

CITY OF NEW BERLIN
PROCEEDINGS OF THE COMMON COUNCIL
Tuesday, June 14, 2011

[Please note: Minutes are unofficial until approved by the Common Council at the next regularly scheduled meeting.](#)

[CALL TO ORDER; PLEDGE OF ALLEGIANCE; INVOCATION; PUBLIC NOTICE](#)

Mayor Jack F. Chiovatero called the Common Council meeting to order at 8:15pm

[ROLL CALL; DECLARATION OF QUORUM](#)

Present were Aldermen Hopkins, Karvala, Seidl, Harenda, Liska, Horbinski and Ament. Also present was City Clerk Kari Morgan, City Attorney Mark Blum, Police Chief Joe Rieder and City Engineer J.P. Walker.

This meeting was noticed on Friday, June 10, 2011 in accordance with the Open Meeting Law.

[REPORTS](#)

- [City Clerk](#)

No report.

- [Council President](#)

No report.

- [Mayor](#)

No report.

- [City Attorney](#)

No report.

[PLAN COMMISSION](#)

- [\(7\)AB RZ-11-05 Irgens Development Partners, LLC - Approximately 4700 S. Sovereign Drive - Rezone from R-4, C-2 and O-2 to R-4, C-2 & O-2 to field delineate the wetlands.](#)

Motion by Alderman Ament to Approve RZ-11-05 Irgens Development Partners, LLC - Approximately 4700 S. Sovereign Drive - Rezone from R-4, C-2 and O-2 to R-4, C-2 & O-2 to field delineate the wetlands. Seconded by Alderman Hopkins.

Motion Passed 7 to 0.

- [\(7\)AB RZ-11-06 Irgens Development Partners, LLC – 16000 W. Beloit Road – Rezone from B-4 to O-2.](#)

Motion by Alderman Ament to Approve RZ-11-06 Irgens Development Partners, LLC – 16000 W. Beloit Road – Rezone from B-4 to O-2. Seconded by Alderwoman Karvala.

Motion Passed 7 to 0.

- [\(7\)JT RZ-11-07 Tri-County Roofing -18500 W. National Avenue - Rezone from R-1/R-2 to B-2 and C-2 to remove the Residential District and Field Delineate the wetlands.](#)

Motion by Alderman Ament to Approve RZ-11-07 Tri-County Roofing -18500 W. National Avenue - Rezone from R-1/R-2 to B-2 and C-2 to remove the Residential District and Field Delineate the wetlands. Seconded by Alderman Harenda.

Motion Passed 7 to 0.

- [\(6\)JT RZ-11-04 Demlang Builders - 13665 Foxwood Drive - Rezone from R4.5 and C-2 to R-4.5 and C-2 to field delineate the wetlands.](#)

Motion by Alderman Ament to Approve RZ-11-04 Demlang Builders - 13665 Foxwood Drive - Rezone from R4.5 and C-2 to R-4.5 and C-2 to field delineate the wetlands. Seconded by Alderman Horbinski.

Motion Passed 7 to 0.

- [Discussion and Possible Action to accept the Plan Commission recommendation and approve ordinance no. 2467 which rescinds ordinance no. 2454 and adopts amendments to NBMC Sec. 235.26\(g\) dealing with the re-division of lots in existing subdivisions](#)

Motion by Alderman Ament to Approve Ordinance No. 2467 which rescinds ordinance No. 2454 and adopts amendments to NBMC Sec. 235.26(g) dealing with the re-division of lots in existing subdivisions. Seconded by Alderman Harenda.

Motion Passed 7 to 0.

- [\(7\)AB LD-11-02 Irgens Development Partners, LLC – NE 1/4 SEC. 27 - 4855 S. Moorland Road – One-Lot Land Division.](#)

Motion by Alderman Ament to Approve AB LD-11-02 Irgens Development Partners, LLC – NE 1/4 SEC. 27 - 4855 S. Moorland Road – One-Lot Land Division. Seconded by Alderman Hopkins.

