

Amended 8/18/10

**CITY OF NEW BERLIN
PROCEEDINGS OF THE COMMON COUNCIL
Tuesday, August 10, 2010**

Please note: Minutes are unofficial until approved by the Common Council at the next regularly scheduled meeting.

Mayor Jack F. Chiovatero called the City of New Berlin Common Council Meeting to order at 9:54 p.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 City Planning Manager Nikki Jones.

Those present recited the Pledge of Allegiance and stood for a moment of silence.

This meeting was noticed on August 5, 2010 in accordance with the Open Meetings Law

CALL TO ORDER; PLEDGE OF ALLEGIANCE; INVOCATION; PUBLIC NOTICE

ROLL CALL; DECLARATION OF QUORUM

REPORTS

City Clerk – Clerk Morgan announced that absentee voting will begin on Monday, August 16, 2010 in the City Clerk's office for the September 14, 2010 Primary Election. This can be done during the hours of 8:00am to 4:30pm Monday thru Friday.

Council President – Council President Harenda will be looking for dates from council members to hold budget meetings. There are going to be informational meetings held at Quarry Park on August 18, 2010 with two sessions. The first from 1:00pm to 2:30pm and the second session will be from 5:30pm to 7:00pm to get people acquainted with the phasing process in this area. There has also been a disagreement between Council President and Mayor with regards to council rule no. 35 and he would like to call a special meeting on this.

Mayor – Mayor Chiovatero clarified mileage used on the city's vehicle by stating that he did not have 66,000 miles of personal use and does not feel the vehicle policy was violated.

City Attorney – No report.

COMMUNICATIONS –Arnold Fladoos Claim – Referred to City Attorney.

PLAN COMMISSION

- **RZ-09-05 - Ordinance #2434 that denies without prejudice the rezoning of the property known as Buzzell property located approximately at 18845 W. Norwood Dr. from R-1/R-2 and C-2 to R-3 and C-2.**
Motion by Alderman Ament to recommend to Common Council adoption of Ordinance #2434 that denies without prejudice the rezoning request located at 18845 W. Norwood Drive from R-1/R-2 and C-2 to R-3 and C-2 and accept the Plan Commission Report. Seconded by Alderman Seidl and carried unanimously.
- **LD-09-07- Two-Lot Land Division known as Buzzell property located approximately at 18845 W. Norwood Dr. – Ne ¼ Sec. 5**
Motion by Alderman Ament to recommend to Common Council denial without prejudice of a two-lot land division located at approximately 18845 W. Norwood Drive and accept the Plan Commission Report. Seconded by Alderman Seidl and carried unanimously.

UTILITY COMMITTEE

- **Approval of AT&T Cellular Tower Lease Agreement for Water Tower #2**

Motion by Alderman Harenda to recommend to Common Council to approve the proposed AT&T cell tower lease for the water tower at 5161 S. Sunnyslope Rd. as presented, subject to the term of the lease together with any optional renewals being limited to a total not to exceed fifteen years. Seconded by Alderman Ament and carried unanimously.

MAYORAL APPOINTMENTS

- **Fourth of July Commission**

Motion by Alderman Wysocki to reappoint John Burke to the Fourth of July Commission with a term expiring 8/01/2014. Seconded by Alderman Ament and carried unanimously.

Motion by Alderman Wysocki to reappoint Nancy Bertsch to the Fourth of July Commission with a term expiring 8/01/2014. Seconded by Alderman Harenda 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, 12-8-09 NO ACTION; REFERRED TO SAFETY COMMISSION ON 5/11/10; AD HOC COMMITTEE ESTABLISHED ON 6/22/10
- Mayoral Appointment of Sally Bryan to the Police & Fire Commission with a term expiring 4/30/2014. 6/22/10 TABLED W/MOTION LEFT ON TABLE
- Adopt policy regarding New Berlin Impact Fees with the exception of the Utilities. 6/22/10 DEFERRED to 7/13/10 Meeting; TABLED 7/13/2010

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

MINUTES – Common Council Minutes from July 27, 2010

UTILITY AND FINANCE

Claims

For: August 11, 2010

Recommend to Council approval of Water Utility claims in the amount of \$197,508.40, Sewer Utility claims in the amount of \$11,885.13, and Bi-weekly claims in the amount of \$957,205.19

LICENSES & PERMITS

Bartenders

- Bartender Licenses for the year 2010-2012 to Charline Hart
- Bartender Licenses for the year 2010-2012 to Karen Hubbard, Samantha Nelson, Kristine Wolf, Andrew Zaniwski, Suzanne Young, Therese Schlueter, Travis Stanczyk and Kimberly

Massage Establishment License

- Hair Decisions & Oasis Spa, 12438 W. National Ave.
- L Spa, 15807 W. National Ave.

