

**CITY OF NEW BERLIN
PROCEEDINGS OF THE COMMON COUNCIL MEETING
Tuesday, February 22, 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 7:55 PM after Privilege of the Floor and Committee of the Whole.

This meeting was noticed on February 18, 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 Augustine, Gallagher, Harenda, Hegeman, Chiovatero and Ament. Excused: Alderman Hopkins. Also present were City Attorney Mark Blum, City Clerk Marilyn Gauger, Deputy City Clerk Sherry Grant, City Engineer JP Walker, Director of Finance and Administration Mike Holzinger, Director of Utilities and Streets Ray Grzys and Division Engineer/Stormwater Eric Nitschke.

REPORTS

City Clerk - The results of the Primary Election are on the City's website. The 2 candidates with the highest votes were: Jack F Chiovatero and Ted Wysocki.

The Spring Election is Tuesday, April 5, 2005. Also on the ballot will be candidates for Aldermanic Districts 2, 4, and 6; candidates for School Board from New Berlin, Elmbrook, West Allis-West Milwaukee and Muskego School Districts and the State Superintendent of Public Instruction. Ballots should be available March 15 in the City Clerk's office.

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. Extended hours for absentee voting and register in the City Clerk's office are March 22 and March 23 till 7PM.

Deputy City Clerk Sherry Grant was introduced and welcomed to the City.

Council President – none

Mayor - Code revisions for Chapters 235 (Subdivision of Land) and 275 (Zoning) are available on the City's website and also at the City Library. Mayor encouraged public input.

City Attorney - none

COMMUNICATIONS - none

COMMITTEE, COMMISSION AND BOARD RECOMMENDATIONS

PLAN COMMISSION

Set a public hearing date of March 7, 2005 at 6:00 PM before Plan Commission for consideration of a rezoning from B-4 to B-2 for the property located at 15551 W. Cleveland Avenue

Motion by Alderman Ament to set a public hearing date of March 7, 2005 at 6:00 PM before Plan Commission for consideration of a rezoning from B-4 to B-2 for the property located at 15551 W. Cleveland Avenue and accept the Plan Commission Report. Seconded by Alderman Augustine and carried unanimously.

Set a public hearing date of March 7, 2005 at 6:01 PM before Plan Commission for consideration of a rezoning from R-1/R-2 and C-2 to R-1/R-2, C-2 and C-3 at the property located at 3335 S. Catamount Drive

Motion by Alderman Ament to set a public hearing date of March 7, 2005 at 6:01 PM before Plan Commission for consideration of a rezoning from R-1/R-2 and C-2 to R-1/R-2, C-2 and C-3 at the property located at 3335 S. Catamount Drive and accept the Plan Commission Report. Seconded by Alderman Harenda and carried unanimously.

BOARD OF PUBLIC WORKS

Development Agreement for The Conservancy of New Berlin

Motion by Alderman Chiovatero to approve the Development Agreement for The Conservancy of New Berlin subject to final review by City Attorney. Seconded by Alderman Hegeman and carried unanimously.

Development Agreement for Victoria Estates Subdivision

Motion by Alderman Chiovatero to approve the Development Agreement for Victoria Estates Subdivision subject to final review by City Attorney. Seconded by Alderman Ament and carried unanimously.

Resolution No. 05-05 Amended Declaration of Public Necessity and Relocation Order to Reconstruct Coldspring Road in City of New Berlin, Waukesha County, Wisconsin

Motion by Alderman Chiovatero to adopt Resolution No. 05-05 Amended Declaration of Public Necessity and Relocation Order to Reconstruct Coldspring Road in City of New Berlin, Waukesha County, Wisconsin. Seconded by Alderman Hegeman and carried unanimously.

STORMWATER COMMITTEE

Reserve approved funding for the construction of the Kelly Lakes Wetland Rehabilitation Project

Motion by Alderman Harenda to transfer/reserve approved funding for the construction of the Kelly Lakes Wetland Rehabilitation Project in the amount of \$40,000 for the fiscal year 2004 through 2005 with source of funds from Stormwater Utility Drainage Account #70710710.59060. Seconded by Alderman Ament and carried unanimously.

Resolution No. 05-06 Municipal Flood Control Grant Program Purchase of Repeatedly Damaged Property - 17111 West Fullerton Avenue

Motion by Alderman Harenda to adopt Resolution No. 05-06 Municipal Flood Control Grant Program Purchase of Repeatedly Damaged Property - 17111 West Fullerton Avenue with source of funds from Stormwater Utility Operating Account #70710710.59060 conditioned upon receiving the grant funding. Seconded by Alderman Hegeman and carried unanimously.

