

**CITY OF NEW BERLIN  
PROCEEDINGS OF THE COMMON COUNCIL  
Tuesday, August 28, 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 8:35 PM after Committee of the Whole and Privilege of the Floor.

Those present recited the Pledge of Allegiance.

Present were Aldermen Hopkins, Augustine, Seidl, Harenda, Poshepny, Moore and Ament. Also present was: City Clerk Marilyn Gauger, City Attorney Mark Blum, Planning Services Manager Nikki Jones, Community Development Director Greg Kessler, City Engineer JP Walker and Transportation Engineer Ron Schildt

***This meeting was noticed on Thursday, August 23, 2007 in accordance with the Open Meeting Law.***

**REPORTS**

City Clerk - none  
Council President - none  
Mayor - none  
City Attorney - none

**COMMUNICATIONS - none**

**PLAN COMMISSION**

**Ordinance No. 2358 that approves the rezoning of the property known as Lion's Den – New Berlin Eisenhower Football Booster Club**

Motion by Alderman Ament to adopt Ordinance No. 2358 that approves the rezoning of the property known as Lion's Den – New Berlin Eisenhower Football Booster Club located at 4333 S. Sunny Slope Road from I-1, C-1 and C-2 to I-1, C-1 and C-2 to field delineate the wetlands and accept the Plan Commission Report. Seconded by Alderman Harenda and carried unanimously.

**2-lot Certified Survey Map for the property located at 19100 W. Hillcrest Drive**

Motion by Alderman Ament to deny the 2-lot Certified Survey Map for the property located at 19100 W. Hillcrest Drive for the following reasons stated in Section 235.26 G of the City Code, new lots within existing residential subdivisions may be prohibited under any of the following criteria: 1) When the new lot area is less than the average area of the existing lots within the subdivision excluding unbuildable lots; or 2) When the new lot width is less than the average width of the existing lots within the subdivision excluding unbuildable lots; or 3) The subdivision was platted over 25 years ago. Seconded by Alderman Harenda and carried unanimously.

**Certified Survey Map for the property located at 3440 S Monterey Drive**

Motion by Alderman Ament to approve the Certified Survey Map for the property located at 3440 S Monterey Drive and accept the Plan Commission Report. Seconded by Alderman Seidl and carried unanimously.

**Certified Survey Map for the property located at 5450 S Moorland Road**

Motion by Alderman Ament to approve the Certified Survey Map for the property located at 5450 S Moorland Road and accept the Plan Commission Report. Seconded by Alderman Moore and carried unanimously.

**COMMUNITY DEVELOPMENT AUTHORITY**

**Ordinance No. 2357 that approves the rezoning of property known as Fed Ex located at 16555 W. Rogers Drive**

Motion by Alderman Harenda to adopt Ordinance No. 2357 that approves the rezoning of property known as Fed Ex located at 16555 W. Rogers Drive from M-2/SPO and C-2 to M-2/SPO and C-2 to field delineate the wetlands and accept the Plan Commission Report. Seconded by Alderman Augustine and carried unanimously.

**SPECIAL PROJECTS COMMISSION**

**Prospect Hill Restoration Foundation**

Motion by Alderman Ament to approve the Small Grants Program Grant for 07-05 the Prospect Hill Restoration Foundation in the amount of \$940.00. Seconded by Alderman Moore and carried unanimously.

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**Prospect Hill Restoration Foundation**

Motion by Alderman Ament to approve the Small Grants Program Grant for 07-06 the Prospect Hill Restoration Foundation in the amount of \$2,000.00. Seconded by Alderman Moore and carried unanimously.

**BOARD OF PUBLIC WORKS**

**Calhoun Road/Alternative 3A**

Motion by Alderman Augustine to approve the recommendation from the Board of Public Works who failed to approve Alternative 1A and recommends to the Common Council approval of Alternative 3A with the exclusion of the Cleveland Avenue intersection, resulting in an estimated construction cost of approximately \$8,669,000. Seconded by Alderman Poshepny and motion failed with Aldermen Hopkins, Poshepny and Moore voting yes.

Motion by Alderman Ament to instruct the BPW to work with Staff and Bloom Consultants to complete the final design components for rehabilitating Calhoun Road, commonly known as Alternative #1-A, as presented at the August 20, 2007 DPW meeting by Bloom Consultants, with the exclusion of the Cleveland Avenue intersection. Final design components to include rehabilitation of the roadway surface from Greenfield Avenue to Cleveland Avenue and to be rehabilitated to remain as a 2-lane road with removing existing asphalt and replacing the asphalt surface of the road as identified in Alternative 1-A by the consultant. The base to be repaired as needed to maximize the roadway life as presented by the consultant in Alternative 1-A. The roadway surface will provide a minimum of 13-15 years of service life for the anticipated traffic volumes per the letter dated April 4, 2007 from Darrell Berry of Bloom Consultants. Per the letter dated May 18, 2007 from City Engineer JP Walker the "base patching, proof rolling, grading the road base to create a 3% cross slope per the City's Developers Handbook."

