

**CITY OF NEW BERLIN
PROCEEDINGS OF THE COMMON COUNCIL
Tuesday, October 28, 2008**

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 8:17 PM after 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, Moore and Ament. Also present were: City Clerk Marilyn Gauger, City Attorney Mark Blum and City Engineer JP Walker.

This meeting was noticed on Friday, October 24, 2008 and amended Monday, October 27, 2008 in accordance with the Open Meeting Law.

REPORTS

City Clerk – Registering and absentee voting is occurring at City Hall on Wednesday, October 29th from 8AM to 7PM; Thursday, October 30th from 8AM to 4:30PM; Friday, October 31st from 8AM to 4:30PM.

Council President – Should cancel our November 25th meeting.

Mayor – It is your right to vote for leaders of your country, please do so. Tuesday, November 11th is Veterans Day. That is a Council meeting night. Because of that we will not hold our program here at City Hall. We will join with Eisenhower High School at 9AM on Veterans Day. Alderman Wysocki indicated the VFW is holding a program at 17900 W Beloit Road with the City band and some presentations.

City Attorney - none

COMMUNICATIONS

Christine Chialiva Claim

Referred to City Attorney

BOARD OF PUBLIC WORKS

Resolution to approve the Submission of a Petition to the Office of the Commissioner of Railroads for the Union Pacific Crossing at Lincoln Avenue

Motion by Alderman Moore to approve Resolution No. 08-36 Petition to the Office of the Commissioner of Railroads for the Reconstruction And Widening Of An At-Grade Crossing of the Union Pacific at Lincoln Avenue. Seconded by Alderman Harenda and carried unanimously.

Inclusion of a 10-ft wide Multi-Use Trail and a 5-ft wide Sidepath in the I-43 & Racine Avenue Interchange

Motion by Alderman Moore to approve the inclusion of a 10-ft wide Multi-Use Trail and a 5-ft wide Sidepath in the I-43 & Racine Avenue Interchange. Seconded by Alderman Hopkins.

Motion by Alderman Wysocki to divide the question. Seconded by Alderman Hopkins and carried unanimously.

10-ft multi-use trail: Motion by Alderman Wysocki to approve the 10 ft multi-use trail with the State being required to maintain the trail. Seconded by Alderman Hopkins and carried with Aldermen Seidl and Ament voting no.

5-ft sidepath: Motion by Alderman Moore to install the 5-ft sidepath. Seconded by Alderman Poshepny and failed with Aldermen Poshepny and Moore voting yes.

SAFETY COMMISSION

Replace “Yield” signs on Janice Place & 147th Street with official “Stop” signs

Motion by Alderman Poshepny to replace “Yield” signs on Janice Place & 147th Street with official “Stop” signs for a period of not less than 30 days and red flags be placed on these signs to draw attention to the new installation. Seconded by Alderman Wysocki and carried unanimously.

Install Street light on the southeast corner of the intersection of National Avenue & 147th Street to illuminate the entrance south of 147th Street

Motion by Alderman Poshepny to install a street light on the southeast corner of the intersection of National Avenue & 147th Street to illuminate the entrance south of 147th Street. Seconded by Alderman Hopkins and carried unanimously.

UTILITY COMMITTEE

Contract for the professional engineering services for the SCADA System Programming Upgrade Project for the expansion of Milwaukee water

This item was not acted upon at Utility Committee.

Resolution No. 08-35 Adopting An Identity Theft Policy

Motion by Alderman Harenda to approve Resolution No. 08-35 Adopting an Identity Theft Policy because the Federal Trade Commission (FTC) rules mandate written procedures must be in place by November 1, 2008 which identify, detect and respond to possible signals of identity theft known as "Red Flags". Seconded by Alderman Ament and carried unanimously.

WATER RESOURCE MANAGEMENT COMMITTEE

2009 Water Resource Management Operating Budget

Motion by Alderman Harenda to approve the 2009 Water Resource Management Operating Budget in the amount of \$1,397,639. Seconded by Alderman Moore and carried unanimously.

MAYORAL APPOINTMENTS

Landmarks Commission

Motion by Alderman Seidl to approve the re-appointment of Kay A Jashinsky with term expiring 10-1-2011. Seconded by Alderman Wysocki and carried unanimously.

Library Board

Motion by Alderman Wysocki to approve the appointment of Joyce E Boehlen with term expiring 6-30-2011. Seconded by Alderman Ament and carried unanimously.

Parks Recreation & Forestry Commission

Motion by Alderman Ament to approve the appointment of Eugene A Wicichowski with term expiring 4-30-2009. Seconded by Alderman Moore and carried unanimously.

Plan Commission

Motion by Alderman Hopkins to approve the appointment of William J Christel with term expiring 4-30-2010. Seconded by Alderman Wysocki and carried unanimously.

DEFERRALS, REFERRAL & TABLED ITEMS

None.

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CONSENT AGENDA

Motion by Alderman Seidl to approve all of the following items listed on the Consent Agenda as amended. Seconded by Alderman Hopkins and carried unanimously.