Massage Therapist License

- Cassandra Jackson for L Spa

MISCELLANEOUS

- Direct Department of Community Development, City Attorney and Mayor to initiate MMSD Sewer Service Area and New Berlin Urban Service Area Boundary amendment process for the property at approximately 16385 W. Small Rd. & Refer this item to the Plan Commission & Utility Committee for their review, report & recommendation
- Request that Common Council offer input, grant final approval and management for an outreach initiative to generate awareness in New Berlin Development and Investment potential
- Approval of Resolution No. 2010-27 titled "A Resolution Authorizing the Issuance and Sale of \$7,630,000 General Obligation Promissory Notes, Series 2010A"
- Approval of Resolution No. 2010-28 titled "A Resolution Authorizing the Issuance and Sale of \$8,290,000 General Obligation Refunding Bonds, Series 2010B"
- Recommendation from Asst. Fire Chief Joseph Dallman for a Fireworks Permit for Eisenhower High School Homecoming
- Discussion & Possible Action on Police & Fire Commissioner's Status
- Discussion & Action on Change in or Cancellation of September 14, 2010 Common Council Meeting Date
- Set a Public Hearing date for the August 30, 2010 Plan Commission Meeting regarding rezoning of a property located at approximately 3435 S. Highpointe Drive from R-4.5 and C-2 to R-4.5 and C-2 to Field Delineate the Wetlands.
- Set a Public Hearing date for the August 30, 2010 Plan Commission Meeting regarding rezoning of a property located at approximately 16385 W. Small Rd. from R-1/R-2 to M-1
- Set a Public Hearing date for the August 30, 2010 Plan Commission Meeting regarding rezoning of a property located at approximately 13685 W. Foxwood Dr. from R-4.5 and C-2 to R-4.5 and C-2 to Field Delineate the Wetlands.
- Update & Question/Answer with Dennis Sampson from the New Berlin Public Library
- Approval of Resolution No. 10-31 to correct recently adopted Ordinance No. 1027 to become Ordinance No. 2432 due to "scrivener's error"
- Approval of Resolution No. 10-32 to correct recently adopted Ordinance No. 1028 to become Ordinance No. 2433 due to "scrivener's error"
- Request that the Common Council have discussion on the City's Vehicle Policy in regards to the use of City Vehicles for personal use and mileage reporting
- Discussion & Possible Action on Resolution No. 10-33 regarding New Berlin's position on the PSC case with respect to Milwaukee's request to increase its water rates

DEFERRED, REFERRED & TABLED ITEMS

Amendment to Plan of Operation for "Class B" License (Beer & Liquor)

- Carrie's West Side Pub, 20385 W. National Ave. for use of existing outside patio; TABLED 7/13/2010 w/Motion on Table
- Nickel's Pub, 13915 W. Greenfield Ave. for use of outside area for horseshoes pits & seating area; TABLED 7/13/2010 w/Motion on Table

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ITEM/S REMOVED FROM CONSENT AGENDA, if any:

Bartender Licenses for the year 2010-2012 to Leonna Roth

Motion by Alderman Moore to deny. Seconded by Alderman Harenda and carried with Alderman Seidl opposing.

Bartender Licenses for the year 2010-2012 to Jesse Klagstad

Motion by Alderman Moore to deny the bartender license to Jesse Klagstad. Seconded by Alderman Wysocki and carried unanimously.

Discussion & Possible Action on Charter Ordinance No. 8 with respect to holdover appointments for Committees and Commissions

Motion by Alderman Harenda to adopt Charter Ordinance No. 8. Seconded by Alderman Ament and carried with Aldermen Moore and Liska opposing.

Minutes from July 30, 2010 Common Council Meeting

No action as this item was not included on the Committee Of the Whole agenda. This item will be addressed at the next regular meeting.

CLOSED SESSION

City Clerk Morgan read the following:

The basis for the items to be discussed in Closed Session is 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:
- Leary vs. City of New Berlin
 - Edward Bhend Claim
 - City Center Multi-Family Development

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) (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 public business, whenever competitive or bargaining reasons require a closed session, more specifically:
- Firefighters Contract

Motion by Alderman Liska to move to closed session at 10:15pm. Seconded by Alderman Seidl and carried unanimously.

RECONVENE TO OPEN SESSION

Motion by Alderman Wysocki to reconvene to open session at 12:30am. Seconded by Alderman Hopkins and carried unanimously.

Motion by Alderman Hopkins to extend meeting 15 minutes from 12:31am. Seconded by Alderman Seidl and carried unanimously.

Discussion & Possible action on any matters as listed below.

- **Edward Bhend Claim**
Motion by Alderman Seidl to deny the claim per City Attorney's recommendation. Seconded by Alderman Harenda and carried unanimously.
- **Leary vs. City of New Berlin**
No action.
- **Possible ratification of the Firefighter's Contract**
Motion by Alderman Hopkins to ratify the Firefighter's Contract with the side letter included. Seconded by Alderman Liska and carried with Aldermen Wysocki and Ament opposing.

ADJOURN

Motion by Alderman Wysocki to adjourn at 12:35am. Seconded by Alderman Seidl and carried unanimously.

Respectfully submitted:
Kari Morgan
City Clerk