

# CITY OF NEW BERLIN PROCEEDINGS OF THE COMMON COUNCIL

Tuesday, May 10, 2011

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

Mayor Jack F. Chiovatero called the Common Council meeting to order at 7:49PM following Committee of the Whole and Privilege of the Floor.

## 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, IT Director Nick Roethel and DCD Director Greg Kessler.

*This meeting was noticed on Thursday, April 21, 2011 in accordance with the Open Meetings Laws.*

## REPORTS

- [City Clerk](#)

No report

- [Council President](#)

Alderman Harenda stated that he will be revising his Council President list so that the liaison appointments coincide with the changes as well as a change to an appointment for the Crime Prevention Committee.

- [Mayor](#)

No report

- [City Attorney](#)

No report

## COMMUNICATIONS

- [Goergen Claim](#)

Referred to City Attorney

- [Henrie Claim](#)

Referred to City Attorney

## PLAN COMMISSION

- [Recommend that the Common Council direct the Department of Community Development, City Attorney, and Mayor initiate the MMSD Current Sewer Service Area and New Berlin Urban Service Area Boundary \(USAB\) amendment process to include Section 35 and portions of Section 34 \(also known as Neighborhoods "G" and "H" in the City's adopted comprehensive plan\) and, set a public hearing before the Plan Commission on July 5, 2011.](#)

Motion by Alderman Ament to direct the Department of Community Development, City Attorney, and Mayor initiate the MMSD Current Sewer Service Area and New Berlin Urban Service Area Boundary (USAB) amendment process to include Section 35 and portions of Section 34 (also known as Neighborhoods "G" and "H" in the City's

adopted comprehensive plan) and, set a public hearing before the Plan Commission on July 5, 2011. Seconded by Alderman Harenda.

**Motion Passed 7 to 0.**

- [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 \(Neighborhood "E" - National Avenue East Corridor\).](#)

Motion by Alderman Ament to 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 Ave. East Corridor). Seconded by Alderman Harenda.

Motion by Alderman Harenda to Table the recommendation 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). Seconded by Alderwoman Liska.

**Motion Passed 7 to 0.**

- [Recommend that the Common Council adopt Ordinance # 2459 approving amendments to the City Center Planned Unit Development \(existing Ordinance #: 2122\).](#)

Motion by Alderman Ament to adopt Ordinance #2459 approving amendments to the City Center Planned Unit Development (existing Ordinance #2122). Seconded by Alderwoman Karvala.

Motion by Alderwoman Karvala to Table the Recommendation that the Common Council adopt Ordinance # 2459 approving amendments to the City Center Planned Unit Development (existing Ordinance #: 2122). Seconded by Alderwoman Liska.

**Motion Passed 7 to 0.**

- [Recommend that Common Council adopt Ordinance No. 2458 that approves the rezoning of the properties located at 18005-18025 W. Lincoln Avenue from M-1, C-1 and C-2 to M-1, C-1 and C-2 to field delineate the wetlands.](#)

Motion by Alderman Ament to Adopt Ordinance No. 2458 that approves the rezoning of the properties located at 18005-18025 W. Lincoln Avenue from M-1, C-1 and C-2 to M-1, C-1 and C-2 to field delineate the wetlands. Seconded by Alderman Seidl.

**Motion Passed 7 to 0.**

#### **COMMUNITY DEVELOPMENT AUTHORITY**

- [Recommend that Common Council adopt Ordinance No. 2460 that approves the rezoning of the property located at 16300 W. Rogers Drive from M-2/SPO and C-2 to M-2/SPO and C-2 to field delineate the wetlands.](#)

Motion by Alderwoman Liska to Adopt Ordinance No. 2460 that approving the rezoning of the property located at 16300 W. Rogers Drive from M-2/SPO and C-2 to M-2/SPO and C-2 to field delineate the wetlands. Seconded by Alderman Seidl.

