

**CITY OF NEW BERLIN
PROCEEDINGS OF THE COMMON COUNCIL
Tuesday, February 13, 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 7:45 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, Planning Services Manager Nikki Jones and City Engineer JP Walker.

This meeting was noticed on Thursday, February 8, 2007 in accordance with the Open Meeting Law.

Those present recited the Pledge of Allegiance.

City Clerk – The February Primary Election is Tuesday, February 20th. Voting is state-wide due to 3 candidates running for Justice of the Supreme Court. The City's Aldermanic District #5 is also on the ballot. Three candidates are running for 5th District Alderman position. Two (2) Polling Places have changed. They are District #3 and District #4. The new location for District #3 is World Harvest Church formerly known as Calhoun School located on West Lane which is south of Greenfield Avenue, west of Calhoun Road. The new location for District #4 is Peace Lutheran Church at the intersection of Small Road and College Avenue, enter from Small Road. If you have any questions regarding your polling place or the election please call the City Clerk's office at 786-8610.

Council President - none
Mayor – none
City Attorney - none

COMMUNICATIONS - none

PLAN COMMISSION

Resolution #07-05 Poplar Creek Subdivision Final Plat

Motion by Alderman Ament to approve Resolution #07-05 that approves Poplar Creek Subdivision Final Plat for the property located at 3095 & 3111 S. Calhoun Road and accept the Plan Commission Report. Seconded by Alderman Harenda and carried unanimously.

Certified Survey Map for the property located at 3461 S. Long Acre Drive

Motion by Alderman Ament to approve Certified Survey Map for the property located at 3461 S. Long Acre Drive and accept the Plan Commission Report. Seconded by Alderman Moore and carried unanimously.

Note: Planning Services Manager Nikki Jones will add the City Code Section number to the 2nd waiver.

No objection to the Ridge View Estates of Vernon Extraterritorial Plat

Motion by Alderman Ament that there is No objection to the Ridge View Estates of Vernon Extraterritorial Plat in the Town of Vernon and accept the Plan Commission Report. Seconded by Alderman Hopkins and carried with Aldermen Harenda and Moore voting no.

BOARD OF PUBLIC WORKS

Professional Services Contract to the lowest responsive, responsible consultant, Ruekert-Mielke for consulting services related to the redesign of Glendale Drive

Motion by Alderman Augustine to approve the Professional Services Contract to the lowest responsive, responsible consultant, Ruekert-Mielke for consulting services related to the redesign of Glendale Drive from Calhoun Road to 162nd Street in the amount of \$119,097.50. The total Contract is not to exceed \$136,962. Seconded by Alderman Moore and carried unanimously.

Amend the existing Development Agreement for Farrell Meadows Condominiums

Motion by Alderman Augustine to Amend the existing Development Agreement for Farrell Meadows Condominiums to allow Buildings #18 and #21 to be built as models in place of Buildings #11 and #14. Seconded by Alderman Hopkins and carried with Aldermen Gallagher and Ament voting no.

WATER RESOURCE MANAGEMENT COMMITTEE

Construction Contract for the U-317 Lincoln Calhoun Drainage Easement

The Committee meeting was not held therefore there is no recommendation

MAYORAL APPOINTMENT

Plan Commission

Motion by Alderman Ament to approve the appointment of Jenalyn Groeschel with term expiring 4-30-2008. Seconded by Alderman Harenda and carried unanimously.

DEFERRALS, REFERRAL & TABLED ITEMS

Ordinance No. 2342 that approves the rezoning of property known as Observatory Heights Phase II, North Parcel located at 3910, 3930, and 4040 Woelfel Road from R-1/ R-2, C-1 to R-1/R-2, C-1 to remove some of the C-1 and accept the Plan Commission Report/DEFERRED 1-23-07

Motion by Alderman Ament to adopt Ordinance #2342 that approves the rezoning of property known as Observatory Heights Phase II, North Parcel located at 3910, 3930, and 4040 Woelfel Road from R-1/ R-2, C-1 to R-1/R-2, C-1 to remove some of the C-1 and accept the Plan Commission Report. Seconded by Alderman Hopkins and failed with Alderman Gallagher voting yes.

Motion by Alderman Ament to deny the adoption of Ordinance No. 2342 for the following reasons:

- New Berlin Municipal Code, Section 275.37 A (3) Special Districts – Provides that natural drainage patterns are to be protected to minimize flooding and flood damage.

We need to protect the natural drainage along Poplar Creek and I was told that the remaining C1 to the east was not to be changed when we approved the western parcel.

- New Berlin Municipal Code, Section 275.22 H - Resubmittal. In the event the owner or subsequent owner of property desires to re-petition the Common Council to rezone all or part of land involved in a previous petition, a twelve-month period must elapse from the time of the final decision of one petition to the filing of the subsequent petition, unless Common Council has denied the petition "without prejudice.

Twelve months must elapse before requesting another C1 change and that has not happened. This does not restrict or stop them from doing what they originally intended to do which was to subdivide this for five (5) acre lots that are sellable/buildable lots with plenty of room for outbuildings with the western half removed.

