

**CITY OF NEW BERLIN
PROCEEDINGS OF THE COMMON COUNCIL
Tuesday, January 15, 2007**

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 9:21 PM after Committee of the Whole and Privilege of the Floor.

Present were Aldermen Hopkins, Augustine, Gallagher, Harenda, Hegeman, Moore and Ament. Also present were: City Attorney Mark Blum, City Clerk Marilyn Gauger, Community Development Director Greg Kessler, City Engineer JP Walker and Transportation Engineer Ron Schildt.

This meeting was noticed on Friday, January 5, 2007 in accordance with the Open Meeting Law.

Those present recited the Pledge of Allegiance.

REPORTS

City Clerk – none

Council President - none

Mayor – Mayor Chiovaturo wished everyone a Happy New Year and he is looking forward to a great 2007.

City Attorney - none

COMMUNICATIONS

ITEMS FOR ACTION:

Settlement Agreement with National Regency

Motion by Alderman Hopkins to approve the Settlement Agreement with National Regency (Agreement In Settlement Of Property Tax Exemption Refund Claim Of National Regency of New Berlin, Inc). Seconded by Alderman Hegeman and carried unanimously.

Request for action which closed Wilbur Drive to Two-Way traffic be repealed/Alderman Moore

Motion by Alderman Moore to repeal action that closed Wilbur Drive to 2-way be repealed and be open to 2 way traffic. Seconded by Alderman Gallagher.

Motion to table by Alderman Gallagher until the problem is fixed. Died lack of second.

Original motion to repeal action that closed Wilbur Drive failed with Alderman Moore voting yes and Alderman Gallagher abstained.

MAYORAL APPOINTMENTS

Communications Committee

Motion by Alderman Ament to approve the appointment of Kris S Scalzo with the term expiring 12-31-2007. Seconded by Alderman Harenda and carried unanimously.

Finance Committee

Motion by Alderman Augustine to approve the re-appointment of Daniel T Lavinio with the term expiring 1-9-2008. Seconded by Alderman Moore and carried unanimously.

DEFERRALS, REFERRAL & TABLED ITEMS

Certified Survey Map for the property located at 18200 W. Lynette Lane and accept the Plan Commission Report/DEFERRED 12-12-06

Motion by Alderman Gallagher to approve the Certified Survey Map for the property located at 18200 W. Lynette Lane and accept the Plan Commission Report. Seconded by Alderman Hopkins.

City Attorney Mark Blum indicated that Council members have copies of letters received from attorneys with opposite opinions representing the Aments (neighbor) and the Wienkes (applicant).

Alderman Ament recused himself from the discussion and left the Council table.

Motion to amend by Alderman Gallagher to accept the cul de sac and right of way as currently is with prescriptive easement rights. Seconded by Alderman Hopkins with a 3 to 3 vote. The tie was broke by Mayor

Chiovaturo voting yes. Aldermen Augustine, Harenda and Hegeman voting no and Alderman Ament abstaining.

Upon voting the original motion as amended the vote was 3 to 3. The tie was broke with Mayor Chiovaturo voting yes. Aldermen Augustine, Harenda and Hegeman voting no and Alderman Ament abstaining.

Alderman Ament returned to council table without participating in the above discussion or vote.

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CONSENT AGENDA

Motion by Alderman Ament to approve the following items on the Consent Agenda. Seconded by Alderman Hegeman and carried unanimously.

MINUTES - Common Council minutes from December 12, 2006

UTILITY AND FINANCE

Claims

December 27, 2006

- Water Utility claims in the amount of \$36,634.46, Sewer Utility claims in the amount of \$324,404.97, of that amount \$309,164.33 represents payment to MMSD, and Bi-weekly claims in the amount of \$453,698.95, all of which represents payment to vendors. Tax overpayments in the amount of \$131,465.27.

January 10, 2007

- Water Utility claims in the amount of \$43,672.82, Sewer Utility claims in the amount of \$37,378.41, and Bi-weekly claims in the amount of \$634,317.70, all of which represents payment to vendors. Tax overpayments in the amount of \$151,864.62.

