

**CITY OF NEW BERLIN  
PROCEEDINGS OF THE COMMON COUNCIL MEETING  
Tuesday, March 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 7:43 PM after Privilege of the Floor and Committee of the Whole.

***This meeting was noticed on March 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 Hopkins, Augustine, Gallagher, Harenda, Hegeman, Chiovaturo and Ament. Also present were City Attorney Mark Blum, City Clerk Marilyn Gauger, Deputy City Clerk Sherry Grant, City Engineer JP Walker, Director of Utilities and Streets Ray Grzys, Director of Community Development Greg Kessler, Planning Services Manager Nikki Jones and Division Engineer Eric Nitschke.

City Clerk – The Spring Election is Tuesday, April 5, 2005. Ballots are available 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. The City Clerk's office will be open tomorrow until 7PM for voting and registering to vote. The Forums tape that includes all candidates will be re-played the next 2 weekends from Friday to Monday on City Cable Channel 25. Those dates are advertised on the cable channel. Earth Day is April 23<sup>rd</sup> from 12 noon to 3:00 PM in Calhoun Park with a rain day of April 24<sup>th</sup>. Contact the Information Line at 262-754-1700 if weather is questionable.

Council President – Commends City of New Berlin Police and Fire Departments for professionalism and expertise when responding to the tragic shooting at the Sheraton Hotel in Brookfield.

Mayor – none

City Attorney - none

**COMMUNICATIONS**

- Notice of Injury/Harold Veium/Refer to City Attorney
- Seyfarth Shaw LLP/Attorneys for Insituform Technologies, Inc/information only on file in the City Clerk's office

**COMMITTEE, COMMISSION AND BOARD RECOMMENDATIONS**

**PLAN COMMISSION**

**Ordinance #2260 To deny the rezoning of the property known as Oak Pointe located at 4435 South Calhoun Road**

Motion by Alderman Ament to adopt Ordinance #2260 To deny the rezoning of the property known as Oak Pointe located at 4435 South Calhoun Road from R-4, Low Density Single-Family Residential District to Rm-1, Multi-Family Residential District and to accept the Plan Commission report stating reasons for denial. Seconded by Alderman Augustine and carried unanimously.

**Adopt the Subdivision and Zoning Code amendments/Chapters 235 and 275**

Motion by Alderman Ament to adopt the Subdivision and Zoning Code Amendments, Chapters 235 and 275. Seconded by Alderman Harenda.

Motion by Alderman Harenda to defer until April 12, 2005 meeting. Seconded by Alderman Hegeman with Aldermen Ament and Gallagher voting no.

**SPECIAL PROJECTS COMMISSION/SMALL GRANTS PROGRAM AWARDS**

**Small Grants Program Grant for New Berlin Historical Society**

Motion by Alderman Augustine to approve the Small Grants Program Grant for New Berlin Historical Society in the amount of \$500. Seconded by Alderman Ament and carried unanimously.

**Small Grants Program Grant for New Berlin Chamber of Commerce**

Motion by Alderman Hopkins to approve the Small Grants Program Grant for New Berlin Chamber of Commerce in the amount of \$7,500. Seconded by Alderman Hegeman and carried with Alderman Ament voting as being present and recused himself from any discussion and voting.

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**Small Grants Program Grant for New Berlin Fourth of July Committee**

Motion by Alderman Augustine to approve the Small Grants Program Grant for New Berlin Fourth of July Committee in the amount of \$4,000. Seconded by Alderman Hopkins and carried unanimously.

**BOARD OF PUBLIC WORKS**

**Development Agreement for The Parkwood Highlands Senior Community**

Motion by Alderman Chiovatero to approve the Development Agreement for The Parkwood Highlands Senior Community Development subject to final approval by City Attorney. Seconded by Alderman Ament and carried unanimously.

**Development Agreement for Woodland Meadows Subdivision**

Motion by Alderman Chiovatero to approve Development Agreement for Woodland Meadows Subdivision subject to final approval by City Attorney. Seconded by Alderman Ament and carried unanimously.

**UTILITY COMMITTEE**

**Waive the irregularities in the bid of Insituform Technologies, Inc for the proposed Project K-366 Sanitary Interceptor Sewer Re-Lining**

Alderman Gallagher read the following motion from the March 22, 2005 Utility Committee Meeting:  
"Motion by Alderman Gallagher to waive the irregularities in the bid of Insituform Technologies, Inc for the proposed Project K-366 Sanitary Interceptor Sewer Re-Lining project and specifically waive the requirement that the bidder acknowledge the terms of the addenda in their bid as provided in Section 15 of the General Requirements to bidders as well as the addenda themselves. Seconded by Commissioner Dude and upon voting the motion failed 2 votes to 3.

*Alderman Gallagher indicated this project is going back to the Utility Committee for consideration.*

**Award the Construction Contract for Sanitary Interceptor Sewer Re-Lining Project K-366 to the lowest responsive and responsible bidder, Insituform Technologies, Inc**

No action required.

**Reserve \$500,000 from 2004 Collection System – Contracted Services account to the 2005 Collection System Contracted Services**

No action required.