**Motion Passed 7 to 0.**

#### **MAYORAL APPOINTMENTS**

- [Reappoint Priya Suri to the Youth Advisory Board with a term expiring 5/31/2013](#)

Motion by Alderman Horbinski to Approve Reappointment of Priya Suri to the Youth Advisory Board with a term expiring 5/31/2013. Seconded by Alderman Ament.

**Motion Passed 7 to 0.**

- [Reappoint Cayla Holtz to the Youth Advisory Board with a term expiring 5/31/2013](#)

Motion by Alderman Seidl to Approve Reappointment of Cayla Holtz to the Youth Advisory Board with a term

expiring 5/31/2013. Seconded by Alderwoman Liska.

**Motion Passed 7 to 0.**

- [Reappoint Clare Cimperman to the Youth Advisory Board with a term expiring 5/31/2013](#)

Motion by Alderman Harenda to Approve Reappointment of Clare Cimperman to the Youth Advisory Board with a term expiring 5/31/2013. Seconded by Alderman Ament.

**Motion Passed 7 to 0.**

- [Reappoint Morgan Zimmerman to the Youth Advisory Board with a term expiring 5/31/2013](#)

Motion by Alderman Hopkins to Approve Reappointment of Morgan Zimmerman to the Youth Advisory Board with a term expiring 5/31/2013. Seconded by Alderman Horbinski.

**Motion Passed 7 to 0.**

- [Reappoint Gina Bednarek to the Youth Advisory Board with a term expiring 5/31/2013](#)

Motion by Alderwoman Karvala to Approve Reappointment of Gina Bednarek to the Youth Advisory Board with a term expiring 5/31/2013. Seconded by Alderwoman Liska.

**Motion Passed 7 to 0.**

- [Reappoint Julia Raupp to the Youth Advisory Board with a term expiring 5/31/2013](#)

Motion by Alderwoman Karvala to Approve Reappointment of Julia Raupp to the Youth Advisory Board with a term expiring 5/31/2013. Seconded by Alderman Harenda.

**Motion Passed 7 to 0.**

- [Appoint William Moore to the Park, Rec & Forestry Commission with a term expiring 4/30/2014](#)

Motion by Alderman Horbinski to Approve Appointment of William Moore to the Park, Rec & Forestry Commission with a term expiring 4/30/2014. Seconded by Alderwoman Liska.

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

Discussion on concerns of where this appointment could go from that committee and the potential affects on the Plan Commission

This is replacing Rick Kochi's position

**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 Horbinski.

**Motion Passed 7 to 0.**

**MINUTES**

- [April 26, 2011](#)

**UTILITY & FINANCE**

- [Recommend to Council approval of May 11, 2011 claims for Water Utility Claims in the amount of \\$122,629.65, Sewer Utility Claims in the amount of \\$84,463.24and Bi-weekly claims in the amount of \\$474,882.79.](#)

**LICENSES & PERMITS**

Bartenders Licenses for the year 2010 to 2012 to Lynn Baum, Daniel Cullen, Susan Fay, Debra Walker, Michael Faustmann, Mary Jakubiak, Wanda Luebke, Daniel Nolde, Diane Schumitsch, Jay Shefky, Samantha

[Class "A" Beer License for B & W Fuel Corporation, Prakash Bhatta, Agent, located at 17145 W. Greenfield Ave](#)

