

**CITY OF NEW BERLIN
PROCEEDINGS OF THE COMMON COUNCIL MEETING
Tuesday, May 10, 2005**

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

Mayor Jack F Chiovero called the City of New Berlin Common Council to order at 7:50 PM after Privilege of the Floor and Committee of the Whole.

This meeting was noticed on May 5, 2005 and amended notice on May 9, 2005 in accordance with the Open Meeting Law.

Those present recited the Pledge of Allegiance and Mayor Chiovero indicated because it is Police Week next week that everyone please remembers our fallen police officers.

ROLL CALL: Present were Aldermen Hopkins, Augustine, Gallagher, Harena, Hegeman, Moore and Ament. Also present were City Attorney Mark Blum, City Clerk Marilyn Gauger, Police Chief Gary Blunt, City Engineer JP Walker, Director of Streets and Utilities Ray Grzyn and Stormwater Division Engineer Eric Nitschke.

REPORTS

City Clerk – none

Council President – invited all residents to attend the Weston Apple Orchard Dedication ceremony on Sunday, May 15, 2005 from 1PM to 4PM located on National Avenue across from the City's Historic Park District. The actual dedication will take place at 2PM and is free to the public.

Mayor - none

City Attorney - none

Council President Alderman Harena

Appointments for Committees and/or Commission and COW Liaison Appointments

The following appointments were made for April 2005 to April 2006:

Committee/Commission

Crime Prevention
Electrical Review
4th of July
Golf Course
Housing Authority
Landmarks
Library
Park & Rec
Public Works
Safety
Communications
Utility
Stormwater
Finance
Fire Department

Recommendation

Hopkins
Augustine
Ament
Hopkins
Augustine
Hegeman
Moore
Gallagher
Moore/Ament/Augustine
Hegeman
Gallagher/Harena/Hopkins
Gallagher/Ament/Harena
Harena/Hegeman/Hopkins
Moore/Augustine/Ament
Hegeman/Harena

COW Liaison

Assessor	Augustine
Building & Grounds/Inspections	Harena
Planning	Ament
Engineering	Hopkins
Finance/claims/judiciary	Moore
Fire Department	Harena
Human Resources	Harena
Information Systems	Hopkins
Insurance	Augustine
Legislative	Ament
Licenses	Moore
Park & Rec	Gallagher
Police	Hegeman

Committee/Commission

School Board
Utilities
Youth Board

Recommendation

Harenda
Ament
Gallagher

Election of an Alderman to Plan Commission

Mayor Chiovaturo asked for nominations. Alderman Hopkins nominated Alderman Ament.

Motion by Alderman Augustine to close nominations. Seconded by Alderman Harenda and carried unanimously.

Motion by Alderman Harenda to elect Alderman Ament to serve on the City of New Berlin Plan Commission (term expiring April 2006). Seconded by Alderman Hopkins and carried unanimously.

COMMUNICATIONS - none

COMMITTEE, COMMISSION AND BOARD RECOMMENDATIONS

PLAN COMMISSION

Request for a One-year extension for "Farrell Meadows" Planned Unit Development Ordinance #2211

Motion by Alderman Ament to approve the Request for a One-year extension for "Farrell Meadows" Planned Unit Development Ordinance #2211 (adopted 8-12-03) and accept the Plan Commission Report. Seconded by Alderman Augustine and carried unanimously.

Set a public hearing at the June 6, 2005 Plan Commission Meeting to adjust the MMSD Current Sewer Service line (boundary) through the Ronald Reagan Elementary School (New Berlin Center)

Motion by Alderman Ament to Set a public hearing at the June 6, 2005 Plan Commission Meeting to adjust the MMSD Current Sewer Service line (boundary) through the Ronald Reagan Elementary School (New Berlin Center) property located at 4225 and 4385 S. Calhoun Road and accept the Plan Commission Report. Seconded by Alderman Hegeman and carried unanimously.

Reaffirm the approval of the Three-lot Final Certified Survey Map for the property located at 3949 S. Sunny Slope Road

Motion by Alderman Ament to Reaffirm the approval of the Three-lot Final Certified Survey Map for the property located at 3949 S. Sunny Slope Road and accept the Plan Commission Report. Seconded by Alderman Harenda and carried unanimously.

Request for a 6-month extension of PUD Ordinance #2210 Crestview Place Planned Unit Development Overlay District

Motion by Alderman Ament to approve the Request for a 6-month extension of PUD Ordinance #2210 (adopted 8-12-03) "Crestview Place Planned Unit Development Overlay District" and accept the Plan Commission Report. Seconded by Alderman Hegeman and carried unanimously.

