

CITY OF NEW BERLIN
PROCEEDINGS OF THE COMMON COUNCIL
Tuesday, April 12, 2011

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

Mayor Jack F. Chiovatero called the Common Council meeting to order at 7:43p.m. following Committee of the Whole and Privilege of the Floor

ROLL CALL; DECLARATION OF QUORUM

Present were Aldermen Hopkins, Wysocki, Seidl, Harenda, Liska, Moore and Ament. Also present was City Clerk Kari Morgan, City Attorney Mark Blum, City Engineer J.P. Walker, IT Director Nick Roethel and Fire Chief Lloyd Bertram.

Those present recited the Pledge of Allegiance and stood for a moment of silence following invocation by Mayor Chiovatero.

This meeting was noticed on April 7, 2011 in accordance with the open meeting law.

REPORTS

- [City Clerk](#)

No report

- [Council President](#)

No report

- [Mayor](#)

Mayor Chiovatero read a Proclamation for the Prospect Aid Society Day.

- [City Attorney](#)

No report

COMMUNICATIONS

- [Jones Claim](#)

Referred to City Attorney.

PLAN COMMISSION

- [PG-741 - Referral from the Common Council directing the Plan Commission and staff to discuss and make a recommendation to the Common Council by April 6, 2011 to amend Chapter 235-26G of the City Subdivision Code.](#)

Motion by Alderman Ament to Approve PG-741 Referral from the Common Council directing the Plan Commission and staff to discuss and make a recommendation to the Common Council by April 6, 2011 to amend Chapter 235-26G of the City Subdivision Code. Seconded by Alderman Wysocki.

Motion Passed.

Discussion on the need for an ordinance to be drafted by the City Attorney if this item was approved.

BOARD OF PUBLIC WORKS

- [ITEM 11-11, Approval of Development Agreement for Car Care Center at Approximately 4901 S. Moorland Road](#)

Motion by Alderman Ament to Approve Development Agreement for Car Care Center at Approximately 4901 S. Moorland Road. Seconded by Alderman Hopkins.

Motion Passed.

- [ITEM 12-11, Approval of the 2011 Roadway Rehabilitation Paving Contract](#)

Motion by Alderman Ament to Approve the 2011 Roadway Rehabilitation Paving Contract. Seconded by Alderman Seidl.

Motion Passed.

- [ITEM 13-11, Approval of the GlasGrid Installation Professional Services Agreement](#)

Motion by Alderman Ament to Approve the GlasGrid Installation Professional Services Agreement. Seconded by Alderman Hopkins.

Motion Passed.

- [ITEM 14-11, Approval of the 2011 Roadway Rehabilitation Culvert Replacement Contract](#)

Motion by Alderman Ament to Approve the 2011 Roadway Rehabilitation Culvert Replacement Contract. Seconded by Alderman Moore.

Motion Passed.

- [ITEM 15-11, Approval of the 2011 Roadway Rehabilitation Sod Shoulder Placement Professional Services Agreement](#)

Motion by Alderman Ament to Approve the 2011 Roadway Rehabilitation Sod Shoulder Placement Professional Services Agreement. Seconded by Alderman Harenda.

Motion Passed.

Discussion on sod versus seeding and/or gravel.

PARKS, RECREATION AND FORESTRY COMMISSION

- [Award Contract to Midwest Irrigation, LLC, in an amount not to exceed \\$240,000 \(\\$227,298 bid plus 5% contingency\) for the New Berlin Hills Irrigation System Water Source Improvements Project](#)

Motion by Alderman Moore to Approve the awarding of a Contract to Midwest Irrigation, LLC, in an amount not to exceed \$240,000 (\$227,298 bid plus 5% contingency) for the New Berlin Hills Irrigation System Water Source Improvements Project. Seconded by Alderman Hopkins.

Motion Passed.

It was mentioned that this needs to be done to keep the course in excellent shape to compete with other courses.

- [Motion to Rescind the previous Common Council motion made on March 8, 2011 to approve the Lease Assignment from Crown Golf Properties to HG Golf Properties, LLC, for management of New Berlin Hills Golf Course. The Council motion being rescinded reads as follows: Motion by Alderman Moore to approve the Parks, Recreation & Forestry Commission Recommendation to approve the Lease Assignment from Crown Golf Properties to HG Golf Properties, LLC, for management of New Berlin Hills Golf Course as recommended by the Golf Course committee. Seconded by Alderman Hopkins.](#)

Motion by Alderman Moore to Rescind the previous Common Council motion made on March 8, 2011 to approve the Lease Assignment from Crown Golf Properties to HG Golf Properties, LLC, for management of New Berlin Hills Golf Course. The Council motion being rescinded reads as follows: Motion by Alderman Moore to approve the Parks, Recreation & Forestry Commission Recommendation to approve the Lease Assignment from Crown Golf Properties to HG Golf Properties, LLC, for management of New Berlin Hills Golf Course as recommended by the Golf Course committee. Seconded by Alderman Hopkins. Motion to rescind seconded by Alderman Hopkins.