LICENSES & PERMITS

Bartenders

- Bartender License for the year 2006-2008 to Ralph Grimm, Paul Arnstein and Zachary Schmidt.

MISCELLANEOUS

- Rubbish License for Waste Management of Franklin; Veolia Environmental Services and Eagle Disposal Inc.
- Fire Department part-time/paid-on-call pay rates effective 1-1-2007

DEFERRED, REFERRED & TABLED ITEMS

- Resolution No. 06-42 A Preliminary Resolution Declaring Intent to Levy Special Assessments and Directing the City Engineer to Prepare a Report for the Installation of Sanitary Sewer System to Service Areas on the North Side of Howard Avenue (west of Sunny Slope Road)/TABLED 11-14-06/**No action taken.**

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TEM/S REMOVED FROM CONSENT AGENDA

- **Request for appeal of denial of Bartender License for the year 2006-2008 for Dara Hoberg.**
Motion by Alderman Hegeman to approve the appeal of denial of Bartender License for the year 2006-2008 for Dara Hoberg. Seconded by Alderman Ament and carried with Alderman Gallagher voting no.
- **Request to authorize the Finance Director to sign the Declaration of Official Intent for the 2007 CIP Debt Issue.**
Motion by Alderman Hopkins to authorize the Finance Director to sign the Declaration of Official Intent for the 2007 CIP Debt Issue. Seconded by Alderman Moore carried with Alderman Ament voting no.

- **Request to hold a Public Hearing before the Common Council for the Calhoun Road Reconstruction Project/Alderman Ament.**

Motion by Alderman Ament to hold a Public Hearing before the Common Council for the Calhoun Road Reconstruction Project. Seconded by Alderman Augustine.

Alderman Harenda added the following friendly amendment to the motion with an okay from Alderman Ament and Alderman Augustine: "Common Council will hold a public informational meeting following the procedures of an official public hearing before the Common Council on Calhoun Road Reconstruction (project) but prior to that hold an informal PIM (Public Information Meeting) on the designs listed."

The above motion as amended carried with Aldermen Hopkins, Moore and Gallagher voting no.

ORDINANCES/RESOLUTIONS

Ordinance No. 2335 Ordinance To Amend Portions of Section 152-6 Licenses and Permits of the Municipal Code of the City of New Berlin Concerning Charitable Solicitations

Mayor Chiovero indicated this is the 2nd reading.

Ordinance No. 2337 Ordinance Amending Section 152-4 Licenses and Permits Regarding Sales of Fermented Malt Beverages In Premised Where Fuel Sales Take Place

Mayor Chiovero indicated this is the 2nd reading and clarification/change was made per Alderman Moore's request.

Charter Ordinance No. 7 Charter Ordinance Repealing the Special Assessment Review Committee of the City of New Berlin

Mayor Chiovero indicated this is the 2nd reading.

Resolution No. 07-01 A Resolution Approving Payment For Election Inspectors/Officials

Motion by Alderman Harenda to approve Resolution No. 07-01. Seconded by Alderman Hopkins 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) (e) of the Wisconsin State Statutes, deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session; more specifically: AT&T U-Verse Proposal.

Motion by Alderman Augustine to go to Closed Session at 10:35 PM. Seconded by Alderman Harenda and carried unanimously per roll call vote.

Motion by Alderman Augustine to reconvene in Open Session at 10:55 PM. Seconded by Alderman Hegeman and carried unanimously.

OPEN SESSION

Discussion and possible action on joint legal participation agreement with Boardman Law Firm.

Motion by Alderman Harenda to authorize the City Attorney to execute the Regional Telecommunications Commission Joint Participation Agreement for an amount not to exceed One-Thousand Dollars (\$1,000). Seconded by Alderman Hopkins and carried unanimously.

ADJOURN

Motion by Alderman Moore to adjourn at 10:56 PM. Seconded by Alderman Augustine and carried unanimously.

Respectfully submitted:

Marilyn Gauger, CMC/WCMC
City Clerk