

**CITY OF NEW BERLIN
PROCEEDINGS OF THE COMMON COUNCIL
Tuesday, March 14, 2006**

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 7:39 PM after the Committee of the Whole and Privilege of the Floor.

This meeting was noticed on Friday, March 10, 2006 in accordance with the Open Meeting Law.

Those present recited the Pledge of Allegiance.

ROLL CALL: Present were Aldermen Hopkins, Augustine, Gallagher, Harenda, Hegeman, Moore and Ament. Also present were: City Attorney Mark Blum, City Clerk Marilyn Gauger, Director of Community Development Greg Kessler, Planning Services Manager Nikki Jones, Division Engineer Eric Nitschke, Director of Human Resources Tami Potkay, City Engineer JP Walker, Director of Building Maintenance Bob Schulpus and Stormwater Engineer Eric Nitschke.

REPORTS

City Clerk

The Earth Day Festival is scheduled for Saturday, April 22 from 12:00 PM to 3:00 PM at Calhoun Park with a rain date of Sunday, April 23rd. The information line to call is 262-754-1700. The Easter Egg Hunt is scheduled for Saturday, April 8th at 9:00 AM at the Old New Berlin Library building at 14750 W Cleveland Avenue for 3rd grade and under. Please bring 1 non-perishable food item per child.

Council President – none

Mayor

The Citizen survey is coming out shortly, please read the letter, fill out the survey and return in a timely manner so UW-Milwaukee can tabulate the results. I'm accepting nominations for The Annual Citizen of the Year Award. Please submit your nominations in writing of 500 words or less with recent and on-going achievements. The nominations will be judged and the award will be at an April Council meeting.

City Attorney - none

COMMUNICATIONS

DNR Radium Removal Order/Letter from Ted Wysocki

Mayor Chiovaturo indicated the letter is on file in the City Clerk's office for review.

COMMUNITY DEVELOPMENT AUTHORITY

Contract with Ruekert & Mielke for the preparation of a redevelopment plan for the Mill Valley Business Center

Motion by Alderman Hegeman to direct the Mayor, City Attorney and staff to prepare a contract with Ruekert & Mielke for the preparation of a redevelopment plan for the Mill Valley Business Center and execute a 3- party side agreement with respect to the issue of reimbursement of those costs as outlined in the RAS with Mr. Carity under separate document. Seconded by Alderman Hopkins and carried with Alderman Ament voting no.

Resolution No. 06-07 A Resolution Amending the 2006 City of New Berlin Operational Budget To Increase the Grant Planning Revenue and Expenditure Accounts Within the DCD Planning Services Division

Motion by Alderman Moore to approve Resolution No. 06-07. Seconded by Alderman Hopkins and carried with Alderman Ament voting no.

PLAN COMMISSION

Resolution No. 06-08 that approves the Victoria Estates Final Plat for the property located at 5150 S. Sunny Slope Road

Motion by Alderman Ament to approve Resolution No. 06-08 and accept the Plan Commission report. Seconded by Alderman Hegeman and carried unanimously.

Resolution No. 06-09 that approves the Lyndenwood Final Plat for the property located at 14500 and 14510 W. Beloit Road

Motion by Alderman Ament to approve Resolution No. 06-09 and accept the Plan Commission report. Seconded by Alderman Hopkins and carried unanimously.

Ordinance No. 2305 that approves the amendment to Ordinance No.2223 the Lyndenwood PUD to modify the front setback requirements

Motion by Alderman Ament to adopt Ordinance No. 2305 that approves the amendment to Ordinance No. 2223 the Lyndenwood PUD to modify the front setback requirements in Section Rm-1/PUD (5)(a) of the PUD from "40 feet from the base setback line of a public street" to "10 feet for building number 1 only." Seconded by Alderman Hegeman and carried unanimously.

UTILITY COMMITTEE

Possible legal action concerning City's Claim for reimbursement from SBC

Alderman Gallagher read the following motion from the January 24th Utility Committee:

Motion by Commissioner Dude to give SBC a deadline of February 24th to respond favorable to our claim of reimbursement, and if not paid, this issue would be recommended to Council to start legal action. Seconded by Alderman Ament and upon voting the motion passed unanimously.