Motion Passed 7 to 0.

- [\(7\)JT LD-11-03 Tri-County Roofing - NE 1/4 SEC. 28 - 18500 W. National Avenue - One-Lot Certified Survey Map.](#)

Motion by Alderman Ament to Approve LD-11-03 Tri-County Roofing - NE 1/4 SEC. 28 - 18500 W. National Avenue - One-Lot Certified Survey Map. Seconded by Alderman Horbinski.

Motion Passed 7 to 0.

UTILITY COMMISSION

- [Recommend to the Common Council approval of a contract with Ruekert & Mielke or some other identified entity in an amount not to exceed \\$600,000 to prepare designs for public sanitary sewer and water, conduct easement acquisition and complete the necessary field work for the installation of public sanitary sewer and water in Section 35 and portions of Section 34.](#)

Motion by Alderman Harenda to Approve a contract with Ruekert & Mielke not to exceed \$600,000 to prepare designs for public sanitary sewer and water, conduct easement acquisition and complete the necessary field work for the installation of public sanitary sewer and water in Section 35 and portions of Section 34. Seconded by Alderman Horbinski.

Motion Failed 2 to 5 with Alderman Ament, Alderman Harenda, Alderman Hopkins, Alderman Seidl, Alderwoman Karvala opposing.

Discussion on issues revolving around this agenda item.

It was mentioned that the Utility wants to go forward with this project but that the issue was assigning the work as it should be put through an RFP process.

This would not directly impact utility customers and get infrastructure in ground for potential development.

SAFETY COMMISSION

- [Request that New Berlin Common Council amend the City of New Berlin Municipal Code 184-17 \(D\) as related to traffic control and enforcement at the Recycling Center](#)

Motion by Alderwoman Liska to Approve request to amend the City of New Berlin Municipal Code 184-17 (D) as

related to traffic control and enforcement at the Recycling Center. Seconded by Alderman Harenda.

Motion Passed 7 to 0.

Motion by Alderwoman Liska to Approve placement of appropriate traffic signs in this area for speed limit.

Seconded by Alderman Horbinski.

Motion Passed 7 to 0.

Discussion that there are existing safety issues in this area as well as the types of traffic signs that should be there.

- [Request that the Common Council approve the implementation of a "No Parking Anytime" zone for both north and southbound Swartz Rd. from Racine Ave. up to 50 feet north of the driveway from 4150 S. Swartz Rd.](#)

Motion by Alderwoman Liska to Approve the implementation of a "No Parking Anytime" zone for both north and southbound Swartz Rd. from Racine Ave. up to 50 feet north of the driveway from 4150 S. Swartz Rd. Seconded by Alderman Seidl.

Motion Passed 7 to 0.

Discussion on complaints being investigated

MAYORAL APPOINTMENTS

- [Blake Peuse to the Safety Commission as the NBPS Designee](#)

Motion by Alderwoman Liska to Approve Blake Peuse to the Safety Commission as the NBPS Designee.

Seconded by Alderman Harenda.

Motion Passed 7 to 0.

This appointment is replacing Paul Kreutzer who has left for another job

MAYORAL VETO

- [Rescind vote on amendment to original amended motion to appoint Sally Bryan to the Police & Fire Commission with a term expiring 4/30/2012. The Council motion being rescinded was made May 24, 2011 and reads as follows: Motion by Alderman Harenda to amend the previous motion to make this an appointment to fill the vacant position currently held by Dave Patzer. Seconded by Alderman Ament. Motion passed 5 to 1 with Alderman Horbinski opposing.](#)

Motion by Alderman Horbinski to Approve Rescinding vote on amendment to original amended motion to appoint Sally Bryan to the Police & Fire Commission with a term expiring 4/30/2012. The Council motion being rescinded was made May 24, 2011 and reads as follows: Motion by Alderman Harenda to amend the previous motion to make this an appointment to fill the vacant position currently held by Dave Patzer. Seconded by Alderman Ament. Motion passed 5 to 1 with Alderman Horbinski opposing. Seconded by Alderman Hopkins.

