

**CITY OF NEW BERLIN  
PROCEEDINGS OF THE COMMON COUNCIL  
Tuesday, December 8, 2009**

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

Mayor Jack F Chiovero called the City of New Berlin Common Council Meeting to order at 7:03 PM after Committee of the Whole and Privilege of the Floor.

**ROLL CALL:** Mayor Jack F Chiovero called the meeting to order at 6:02 PM. Present were Aldermen Hopkins, Wysocki, Seidl, Harena, Moore and Ament. District #5 seat is vacant. Also present were: Deputy City Clerk Christine Stefanich, Election/License Technician Sherri Hanson, City Attorney Mark Blum, Division Engineer Nicole Hewitt, Police Chief Joe Rieder, Planning Service Manager Nikki Jones, Project Engineer Tammy Simonson, Finance Director Mike Holzinger, Director of Community Development Greg Kessler, Division Engineer Ron Schildt, Mapping Coordinator Catey Barnish, Human Resource Director Tami Potkay and Associate Planner Jessica Titel.

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

***This meeting was noticed on Thursday, December 3, 2009 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**

**Ordinance #2422 the City's Comprehensive Plan Update to comply with the State's Smart Growth Law by 2010 and accept the Plan Commission Report.**

Motion by Alderman Ament to approve Ordinance #2422 the City's Comprehensive Plan Update as amended to comply with the State's Smart Growth Law by 2010 and accept the Plan Commission Report. Seconded by Alderman Hopkins.

Carolyn Esswein from PDI presented the Alternative Transportation Plan modifications.

Director of Community Development Greg Kessler showed the updates to the Alternative Transportation Map.

There was discussion regarding amendments to individual neighborhoods and corrections to chapters of the City's Comprehensive Plan.

Motion by Alderman Ament to change two parcels located in Neighborhood A on Johnson Road and Greenfield Avenue from Suburban Commercial to Rural Commercial. Seconded by Alderman Seidl and carried unanimously.

Motion by Alderman Harena to remove the revised Urban Service Area Boundary map, use the current map and the City wishes to reaffirm that decisions on the extension of utilities to undeveloped lands will require an assessment that facility infrastructure is sufficient to meet the needs of the development, as well as, existing users as required by the New Berlin Urban Service Area Boundary Ordinance #2422. Seconded by Alderman Ament and carried with Alderman Hopkins voting no.

*Break taken at this time.*

Upon voting the original motion as amended carried unanimously.

Carolyn Esswein indicated that she has worked in a lot of cities throughout Wisconsin and has found that Director of Community Development Greg Kessler and his staff did a remarkable job, not only as a resource but with the amount of effort everyone has shown. She stated the City of New Berlin's Department of Community Development has been great to work with. The Council also applauded the staff's time and efforts and extended their appreciation for all the hard work that was put into this Comprehensive Plan.

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**UTILITIES**

**2010 Wastewater Utility Operating budget**

Motion by Alderman Harenda to approve the 2010 Wastewater Utility Operating budget in the amount of \$9,116,571. Seconded by Alderman Ament and carried unanimously.

**2010 Water Utility Operating budget**

Motion by Alderman Harenda to approve the 2010 Water Utility Operating budget in the amount of \$5,189,790. Seconded by Alderman Wysocki and carried unanimously.

**2010 Water Utility Capital Improvement Budget**

Motion by Alderman Harenda to approve the 2010 Water Utility Capital Improvement Budget in the amount of \$2,769,000. Seconded by Alderman Hopkins and carried unanimously.

**New Berlin Water Conservation Plan**

Motion by Alderman Harenda to approve the New Berlin Water Conservation Plan. Seconded by Alderman Moore.

Motion by Alderman Moore to remove the last eight Suggested/Recommended Voluntary Actions from the New Berlin Water Conservation Plan from voluntary to mandatory, motion fails for the lack of a second.

Motion by Alderman Moore to send the New Berlin Water Conservation Plan back to the Utility Committee with the graduated rate scale for adoption and approval, motion fails for a lack of a second.

Upon voting, motion carried with Alderman Moore voting no.

**MAYORAL APPOINTMENTS**

**Special Projects Commission (all 3 together)**

Motion by Alderman Wysocki to approve Lori Schinker/reappointment with term expiring 12/31/2010, Tom O'Loughlin/reappointment with term expiring 12/31/2010, and Mary Claire Lanser/reappointment with term expiring 12/31/2010 to Special Projects Commission. Seconded by Alderman Hopkins and carried unanimously.

**DEFERRED, REFERRED & TABLED ITEMS**

**Ordinance No. 2417 that approves the amendments to Section 275-41.A (2) (Keeping and Raising of Animals) and 275-70 (Definitions) of the City's Zoning Code and accept the Plan Commission report. TABLED 9-8-09/REFERRED TO AD HOC COMMITTEE 9-22-09**

NO ACTION 12-08-09

**SAFETY COMMISSION - Purchase and install four (4) temporary speed tables on Lincoln Avenue between Moorland Road and Parkside Drive/REFERRED TO BOARD OF PUBLIC WORKS 10-13-09/REFERRED BACK TO SAFETY COMMISSION 10-27-09**

NO ACTION 12-8-09

**Ordinance No. 2413 Ordinance To Amend Section 152-10 Regarding The Regulation And Licensing Of Dogs (3rd reading) TABLED 11-19-09**

NO ACTION 12-8-09

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**CONSENT AGENDA**

Motion by Alderman Ament to approve all of the following items listed. Seconded by Alderman Seidl and carried unanimously.