Motion to Alderman Gallagher to accept the recommendation from Utility Committee and start legal action regarding the City's Claim for reimbursement from SBC. Seconded by Alderman Harenda and carried unanimously.

DEFERRALS, REFERRAL & TABLED ITEMS

Sts Constantine and Helen Greek Orthodox Church TABLED 3-15-05

No action taken.

Ordinance No. 2303 that approves the rezoning of property known as Living Word Church (on the eastern side) located at 21400 W. National Avenue from Q-1 and R-1/R-2 to I-1 and accept the Plan Commission Report/DEFERRED 2-14-06

Motion by Alderman Ament to adopt Ordinance No. 2303 Seconded by Alderman Hopkins.

Amendment to the motion by Alderman Harenda to add to the rezoning the following verbiage: "rezoning not become effective until such time as the applicant/church pulls the building permit for the church structure that was designed and included in their preliminary sketch for rezoning they submitted". Seconded by Alderman Moore and carried with Aldermen Hopkins, Gallagher and Ament voting no.

Original motion as amended carried unanimously.

Ordinance No. 2304 that approves the rezoning of property known as Living Word Church (on the western side) located at 21400 W. National Avenue from Q-1 and R-1/R-2 to R-1/R-2 and accept the Plan Commission Report/DEFERRED 2-14-06

Motion by Alderman Ament to adopt Ordinance No. 2304. Seconded by Alderman Hopkins and carried with Alderman Ament voting no.

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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 February 14, 2006.

UTILITY AND FINANCE

Water Utility claims in the amount of \$82,129.05 Sewer Utility claims in the amount of \$16,435.08 and Bi-weekly claims in the amount of \$485,198.95 all of which represents payment to vendors.

Water Utility claims in the amount of \$71,371.01, Sewer Utility claims in the amount of \$315,255.99, of that amount \$294,358.08 represents payment to MMSD and Bi-weekly claims in the amount of \$310,727.11 all of which represents payment to vendors.

LICENSES/PERMITS

Bartender Licenses

Denial of 2005-2007 Bartender License for Marco Molina.

Bartender Licenses for the year 2005-2007 to Mark William Menzynski, Tracie L. Dilworth, Martha A Ramirez, Tim T. Shinnors, Terry G. Troemel, Katherine Anne Fugger, Shannon Marie Bowman and Kent J. Clark.

MISCELLANEOUS

Discussion on Greenfield Avenue reconstruction project.

Communications Committee investigate Wi-Fi within the City of New Berlin.

Public Hearing be set for April 3, 2006 at 6:00 p.m. to be held before the Plan Commission for Michael Schober on behalf of Blessed Savior Lutheran Church. He has filed a petition to rezone the property located at approximately 15250 W. Cleveland Avenue from I-1 and R-5 to I-1 and R-4.

Facilities Management Department Structure

DEFERRED/TABLED ITEMS

None.

ITEM/S REMOVED FROM CONSENT AGENDA

None.

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 and Section 19.85(1) (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 AFSCME Collective Bargaining; and (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 Sts Constantine & Helen Greek Orthodox Church.

Motion by Alderman Ament to go to Closed Session at 8:40 PM. Seconded by Alderman Hopkins and carried unanimously per roll call vote.

Motion by Alderman Ament to reconvene in Open Session at 9:13 PM. Seconded by Alderman Augustine and carried unanimously.

OPEN SESSION

Discussion and possible action on the following items:

DEFERRALS, REFERRAL & TABLED ITEMS

Sts Constantine and Helen Greek Orthodox Church/TABLED 3-15-05

No action taken.

ADJOURN

Motion by Alderman Ament to adjourn at 9:14 PM. Seconded by Alderman Hopkins and carried unanimously.

Respectfully submitted:

Marilyn Gauger, CMC/WCMC
City Clerk