The additional right turn lane on eastbound Westward Drive that was included by the consultant in Alternative 1-A shall be removed from the final design plan.

The 5' wide shoulder-paths on both sides of Calhoun Road included in the consultant's design of Alternative 1-A shall be included in the final design, as identified in the New Berlin Alternative Transportation Plan. The side road-turn lanes, the turn bays and the by pass lanes along Calhoun Road shall remain as presented by the consultant in Alternative 1-A. The County trail crossing shall be marked with signage and pavement markings that will provide the maximum safety at the Calhoun Road crossing.

The design components shall include all storm water improvements as identified by the consultant in Alternative 1-A.

Both sections of the Industrial Park service drive on the east side of Calhoun (Road) to remain in place and to be resurfaced. The connections of the service roads to Rogers, Lincoln and Glendale shall remain the same as presented by the consultant in Alternative 1-A. As identified in the letter from JP Walker to the BPW dated August 15, 2007 the total cost shall not to exceed \$3,512,245.00. Seconded by Alderman Seidl.

Alderman Moore amended the motion to create Alternative 3-A without lanes 3 and 4 with all streets having bypass and turnlanes. Seconded by Alderman Poshepny.

Motion by Alderman Hopkins to call the question on the amendment. Seconded by Alderman Ament and carried with Aldermen Poshepny and Moore voting no.

Voting on the amendment failed with Aldermen Hopkins and Moore voting yes.

The original motion by Alderman Ament carried with Aldermen Hopkins, Poshepny and Moore voting no.

**Wilbur Drive/Return to 2-way Traffic**

Motion by Alderman Augustine to approve the Placement of eight (8) speed tables, six (6) on Wilbur Drive (two of which have already been funded), one (1) on Cottonwood Drive and (1) on Spruce Road at an estimated cost of \$2,500 each, plus the removal of two stop signs at the "T" intersections at 147<sup>th</sup> Street, Cottonwood Drive and Spruce Road, returning Wilbur Drive to two-way traffic between 147<sup>th</sup> Street and Cottonwood Drive, plus the addition of one stop sign at the "T" intersection of Redwood Drive and Cottonwood Drive. To accomplish this, \$15,000 is to be transferred from Contingency Account 16000000 56120 to the 2007 Roadway Maintenance Account 15110029 59040. Seconded by Alderman Poshepny.

Alderman Augustine amended the motion to not take/remove the 2 stop signs at the "T" intersections at Cottonwood Drive and Spruce Road. Seconded by Alderman Poshepny and carried with Aldermen Hopkins, Poshepny and Moore voting no.

*Aldermen Augustine and Poshepny will work with engineering department on placement of the speed tables because not removing the 2 stop signs changes the placement of the speed tables.*

Upon voting, the amended motion carried unanimously.

**UTILITY COMMITTEE**

**Resolution No. 07-18 Resolution Providing For The Sale Of \$1,495,000 Water System Revenue Refunding Bonds**

Alderman Harenda explained the Utility Committee met just prior to this meeting however did **not** recommend approval of Resolution 07-18 instead Water Utility will borrow from Wastewater Utility.

Motion by Alderman Harenda to approve the borrowing of wastewater funds to call the \$2,340,000 Water System Revenue Bonds dated June 1, 1999 and call it as of December 1, 2007. Seconded by Alderman Seidl and carried unanimously.

**WATER RESOURCE MANAGEMENT COMMITTEE**

**Delaying the Eisenhower Underground Detention Facility Project until May 1, 2008.**

Motion by Alderman Harenda to approve the Request from Dr. Paul Kreutzer, New Berlin School District Administrator on August 3, 2007 who requests delaying the Eisenhower Underground Detention (Retention) Facility Project until May 1, 2008. Seconded by Alderman Hopkins and carried unanimously.

*Mayor Chiovatero deviated from the agenda to take up **Deferrals, Referral & Tabled Items** because the tabled item is related to the action taken delaying the Eisenhower Underground Retention Facility Project above.*

**DEFERRALS, REFERRAL & TABLED ITEMS**

**Water Resource Management**

**Construction Contract for the U-345 Eisenhower High School Storm Water Retention Facility, to the lowest responsive responsible bidder, *Willkomm Excavating & Grading, Inc.* in the amount of \$484,961.37 with the total project cost of \$539,280.00/TABLED 6-26-07**

Motion by Alderman Harenda to remove from the table. Seconded by Alderman Ament and carried unanimously.

Motion by Alderman Harenda for Common Council to reject all bids for the construction contract for the U-345 Eisenhower High School Storm Water Retention Facility. Seconded by Alderman Seidl and carried unanimously.

**MAYORAL APPOINTMENTS**

**Fourth of July Commission**

Motion by Alderman Ament to approve the re-appointment of Pat Palechek with a term expiring 8-1-2011. Seconded by Alderman Hopkins and carried unanimously.

**Parks, Recreation & Forestry Commission**

Motion by Alderman Moore to approve the appointment of Richard L. Kocchi with a term expiring 4-30-2009. Seconded by Alderman Poshepny and carried unanimously.

