

**CITY OF NEW BERLIN
PROCEEDINGS OF THE COMMON COUNCIL
Tuesday, May 11, 2010**

Mayor Jack F. Chiovatero called the City of New Berlin Common Council Meeting to order at 7:49p.m. after Committee of the Whole and Privilege of the Floor.

ROLL CALL: Present were Aldermen Hopkins, Wysocki, Seidl, Harenda, Liska, Moore and Ament. Also present were: City Clerk Kari Morgan, City Attorney Mark Blum, HR. Director Tami Potkay and Code Compliance Specialist Corliss Tischer.

Those present recited the Pledge of Allegiance.

This meeting was noticed on May 6, 2010 in accordance with the Open Meeting Law.

REPORTS

City Clerk – No report.

Council President – President Harenda announced council appointments for the 2010/2011 year. He pointed out that with respect to the library board; it is written in the city's code that the appointment falls to the Mayor which is why it is on the agenda later this evening. He also mentioned all aldermen received an updated binder on the city's financial policies for review.

Mayor – No report.

City Attorney – Discussion on Response to Open Records Requests. Attorney Blum explained that the records held by the city and city officials should be available to the public for their review. With respect to a records request by an individual to an alderman; the alderman is the authority and custodian of those records. With respect to requests for city records addressed to an alderman and the city, those records should be forwarded on to the city clerk or whoever the record custodian may be. Records requests to individual aldermen would mean they would be the one releasing the records. If aldermen need assistance in sorting through responsibilities, they can contact the City Attorney for guidance. Attorney Blum also listed those records that are not appropriate for release.

PLAN COMMISSION

- **Ordinance 2431 that approves amendments to Sec. 275-42 G(3)(c), Fence maintenance, 275-61 G, Signs permitted in all zoning district without a permit and 275-70, Definitions, of the City's Zoning Code.**

Motion by Alderman Ament to recommend to Common Council the adoption of Ordinance #2431 that approves the amendments to Section 275-42 G (3) (c), Fence Maintenance, 275-61 G, Signs permitted in all zoning districts without a permit, and 275-70, Definitions, of the City's Zoning Code. Seconded by Alderman Hopkins.

Discussion on how issue came forth as well as the feelings of those opposing this ordinance and the impact an ordinance like this could have on the city.

Motion denied with Aldermen Wysocki, Seidl, Harenda, Liska and Ament opposing.

- **Certified Survey Map for the property located at 13301 W. Cold Spring Road and Accept Plan Commission Report.**

Motion by Alderman Ament to recommend to Common Council approval of the Certified Survey Map for the property located at 13301 W. Cold Spring Road and accept the Plan Commission Report. Seconded by Alderman Liska and carried unanimously.

- **Certified Survey Map for the property located at 19100 W. Hillcrest Drive and Accept the Plan Commission Report.**

Motion by Alderman Ament to recommend to Common Council denial of the Certified Survey Map for the property located at 19100 W. Hillcrest Drive and accept the Plan Commission Report. Seconded by Alderman Seidl and carried unanimously.

MAYORAL APPOINTMENTS

• **Youth Advisory Board**

Motion by Alderman Hopkins to approve reappointment of Angela Heller to the Youth Advisory Board with a term expiring 5/31/12. Seconded by Alderman Harenda and carried unanimously.

• **Library Board**

Motion by Alderman Hopkins to approve reappointment of Alderman Seidl to the Library Board with a term expiring 4/30/11. Seconded by Alderman Liska and carried unanimously.

DEFERRED, REFERRED & TABLED ITEMS

Ordinance No. 2413 Ordinance to Amend Section 152-10 Regarding the Regulation and Licensing of Dogs (3rd reading) 11-19-09 TABLED Motion by Alderman Harenda to take this issue off the table. Seconded by Alderman Seidl and carried unanimously. Motion by Alderman Liska to refer this issue back to the Safety Commission for further review. Seconded by Alderman Harenda and carried unanimously.

Direct the City Attorney to create an ordinance that authorizes the City Clerk to allow public forums to be held in the Council Chambers at City Hall as long as a city function has not been previously scheduled and which includes the provisions presented. REFERRED TO COMMUNICATIONS COMMITTEE 2/9/10; REFERRED BACK TO COUNCIL 4/27/10
Alderman Moore called a "point of order."

Attorney Blum explained there was no action at the committee of the whole and was a referred item coming from the communications committee. He advised the chair to deny the "point of order."

Mayor Chiovatero denied "point of order."