Motion Passed.

Explanation by City Attorney Blum as to the reason for the rescission and the change in the entity name.

- [Approve the Lease Assignment from Crown Golf Properties to Green Golf Management, LLC, for management of New Berlin Hills Golf Course .](#)

Motion by Alderman Moore to Approve the Lease Assignment from Crown Golf Properties to Green Golf Management, LLC, for management of New Berlin Hills Golf Course with contingency that upon the completion of the asset sale by HG Golf Properties LLC of substantially all of the assets of said entity including the New Berlin Hills Lease to Green Golf Management, LLC. Seconded by Alderman Hopkins.

Motion Passed.

City Attorney Blum mentioned that the actual lease assignment document is the same as the one approved on March 8th.

SPECIAL PROJECTS COMMISSION

- [Approve Small Grants Program Grant for 11-05, the NB West Basketball Booster Club in the amount of \\$4,500](#)

Motion by Alderman Harenda to Approve Small Grant Program Grant for 11-05, the NB West Basketball Booster Club in the amount of \$4,500. Seconded by Alderman Ament.

Motion Passed.

- [Deny Small Grants Program Grant for 11-06, the Prospect Hill Restoration Foundation in the amount of \\$3,500](#)

Motion by Alderman Wysocki to Deny the Small Grants Program Grant for 11-06, the Prospect Hill Restoration Foundation in the amount of \$3,500. Seconded by Alderwoman Liska.

Motion Passed with Alderman Seidl, Alderman Harenda, Alderman Ament opposing.

Discussion on criteria needed and the consistency with others approved in the past.

It has been determined by the Special Projects Commission that the strongest criteria for this program is that the applicant promote stays in hotels in New Berlin which they were unable to prove.

MAYORAL APPOINTMENTS

- [Paul Milkovich to Safety Commission with term expiring 4/30/2013](#)

Motion by Alderman Wysocki to Approve Paul Milkovich to Safety Commission with term expiring 4/30/2013. Seconded by Alderman Hopkins.

Motion Passed.

- [Paul Rozek to Safety Commission with term expiring 4/30/2013](#)

Motion by Alderwoman Liska to Approve Paul Rozek to Safety Commission with term expiring 4/30/2013. Seconded by Alderman Wysocki.

Motion Passed.

- [Earl Strandt to Safety Commission with term expiring 4/30/2013](#)

Motion by Alderwoman Liska to Approve Earl Strandt to Safety Commission with term expiring 4/30/2013. Seconded by Alderman Harenda.

Motion Passed.

- [Frederick Witty to Safety Commission with term expiring 4/30/2013](#)

Motion by Alderman Ament to Approve Frederick Witty to Safety Commission with term expiring 4/30/2013. Seconded by Alderwoman Liska.

Motion Passed.

- [Brian Graziano to Safety Commission with term expiring 4/30/2013](#)

Motion by Alderman Hopkins to Approve Brian Graziano to Safety Commission with term expiring 4/30/2013.
Seconded by Alderman Wysocki.

Motion Passed.

DEFERRED, REFERRED & TABLED ITEMS

- [Mayoral Appointment of Sally Bryan to the Police & Fire Commission with a term expiring 4-30-2014 - Tabled w/Motion left on Table 6-22-10](#)
- [Recommend to Common Council denial of a Small Grants Program Grant for 11-04 the New Berlin Land Conservancy in the amount of \\$2,000. TABLED 02-08-11 W/MOTION ON TABLE](#)

Motion by Alderman Wysocki to take the issue off the table. Seconded by Alderman Seidl.

Motion Passed.

Motion by Alderman Moore to Approve the grant for the New Berlin Land Conservancy for an amount of \$2,000.
Seconded by Alderman Harenda.

Motion Failed with Alderman Hopkins, Alderman Seidl, Alderman Harenda, Alderman Ament, Alderman Wysocki, Alderwoman Liska opposing.

Discussion on statutory requirements for those that are granted the money.

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 Wysocki to Approve the Consent Agenda. Seconded by Alderman Seidl.

Motion Passed.