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**CONSENT AGENDA**

Motion by Alderman Harenda to approve all of the following items listed on the Consent Agenda. Seconded by Alderman Augustine and carried unanimously.

**MINUTES** - Common Council minutes from July 24, 2007

**UTILITY AND FINANCE**

**Claims**

For: August 15, 2007

- Water Utility claims in the amount of \$154,154.94, Sewer Utility claims in the amount of \$12,656.80, and Bi-weekly claims in the amount of \$1,086,641.69, all of which represents payment to vendors.

For: August 29, 2007

- Water Utility claims in the amount of \$197,103.38, Sewer Utility claims in the amount of \$23,291.37, and Bi-weekly claims in the amount of \$280,412.61, all of which represents payment to vendors.

## LICENSES & PERMITS

### Bartenders

- Bartender Licenses for the year 2007-2009 to Vicki Adams, Virginia Bernhagen, Cailin Cruciani, Jena Cruciani, Ann Marie Drought, Alison Ippolite, Cassandra Mallow, Jose Melendez, Marie Oravetz, Julie Peltonen, Natalie Polivka, Bethany Scurek, Marshall Teel, Randal Mclaughlin and Susan Zinda.

### Fireworks Permit

- Recommendation of approval from Fire Chief Ed Dobernig for New Berlin Eisenhower High School for Homecoming Display on Friday, October 5, 2007 at 4333 S Sunnyslope Road/Applicant is Adam W White.

## MISCELLANEOUS

- Set a Public Hearing for Monday, September 10, 2007 at 6:00 p.m. to be held before the Plan Commission for Robert T. Fittshur who has filed a petition to rezone the property located at approximately 21965 Lochleven Ln. from R-1/R-2 and C-2 to R-1/R-2 and C-2 to Field Delineate the C-2 Zoning District.
- Resolution No. 07-17 Resolution Providing For The Sale Of \$4,750,000 General Obligation Promissory Notes.

## 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.*

## +++++ ITEM/S REMOVED FROM CONSENT AGENDA

No items were removed.

## ORDINANCES/RESOLUTIONS

### **Ordinance No. 2352 Ordinance To Amend Section 59-7 Records Of The Municipal Code Of The City Of New Berlin Concerning The Destruction Of Tape And Video Recordings Of Governmental Meetings**

Motion by Alderman Harenda to adopt Ordinance No. 2352. Seconded by Alderman Hopkins and carried unanimously.

### **Ordinance No. 2353 Ordinance To Amend Section 124-12 I. (4) Fire Prevention Of The Municipal Code Of The City Of New Berlin Relative To Fireworks Users Permit**

Motion by Alderman Moore to adopt Ordinance No. 2353. Seconded by Alderman Seidl and carried unanimously.

### **Ordinance No. 2354 Ordinance To Amend Section 124-12 N. (7) Fire Prevention Of The Municipal Code Of The City Of New Berlin Regarding The Forfeitures For Violations Of The Open Burning Ordinance**

Motion by Alderman Hopkins to adopt Ordinance No. 2354. Seconded by Alderman Harenda and carried unanimously.

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**Ordinance No. 2355 Ordinance To Amend Various Sections of Chapter 152 Licenses And Permits Of The Municipal Code Of The City Of New Berlin Relative To The Issuance Of Licenses And Permits**

Motion by Alderman Hopkins to adopt Ordinance No. 2355. Seconded by Alderman Harenda and carried unanimously.

**Ordinance No. 2356 Ordinance To Amend Section 152-8 Licenses And Permits Of The Municipal Code Of The City Of New Berlin Concerning Shooting Galleries And Archery Ranges**

Motion by Alderman Hopkins to adopt Ordinance No. 2356. Seconded by Alderman Harenda and carried unanimously.

**Resolution No. 07-15 Resolution Of Eligibility For Exemption From The County Library Tax Levy For 2008.**

Motion by Alderman Ament to approve Resolution No. 07-15. Seconded by Alderman Seidl 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) 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 land acquisition via donation for proposed fire station.
- Land acquisition for the stormwater easement at Eisenhower High School

(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
- Claim against Adair Plumbing and NB School District
- Janacek Investments Claim
- Deborah Wied Claim

Motion by Alderman Ament to go into Closed Session at 11:00 PM. Seconded by Alderman Harenda and carried per roll call vote.

**RECONVENE TO OPEN SESSION**

Motion by Alderman Augustine to reconvene in Open Session at 11:11 PM. Seconded by Alderman Seidl and carried unanimously.

**DISCUSSION AND POSSIBLE ACTION:**

**Potential land acquisition via donation for proposed fire station**

No action taken.

**Land acquisition for the stormwater easement at Eisenhower High School**

No action taken.

**Todd Economy Claim**

No action taken.

**Claim against Adair Plumbing and NB School District**

No action taken.

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**Janacek Investments Claim**

No action taken.

**Deborah Wied Claim**

No action taken.

**ADJOURN**

Motion by Alderman Seidl to adjourn at 11:11 PM. Seconded by Alderman Augustine and carried unanimously.

Respectfully submitted:

Marilyn Gauger, CMC/WCMC  
City Clerk