

**CITY OF NEW BERLIN
PROCEEDINGS OF THE COMMON COUNCIL MEETING
Tuesday, January 25, 2005**

Please note: Minutes are unofficial until approved by the Common Council at the next regularly scheduled meeting.

Mayor Telesfore P Wysocki called the City of New Berlin Common Council to order at 7:45 PM after Privilege of the Floor and Committee of the Whole.

This meeting was noticed on January 21, 2005 in accordance with the Open Meeting law.

Those present recited the Pledge of Allegiance and a short invocation was made.

ROLL CALL: Present were Aldermen Hopkins, Augustine, Gallagher, Harenda, Hegeman, Chiovatero and Ament. Also present were City Attorney Mark Blum, City Clerk Marilyn Gauger, Director of Utilities and Streets Ray Grzys, Director of Community Development Greg Kessler, Planning Services Manager Nikki Jones, Associate Planner Amy Bennett and City Engineer JP Walker.

REPORTS

City Clerk – The Primary Election is Tuesday, February 15, 2005. Ballots are available for absentee vote. You may Absentee vote and Register to vote in the City Clerk's office during normal business hours Monday to Friday from 8:00 AM to 4:30 PM and until 5PM on Monday, February 14th. On the ballot is the City Mayoral race. The Mayor candidates are: Sam Diamontopolous, Paul Lincoln Scheuble, Jack P Chiovatero and Ted Wysocki. There are 5 candidates on the ballot for New Berlin School Board. A Forum for those candidates will be held this Saturday, January 29th from 2 to 4 at City Hall. Also on the ballot are 4 candidates for the State Superintendent of Public Instruction.

Council President – none

Mayor – Operation Take Soldier To A Movie has a website www.soldertomovies.org. This Sunday the VFW of New Berlin and Mukwonago is hosting a Family Valentine Day event.

City Attorney - none

COMMUNICATIONS – none

Mayor asked to deviate from the agenda to hear the Ad Hoc Committee recommendation. There was no objection.

**Ad Hoc Committee to Recognize New Berlin Veterans and Michelle Witmer
Recommendation to rename the current City Center roadway identified as Coffee Road
Extension/Howard Avenue to Michelle Witmer Memorial Drive.**

Motion by Alderman Hopkins to rename the current City Center roadway identified as Coffee Road Extension/Howard Avenue to Michelle Witmer Memorial Drive. Seconded by Alderman Augustine and carried with Alderman Gallagher voting as being present.

COMMITTEE, COMMISSION AND BOARD RECOMMENDATIONS

PLAN COMMISSION

Ordinance 2254 that approves the rezoning of property known as Wildwood Preserve located at 5611 S. Calhoun Road from A-2,C-2,R-1/R-2 to A-2, C-2, R-3, R-1/R-2 and accept the Plan Commission Report

Motion by Alderman Ament to adopt Ordinance No. 2254 that approves the rezoning of property known as Wildwood Preserve located at 5611 S. Calhoun Road from A-2,C-2,R-1/R-2 to A-2, C-2, R-3, R-1/R-2 and accept the Plan Commission Report. Seconded by Alderman Hopkins. Motion failed with Aldermen Hopkins, Gallagher and Chiovatero voting yes.

Alderman Hopkins indicated he voted wrong. Mayor called for another vote.

Motion by Alderman Ament to adopt Ordinance No. 2254 that approves the rezoning of property known as Wildwood Preserve located at 5611 S. Calhoun Road from A-2,C-2,R-1/R-2 to A-2, C-2, R-3, R-1/R-2 and accept the Plan Commission Report. Seconded by Alderman Hopkins. Motion failed with Aldermen Gallagher and Chiovatero voting yes.

Motion by Alderman Ament to deny the rezoning for the property known as Wildwood Preserve located 5611 S Calhoun Road, without prejudice, based on the Staff Report FINDINGS: 2. a. and b. and the proposed zoning is inconsistent with City of New Berlin Zoning Code Section 275-32 Agricultural Districts B. (2) and Section 275-33 Residential Districts B. (3). Seconded by Alderman Harenda and carried with Aldermen Gallagher and Chiovatero voting no.

Set a public hearing at the February 7, 2005 Plan Commission Meeting at 6:00 PM for consideration of a rezoning to Rm-1 at approximately 4435 S. Calhoun Road.