**MISCELLANEOUS**

- Discussion & Possible Action on 2012 Budget
- [Recommend to the Common Council that a public hearing be set for June 6, 2011 at 6:02 p.m. to be held before the Plan Commission to rezone the property located at 13665 W. Foxwood Drive from R-4.5 and C-2 to R-4.5 and C-2 to field delineate the wetlands.](#)
- [Recommend to the Common Council that a public hearing be set for June 6, 2011 at 6:03 p.m. to be held before the Plan Commission to rezone the property located at approximately 18500 W. National Avenue \(Tax keys:1262-995005 and 1262-989\) from B-2 and R-1/R-2 to B-2 and C-2.](#)
- [Recommend Common Council approve Ordinance No. 2456 which amends the legal description due to scrivener's error on the original Ordinance No. 2442.adopted on November 16, 2010 to rezone the property at 18580 W. National Avenue.](#)
- [Recommend to the Common Council that a public hearing be set for June 6, 2011 at 6:01 p.m. to be held before the Plan Commission to rezone the property located at 16000 W. Beloit Road from B-4 to O-2.](#)
- [Recommend to the Common Council that a public hearing be set for June 6, 2011 at 6:00 p.m. to be held before the Plan Commission to rezone the property located at approximately 4700 S. Sovereign Drive from R-4, O-2 and C-2 to R-4, O-2 and C-2 to field delineate the wetlands.](#)
- [Recommend that the Common Council set a public hearing for June 6, 2011 at 6:06p.m. before the Plan Commission regarding proposed amendments to Section 235-26\(g\) of the City's Municipal Code \(Subdivision Code\).](#)
- [Review and Action to fill the position of Records Technician-Police Department and any residual vacancies.](#)
- [Recommend to Council Approval of awarding of bid to The Milwaukee Journal Sentinel's CNI Community Newspapers \(New Berlin NOW\) for the City's Official City Newspaper for the 2011-2012 year](#)

**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**

None

**ORDINANCES & RESOLUTIONS**

- [Discussion on Ordinance 2453 titled "An Ordinance to Repeal the Further Collection of Some Impact Fees and to Address the Disposition of Already Collected Fees" -2nd Reading](#)

This was the second reading

- [Discussion & Possible Action on Ordinance 2455 titled "An Ordinance to Create Section 184-3\(d\)\(4\) of the Municipal Code of the City of New Berlin Concerning the Municipal Sale of Fermented Malt Beverages at the Malone Concession Stand \(Recommended approval from 4/26/2011 COW Meeting\)](#)

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Motion by Alderman Hopkins to Waive the third reading. Seconded by Alderman Seidl.

**Motion Passed 7 to 0.**

Motion by Alderwoman Karvala to Adopt Ordinance 2455 titled "An Ordinance to Create Section 184-3(d) (4) of the Municipal Code of the City of New Berlin Concerning the Municipal Sale of Fermented Malt Beverages at the Malone Concession Stand (Recommended approval from 4/26/2011 COW Meeting). Seconded by Alderman Seidl.

**Motion Passed 7 to 0.**

### **CLOSED SESSION**

Motion by Alderman Hopkins to Move to closed session at 8:09 PM. Seconded by Alderman Seidl.

**Motion Passed 7 to 0.**

**City Clerk Morgan read the following:**

- 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:
- [MSP et al. vs. City of New Berlin et al.](#)

**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:
  - [Discussion on Purchase of Groh Property located at 4699 S. Sovereign Dr.](#)

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

Motion by Alderman Seidl to Reconvene to open session at 9:19 PM. Seconded by Alderman Hopkins.

**Motion Passed 7 to 0.**

- [Discussion and Possible Action regarding the acceptance of the offer to sell the property at 4699 S. Sovereign Dr. from Hearthside East Inc. for the sum of \\$2,000.00 subject to review as to form by the City Attorney. The Mayor and City Clerk are authorized to execute such documents as may be necessary to complete this purchase.](#)

Motion by Alderman Harenda to Approve the offer to sell the property at 4699 S. Sovereign Dr. from Hearthside East Inc. for the sum of \$2,000.00 subject to review as to form by the City Attorney. The Mayor and City Clerk are authorized to execute such documents as may be necessary to complete this purchase. Seconded by Alderman Ament.

**Motion Passed 7 to 0.**

### **ADJOURN**

Motion by Alderman Seidl to Adjourn at 9:23 PM. Seconded by Alderwoman Liska.

**Motion Passed 7 to 0.**

Respectfully Submitted:

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Kari Morgan  
City Clerk