BOARD OF PUBLIC WORKS

KASCO Development Agreement

Motion by Alderman Ament to approve the amended KASCO Development Agreement subject to: receipt of a recorded agreement between the Property owner for KASCO and the Developer for the proposed Honeyager Fields Subdivision for constructing public improvements of Howard Avenue and review by the City Attorney. The amended Special Condition M. is as follows: Subject to a final review and recommendation for signal lights at the intersection of Howard Avenue and Sunny Slope Road, the PROPERTY OWNER, prior to the City's acceptance of the public improvements in the DEVELOPMENT, shall submit to the CITY a \$15,000 Irrevocable Letter of Credit in a form acceptable to the CITY for anticipated costs of the design, Engineering and construction of traffic signals and other improvements determined by the CITY to be necessary for the signalization of said intersection, including but not limited to roadway improvements on Sunny Slope Road. In the event that construction of said signal is not commenced by October 31, 2010 said funds shall be released to the PROPERTY OWNER. Seconded by Alderman Hopkins and carried unanimously.

Accepting the public improvements constructed in Jacobs Ridge Multi-Family Area

Motion by Alderman Ament to table. Seconded by Alderman Harenda and carried unanimously.

Award the Professional Services Contract to Bonestroo Rosene Anderlik & Associates for consulting services related to the design of 5 bike and pedestrian trail segments

Motion by Alderman Ament to Award the Professional Services Contract to Bonestroo Rosene Anderlik & Associates for consulting services related to the design of 5 bike and pedestrian trail segments that were included in the approved CIP Budget in the amount not to exceed \$81,000. Seconded by Alderman Moore and carried unanimously.

Resolution No. 05-20 Transferring Approved funds for Cold Spring Road Reconstruction

Motion by Alderman Ament to Approve Resolution No. 05-20 Transferring Approved funds for Cold Spring Road Reconstruction Project. Seconded by Alderman Augustine and carried unanimously.

Award the Construction Contract to the lowest responsive, responsible bidder, Musson Bros, Inc

Motion by Alderman Ament to Award the Construction Contract to the lowest responsive, responsible bidder, Musson Bros, Inc in the amount of \$2,238,164.07 for the reconstruction of Cold Spring Road with a total project cost of \$2,508,001. Seconded by Alderman Augustine and carried unanimously.

Development Agreement for The Residences of City Center

Motion by Alderman Ament to Approve the Development Agreement for The Residences of City Center listing the responsibilities of the parties in the development and subject to approval by the City Attorney. Seconded by Alderman Hopkins and carried unanimously.

UTILITY COMMITTEE

Payment of \$17,500 to Water Well Solutions

Payment of \$17,500 to Water Well Solutions as pursuant to Common Council Resolution 04-24 of May 11th 2004 and to then submit said billing for reimbursement to Ruckert & Mielke as per our agreement with them. (*Refer to Closed Session*)

Award the Construction contract for Sanitary Interceptor Sewer Re-Lining Project # K-366

Motion by Alderman Gallagher to Award the Construction contract for Sanitary Interceptor Sewer Re-Lining Project # K-366 to the lowest responsive and responsible bidder, Michels Pipe Services, a division of Michels Corporation in the amount of \$868,083.00, for a total project cost not to exceed \$ 1,010,000.00. Source of Funds: Account 81001131 54110 – Collection System – Contracted. Seconded by Alderman Ament and carried unanimously.

STORMWATER COMMITTEE

Resolution No.05-21 Transferring Approved Funds for Inez Drive Storm Sewer Construction

Motion by Alderman Harenda to approve Resolution No.05-21 Transferring Approved Funds for Inez Drive Storm Sewer Construction Project. Seconded by Alderman Hopkins and carried unanimously.

Award the Construction Contract for Inez Drive Storm Sewer

Motion by Alderman Harenda to Award the Construction Contract for Inez Drive Storm Sewer Project to the lowest responsive, responsible bidder, Willkomm Excavating and Grading in the amount of \$331,124.50 with a total project cost of \$412,911.50. Source of Funds: Account 04251171 61711 C2004 – Stormwater Utility CIP. Seconded by Alderman Hegeman and carried unanimously.

MAYORAL APPOINTMENTS

Community Development Authority

Motion by Alderman Harenda to approve the re-appointment of Douglas G. Barnes with the term expiring 5/31/2009. Seconded by Alderman Ament and carried unanimously.

Fire Department Committee

Motion by Alderman Gallagher to approve the appointment of Deena M. Lavrenz Liska with a term expiring 5/10/2007. Seconded by Alderman Hegeman and carried unanimously.