Motion Failed 3 to 4 with Alderman Ament, Alderman Harenda, Alderman Seidl, Alderwoman Karvala opposing.

Explanation given by City Attorney as to what needs to be done at this point after his further review of the statutes, including the motion to amend made at the last meeting being out of order.

Discussion on the City Attorney's opinion

- [Mayoral appointment of Sally Bryan to the Police & Fire Commission with a term expiring 4/30/2012 to fill the vacancy of former Commissioner O'Donnell.](#)

Motion by Alderman Horbinski to Approve Mayoral appointment of Sally Bryan to the Police & Fire Commission with a term expiring 4/30/2012 to fill the vacancy of former Commissioner O'Donnell. Seconded by Alderwoman Liska.

Motion Failed 3 to 4 with Alderman Ament, Alderman Harenda, Alderman Seidl, Alderwoman Karvala opposing.

- [Notice from Mayor Chiovero regarding his Veto of the motion of approval of the following item: Police & Fire Commission Appointment of Sally Bryan](#)

Mayor Chiovero read his veto.

- [Discussion & Possible Action to override the Veto of the Mayor concerning the approval of appointment of Sally Bryan to the Police & Fire Commission pursuant to Wis. Stat. 62.09 \(8\)](#)

Motion by Alderman Ament to Override the Veto of the Mayor concerning the approval of appointment of Sally Bryan to the Police & Fire Commission pursuant to Wis. Stat. 62.09 (8). Seconded by Alderman Seidl.
Motion Failed 4 to 3 with Alderman Hopkins, Alderman Horbinski, Alderwoman Liska opposing.

Discussion on Mayor's right to appoint who he/she would like and Aldermen's responsibility to confirm appointments.

DEFERRED, REFERRED & TABLED ITEMS

- [Recommend that the Common Council adopt Ordinance #2457 approving the amendments to the City's Comprehensive Plan incorporating amendments to Chapter 10 \(Land Use\) and Chapter 15 \(Neighborhood "E" - National Avenue East Corridor\) - TABLED 5/10/2011 w/Motion on Table](#)
- [Recommend that the Common Council adopt Ordinance # 2459 approving amendments to the City Center Planned Unit Development \(existing Ordinance #: 2122\) - TABLED 5/10/2011 w/Motion on Table](#)

CONSENT AGENDA*****

(One motion and second will approve all of the following items listed. Any item may be pulled from the list and handled separately.)

Motion by Alderman Seidl to Approve the Consent Agenda. Seconded by Alderman Hopkins.
Motion Passed 7 to 0.

MINUTES

May 24, 2011

UTILITY & FINANCE

- [Recommend to Council approval of June 15, 2011 claims for Water Utility Claims in the amount of \\$191,004.47, Sewer Utility Claims in the amount of \\$27,483.46 and Bi-weekly claims in the amount of \\$847,312.15.](#)

LICENSES & PERMITS

[Bartender Renewal License for the year 2011-2013 to James Chase](#)

Bartender License for the year 2011-2013 to Josh Barnickel, Kristin Bast, Elgin Durand, Aaron Larson, Callie Reinke, Colette Reinke, Kathryn Rice, Andrea Wajerski, Phillip Meredith, Stephanie Morrison, Ann Serio-Meyer, Ramalakshimi Vootkur and Katelyn Zakhar.

