the lease for the replacement tower behind City Hall, with the amendment under Section 24 - Notices, to Owner, notify to the attention of: City Clerk's Office. Seconded by Alderman Bullermann and carried with Aldermen Wysocki and Scheuble voting "no".

RESOLUTIONS AND ORDINANCES

Ordinance No. 2073 "An Ordinance to Create Section 8.055 of the Municipal Code of the City of New Berlin Regarding Administrative Procedures to Prevent Delays in the Improvement of City Streets and Highways" (2nd Reading)

City Clerk Bowers gave the second reading of Ordinance No. 2073.

Motion by Alderman Wilkens to waive the third reading of Ordinance No. 2073. Seconded by Alderman Kaminski and carried with Alderman Kaminski voting "no".

Motion by Alderman Bullermann to recommend to Council approval and adoption of Ordinance No. 2073. Seconded by Alderman Patzer and carried with Alderman Kaminski voting "no".

Ordinance No. 2075 "An Ordinance to Repeal and Recreate Section 13.05 of the Municipal Code of the City of New Berlin Relating to Water Use Restrictions" (2nd Reading)

City Clerk Bowers gave the second reading of Ordinance No. 2075.

Motion by Alderman Bullermann to waive the third reading of Ordinance No. 2075. Seconded by Alderman Patzer and carried with Aldermen Wysocki and Scheuble voting "no".

Motion by Alderman Bullermann to recommend to Council approval and adoption of Ordinance No. 2075. Seconded by Alderman Patzer and carried with Alderman Scheuble voting "no".

After the meeting, the City Clerk discovered that a 3/4 vote must take place to waive the readings of Ordinances. This item will be on the next Common Council Agenda for a third reading.

Ordinance No. 2076 "An Ordinance to Repeal and Recreate Section 13.09(3)(e) of the Municipal Code of the City of New Berlin Relating to the Fee Charged for Well Permits" (1st Reading)

City Clerk Bowers gave the first reading of Ordinance No. 2076.

Motion by Alderman Kaminski to waive the second and third readings of Ordinance No. 2076. Seconded by Alderman Patzer and carried with Aldermen Wysocki and Scheuble voting "no".

Motion by Alderman Kaminski to recommend to Council approval and adoption of Ordinance No. 2076. Seconded by Alderman Patzer and carried with Aldermen Wysocki and Scheuble voting "no".

After the meeting, the City Clerk discovered that a 3/4 vote must take place to waive the readings of Ordinances. This item will be on the next Common Council Agenda for a second reading.

Resolution No. 99-31 "A Resolution Honoring Gene Park for His Contributions in Acquiring the New Berlin Hills Golf Course for the City of New Berlin"

Motion by Alderman Kaminski to recommend to Council approval and adoption of Resolution No. 99-31. Seconded by Alderman Patzer and carried unanimously.

Resolution No. 99-32 "Initial Resolution regarding JNP Investments, LLC and GS Hydraulic Sales, Inc. Industrial Development Revenue Bonds"

Motion by Alderman Kaminski to recommend to Council approval and adoption of Resolution No. 99-32. Seconded by Alderman Wilkens and carried unanimously.

Resolution No. 99-33 "Resolution Waiving Certain Statutory Requirements for Industrial Development Revenue Bond Project"

Motion by Alderman Kaminski to recommend to Council approval and adoption of Resolution No. 99-33. Seconded by Alderman Wilkens and carried unanimously.

Council President's Report - No Report

Mayor's Report

Mayor Gatzke gave a Mayor's Report.

City Attorney's Report

City Attorney Reilly gave a City Attorney's Report.

Motion by Alderman Bullermann to move into Closed Session at 12:10 a.m. 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) & (e) of the Wisconsin State Statutes.

(7) 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.

- Fuchs Claim -

- Mike & Julie Prust Claim -

The basis for the items to be discussed in Closed Session are as enumerated in Section 19.85(1)(e) of the Wisconsin State Statutes.

(5) 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.

- Fire Department Contract -

Motion by Alderman Bullermann to move into Open Session at 12:50 a.m. Seconded by Alderman Patzer and carried unanimously.

OPEN SESSION

Possible Action on Fuchs Claim

Motion by Alderman Wilkens to recommend to Council approval of the John Fuchs claim as recommended by City Attorney Reilly. Seconded by Alderman Bullermann.

Council President Wilkens read the following statement:

The City of New Berlin has agreed to participate in the settlement of the claim by former City Attorney John Fuchs. As part of that settlement, the City has agreed to issue the following apology: The City of New Berlin acknowledges that former City Attorney John Fuchs provided competent legal services on behalf of the City, and that he was wrongfully terminated from office without cause by a previous Common Council. We apologize to John Fuchs for the actions of our predecessors and regret any embarrassment this may have caused him. The City of New Berlin has agreed to take this action because the evidence available indicates that former Council President Lorraine Kiefer intentionally withheld information from the balance of the Council.

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

Possible Action on Mike & Julie Prust Claim

Motion by Alderman Bullermann to recommend to Council to approve the Mike & Julie Prust claim in the amount of \$260.94, contingent upon full and complete release. Seconded by Alderman Patzer and carried unanimously.

Motion by Alderman Kaminski to adjourn the meeting at 12:55 a.m. Seconded by Alderman Wilkens and carried unanimously.

William Bowers
City Clerk

WB/nh