

**CITY OF NEW BERLIN
PROCEEDINGS OF THE COMMON COUNCIL
Tuesday, August 25, 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 8:00 PM after Committee of the Whole and Privilege of the Floor.

ROLL CALL: Present were Aldermen Hopkins, Wysocki, Seidl, Harenda, Moore and Ament. Excused: Alderman Poshepny. Also present were: City Clerk Marilyn Gauger, City Attorney Mark Blum, Police Chief Joe Rieder and City Engineer JP Walker.

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

This meeting was noticed on Wednesday, August 19, 2009 in accordance with the Open Meeting Law.

REPORTS

City Clerk – none

Council President Harenda indicated meetings for the City's Comprehensive Plan are Monday, August 31st (This is a Plan Commission meeting) and also an Open House, Wednesday, September 9th at 5PM and again on Thursday, September 10, the public can weigh in on work done to date. Check the city's website for meetings.

Calhoun Road, south of Beloit road is scheduled to be pulverized and repaved. The City is dealing with some flooding issues on that road. The old trees that were removed from the right-of-way were with input and consideration from the property owner; they were rotting and are difficult to save the trees. The grubbing work is happening now and the road (even with the sub-base) may be open for local traffic only. Our City Engineer will look at that. The work should be completed in mid-October.

The Mayor and Alderman Harenda received a letter from Alderman Poshepny indicating he has resigned his position of Alderman for District #5 however they received information that this may not be true and Alderman Harenda is trying to verify that. He copied said letter to Council and City Clerk.

Mayor Chiovero indicated National Avenue is now open to traffic. The month of October is proclaimed as Ovarian Cancer Awareness Month, 5th leading cause of death. Mayor Chiovero urged all to get their checkups.

City Attorney - none

COMMUNICATIONS

Richard & Cathy Linehan Claim

Mayor Chiovero referred to City Attorney Blum.

BOARD OF PUBLIC WORKS

Railroad Crossing Agreement for the Rogers Drive Reconstruction

Motion by Alderman Ament to approve the Railroad Crossing Agreement for the Rogers Drive Reconstruction Project with the City's cost share at \$52,785 to widen the crossing from 28 feet to 44 feet, which represents a 35% cost share. Source of funds: CIP Account established for the construction phase during a future budget approval currently estimated for the year 2014. Seconded by Alderman Seidl and carried unanimously.

WATER RESOURCE MANAGEMENT

Motion by Alderman Harenda to approve the Construction Contract for the U-349 Concrete Invert Project to the lowest responsive, responsible bidder, *Willkomm Excavating & Grading, Inc.* in the amount of \$99,876.25 with the contingency of \$14,981.44 for a total project cost not to exceed \$114,857.69. Source of funds: WRM Utility Drainage Account 70710710 59060 (\$50,000) and WRM Utility Account FEMA Reimbursement 70710701 59060 (\$111,000). Seconded by Alderman Wysocki and carried unanimously.

MAYORAL APPOINTMENTS

Electrical Review Board

Motion by Alderman Wysocki to approve Richard Boya/reappointment with term expiring 8-31-2011. Seconded by Alderman Harenda and carried unanimously.

Motion by Alderman Hopkins to approve Warren Haut/reappointment with term expiring 8-31-2011. Seconded by Alderman Moore and carried unanimously.

Fourth of July Commission

Motion by Alderman Ament to approve Anida Rose/reappointment with term expiring 8-1-2010. Seconded by Alderman Wysocki and carried unanimously.

Motion by Alderman Seidl to approve Nancy Bertsch/reappointment with term expiring 8-1-2010. Seconded by Alderman Moore and carried unanimously.

Finance Committee

Motion by Alderman Hopkins to approve Jo Kapfhammer/replacement with term expiring 1-9-2010. Seconded by Alderman Wysocki and carried unanimously.

DEFERRED, REFERRED & TABLED ITEMS

Ordinance No. 2413 Ordinance To Amend Section 152-10 Regarding The Regulation And Licensing Of Dogs/REFERRED BACK TO SAFETY COMMISSION 7-28-09

No action taken.

Certified Survey Map for the property located at 14901 W Library Lane/REFERRED BACK TO PLAN COMMISSION to review conditions 4 & 5/8-11-09

No action taken.

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CONSENT AGENDA

Motion by Alderman Seidl to approve the listed items. Seconded by Alderman Wysocki and carried unanimously.

MINUTES - Common Council minutes from August 11, 2009

UTILITY AND FINANCE

Claims

For: August 26, 2009

- Water Utility claims in the amount of \$149,308.62, Sewer Utility claims in the amount of \$16,203.38, and Bi-weekly claims in the amount of \$424,284.59, all of which represents payment to vendors. Bike/Pedestrian impact fee refunds totaling \$49,383.29 were also generated.

LICENSES & PERMITS

Bartenders

- 2009-2011 Bartender License for Sarah Johnson.
- 2009-2011 Bartender Licenses for Lora Beronja, Jessica Ivy, Marsha Neuman and Valerie Robledo.

MISCELLANEOUS

- Request from the Historical Society to close National Avenue between Barton Road & Glengarry on Sunday, September 13, 2009 from 11:00 AM to 5:00 PM.

- Resolution No. 09-21 Resolution To Transfer Funds From The Contingency Account To Various Wage and Benefit Accounts.
- Two-year Liability Insurance renewals with CVMIC
- Fireworks Permit for Eisenhower High School Homecoming on Friday, September 25, 2009

DEFERRED, REFERRED & TABLED ITEMS

- Issue a Raze Order pursuant to Wi SS Section 66.0413 (1) for the property location of 3875 S Moorland Road/DEFERRED TO 8-25-09/APPROVED
- 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

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ITEM/S REMOVED FROM CONSENT AGENDA
None.

ORDINANCES/RESOLUTIONS

Ordinance No. 2414 Ordinance To Create Section 121-4 Firearms and Weapons of the Municipal Code of the City of New Berlin

Mayor Chiovaturo indicated this is the 3rd reading.

Alderman Moore asked that the ordinance be modified to refer back to language in the State Statutes with regard to the exceptions. City Attorney Blum indicated the Police Chief agrees with the modification.

The Council agreed with Mayor Chiovaturo that this is the 1st reading of Ordinance No. 2414 with the revised language. The revised ordinance will be forwarded to Clerk and Council members.

Ordinance No. 2415 Ordinance To Amend Section 184-11 Of The Municipal Code Of The City Of New Berlin Concerning The Discharge Of Firearms In Public Parks

Mayor Chiovaturo indicated this is the 3rd reading.

Motion by Alderman Wysocki to adopt Ordinance No. 2415. Seconded by Alderman Seidl.

Motion by Alderman Moore to insert "carry or" between the words shall and discharge. Motion dies lack of a second.

Upon voting original motion carried with Alderman Moore voting no.

Clerk Gauger reading 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

Motion by Alderman Seidl to go to Closed Session at 7:52 PM. Seconded by Alderman Moore and carried unanimously per roll call vote.

RECONVENE TO OPEN SESSION

Motion by Alderman Seidl to reconvene in Open Session at 8:14 PM. Seconded by Alderman Hopkins and carried unanimously.

Discussion and possible action on the Russell Sobczak Claim

Motion by Alderman Wysocki to deny the Russell Sobczak Claim. Seconded by Alderman Moore and carried unanimously.

Discussion and possible action on the Anchor Bank Settlement Agreement

No action taken.

ADJOURN

Motion by Alderman Seidl to adjourn at 8:16 PM. Seconded by Alderman Wysocki and carried unanimously.

Respectfully submitted

Marilyn Gauger, MMC/WCPC
City Clerk