

**CITY OF NEW BERLIN  
PROCEEDINGS OF THE COMMON COUNCIL MEETING  
Tuesday, February 8, 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 7:11 PM after Privilege of the Floor and Committee of the Whole.

***This meeting was noticed on February 3, 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, Gallagher, Harenda, Hegeman, Chiovatero and Ament. Excused: Alderman Augustine. Also present were City Attorney Mark Blum, City Clerk Marilyn Gauger, Director of Community Development Greg Kessler and Planning Services Manager Nikki Jones.

**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 14<sup>th</sup>. On the ballot is the City Mayoral race. The Mayoral candidates are: Sam Diamantopoulos, Paul Lincoln Scheuble, Jack F Chiovatero and Ted Wysocki.

There are 5 candidates on the ballot for New Berlin School Board. Also on the ballot are 4 candidates for the State Superintendent of Public Instruction.

The video tape of the forums that were held here at City Hall for the Mayoral race and the New Berlin School District Board candidates will be re-played starting this Friday at 4:30 PM and continue thru the weekend until Monday morning at 8:00 AM.

Council President - none  
Mayor - none  
City Attorney - none

**COMMUNICATIONS**

National Regency of New Berlin, Inc/Claim for Refund of 2004 real estate taxes – Refer to City Attorney

**COMMITTEE, COMMISSION AND BOARD RECOMMENDATIONS**

**PLAN COMMISSION**

**Resolution #05-04 that approves the Park Central final plat for the property located at 3360 S. Sunny Slope Road**

Motion by Alderman Ament to approve Resolution #05-04 that approves the Park Central Final Plat for the property located at 3360 S. Sunny Slope Road and accept the Plan Commission Report. Seconded by Alderman Hegeman and carried with Alderman Chiovatero abstaining.

**AD HOC FIRE DEPARTMENT COMMITTEE**

**Formalize as a permanent Standing Committee, the New Berlin Fire Department Ad-Hoc Committee and direct the City Attorney to draft an ordinance**

Motion by Alderman Harenda to formalize as a permanent Standing Committee, the New Berlin Fire Department Ad-Hoc Committee and direct the City Attorney to draft an ordinance to reflect that intent. Seconded by Alderman Hopkins and carried unanimously.

**MAYORAL APPOINTMENTS - none**

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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 25, 2005

**UTILITY AND FINANCE**

**Claims**

Request for Approval of Water Utility claims in the amount of \$54,577.85, Sewer Utility claims in the amount of \$9,137.32, and Bi-weekly claims in the amount of \$774,999.17, all of which represents payment to vendors. Tax overpayments in the amount of \$12,702.31.

**LICENSES**

Request for Approval of Bartender License for the year 2004-2006 to Charles E Bruce, Kimberly A. Kober, Elizabeth Price and David J Zilinsky.

**Agent Change:**

Request for Approval of Jeffery K Arman, Agent for WHG New Berlin, LLC d/b/a Applebee's Neighborhood Grill and Bar

**MISCELLANEOUS**

Rescind 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")

Request for approval of the Revised Lease Agreement to lease Engine No. 9 (formerly known as Engine 604) to the New Berlin Historical Society

**TABLED ITEMS - None**

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**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. (3rd reading)**

Motion by Alderman Gallagher to adopt Ordinance No. 2253. Seconded by Alderman Hopkins and carried unanimously.

**Ordinance No.2256 Amending Section 201-8 of the City of New Berlin Municipal Code Concerning The Grading and Drainage of Property. (2<sup>nd</sup> reading)**

No action taken.

**Ordinance No. 2257 To Amend Section 6-1(A) of the Municipal Code of the City of New Berlin Board of Public Works Membership (1<sup>st</sup> reading)**

Motion by Alderman Hopkins to waive the 2<sup>nd</sup> and 3<sup>rd</sup> reading. Seconded by Alderman Harenda.

Motion by Alderman Chiovaturo to table. Seconded by Alderman Hegeman and carried unanimously.

**Ordinance No. 2258 To Amend Section 6-12 of the Municipal Code of the City of New Berlin Composition of the Utility Committee (1<sup>st</sup> reading)**

Motion by Alderman Gallagher to waive the 2<sup>nd</sup> and 3<sup>rd</sup> reading. Seconded by Alderman Hopkins and carried unanimously.

Motion by Alderman Gallagher to adopt Ordinance No. 2258. Seconded by Alderman Harenda and carried with Alderman Chiovaturo voting no.

**Ordinance No. 2259 To Create Section 65-10 of the Municipal Code of the City of New Berlin Concerning The Storm Water Committee (1<sup>st</sup> reading)**

Motion by Alderman Hopkins to waive the 2<sup>nd</sup> and 3<sup>rd</sup> reading. Seconded by Alderman Hegeman and carried unanimously.

Motion by Alderman Hopkins to adopt Ordinance No. 2259. Seconded by Alderman Hegeman and carried unanimously.

**Mayor Wysocki asked that we go back to DEFERRALS, REFERRALS & TABLED ITEMS on the agenda.**

**DEFERRALS, REFERRAL & TABLED ITEMS  
MAYORAL APPOINTMENTS**

**Utility Committee**

**Robert Dude – reappointment expiring 10-13-06/TABLED 1-25-05**

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

Motion by Alderman Gallagher to approve the re-appointment of Robert Dude with a term expiring 10-13-06. Seconded by Alderman Ament and carried unanimously.

**James F Morrissey – new citizen member position – expiring 4-30-06/TABLED 1-25-05**

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

Motion by Alderman Gallagher to approve the appointment of James F Morrissey with a term expiring 4-30-06. Seconded by Alderman Ament 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 Litigation update: St Constantine and Helen Greek Orthodox Church versus City of New Berlin and the Bankruptcy Settlement Claim/K-Mart Corporation.**

Motion by Alderman Hegeman to go to Closed Session at 7:30 PM. Seconded by Alderman Harenda and carried per roll call vote.

Motion by Alderman Ament to reconvene to Open Session at 8:25 PM. Seconded by Alderman Hegeman and carried unanimously.

**OPEN SESSION**

**Discussion and possible action on the K-Mart Corporation Bankruptcy Settlement Claim**

No action taken.

**ADJOURN**

Motion by Alderman Ament to adjourn at 8:25 PM. Seconded by Alderman Hopkins and carried unanimously

Respectfully submitted

Marilyn Gauger, CMC  
City Clerk