COMMUNICATIONS COMMITTEE

Contract for replacing Council Chambers Audio/Video

Motion by Alderman Harenda to approve the "equipment option" that replaces the sound system utilizing the existing microphones in the amount of \$19,820 plus \$2,000 for the wiring needed for a proposed voting board for a total of \$21,820 from Professional Audio Design/11707B W Dearbourn Avenue, Wauwatosa, WI taken from Special Revenue – Cable TV, account #26290000.59010. Seconded by Alderman Gallagher and carried unanimously.

Motion by Alderman Harenda to approve "option 2" (Feed Video from Power Point to Cable and Projector) in the amount of \$5,003.33 from Professional Audio Design/11707B W Dearbourn Avenue, Wauwatosa, WI taken from Special Revenue – Cable TV, account #26290000.59010. Seconded by Alderman Gallagher and carried unanimously.

MAYORAL APPOINTMENTS - none

DEFERRALS, REFERRAL & TABLED ITEMS

ORDINANCES/RESOLUTIONS

Ordinance No. 2257 To Amend Section 6-1(A) of the Municipal Code of the City of New Berlin Board of Public Works Membership (2nd reading) TABLED 2-8-05 after 1st reading

No action taken. To remain on the table.

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CONSENT AGENDA

Motion by Alderman Augustine to approve the following items on the consent agenda. Seconded by Alderman Ament and carried unanimously.

MINUTES

Common Council Minutes of Meeting held February 8, 2005

UTILITY AND FINANCE

Claims

Request for Approval of Water Utility claims in the amount of \$28,399.02, Sewer Utility claims in the amount of \$8,598.88, and Bi-weekly claims in the amount of \$355,721.04, all of which represents payment to vendors. Tax overpayments in the amount of \$12,632.20.

LICENSES

Bartenders

Request for Approval Bartender License for the year 2004-2006 to Leo B. Kramer, Michael G Luedtke and Jonathan J. Neitzke.

MISCELLANEOUS

Denial of taxpayer request regarding payment of taxes/Kris & Lauren Gottinger.

Request for Approval Refunding of Existing Debt Issues for future savings in Debt Interest Costs per adoption of the following resolutions:

- a. Resolution No. 05-07 Initial Resolution Authorizing \$6,245,000 General Obligation Refunding Bonds.
- b. Resolution No. 05-08 Resolution Providing for the Sale of \$6,245,000 General Obligation Refunding Bonds.
- c. Resolution No. 05-09 Resolution Providing for the Sale of \$3,025,000 General Obligation Promissory Notes

The following items were removed from the Consent Agenda:

LICENSES

Bartenders

Request for Approval Bartender License for the year 2004-2006 to Jessica D Melichar.

Motion by Alderman Gallagher to recommend to Council for denial of Bartender License for the year 2004-2006 to Jessica D Melichar based on the record presented. Seconded by Alderman Chiovatero and carried unanimously.

MISCELLANEOUS

Request for Approval an extension of 45 days to the land division moratorium for the period March 10, 2005 through April 24, 2005.

Motion by Alderman Ament to recommend to Council approval of an extension of 45 days to the land division moratorium for the period March 10, 2005 through April 24, 2005 conditioned upon proper document prepared by City Attorney. Seconded by Alderman Harenda and carried with Aldermen Gallagher and Chiovatero voting no.

ORDINANCES/RESOLUTIONS

Motion by Alderman Hegeman to adopt Ordinance No.2256 Amending Section 201-8 of the City of New Berlin Municipal Code Concerning The Grading and Drainage of Property. (3rd reading) Seconded by Alderman Gallagher.

Motion by Alderman Harenda to defer to next meeting. 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 coverage issue with CVMIC Insurance; National Regency of New Berlin, Inc/Notice of Unlawful Tax; Barry Hintz/Special Assessment Waiver; and State of Wisconsin Sewer Overflow Notice of Claim.

Motion by Alderman Ament to go to Closed Session at 8:50 PM. Seconded by Alderman Harenda and carried per roll call vote.

Motion by Alderman Ament to reconvene to Open Session at 9:32 PM. Seconded by Alderman Chiovatero and carried unanimously.

OPEN SESSION

Discussion and possible action on the Barry Hintz Special Assessment Waiver

Motion by Alderman Gallagher to deny the request for relief from special assessment. Seconded by Alderman Ament and carried unanimously.

ADJOURN

Motion by Alderman Ament to adjourn at 9:33 PM. Seconded by Alderman Harenda and carried unanimously.

Respectfully submitted

Marilyn Gauger, CMC
City Clerk