Motion by Alderman Hopkins to take recommendation of Communications Committee to leave the current policy as is. Seconded by Alderman Seidl.

Discussion held on broadcast of forum on cable station and violation of policy.

Alderman Wysocki stated "for the record" with implementation of the current policy the city cannot broadcast privately held forums and stated that he feels it is not right to violate the policy. Alderman Wysocki also stated "for the record" that he is voting for this based on the City Attorney's discussion to not allow outside facilities to use the city's facilities or cable station.

Motion to keep the current policy as is carried with Alderman Moore opposing.

Recommend to Common Council the use of abbreviated minutes and electronic, paperless packets for selected committees, boards and commissions DEFERRED 4/27/10. Motion by Alderman Harenda to defer this item to the next meeting. Seconded by Alderman Moore and carried unanimously.

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CONSENT AGENDA Motion by Alderman Wysocki to approve the consent agenda. Seconded by Alderman Seidl and carried unanimously.

UTILITY AND FINANCE

Claims

For: May 12, 2010

- Recommend to Council approval of Water Utility claims in the amount of \$56,720.93, Sewer Utility claims in the amount of \$6,481.66, and Bi-weekly claims in the amount of \$536,532.67

LICENSES/PERMITS

Bartenders

Bartender Licenses for the year 2010-2011 for Melissa Bellow, Kristin Konieczny, Joan Katzka, Douglas Long, Jennifer Meyer, Katie Schell, Natash Thompson, Justin VanBeckum and Jennifer Waldherr.

Extension of Premise Permit

Texas Roadhouse, 15425 W. Rock Ridge Rd.

MISCELLANEOUS

- **Acknowledgment of satisfaction of an obligation created in an agreement for parcel owned by James & Judy Coffey in New Berlin Industrial Park.**
- **Discussion & Possible Action to Approve Resolution 2010-16 to reject all Bids received on May 6, 2010 concerning the Calhoun Road Rehabilitation Project and to direct the City engineer to re-bid the Project on June 3, 2010.**

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ITEM/S REMOVED FROM CONSENT AGENDA: None.

ORDINANCES & RESOLUTIONS

- **Ordinance No. 2428 titled "An Ordinance to Create Section 33-8 of the Municipal Code of the City of New Berlin Regarding A Purchasing Policy for Automobiles & Light Trucks" (3rd Reading):**

Motion by Alderman Moore to adopt Ordinance 2428. Seconded by Alderman Harenda.

Discussion on later addition to ordinance after finance committee review and concerns of implementing as ordinance rather than implementing as resolution or policy.

Motion by Alderman Harenda to amend and remove #5 under paragraph C. Seconded by Alderman Hopkins and carried with Alderman Moore opposing.

Motion to adopt the ordinance as amended carried with Aldermen Wysocki and Moore opposing.

CLOSED SESSION –

City Clerk Morgan read the following:

The basis for the item 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 it is or is likely to become involved, more specifically:

- **Zeffler Claim**

In addition to the above item being discussed an additional item to be discussed in Closed Session is as enumerated in Section 19.85 (1) (e) of the Wisconsin State Statutes.

- (e) Deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session, more specifically:

- **Bargaining Update IAFF**

In addition to the above items being discussed an additional item to be discussed in Closed Session is as enumerated in Section 19.85 (1) (f) of the Wisconsin State Statutes.

- (f) Considering financial, medical, social or personal histories or disciplinary data of specific persons, preliminary consideration of specific personnel problems or the investigation of charges against specific persons except where par. (b) applies which, if discussed in public, would be likely to have a substantial

adverse effect upon the reputation of any person referred to in such histories or data, or involved in such problems or investigations, more specifically:

- **Non-represented employee FMLA status**

Motion by Alderman Wysocki to move to closed session at 8:52p.m. Seconded by Alderman Seidl and carried unanimously.

Motion by Alderman Seidl to reconvene to open session at 9:38p.m. Seconded by Alderman Moore and carried unanimously.

RECONVENE TO OPEN SESSION

Discussion & Possible action on any matters as listed below.

- **Zeffer Claim** – Motion by Alderman Hopkins to pay the Brian Zeffer claim in the amount of \$2,478.22 fulfilling the claim. Seconded by Alderman Ament and carried unanimously.

ADJOURN

Motion by Alderman Seidl to adjourn at 9:40PM. Seconded by Alderman Hopkins and carried unanimously.

Respectfully submitted:
Kari Morgan
City Clerk