Motion by Alderman Ament to set a public hearing at the February 7, 2005 Plan Commission Meeting at 6:00 PM for consideration of a rezoning to Rm-1 at approximately 4435 S. Calhoun Road and accept the Plan Commission Report. Seconded by Alderman Hegeman and carried unanimously.

Resolution No. 05-02 that approves the City Center Relocation Order prepared by the City Attorney for the Howard Avenue extension in the City Center project located at the intersection of Coffee Street and National Avenue and accept the Plan Commission Report.

Motion by Alderman Ament to adopt Resolution No. 05-02 that approves the City Center Relocation Order prepared by the City Attorney for the Howard Avenue extension in the City Center project located at the intersection of Coffee Street and National Avenue and accept the Plan Commission Report. Seconded by Alderman Hopkins and carried unanimously.

NOTE: The resolution will be edited to reflect the change in the name of Coffee Street to Michelle Witmer Memorial Drive per the action taken by Council earlier in the meeting.

Set a public hearing on February 14, 2005 at 6:00 PM before Plan Commission on consideration of the Subdivision and Zoning Code amendments.

Motion by Alderman Ament to set a public hearing on February 14, 2005 at 6:00 PM before Plan Commission on consideration of the Subdivision and Zoning Code amendments and accept the Plan Commission Report. Seconded by Alderman Harenda and carried unanimously.

BOARD OF PUBLIC WORKS

Development Agreement for Deer Creek Parkway Condominiums subject to final review by City Attorney.

Motion by Alderman Chiovatero to approve the Development Agreement for Deer Creek Parkway Condominiums subject to final review by City Attorney. Seconded by Alderman Harenda and carried unanimously.

Acceptance of Public Improvements and Dedication of Public Infrastructure, except Wilbur Drive at The Preserve at Deer Creek – Phase I.

Motion by Alderman Chiovatero to accept the Public Improvements constructed at the Preserve at Deer Creek – Phase I, accept the Dedication of Public Infrastructure, except Wilbur Drive, by KASCO of Wisconsin, LLP, and authorize the release of the Surety Instrument pertaining to the installation of the public infrastructure. Seconded by Alderman Augustine and carried unanimously.

STORMWATER COMMITTEE

Ordinance No. 2256 Amending Section 201-8 of the City of New Berlin Municipal Code Concerning The Grading and Drainage of Property.

Motion by Alderman Harenda to adopt Ordinance No. 2256. Seconded by Alderman Hegeman. This is the 1st reading and changes to the ordinance may be forthcoming at the February 8th Council meeting.

**AD HOC COMMITTEE TO RECOGNIZE NEW BERLIN VETERANS AND MICHELLE WITMER
Recommendation that Park, Recreation and Forestry Commission drop the current park renaming item from its agenda.**

Alderman Hopkins indicated the above Commission was at the meeting tonight and would be aware of the action taken.

MAYORAL APPOINTMENTS

Parks, Recreation & Forestry Commission

Richard L Kocchi – reappointment of School Representative expiring 4-30-07

Motion by Alderman Ament to approve the re-appointment of Richard L Kocchi to Parks, Recreation & Forestry Commission with a term expiring 4-30-07. Seconded by Alderman Hopkins and carried unanimously.

Utility Committee

Robert Dude – reappointment expiring 10-13-06

James F Morrisey – new citizen member position – expiring 4-30-06

Motion by Alderman Augustine to approve the reappointment of Robert Dude to the Utility Committee with a term expiring 10-13-06. Seconded by Alderman Ament.

Motion by Alderman Gallagher to table both appointments to the Utility Committee until the Ordinance is drafted to have an additional citizen member. Seconded by Alderman Harenda and carried unanimously.

DEFERRALS, REFERRAL & TABLED ITEMS

Resolution 05-02 Resolution For A Relocation Order For The Extension of Howard Avenue in the City Center Project.DEFERRED 1-11-05

This item was approved under Plan Commission with the street name change and will be removed from the agenda.

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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 of Meeting held January 11, 2005

LICENSES

Reserve “Class B” Retailer License Grant

Request for Approval of the Grant application to Kathy Galanis d/b/a Kat’s Café LLC, Danny Ballos, Agent, for a Reserve “Class B” Retailers License.

Outdoor Music

St. Elizabeth Ann Seton Church Festival

Request for Approval to allow bands playing at the St. Elizabeth Ann Seton Church Festival to perform until 11 p.m. on Friday and Saturday July 29 & 30, 2005 and until 7 p.m. on Sunday July 31, 2005.

