

**CITY OF NEW BERLIN
PROCEEDINGS OF THE COMMON COUNCIL
Tuesday, April 10, 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 11:26 PM after the Citizen of the Year Award, Calhoun Road Reconstruction Public Hearing, 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, City Engineer JP Walker, Community Development Director Greg Kessler, Planning Services Manager Nikki Jones, Transportation Engineer Ron Schildt, Transportation Engineer Tammy Simonson and Stormwater Engineer Eric Nitschke.

This meeting was noticed on Thursday, April 5, 2007 and amended on Friday, April 6, 2007 in accordance with the Open Meeting Law.

Those present recited the Pledge of Allegiance.

City Clerk - Election results are located on the City's website at www.newberlin.org. Earth Day is scheduled for Saturday, April 21st from 12 Noon to 3:00 PM at Calhoun Park with a rain date of Sunday, April 22. Call the Information Line at 262-754-1700 if the weather is questionable.

Council President – WisDOT and their contractor will hold a Public Information Meeting on April 26th from 4:00 PM to 6:00 PM regarding the I-43/Moorland Road Interchange Reconstruction.

Mayor – The April 24th Council meeting will be replaced with a Special Council Meeting on Thursday, April 19th at 7:00 PM because I will be out of town.

City Attorney - none

COMMUNICATIONS – referred to City Attorney

Ross & Jana Roman Claim

PLAN COMMISSION

Ordinance #2347 that approves the rezoning of property known as Pewaukee City Land Company located at 15620 W. Beloit Road

Motion by Alderman Ament to adopt Ordinance #2347 that approves the rezoning of property known as Pewaukee City Land Company located at 15620 W. Beloit Road from B-4,R-4,O-2,C-1 to O-2,C-1,C-2 to field delineate the wetlands and remove the B-4 and R-4 Zoning Districts and accept the Plan Commission Report. Seconded by Alderman Hegeman and carried unanimously.

Ordinance #2348 that approves the rezoning of property known as Poplar Creek located at 3111 S. Calhoun Road

Motion by Alderman Ament to adopt Ordinance #2348 that approves the rezoning of property known as Poplar Creek located at 3111 S. Calhoun Road from R-1/R-2, C-2, and FFO to R-1/R-2, C-2, and FFO to field delineate the floodplain and accept the Plan Commission Report. Seconded by Alderman Hopkins and carried unanimously.

Ordinance #2349 that approves the rezoning of property known as Deer Creek Inn & Conference Center located at 1401 S. Moorland Road

Motion by Alderman Ament to adopt Ordinance #2349 that approves the rezoning of property known as Deer Creek Inn & Conference Center located at 1401 S. Moorland Road from B-1/PUD and C-2 to B-1/PUD and C-2 to field delineate the wetlands and accept the Plan Commission Report. Seconded by Alderman Hegeman and carried unanimously.

Certified Survey Map for the property located at 17125 W. Sundown Drive

Motion by Alderman Ament to approve the Certified Survey Map for the property located at 17125 W. Sundown Drive and accept the Plan Commission Report. Seconded by Alderman Hopkins and carried unanimously.

BOARD OF PUBLIC WORKS

Development design components of Alternative 3A for the reconstruction of Calhoun Road

Motion by Alderman Augustine to approve the Development design components and funding alternatives for Alternative 3A for the reconstruction of Calhoun Road, so that the Consultant (Bloom Consultants) can complete the design for the Project, setting the stage for the Relocation Order to be issued and Right-of-Way Acquisition phase to begin. Seconded by Alderman Moore.

Motion by Alderman Hopkins to table. Seconded by Alderman Hegeman and carried with Aldermen Moore and Ament voting no.

MAYORIAL APPOINTMENTS

Board of Appeals

Motion by Alderman Ament to approve the re-appointment of Brian H Loohuis for a term expiring 4-30-2010. Seconded by Alderman Hegeman and carried unanimously.

Board of Review

Motion by Alderman Ament to approve the re-appointment of Gary R Beier for a term expiring 4-30-2012. Seconded by Alderman Hegeman and carried unanimously.

Plan Commission

Motion by Alderman Hopkins to approve the re-appointment of Marta Broge for a term expiring 4-30-2010. Seconded by Alderman Hegeman and carried unanimously.

Motion by Alderman Ament to approve the re-appointment of Paul Gihring for a term expiring 4-30-2010. Seconded by Alderman Harenda and carried unanimously.

Safety Commission

Motion by Alderman Hegeman to approve the re-appointment of James T Moczydlowski for a term expiring 4-30-2009. Seconded by Alderman Hopkins and carried unanimously.

Motion by Alderman Moore to approve the re-appointment of Earl R Strandt for a term expiring 4-30-2009. Seconded by Alderman Hegeman and carried unanimously.

Motion by Alderman Hegeman to approve the re-appointment of Frederick E Witty for a term expiring 4-30-2009. Seconded by Alderman Ament and carried unanimously.

Weed Commissioner

Motion by Alderman Ament to approve the re-appointment of Duane Hause for a term expiring 4-30-2008. Seconded by Alderman Augustine and carried unanimously.

DEFERRALS, REFERRAL & TABLED ITEMS

Board Of Public Works

Use of funds from the Trail Impact Fee Account 22170000-57050 and the Bike Impact Fee Account 22186800-57050 for the construction of the Westridge Trail Phase 2 along Moorland Road and Beloit Road including installation of a boardwalk, concrete sidepath, asphalt sidepath, utility adjustments, restoration and construction inspection. Funding for this project was approved in the 2005 CIP Budget/TABLED 3-27-07

Motion by Alderman Moore to remove from the table. Seconded by Alderman Gallagher and carried with Aldermen Hegeman and Ament voting no.