MINUTES - Common Council minutes from October 14, 2008

UTILITY AND FINANCE

Water Utility claims in the amount of \$49,674.87, Sewer Utility claims in the amount of \$13,605.45, and Bi-weekly claims in the amount of \$496,583.12, all of which represents payment to vendors

LCENSES & PERMITS

Bartenders

Bartender License for the year 2008-2010 Brittany Kegley/denied.

Bartender License for the year 2008-2010 to Chris Hill, Jeff Lange, Karen VanRite, Kelly Griksas, Greg Erlitz,

Joshua Herrick, Jessica Kawalske, Nathaniel Lewis, Molly O'Day and Brenda Tomashaski

Class A Liquor

Carol Svehlek, Agent/Mrs. Sippy's Coffee LTD at 15136 W National Avenue

MISCELLANEOUS

Discussion and possible action to recommend the rescission of the Common Council motion adopted 8-26-2008 directing the City Attorney to prepare a Special Assessment Resolution for the Howard Avenue Assessment District.

Discussion and possible action to direct the City Attorney to prepare a Final Special Assessment Resolution for the Howard Avenue Assessment District with the terms as set forth in the City attorney and city engineer's correspondence dated 10-21-08.

Set a Public Hearing for December 1, 2008 at 6:01 p.m. to be held before the Plan Commission from Pastor Dave Gall has filed a petition to rezone the property located at approximately 17770 W. Cleveland Ave. from I-1 and C-2 to I-1 and C-2 to Field Delineate the Wetlands.

Set a Public Hearing for December 1, 2008 at 6:02 p.m. to be held before the Plan Commission for Mr. Michael Losik has filed a petition to rezone the property located at approximately 19000 W. Lincoln Ave. from C-1 and C-2 to C-1 and C-2 to Field Delineate the Wetlands.

DEFERRED, REFERRED & TABLED ITEMS

Common Council approves any pay or benefit increases before they go into affect. Instruct the City Attorney to draw up a resolution or ordinance (whichever is appropriate) to be approved at the next Common Council meeting/REFERRED TO FINANCE COMMITTEE/5-13-08

No action taken.

Refer The Changing Of The Regular BPW Monthly Meeting Date And Time From The First Monday Mornings Of The Month At 8:00AM To The Evening Of The 3rd Wednesday Of The Month At 6:00PM To The BPW For Their Discussion And Recommendation (*changed to Report Back*) To The Common Council/Alderman Ament/REFERRED TO BOARD OF PUBLIC WORKS/8-12-08

No action taken.

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.

Resolution No. 08-25 A Resolution Transferring Funds From Contingency to Fire Department Accounts/DEFERRED 9-23-08/TABLED 10-14-08/Failed

Direct the City Attorney to Prepare the Final Resolution for the Howard Avenue Special Assessment Sewer Project/TABLED 9-23-08/This item is removed from the agenda.

2009 Department CIP Budgets/TABLED 10-14-08

No action taken.

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ITEM/S REMOVED FROM CONSENT AGENDA:

Postpone the construction of Fire Station #3 and transfer the funds allotted to this project to complete renovation of Fire Station #5.

Motion by Alderman Poshepny to postpone the construction of Fire Station #3 and transfer the funds allotted to

this project to complete renovation of Fire Station #5. Seconded by Alderman Moore.

Alderman Hopkins called for the question. Seconded by Alderman Ament and carried with Aldermen Poshepny and Moore voting no.

Upon voting original motion failed with Aldermen Poshepny and Moore voting yes.

ORDINANCES/RESOLUTIONS

Ordinance No. 2393 To Repeal And Recreate Section 261-17 Vehicles and Traffic Of The Municipal Code Of The City Of New Berlin Concerning The Operation Of Off Road Motor Vehicles (2nd reading) (1st reading at COW on 10-14-08)

Mayor Chiovatero indicated this is the 2nd reading.

Ordinance No. 2394 To Amend Section 121-1 Firearms and Weapons Of The Municipal Code Of The City Of New Berlin Concerning Restricting The Discharge Of Firearms In The City Of New Berlin (2nd reading) (1st reading at COW on 10-14-08)

Mayor Chiovatero indicated this is the 2nd reading.

Motion by Alderman Ament to waive the 2nd and 3rd reading. Seconded by Alderman Wysocki and carried with Aldermen Seidl and Harenda voting no.

Motion by Alderman Hopkins to adopt Ordinance No. 2394. Seconded by Alderman Wysocki and carried unanimously.

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.

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: Richard & Doris Gregory Claim

Motion by Alderman Seidl to go to Closed Session at 9:51 PM. Seconded by Alderman Ament and carried unanimously per roll call vote.

Motion by Alderman Wysocki to reconvene to Open Session at 10:21 PM. Seconded by Alderman Hopkins and carried unanimously.

ADJOURN

Motion by Alderman Ament to adjourn at 10:21 PM. Seconded by Alderman Seidl and carried unanimously.

Respectfully submitted:

Marilyn Gauger, MMC/WCMC
City Clerk