MISCELLANEOUS

Request for Approval the Civil Service Non-represented Salary and Benefit policies

Request for Approval of Resolution No. 05-03 A Final Resolution Authorizing City of New Berlin, Wisconsin Industrial Development Revenue Bonds, Series 2005 (Woodmill Products, Inc. Project) (The “Bonds”)

TABLED ITEMS - None

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The following items were removed from the Consent Agenda:

UTILITY AND FINANCE

Claims

Motion by Alderman Ament to recommend to Council approval of Water Utility claims in the amount of \$228,942.51, Sewer Utility claims in the amount of \$14,130.53, and Bi-weekly claims in the amount of

\$1,774,515.17, all of which represents payment to vendors. Also, tax overpayments in the amount of \$189,266.89. Seconded by Alderman Chiovaturo.

Motion by Alderman Chiovaturo to remove the 2003 truck expense from the total claims. Seconded by Alderman Hegeman and carried unanimously.

Upon voting on the original motion, the motion carried unanimously with an amended amount of bi-weekly claims of \$1,752,436.17.

Motion by Alderman Hopkins to approve the truck purchase of \$22,079. Seconded by Alderman Augustine and carried with Aldermen Gallagher and Chiovaturo voting no.

MISCELLANEOUS

Request for Approval that an Alderman appointed by the Council President consistent with the other appointed positions replace the City Staff position on the Board of Public Works.

Motion by Alderman Harenda to recommend to Council approval that an Alderman appointed by the Council President consistent with the other appointed positions replace the City Staff position on the Board of Public Works. Seconded by Alderman Hegeman.

Friendly amendment that the City Staff position be replaced with a citizen member recommended by the Mayor and approved by Common Council, amendment carried with Alderman Chiovaturo voting no.

Motion by Alderman Harenda to amend the motion subject to the City Attorney drafting the appropriate ordinance. Seconded by Alderman Hopkins and carried unanimously.

Upon voting on the original motion as amended, the motion carried with Alderman Chiovaturo voting no.

Request for Approval that an Alderman appointed by the Council President consistent with the other appointed positions replace the City Staff position on the Storm Water Management Committee.

Motion by Alderman Harenda to recommend to Council approval that an Alderman appointed by the Council President consistent with the other appointed positions replace the City Staff position on the Storm Water Management Committee. Seconded by Alderman Hopkins.

Motion by Alderman Harenda to amend the motion subject to the City Staff position be replaced with a citizen member recommended to Council by the Mayor and approved by Common Council and subject to the City Attorney drafting the appropriate ordinance. Seconded by Alderman Augustine and carried with Alderman Chiovaturo voting no.

Upon voting on the original motion as amended, the motion carried with Alderman Chiovaturo voting no.

Request for Approval that a Citizen member appointed by the Mayor and approved by the Common Council replace the City Staff position on the Utility Committee.

Motion by Alderman Gallagher to recommend to Council approval that a Citizen member recommended by the Mayor and approved by the Common Council replace the City Staff position on the Utility Committee subject to the City Attorney drafting the appropriate ordinance. Seconded by Alderman Hegeman and carried with Alderman Chiovaturo voting no.

ORDINANCES/RESOLUTIONS

Ordinance No. 2253 Creation of Section 230-13 of the Municipal Code of the City of New Berlin, Maintenance of Public Rights of Way and Public Easements.

This is the 2nd reading.

Ordinance No. 2255 An Ordinance to Amend the General Ordinances of the City of New Berlin, Wisconsin

Motion by Alderman Augustine to waive the 2nd and 3rd reading as they are Municipal Code updates from the last 6 months. Seconded by Alderman Ament and carried unanimously.

Motion by Alderman Ament to adopt Ordinance No. 2255. 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; Past and Pending Claims Periodic Report.

CLOSED SESSION

Motion by Alderman Hopkins to go to Closed Session at 9:20 PM. Seconded by Alderman Augustine and carried per roll call vote.

OPEN SESSION

Motion by Alderman Hopkins to reconvene in Open Session at 9:40 PM. Seconded by Alderman Augustine and carried unanimously.

ADJOURN

Motion by Alderman Harenda to adjourn at 9:42 PM. Seconded by Alderman Hegeman and carried unanimously

Respectfully submitted

Marilyn Gauger, CMC
City Clerk