MINUTES from March 22, 2011

UTILITY & FINANCE

- [Recommend to Council approval of April 13, 2011 claims for Water Utility Claims in the amount of \\$128,476.71, Sewer Utility Claims in the amount of \\$489,331.77 and Bi-weekly claims in the amount of \\$664,746.73.](#)

LICENSES & PERMITS

Bartender Licenses

- [Bartender Licenses 2010-2012 to Ryan McCarthy](#)
- Bartender Licenses for the year 2010-2012 to Jennifer Mast, Sherri Grenz, Terry Berigan, Jeremy Gorgas, Sacha Korpela, Deborah Westphal, Sheryl Woithon, Yumi Yi, Donna Krutz, Patricia Consolazione, Jayme Gemoll-Crandall and Grace Ruiz

[Change of Agent, Russell Bellings, Agent, Kwik Trip #499 located at 15700 W. Small Road](#)

[Class "B"/Class "C" liquor license for Carl Tomich, Agent for 5320 Ventures Inc. dba/Stonefire Pizza located at 5320 S. Moorland Road](#)

["Class B" liquor license for Jerrold S. Egner, Agent, Ridge Cinema located at 5200 S. Moorland Road](#)

[Variance for Loudspeaker Permit for Holy Apostles Family Festival](#)

MISCELLANEOUS

- Discussion on 2012 Budget

- [Set a Public Hearing date for the May 2, 2011 Plan Commission Meeting at 6:00 p.m. regarding the rezoning of properties located at 18005-18025 W. Lincoln Avenue from M-1, C-1 and C-2 to M-1, C-1 and C-2.](#)
- [Set a Public Hearing date for the May 5, 2011 Community Development Authority Meeting at 7:30 a.m. regarding 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](#)
- [Recommend to the Common Council that a public hearing be set for May 2, 2011 at 6:01 p.m. to be held before the Plan Commission to consider amendments to the existing New Berlin City Center Planned Unit Development Ordinance #2122 and to incorporate the necessary amendments into the City's adopted 2020 Comprehensive Plan Chapter 10, Land Use Plan and Chapter 15, Neighborhood E – National Avenue East Corridor.](#)

END CONSENT AGENDA*****

ITEMS REMOVED FROM CONSENT AGENDA, IF ANY

- [Bartender License for the year to 2010 to 2012 to Cheryl Jeffery](#)

Motion by Alderman Seidl to Approve Bartender License for the year 2010 to 2012 to Cheryl Jeffery. Seconded by Alderman Ament.

Motion Failed with Alderman Hopkins, Alderman Harenda, Alderman Wysocki, Alderwoman Liska, Alderman Moore opposing.

- [Appeal of Denial of Bartender License for 2010-2012 year to Karly Krecklow](#)

Motion by Alderman Hopkins to Approve Appeal of Denial of Bartender License for 2010-2012 year to Karly Krecklow. Seconded by Alderman Ament.

Motion Passed with Alderman Wysocki opposing.

ORDINANCES & RESOLUTIONS

- [Ordinance No. 2450 titled "An Ordinance to Amend Sec. 152-4 of the Municipal Code of the City of New Berlin Regarding Class A Liquor License Sales Restrictions" - 3rd Reading/Adoption](#)

Motion by Alderman Wysocki to Adopt Ordinance No. 2450 titled "An Ordinance to Amend Sec. 152-4 of the Municipal Code of the City of New Berlin Regarding Class A Liquor License Sales Restrictions." Seconded by Alderman Hopkins.

Motion Passed.

CLOSED SESSION

Motion by Alderman Wysocki to Move to closed session at 8:45PM. Seconded by Alderman Seidl.

Motion Passed.

- [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:](#)
 - [Reena George Claim](#)
 - [Children's Hospital Claim](#)
 - [Guse v. City of New Berlin Appeal](#)
 - [New Berlin Public Library v. Plunkett et al. Mediation](#)

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

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

Motion by Alderman Seidl to Reconvene to open session at 9:16 PM. Seconded by Alderman Hopkins.

Motion Passed.

- [Reena George Claim](#)

Motion by Alderman Hopkins to Deny the Reena George Claim. Seconded by Alderman Wysocki.

Motion Passed.

- Children's Hospital Claim

No action.

- [Guse v. City of New Berlin Appeal](#)

Motion by Alderman Hopkins to Approve a stipulation in the case of Guse vs. City of New Berlin that if Judge Davis' order is upheld by the court of appeals that the City will approve the CSM for the division of the Guse property at 19100 W. Hilcrest Dr. as proposed by the applicant. Seconded by Alderman Moore.

Motion Passed.

ADJOURN

Motion by Alderman Moore to Adjourn at 9:22PM. Seconded by Alderman Wysocki.

Motion Passed.

Respectfully Submitted:

Kari Morgan
City Clerk