Bartender Renewal Licenses for the year 2011-2013 to Garrett Adamek, Karen Barton, Melissa Bellow, Tracy Boya, Richard Bradley, James Bruno, Angela Carpenter, Constance Clark, Kimberly Cohen, Penny Diesch, Janet Farris, David Fischbach, Sheila Fleischer, Philip Glass, Debra Gonyo, Gregg Hablewitz, Duane Hause, Jill High, Janet Farris, David Fischbach, Bradley Goss, Aretha Hammonds, Dorothy Herder, Donald Hood, Ryan Jastroch, Joan Katzka, Katy Kazik, April Keller, Denise Kerzman, Wayne Kopac, Jeffrey Kraft, Tracy Kraft-Sewell, Cheryl Kusak, Steven Lazarczyk, John Lee, Victoria Lee, Andrew Liberski, Kaitlin Lownik, Robert Lynch, Lynn McGuire, James McMahon, Constance Mielke, Callen Morgan, Beth Mortl, Nancy Mueller, Krystal Murphy, Gene Myers, Richard Naystatt, Kevin Nerat, LaVonne Packard, Holly Paez-Thoresen, Carol Palaszewski, David Pankow, Julie Peltonen, Micheline Posbrig, Tricia Riste, Mary Jane Robbins-

Lenk, Rebecca Ruditys, Katie Schell, Linda Schinner, Jacalyn Schmidt, Ashley Schroeder, Lisa Schwarz, Beverly Seidl, Lynn Shaw, Timothy Shinnors, Wendy Sloniker, Shannon Spatzek, Cynthia Stout, Natasha Thompson, Zachary Vossekuil, Linda Wangard, Rebecca Wehr, Michelle White, Brandi Wiczorek, Dana Wiorek and April Zarder.

Renewal of licenses from July 1, 2011 - June 30, 2012 for the following per list as presented:

Amusement Devices

Amusement Vendors

Archery Range

Class "A" (Beer only)

"Class A" (Beer & Liquor)

Class "B" (Beer only)

"Class B" (Beer & Liquor)

Class C (Wine)

Entertainment Class A

Entertainment Class B

Trapshooting

Theater

Wholesale

"Class A" Liquor License, National Beer & Liquor, 12940 W. National Av, H. Bains, Agent

MISCELLANEOUS

- Discussion & Possible Action on 2012 Budget
- Discussion on draft Ordinance No. 2461 to amend Sec. 152-14 of the Municipal Code of the City of New Berlin Regarding the Regulation and Licensing of Cats
- Council to approve Ordinance No. 2462 drafted by the City Attorney that would allow the City of New Berlin to pass on costs associated with technical rescue to the responsible party
- Request that the City of New Berlin Common Council adopt the revised NRF compliant Emergency Operations Plan.
- Discussion and Possible Action on Scheduling the 7.5 furlough days as approved by the Common Council for the 2011 Operating Budget

DEFERRED, REFERRED & TABLED ITEMS

- Eisenhower Pool replacement & possible partnership between City of New Berlin & New Berlin School District. Future of swim program in Park & Rec. TABLED 4/26/2011 w/motion on table

END CONSENT AGENDA*****

ITEMS REMOVED FROM CONSENT AGENDA, IF ANY

No items removed.

CLOSED SESSION

- The basis for the items 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:

Motion by Alderman Seidl to Move to closed session at 8:50PM. Seconded by Alderman Horbinski.

Motion Passed 7 to 0.

- Francki Claim

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- [American Family Insurance \(Reena George\) v. City of New Berlin](#)
 - [City Center Multi-Family Development Litigation](#)
 - [MSP et al. vs. City of New Berlin et al.](#)

- 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) (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:
 - Discuss strategy for negotiations for engineering services for utility design in Section 35 and the Eastern Portion of Section 34

RECONVENE TO OPEN SESSION - DISCUSSION AND POSSIBLE ACTION ON ITEMS LISTED BELOW

Motion by Alderman Seidl to Reconvene to open session at 10:53PM. Seconded by Alderwoman Karvala.

Motion Passed 7 to 0

- [Francki Claim](#)

Motion by Alderman Hopkins to Deny the Francki Claim. Seconded by Alderman Seidl.

Motion Passed 6 to 1 with Alderwoman Liska opposing.

- American Family Insurance (Reena George) v. City of New Berlin

No action.

ADJOURN

Motion by Alderman Seidl to Adjourn at 11:01PM. Seconded by Alderman Hopkins.

Motion Passed 7 to 0.

Respectfully Submitted:

Kari Morgan
City Clerk