Motion by Alderman Augustine to approve the use of funds from the Trail Impact Fee Account 22170000-57050 and the Bike Impact Fee Account 22186800-57050 for the construction of the Westridge Trail Phase 2 along Moorland Road and Beloit Road including installation of a boardwalk, concrete sidepath, asphalt sidepath, utility adjustments, restoration and construction inspection. Funding for this project was approved in the 2005 CIP Budget. Seconded by Alderman Moore and carried with Aldermen Harenda, Hegeman and Ament voting no.

Awarding of a Construction Contract to the lowest responsive, responsible bidder, Capitol Pavers, Inc for construction of the Alternative Transportation Facilities Westridge Trail Phase 2 along Moorland Road and Beloit Road in an amount of \$205,862.50 with inspection and contingencies, the not to exceed Total Project Costs are \$236,740.00/TABLED 3-27-07

Motion by Alderman Moore to remove from the table. Seconded by Alderman Gallagher and carried unanimously.

Motion by Alderman Augustine to approve awarding of a Construction Contract to the lowest responsive, responsible bidder, Capitol Pavers, Inc for construction of the Alternative Transportation Facilities Westridge Trail Phase 2 along Moorland Road and Beloit Road in an amount of \$205,862.50 with inspection and contingencies, the amount not to exceed Total Project Costs are \$236,740.00. Seconded by Alderman Moore and carried with Aldermen Harenda, Hegeman and Ament voting no.

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CONSENT AGENDA

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

MINUTES - Common Council minutes from March 27, 2007

UTILITY AND FINANCE

Claims

- Water Utility claims in the amount of \$62,168.35, Sewer Utility claims in the amount of \$29,503.29 and Bi-weekly claims in the amount of \$225,383.27, all of which represents payment to vendors

LICENSES & PERMITS

Bartenders

- Bartender Licenses for 2006-2008 to Michael Metcalf, Laura Fena and David Ruszkiewicz

Extension of Loudspeaker Permit

- Holy Apostles Parish/16000 W National Avenue/to allow the band to play until 10:30 PM on Friday, June 22, 2007 and Saturday, June 23, 2007 for their Family Festival.

MISCELLANEOUS

- Resolution No. 07-09 Regarding Proposed State of Wisconsin 2007 Assembly Bill 207 and 2007 Senate Bill 107, Relating to Regulation of Cable Television and Video Service Providers.

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
This item remained on the table.

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ITEM/S REMOVED FROM CONSENT AGENDA

LICENSES & PERMITS

Bartenders

Motion by Alderman Moore to deny the Bartender License for 2006-2008 to Erica Potter. Seconded by Alderman Augustine and carried with Alderman Ament voting no.

ORDINANCES/RESOLUTIONS

Ordinance No. 2346 Ordinance Amending Section 100-1 Drugs and Drug Paraphernalia Of The Municipal Code Of The City Of New Berlin

Mayor Chiovatero indicated this is the 1st reading and asked to waive the 2nd and 3rd readings.

Motion by Alderman Ament to waive the 2nd and 3rd reading. Seconded by Alderman Hopkins and carried with Aldermen Augustine, Gallagher and Moore voting no.

Motion by Alderman Hegeman to adopt Ordinance No. 2346. Seconded by Alderman Hopkins and carried with Aldermen Augustine and Moore voting no.

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) and (g) of the Wisconsin State Statutes.

- (e) 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:
 - Potential acquisition of land via donation for proposed fire station.

- (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:
 - Todd Economy Claim
 - Samantha Suminski Claim
 - Cynthia Shekoski Claim
 - Richard & Doris Gregory Claim
 - Walgreen Excessive Assessment Claim for 2006

Motion by Alderman Ament to go to Closed Session at 12:08 AM. Seconded by Alderman Harenda and carried per roll call vote.

RECONVENE TO OPEN SESSION

Motion by Alderman Harenda to reconvene in Open Session at 12:31 AM. Seconded by Alderman Hegeman and carried unanimously.

DISCUSSION AND POSSIBLE ACTION:

Todd Economy Claim

No action taken.

Samantha Suminski Claim

Motion by Alderman Harenda to direct the City Attorney to settle the Samantha Suminski Claim in the amount of \$2,364.75. Seconded by Alderman Hegeman and carried unanimously.

Cynthia Shekoski Claim

Motion by Alderman Harenda to direct the City Attorney to settle the Cynthia Shekoski Claim in the amount of \$1,700.00. Seconded by Alderman Hegeman and carried with Alderman Moore voting no.

Richard & Doris Gregory Claim

Motion by Alderman Harenda to deny the Richard & Doris Gregory Claim. Seconded by Alderman Hegeman and carried unanimously.

Walgreen Excessive Assessment Claim for 2006

Motion by Alderman Harenda to deny the Walgreen Excessive Assessment Claim for 2006. Seconded by Alderman Hegeman and carried with Alderman Gallagher voting as being present/abstain.

ADJOURN

Motion by Alderman Hegeman to adjourn at 12:35 AM. Seconded by Alderman Gallagher and carried unanimously.

Respectfully submitted:

Marilyn Gauger, CMC/WCMC
City Clerk