**STORMWATER COMMITTEE**

**Encroachment Agreement relating to the Inez Drive Storm Sewer Project**

Motion by Alderman Harenda to approve the Encroachment Agreement relating to the Inez Drive Storm Sewer Project. Seconded by Alderman Ament and carried unanimously.

**Professional Services Contract with R.A. Smith & Associates, Inc and HNTB Corp**

Motion by Alderman Harenda to approve the Professional Services Contract with R.A. Smith & Associates, Inc and HNTB Corp to conduct field screening of outfalls and map City Storm Sewer conveyance systems in G.I.S in accordance with the City's WI Pollutant Discharge Eliminations System Permit. Source of Funds: Transfer from Account 04251171-61707-C2004 to 04251171-61712-C2004 in the amount of \$80,500. Seconded by Alderman Hopkins and carried with Alderman Gallagher voting no.

**MAYORAL APPOINTMENTS**

**Stormwater Committee**

**Jim Kern – Citizen member with a term expiring 3-21-07**

Motion by Alderman Hopkins to approve the appointment of Jim Kern to the Stormwater Committee with a term expiring 3-21-07. Seconded by Alderman Chiovatero and carried unanimously.

**DEFERRALS, REFERRAL & TABLED ITEMS**

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

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 TABLED 2-8-05 after 1<sup>st</sup> reading**

No action taken.

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**CONSENT AGENDA**

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

**MINUTES**

Common Council Minutes of Meeting held March 8, 2005  
Common Council Minutes of Special Meeting held March 15, 2005

**UTILITY AND FINANCE**

**Claims**

Water Utility claims in the amount of \$198,189.67, Sewer Utility claims in the amount of \$4,971,712.15, of that amount \$4,965,539.00 represents payment to MMSD, and Bi-weekly claims in the amount of \$1,010,522.24, all of which represents payment to vendors.

**LICENSES**

**Bartenders**

Bartender License for the year 2004-2006 to Laura B Swokowski.  
Bartender License for the year 2004-2006 to Corey B Nelson

**Amendment to "Class B" Retailers License**

Amendment to the "Class B" Retailers License to include the "Parking Lot Area" for Mustang Shelly's, 18540 W. National Ave., Saturday May 7, 2005 from 10:00am to 10:00pm and Sunday May 8, 2005 from 9:00am to 10:00pm. Owner must provide trained staff to direct people in and out of the parking lot, the staff must be trained and wear a fluorescent safety vests (flashlight at night), and have handheld stop signs and they must be sober. Also owner must provide professional security people (at least two) on premise during event. Any complaints from neighbors, etc. that require police response will result in immediate revocation of outdoor amendment.

**Amendment to "Class B" Retailers License**

Amendment to the "Class B" Retailers License to include the "Back Lot Area" for Matty's Bar & Grille, 14460 W. College Ave., on Friday, August 19, 2005 from 3:00 PM to 1:00 AM, Saturday, August 20, 2005 from 2:00 PM to 1:00 AM, and Sunday, August 21, 2005 from 2:00 PM to 1:00 AM. (Live music on Friday from 8:00 PM to 12:00 AM, Saturday from 1:00 PM to 12:00 AM and Sunday from 1:00 PM to 11:00 PM). Owner must provide trained staff to provide traffic control for pedestrians crossing College Ave., the staff must wear a fluorescent safety vests (flashlight at night) and they must be sober. Any complaints from neighbors, etc. that require police response will result in immediate revocation of outdoor amendment and/or live music.

**Extension of Loud Speaker Permit**

Extension of the loud speaker permit issued by the Police Department to Holy Apostles Congregation, 16000 W. National Ave., to have the bands play on Friday, June 24, 2005 to 10:30 pm, and Saturday, June 25, 2005 to 10:30 pm., and also allow the carnival rides to be in operation until the above times. Any complaints from neighbors, etc. that require police response will result in immediate revocation of this extension.

**MISCELLANEOUS**

Resolution No. 05-12 A Resolution Authorizing the Issuance and Sale of \$3,025,000 General Obligation Promissory Notes, Series 2005.

Resolution No. 05-13 A Resolution Authorizing the Issuance of Sale of Approximately \$6,240,000 General Obligation Refunding Bonds, Series 2005.

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**ORDINANCES/RESOLUTIONS**

**Ordinance No. 2261 Ordinance To Create Section 6-17 of The Municipal Code of the City of New Berlin Concerning The Fire Department (1<sup>ST</sup> Reading)**

Motion by Alderman Harenda to waive the 2<sup>nd</sup> and 3<sup>rd</sup> readings. Seconded by Alderman Hegeman and carried with Alderman Gallagher voting no.

Motion by Alderman Hopkins to adopt Ordinance No. 2261. Seconded by Alderman Harenda and carried unanimously.

**ADJOURN**

Motion by Alderman Ament to adjourn at 8:07 PM. Seconded by Alderman Harenda and carried unanimously.

Respectfully submitted

Sherry Grant, CMC  
Deputy City Clerk