This is not the minimum action necessary to accomplish the intent of this petition as required per New Berlin Municipal Code 275.22 (F) (2) (g) as stated in the staff report.

Seconded by Alderman Moore and carried with Alderman Gallagher voting no.

Professional Services Contract to the lowest responsive, responsible consultant, Strand Associates, Inc. for consulting services related to the redesign of Ryerson Road from Calhoun Road to Moorland Road in the amount of \$199,750.00/DEFERRED 1-23-07

Motion by Alderman Augustine to approve Professional Services Contract to the lowest responsive, responsible consultant, Strand Associates, Inc. for consulting services related to the redesign of Ryerson Road from Calhoun Road to Moorland Road in the amount of \$199,750.00. The total contract is not to exceed \$229,750.00. Seconded by Alderman Moore and carried unanimously.

Professional Services Contract to the lowest responsive, responsible consultant, Bloom consultants for consulting services related to the redesign of Lincoln Avenue from Calhoun Road to Moorland Road in the amount of \$219,543.83/DEFERRED 1-23-07

Motion by Alderman Augustine to approve Professional Services Contract to the lowest responsive, responsible consultant, Bloom consultants for consulting services related to the redesign of Lincoln Avenue from Calhoun Road to Moorland Road in the amount of \$219,543.83. Total contract not to exceed \$252,430.00. Seconded by Alderman Hopkins and carried unanimously.

CONSENT AGENDA

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

MINUTES - Common Council minutes from January 23, 2007

UTILITY AND FINANCE

Claims

- Approve Water Utility claims in the amount of \$47,087.09, Sewer Utility claims in the amount of \$246,121.04, and Bi-weekly claims in the amount of \$566,908.18. There are tax overpayments in the amount of \$82,196.70.

LICENSES & PERMITS

Bartenders

- Approve the Bartender License for 2006-2008 to Jodie Krawczyk
- Approve the Bartender Licenses for 2006-2008 to James Ambrowiak, Kelly Deshotels, Sean Domanski, Robert French, Tammy Gillespie, Timothy Karolewicz, Tracie Larrick, Nicholas Lewin, Terry Livingston, Dawn Olson, Heather Ramsey, Cheryl Smukowski and Corey Zajac.

Class A Retail Beer

- Tabled Clark National LLC/Citgo Kwik Stop at 15815 W National Avenue/Agent, Jerry J Spencer
- Tabled Open Pantry Food Marts/Open Pantry at 15551 W Cleveland Avenue/Agent, James L Schutz

Class B Retail Liquor

- Approve Princeton Club New Berlin LLC/Princeton Club at 14999 W Beloit Road/Agent, Michael Kuglitsch
- Approve New Berlin Bowling Center Inc/New Berlin Bowl at 16000 W Cleveland Avenue/Agent, Alan R Passehl
- Approve Mikey's Place at 19745 W National Avenue/Agent, Michael D Clark, Sr.

Change of Agent

- Approve Roaring Fork LLC/Ron Stokes of 13300 W Dakota Street, Agent for Qdoba Mexican Grill at 15620 W National Avenue

MISCELLANEOUS

- Approve to Set a Public Hearing Date of Tuesday, April 10, 2007 at 7:00 PM to be held prior to the Committee of the Whole for the redesign of Calhoun Road.

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/*Remained on the table.*

ITEM/S REMOVED FROM CONSENT AGENDA

LICENSES

Bartenders

Motion by Alderman Hopkins to approve the Bartender License for 2006-2008 for Jodie Krawczyk. Seconded by Alderman Augustine and carried with Aldermen Gallagher, Hegeman and Moore voting no.

ORDINANCES/RESOLUTIONS

Ordinance No. 2343 Ordinance To Amend Chapter 184 PARKS AND PARKWAY of the City of New Berlin Municipal Code Section 18 Regarding Regulation of Bicycle Riders

Mayor Chiovarero indicated this is the 1st reading.

Resolution No. 07-03 Resolution To Extend the Time Warner Cable Contract

Motion by Alderman Hopkins to approve Resolution No. 07-03. Seconded by Alderman Harenda and carried unanimously.

Resolution No. 07-04 Resolution To Change The Parking Restrictions On Sunny Slope Road

Motion by Alderman Hegeman to approve Resolution No. 07-04. 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) (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: Ronald Parajecki Claim and Moy/New Berlin School District Claim

Motion by Alderman Ament to go to Closed Session at 8:35 PM. Seconded by Alderman Hegeman and carried unanimously per roll call vote.

RECONVENE TO OPEN SESSION

Motion by Alderman Ament to reconvene in Open Session at 9:00 PM. Seconded by Alderman Hegeman and carried unanimously.

DISCUSSION AND POSSIBLE ACTION:

Ronald Parajecki Claim

No action taken.

Moy/New Berlin School District Claim

No action taken.

ADJOURN

Motion by Alderman Ament to adjourn at 9:03 PM. Seconded by Alderman Augustine and carried unanimously.

Respectfully submitted:

Marilyn Gauger, CMC/WCMC
City Clerk