**MINUTES** – November 19, 2009 Common Council & December 1, 2009 Special Called Common Council

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**UTILITY AND FINANCE**

**Claims**

- Water Utility claims in the amount of \$27,726.54, Sewer Utility claims in the amount of \$8,484.01 and Bi-weekly claims in the amount of \$632,636.51, all of which represents payment to vendors.

**LICENSES & PERMITS**

**Bartenders**

- Bartender License for the year 2009-2011 to Alycia Krause
- Bartender Licenses for the year 2009-2011 to Jacquelyn Trew and Premilaben Patel.

**MISCELLANEOUS**

- Recommendation from Police Captain Steve Morris for Area Rental & Sales at 16205 W Rogers Drive to allowing customers to park vehicles on the south side of Rogers Drive and the west side of S. 162<sup>nd</sup> Street during their auction on May 8, 2010.
- Resolution No. 09-33 - A contract with SMART Business and Consulting, LLC to prepare an Actuarial valuation for the city for 2009 and 2010 to comply with GASB 45 not to exceed \$10,500 and the transfer of funds from the Contingency fund to Finance department account 15050005 – 52010 Professional Fees.
- Set a public hearing for January 4, 2010 at 6:00 p.m. to be held before the Plan Commission for Mr. Brian Lennie to rezone the property located at approximately 2250 S. Springdale Road from R-1/R-2 and C-2 to R-1/R-2 and C-2
- Set a public hearing for January 4, 2010 at 6:02 p.m. to be held before the Plan Commission for Mr. Timothy Timmerman to rezone the property located at approximately 13050 W. Cleveland Avenue from I-1 Institutional to Rm-1/PUD, Multi-Family Planned Unit Development Overlay District and C-2/PUD, Shoreland Wetland Planned Unit Development Overlay District
- Nomination from Mayor Jack Chiovatero for the *attached* list of Election Inspectors for the City of New Berlin Aldermanic Districts 1 through 7 for a 2-year term beginning January 1, 2010 and ending December 31, 2011
- Direct the Finance Committee to develop a recommended Financial Management Plan covering the budget years 2011 to 2013.

**DEFERRED, REFERRED & TABLED ITEMS**

- Common Council to amend City of New Berlin City Code - Chapter 220-4 RECYCLING to include both single stream as well as co-mingled recyclable pick up in the city of New Berlin and direct the City Attorney to prepare an ordinance reflecting this change/DEFERRED 9-8-09/TABLED 9-22-09

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**ITEM/S REMOVED FROM CONSENT AGENDA**

- Bartender Licenses for the year 2009-2011 to Jacquelyn Trew and Premilaben Patel.  
*These bartenders were on the consent agenda in error. The correct bartenders (from COW 12-8-09) will be placed on the next consent agenda.*

**ORDINANCES/RESOLUTIONS**

**Ordinance No. 2421 Ordinance To Amend Section 188-1(D) Peace And Good Order Of The Municipal Code Of The City Of New Berlin Regarding Disorderly Conduct**  
Motion by Alderman Hopkins to adopt Ordinance No. 2421 Ordinance To Amend Section 188-1(D) Peace And Good Order Of The Municipal Code Of The City Of New Berlin Regarding Disorderly Conduct. Seconded by Alderman Wysocki and carried unanimously.

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**CLOSED SESSION**

***Deputy City Clerk Stefanich 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:

- State of Wisconsin Radium Consent Order Claim
- TRD Real Estate LLC vs. City of New Berlin
- KH Claim
- Sandra Schindler-Hutchison/MillersFirst Insurance Claim
- Poshepny vs. City of New Berlin
- Poplar Creek Interceptor

Motion by Alderman Seidl to go to Closed Session at 10:18 PM. Seconded by Alderman Ament and carried unanimously per roll call vote.

Motion by Alderman Seidl to reconvene in Open Session at 10:41 PM. Seconded by Alderman Wysocki and carried unanimously.

**RECONVENE TO OPEN SESSION**

**State of Wisconsin Radium Consent Order Claim**

No action

**TRD Real Estate LLC vs. City of New Berlin**

No action

**KH Claim**

No action

**Sandra Schindler-Hutchison/MillersFirst Insurance Claim**

Motion by Alderman Hopkins to pay this claim in the amount of \$984.07 for reimbursement of collision and damage. Seconded by Alderman Ament and carried unanimously.

**Poshepny vs. City of New Berlin**

No action

**Poplar Creek Interceptor**

No action

**ADJOURN**

Motion by Alderman Seidl to adjourn at 10:44 PM. Seconded by Alderman Ament and carried unanimously.

Respectfully submitted:

Christine Stefanich  
City of New Berlin