

**CITY OF NEW BERLIN
PROCEEDINGS OF THE COMMON COUNCIL
Tuesday, October 27, 2009**

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

Mayor Jack F Chiovaturo called the City of New Berlin Common Council Meeting to order at 9:20 PM after Committee of the Whole and Privilege of the Floor.

ROLL CALL: Present were Aldermen Hopkins, Wysocki, Seidl, Harenda, Moore and Ament. District #5 seat is vacant. Also present were: City Clerk Marilyn Gauger, City Attorney Mark Blum, City Engineer JP Walker, Parks Recreation & Forestry Director Mark Schroeder, Parks Supervisor Andy Reshal, Mayor's Intern Rula Jabbour, Police Chief Joe Rieder, IT Director Nick Roethel and Streets Manager Don Ullman

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

This meeting was noticed on Thursday, October 22, 2009 in accordance with the Open Meeting Law.

REPORTS

City Clerk - none
Council President - none
Mayor - none
City Attorney - none

BOARD OF PUBLIC WORKS

Purchase a minimum of four (4) Traffic Logix temporary speed tables per Resolution

Motion by Alderman Ament to approve Resolution No. 09-31 Transferring Funds of \$30,693 in the Greenfield Avenue Account to the 2009 Roadway Rehabilitation Account to purchase a minimum of four (4) Traffic Logix temporary speed tables. Seconded by Alderman Hopkins and carried unanimously.

FINANCE COMMITTEE

Resolution No. 09-28 Resolution to Write Off Delinquent Uncollected Personal Property Taxes

Motion by Alderman Wysocki to approve Resolution No. 09-28 in the amount of \$3,826.88. Seconded by Alderman Ament and carried unanimously.

Ordinance No. 2419 Ordinance To Amend Section 80-3 Concerning The Time Limits For Expending Impact Fees

Mayor Chiovaturo indicated this is the 1st reading.

Ordinance No. 2420 Ordinance To Create Section 235-34 (C) (3) (B) (5) Concerning The Use Of Public Site, Open Space and Trail Fees

Mayor Chiovaturo indicated this is the 1st reading.

Hickory Grove Cell Tower Revenues

Motion by Alderman Wysocki that Hickory Grove Cell Tower revenues be placed in separate account with monies made available for continued use by the Parks Recreation & Forestry Department to make upgrades/improvements to the parks system. Seconded by Alderman Moore and failed with Alderman Hopkins and Alderman Moore voting yes.

WATER RESOURCE MANAGEMENT COMMITTEE

Resolution No. 09-30 Transferring Approved Funds from Cold Spring Road Retention Facility CIP Account to the Underwood Creek CIP Account in the amount of \$116,541 to cover the costs associated with completing the Underwood Creek Rehabilitation project

Motion by Alderman Harenda to approve Resolution No. 09-30. Seconded by Alderman Hopkins and carried unanimously.

UTILITY COMMITTEE

Entering into a Memorandum Of Understanding to evaluate the City of Milwaukee water rate case

Motion by Alderman Harenda to enter into a MOU with SEH (Short Elliott Hendrickson) in an amount not to exceed \$6,000 to evaluate the Milwaukee Water Rate application and authorize the Mayor to sign the MOU with source of funds from 91004923-56250. Seconded by Alderman Wysocki 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 taken.

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

Motion by Alderman Harenda to refer back to Safety Commission for official placement of speed tables. Seconded by Alderman Wysocki.

Motion rescinded by Alderman Harenda and Alderman Wysocki.

Motion by Alderman Wysocki to refer back to Safety Commission to determine location and timetable for installation. Seconded by Alderman Ament and carried unanimously.

Direct City Clerk to advertise for Aldermanic District #5 vacancy in selected newspapers/DEFERRED 9-8-09/this item was omitted from consent agenda at 9-22-09 meeting/Removed from Consent Agenda and TABLED 10-13-09 at Council

Motion by Alderman Moore to remove from the table. Failed lack of a second.

CONSENT AGENDA

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

MINUTES – October 13, 2009 Common Council

UTILITY AND FINANCE

Claims

- Water Utility claims in the amount of \$15,999.75, Sewer Utility claims in the amount of \$140,028.50 and Bi-weekly claims in the amount of \$916,372.45, all of which represents payment to vendors

LICENSES & PERMITS

Bartenders

- Bartender License for the year 2009-2011 to Marie Oravetz.

MISCELLANEOUS

- Updated Lease Agreement with New Berlin Historical Society for the old fire station #3 building on National Avenue.
- Recommend to Council to approve an Early Retirement Package for employees that retire between October 27, 2009 and December 31, 2009 and meet specific criteria.
- Reinstate Joseph Poshepny as the alderman for District 5 and Council further directs staff to pay Alderman Poshepny any salary unpaid through this date/failed lack of seconded

- Discussion and possible action on proposed 2010 CIP Budget

DEFERRED, REFERRED & TABLED ITEMS

- Changing of the regular BPW monthly meeting time, from 8:00AM to 6:00PM, to the BPW for their discussion and recommendation back to the Common Council/REFERRED TO BPW ON 7-28-09/no action taken.
- 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/no action taken.

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ITEM/S REMOVED FROM CONSENT AGENDA

Purchase vacant property (NBC 1235.999) on Observatory Road for stormwater

Motion by Alderman Moore to Purchase the vacant property (NBC 1235.999) on Observatory Road from Waukesha County for stormwater purposes. Seconded by Alderman Hopkins and failed with Alderman Moore voting yes.

ORDINANCES/RESOLUTIONS

Ordinance No. 2413 Ordinance To Amend Section 152-10 Regarding The Regulation And Licensing Of Dogs

Mayor Chiovaturo indicated this is the 1st reading.

City Clerk Gauger read the following:

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:

- Anchor Bank Litigation
- State of Wisconsin Radium Consent Order Claim

Motion by Alderman Seidl to go to Closed Session at 10:06 PM. Seconded by Alderman Moore and carried unanimously per roll call vote.

Motion by Alderman Seidl to reconvene in Open Session at 10:28 PM. Seconded by Alderman Moore and carried unanimously.

RECONVENE TO OPEN SESSION

Anchor Bank Litigation

Motion by Alderman Wysocki to authorize approval of the Anchor Bank Litigation Settlement Agreement and Escrow Agreement as recommended by City Attorney Blum and authorize the Mayor to approve the Depository Surety Agreement subject to approval by City Attorney Blum. Seconded by Alderman Moore and carried unanimously.

State of Wisconsin Radium Consent Order Claim

No action taken.

ADJOURN

Motion by Alderman Hopkins to adjourn at 10:31 PM. Seconded by Alderman Ament and carried unanimously.

Respectfully submitted:
Marilyn Gauger, MMC
City of New Berlin