

**CITY OF NEW BERLIN
PROCEEDINGS OF THE COMMON COUNCIL MEETING
Tuesday, September 28, 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 9:48 p.m. after Committee of the Whole and Privilege of the Floor.

ROLL CALL: Present were Aldermen Hopkins, Wysocki, Seidl, Harenda, Liska, Ament and Moore. Also present were: Deputy City Clerk Christine Stefanich, City Attorney Mark Blum, City Engineer JP Walker, Human Resource Director Tami Potkay, Park Recreational and Forestry Director Mark Schroeder, City Stormwater Engineer Nicole Hewitt, IT Director Nick Roethel, Library Director Dennis Sampson.

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

This meeting was noticed on September 24, 2010 in accordance with the Open Meetings Law

REPORTS

City Clerk – no report

Council President – no report

Mayor – Mayor Chiovatero proclaimed the month of October as Breast Cancer Awareness month and October 15 as Mammography day. He also extended his and the Council's congratulations to City Clerk Kari Morgan on the arrival of her daughter. He stated mother and baby are doing well.

City Attorney – no report

COMMUNICATIONS

- Paula Pingel Claim – Referred to City Attorney

PLAN COMMISSION

- **GK PG-293 Suspending Alternative Transportation Facilities Project – Kelly Lake Trail Phase I & Review of Alternative Transportation Plan and Implementation Priorities**
Motion by Alderman Harenda to remove this item from Common Council agenda Seconded by Alderman Ament and carried unanimously.
- **AB PG-227 Extraterritorial Plat – Deerfield Estates, Town of Waukesha – Final Plat**
Motion by Alderman Ament no objection of Deerfield Estates Extraterritorial Final Plat and accept the Plan Commission Report. Seconded by Alderman Hopkins and carried unanimously.

BOARD OF PUBLIC WORKS

- **(BPW 23-10) Approval of the 124th Street Relocation Order through Resolution No.10-25**
Motion by Alderman Ament approval of the 124th Street Relocation Order through Resolution No. 10-25. Seconded by Alderman Wysocki and carried unanimously with Alderman Seidl abstaining.

WATER RESOURCE MANAGEMENT COMMITTEE

- **SW 14-10 Elimination of the Proposed Pedestrian Path in Prospect Park**
Motion by Alderman Harenda approval of eliminating the proposed pedestrian path in Prospect Park. Seconded by Alderman Hopkins and carried with Aldermen Moore voting no.
- **SW 16-10 HMA Grant Application Statement of Assurances for Application**
Motion by Alderman Harenda approval of the HMA Grant Application Statement of Assurances for Application through Resolution No. 10-39. Seconded by Alderman Hopkins and carried unanimously.
- **SW 17-10 HMA Grant Application Commitment to Match Funds for Application**
Motion by Alderman Harenda approval of the HMA Grant Application Commitment to Match Funds for Application. Seconded by Alderman Hopkins

There was discussion regarding the commitment the City will be making if they ultimately accept the Grant and the ability to have the required funds.

Clerk's Note: A substitute motion was agreed upon and replaced the original motion.

Motion by Alderman Harenda: The City of New Berlin Common Council, approves in good faith, is making application for funding under this FEMA Grant program with the understanding that the budget for funding has not yet been approved or established, therefore, the City would reserve the right to amend that commitment depending on circumstances and needs which may be identified in the future. Seconded by Alderman Hopkins and carried unanimously.

SW 20-10 Approval of contract to Install Storm Sewer in the Vicinity of Fountain Court in Fountain Square

Motion by Alderman Harenda approval of contract to Install Storm Sewer in the Vicinity of Fountain Court in Fountain Square. Seconded by Alderman Wysocki and carried unanimously.

