

**CITY OF NEW BERLIN  
PROCEEDINGS OF THE COMMON COUNCIL  
Tuesday, February 10, 2009**

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

Mayor Jack F Chiovatero called the City of New Berlin Common Council Meeting to order at 9:23 PM after the Committee of the Whole and Privilege of the Floor.

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

**ROLL CALL:** Present were Aldermen Hopkins, Wysocki, Seidl, Harenda, Poshepny and Ament. Alderman Moore has an excused absence. Also present were: City Clerk Marilyn Gauger, Deputy Clerk Christine Stefanich, Attorney Mark Blum, Utility Manager Rick Johnson, Utility Supervisor Jim Hart, City Engineer JP Walker, Director of Community Development Greg Kessler, Parks, Recreation & Forestry Director Mark Schroeder.

***This meeting was noticed on Friday, February 6, 2009 in accordance with the Open Meeting Law.***

**REPORTS**

City Clerk – Absentee balloting is available in the City Clerk’s office from 8:00 AM to 4:30 PM. The Primary Election is Tuesday, February 17<sup>th</sup>.

Council President – none

Mayor - none

City Attorney – none

**COMMUNICATIONS**

None.

**PLAN COMMISSION**

**Ordinance No. 2396 that approves the revisions to Section 275-34 (D) (3) (hotel height) of the City’s Zoning Code**

Motion by Alderman Ament to adopt Ordinance No. 2396 that approves the revisions to Section 275-34 (D) (3) (hotel height) of the City’s Zoning Code as proposed by the Common Council based on their second referral to the Plan Commission in the Common Council minutes from November 18, 2008 and accept the Plan Commission Report. Seconded by Alderman Seidl and carried unanimously.

**Set a Public Hearing date for the March 2, 2009 Plan Commission Meeting regarding the adoption of the amendments to Table 275-34-1 (Commercial Districts), Table 275-35-1 (Office and Industrial Districts), 275-70 (Definitions), and Section 275-41C (12)(c) (Use Specific Regulations) of the City’s Zoning Code to accommodate a new use for a “brewpub” into the Zoning Code**

Motion by Alderman Ament to forward a request to the Common Council to set a Public Hearing date for the March 2, 2009 Plan Commission Meeting regarding the adoption of the amendments to Table 275-34-1 (Commercial Districts), Table 275-35-1 (Office and Industrial Districts), 275-70 (Definitions), and Section 275-41C (12)(c) (Use Specific Regulations) of the City’s Zoning Code to accommodate a new use for a “brewpub” into the Zoning Code and accept the Plan Commission Report. Seconded by Alderman Wysocki and carried unanimously.

**PARK RECREATION & FORESTRY COMMISSION**

**Extension and Amendment to Lease Agreement between City of New Berlin and Crown Golf Properties**

Motion by Alderman Hopkins to approve the Extension and Amendment to Lease Agreement between City of New Berlin and Crown Golf Properties (CGP) LP for management of New Berlin Hills

Golf Course as recommended by the Golf Course Committee. Seconded by Alderman Wysocki and carried unanimously.

**DEFERRED, REFERRED & TABLED ITEMS**

**Mayoral Appointment to Finance Committee - Daniel Lavinio with term expiring 1-9-2010/DEFERRED 1-13-09**

Motion by Alderman Wysocki to approve the appointment of Daniel Lavinio with term expiring 1-9-2010. Seconded by Alderman Ament and carried unanimously.

**Ordinance No. 2396 that approves the updates as proposed by the City Attorney below to the current sections of the New Berlin Municipal Code Chapter 275-34 (D)(3) related to Hotel Height and accept the Plan Commission Report/REFERRED BACK TO PLAN COMMISSION 11-18-08**

Motion by Alderman Seidl to remove from the agenda Ordinance No. 2396 that approves the updates as proposed by the City Attorney below to the current sections of the New Berlin Municipal Code Chapter 275-34 (D)(3) related to Hotel Height and accept the Plan Commission Report. Seconded by Alderman Harenda and carried unanimously.

*Note: Ordinance No. 2396 was approved under PLAN COMMISSION.*

**Direct the Department of Community Development, City Attorney and Mayor to initiate the sewer service boundary amendment process for the property located at 18695 W. Cleveland Avenue and hold a public hearing for said amendment on January 5, 2009 before the Plan Commission and accept the Plan Commission Report/TABLED 11-18-08**

No action taken.

**Discussion and possible action to adopt Resolution 08-42 to establish the New Berlin Urban Service Area Boundary as referred by the Council to the Plan Commission for study, analysis and the holding of a public hearing and further to consider the inclusion of additional lands within said boundary as requested by the respective property owners and as set forth in the report and recommendations of the Plan Commission/TABLED 12-16-08 for Public Hearing February 2009**

No action taken.

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**CONSENT AGENDA**

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

**MINUTES** - Common Council minutes from January 27, 2009; January 31, 2009 and February 3, 2009

**UTILITY AND FINANCE**

- Water Utility claims in the amount of \$90,786.53, Sewer Utility claims in the amount of \$101,800.52, and Bi-weekly claims in the amount of \$367,261.32, all of which represents payment to vendors. Tax overpayments in the amount of \$13,727.31 were also generated.

**LICENSES & PERMITS**

**Bartenders**

- Bartender Licenses for the year 2008-2010 to Robert Reid, Katrina Strong, Traci Beatovic, Erik Koehn, Cassandra Pavlock and Kelly Mindiola.

**MISCELLANEOUS**

- Resolution No.09-04 adopting the City of New Berlin Water Supply Service Area Plan.
- Set a Public Hearing for Monday, March 2, 2009 at 6:01 PM to be held before Plan Commission for a petition by the City of New Berlin to rezone the property at approximately 4900 S Moorland Road from B-4 to B-2.

**DEFERRED, REFERRED & TABLED ITEMS**

- Adoption of Water and Sewer Urban Service Area Boundaries/REFERRED TO PLAN COMMISSION/8-12-08/No action taken.
- Adoption of "Three-Quarters" Majority Vote For Any Future Extension of Water and Sewer Outside Established New Berlin Urban Service Area Boundary (NBUSAB). These Boundaries Are To Be Adopted Within The Next 60 Days By The New Berlin Common Council/TABLED 8-12-08/No action taken.

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**ITEM/S REMOVED FROM CONSENT AGENDA, if any**  
None.

**ORDINANCES/RESOLUTIONS**

None.

*Deputy Clerk Stefanich 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.

- 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: Makayla Peters Claim

Motion by Alderman Ament to go to Closed Session at 9:42 PM. Seconded by Alderman Seidl and carried unanimously per roll call vote.

Motion by Alderman Seidl to reconvene in Open Session at 9:50PM. Seconded by Alderman Wysocki and carried unanimously.

**RECONVENUE TO OPEN SESSION**

**Discussion and possible action on the Makayla Peters Claim**

No action taken.

**ADJOURN**

Motion by Alderman Wysocki to adjourn at 9:51 PM. Seconded by Alderman Harenda and carried unanimously.

Respectfully submitted:

Christine Stefanich  
Deputy Clerk