UTILITY COMMITTEE

- **UT 18-10 Award of Construction contract for 2010 Sanitary Sewer Rehabilitation**
Motion by Alderman Harenda to recommend to Common Council to approve the award the construction contract for Sanitary Sewer relining, replacement, manhole grouting, testing and sealing throughout the service area to the lowest responsive and responsible bidder, Visu-Sewer Clean & Seal Inc. in the amount of \$321,570.25 for a total project cost not to exceed \$355,570.25. Source of funds: Wastewater account #81001131.52030. Seconded by Alderman Ament and carried unanimously.
- **UT 19-10 Award of contract for Demolition of Well #5 Regal Manor Pump House**
Motion by Alderman Harenda to recommend to Common Council to award the contract for Well #5 Regal Main Pump House Demolition to the lowest responsive and responsible bidder, Schaefer Snowplowing & Grading, LLC of Muskego, in the amount of \$30,882. Source of funds: Water Utility account #09020000-183212. Seconded by Alderman Wysocki and carried unanimously.

Motion by Alderman Hopkins to extend the Council meeting one half hour. Seconded by Alderman Seidl and carried unanimously

MAYORAL APPOINTMENTS

- **Fourth of July Commission**
Michael Mazzoni with a term expiring 8/1/2014
Motion by Alderman Ament approval of Michael Mazzoni with a term expiring 8/1/2014. Seconded by Alderman Wysocki and carried unanimously.
- **Landmarks Commission**
Jackie Hermann with a term expiring 10/1/2013
Motion by Alderman Harenda approval of Jackie Hermann with a term expiring 10/1/2013. Seconded by Alderman Hopkins and carried unanimously.

Peggy Ament with a term expiring 10/1/2013
Motion by Alderman Seidl approval of Peggy Ament with a term expiring 10/1/2013. Seconded by Alderman Wysocki and carried with Alderman Ament abstaining.

June Pelkola with a term expiring 10/1/2013
Motion by Alderman Wysocki approval of June Pelkola with a term expiring 10/1/2013. Seconded by Alderman Siedl 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; 9/28/10 NO ACTION

- 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; 9/28/10 NO ACTION

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

MINUTES – Common Council Minutes from August 24, 2010 & September 1, 2010

UTILITY AND FINANCE

Claims

September 15, 2010

Recommend to Council approval of the Water Utility claims in the amount of \$346,050.29, Sewer Utility claims in the amount of \$40,143.88, and Bi-weekly claims in the amount of \$1,923,713.29.

September 29, 2010

Recommend to Council approval of the Water Utility claims in the amount of \$57,463.68, Sewer Utility claims in the amount of \$450,998.89, and Bi-weekly claims in the amount of \$1,181,499.12

LICENSES & PERMITS

Bartenders

- Bartender Licenses for the year 2010-2012 to Mary Smith, Kevin Allen, Jordan Weber, Ryan Goralski, Thomas Gehrman, Jerry Tipping, Jared Lewis, Kimberly Laughery and Calvin Yee, Josh T. Wilkinson, Mark A. Kahl and Patricia L Becker
- Bartender Licenses for the year 2010-2012 to Travis Richards

License Name Transfer

- Lee's Cleveland Pub & Grill to Cleveland Pub & Grill, 14000 W. Cleveland Av

“Class B” Retailer License

- Quaker Steak & Lube, 4900 S. Moorland Rd., Scott A. Ackor, agent. License to include extension of premise on a weekly basis

“Class A” Retailers License

- Sendiks's Food Market, 3600 S. Moorland, Theodore Balistreri, agent

Class “A” Beer License

- Walgreens #07259, 3855 S. Moorland Rd, Michael T. Kohn, agent

MISCELLANEOUS

- Clarification of Rules for Government of the Common Council, Rule 35
- Set a Public Hearing Date for the October 4, 2010 Plan Commission Meeting at 6:00p.m. regarding rezoning of a property located at approximately 21400 W. National Ave. from I-1 to I-1 and C-2 to Field Delineate the Wetlands.
- Approval of Resolution No. 10-40 Notice of Exemption from Waukesha County Library Levy 2010 Tax for 2011 Purposes
- Request that the Common Council authorize the Finance Committee to explore the possibility of out sourcing some City functions and hold the meetings in the council chambers so that they can be televised
- Recommend to Common Council approval of the use of social media with feedback for City communications through Resolution #10-41
- Direct the City Attorney to draft the necessary amends to the New Berlin Municipal code(s) and/or by-laws for the Police & Fire Commission and Plan Commission residency requirements from “citizen” to “resident of the City of New Berlin”
- Hiring freeze on any new or open/vacant city positions
- Amend the Rules for Government of the New Berlin Common Council- City of New Berlin- Rule #35

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
- Discussion & Possible Action on Council Rule #35 TABLED 8/24/2010 w/Motion on Table
- Approval of use of City Hall Parking Lot for Farmer's Market and Direct City Attorney to draft lease agreement between Chamber of Commerce and the City DEFERRED 8/24/10

ITEM/S REMOVED FROM CONSENT AGENDA, if any:

Class "A" Beer License

Walgreens #07259, 3855 S. Moorland Rd, Michael T. Kohn, agent

Motion by Alderman Ament to approve the Walgreens #07259 Class "A" Beer license. Seconded by Alderman Liska and carried with Alderman Moore voting no

Clarification of Rules for Government of the Common Council, Rule 35

Motion by Alderman Moore to replace the last two sentences of Rule 35 of the "Rules for Government of the Common Council", beginning with "The agenda may be amended..." and ending with "emergency situations" with the following: as stated in his requested action statement. Seconded by Alderman Liska. Motion failed with Aldermen Moore and Liska voting yes.

Request that the Common Council authorize the Finance Committee to explore the possibility of out sourcing some City functions and hold the meetings in the council chambers so that they can be televised

Motion by Alderman Seidl to authorize the Finance Committee to explore the possibility of out sourcing some city functions, and hold the meetings in the council chambers so that they can be televised. Seconded by Alderman Harenda carried with Alderman Moore and Liska voting no.

Hiring freeze on any new or open/vacant city positions

Motion by Alderman Harenda to institute a hiring freeze of any open or vacant city employment positions for 2010/2011/2012. To ensure quality of services, there may be exceptions and each case will be treated individually, but the New Berlin Common Council will have final approval. This hiring freeze has a 2 ½ year window, but may be removed by council action, at anytime. Seconded by Alderman Seidl

Friendly amendment by Alderman Harenda to exclude the newer open city positions: assessor technician, assistant fire chief, newly hired EMT firefighter, non-represented part-time summer employees, police officers and firefighters. Motion carried with Aldermen Hopkins, Liska and Moore voting no.

CLOSED SESSION

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:
- Randy Boknevitz Claim
 - William Honeyager vs City of New Berlin
 - Francis Burgard Claim
 - LCM Funds

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) (f) (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.
- (f) Considering financial, medical, social or personal histories or disciplinary data of specific persons except where paragraph 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:
 - Review of a non-represented employee of the fire department
- (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:
 - Collective bargaining City labor unions: AFSCME, NBPPA, Teamsters, NBPFF

Motion by Alderman Wysocki to move into closed session at 11:07pm. Seconded by Alderman Seidl and carried unanimously.

RECONVENE TO OPEN SESSION

Motion by Alderman Wysocki to reconvene to open session at 11:51 pm. Seconded by Alderman Seidl and carried unanimously.

Clerk's Note: Alderman Moore excused himself from the meeting at 11:30p.m.

Discussion & Possible action on any matters as listed below.

- Randy Boknevitz Claim-
Motion by Alderman Wysocki to deny the Randy Boknevitz claim. Seconded by Alderman Seidl and carried with Alderman Harenda voting no.
- William Honeyager vs City of New Berlin - No Action taken.
- Francis Burgard Claim
Motion by Alderman Seidl to deny the Francis Burgard claim. Seconded by Alderman Liska and carried with Alderman Hopkins voting no.
- LCM Funds
Motion by Alderman Seidl to settle the LCM Funds claim for \$15,582.02. Seconded by Alderman Wysocki and carried unanimously.

ADJOURN

Motion by Alderman Seidl to adjourn at 11:54pm. Seconded by Alderman Ament and carried unanimously.

Respectfully submitted:
Christine Stefanich
Deputy City Clerk