Parks, Recreation & Forestry Commission

Motion by Alderman Moore to approve the re-appointment of Charles W. Bedwell with a term expiring 4/30/2008, the re-appointment of William J. Christel with a term expiring 4/30/2008, the re-appointment of

Vernon E. Radtke with a term expiring 4/30/2008, and the appointment of Dick C Kinney with a term expiring 4/30/2007. Seconded by Alderman Hegeman and carried unanimously.

Plan Commission

Motion by Alderman Ament to approve the re-appointment of Douglas G Barnes with a term expiring 4/30/2008. Seconded by Alderman Harenda and carried unanimously.

Safety Commission

Motion by Alderman Hopkins to approve the re-appointment of James T Moczydlowski with a term expiring 4/30/2007 and the re-appointment of Earl R. Strandt with a term expiring 4/30/2007. Seconded by Alderman Aments and carried unanimously.

Board of Appeals

Motion by Alderman Hopkins to approve the re-appointment of Dennis W Bohem with a term expiring 4/30/2008 and the re-appointment of Milton A Galke with a term expiring 4/30/2008. Seconded by Alderman Ament and carried unanimously.

Board of Review

Motion by Alderman Ament to approve the re-appointment of Jerome C Hudy with a term expiring 5/31/2010 and the re-appointment of Donald J Starr with a term expiring 5/31/2010. Seconded by Alderman Hegeman and carried unanimously.

Library Board

Motion by Alderman Gallagher to approve the appointment of Irene Schelman with a term expiring 6/30/2006. Seconded by Alderman Harenda and carried unanimously. (*This appointment was to fill a remaining term due to moving from the City*)

Police and Fire Commission

Motion by Alderman Hopkins to approve the appointment of David L Patzer with a term expiring 4/30/2010. Seconded by Alderman Hegeman and carried unanimously.

Weed Commissioner

Motion by Alderman Hopkins to approve the re-appointment of Duane Hause with a term expiring 4/30/2006. Seconded by Alderman Ament and carried unanimously.

DEFERRALS, REFERRAL & TABLED ITEMS

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

See Closed Session below.

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 1st reading/REFERRED TO BOARD OF PUBLIC WORKS 4-26-05

No action taken.

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CONSENT AGENDA

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

MINUTES

Common Council Minutes of Meeting held April 26, 2005

UTILITY AND FINANCE

Claims

Request for Approval of Water Utility claims in the amount of \$160,216.53, Sewer Utility claims in the amount of \$28,173.22 and Bi-weekly claims in the amount of \$164,303.67, all of which represents payment to vendors

LICENSES

Bartenders

Request for Bartender License for the year 2004-2006 to Nicole C. Bond-Allen, Kelly S. Kerr, Jason S. Oleinik, Catherine E. Stearns, Sharon M. Stockinger and Brian J. Znudzinski

MISCELLANEOUS

Request for Approval to Waive Interest and Penalty of \$160.98/14180 W Fieldpointe Drive/Parcel No. 1196-090

Request for Approval for a Fireworks Permit/Terrence Waldbilling/5900 S Aberdeen Drive
Request for Approval to Set a Public Hearing Date for June 6, 2005 at 6:03 PM before Plan Commission/David York of Crossroads Community Church/4315 S Moorland Road from R-3 to I-1
Request for Approval closing of National Avenue from Barton Road west to West Side Pub on Sunday, May 15, 2005, from 1PM until 4PM
Discussion and possible action on targets/directives for 2006 Budget – no action taken.

TABLED ITEMS - None

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ITEM/S REMOVED FROM CONSENT AGENDA

Request for Approval to Waive Interest and Penalty of \$82.36/3601 S Top-O-Hill Drive/Parcel No. 1212-154

Motion by Alderman Ament to recommend to Council Approval to Waive Interest and Penalty of \$82.36/3601 S Top-O-Hill Drive/Parcel No. 1212-154. Seconded by Alderman Moore and carried with Aldermen Harenda and Hegeman voting no.

Request for Approval to Waive Interest and Penalty of \$117.14/12810 W Radisson Drive/Parcel No. 1249-027

Motion by Alderman Ament to recommend to Council to Denial to Waive Interest and Penalty of \$117.14/12810 W Radisson Drive/Parcel No. 1249-027. Seconded by Alderman Moore and carried with Aldermen Hopkins and Augustine voting no.

Request for Approval to Waive Interest and Penalty of \$251.04/20070 W Lincoln Avenue/Parcel No. 1171-995-005

Motion by Alderman Ament to recommend to Council Approval to Waive Interest and Penalty of \$251.04/20070 W Lincoln Avenue/Parcel No. 1171-995-005. Seconded by Alderman Moore and carried with Aldermen Gallagher and Harenda voting no.

ORDINANCES/RESOLUTIONS - 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) (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; Sts Constantine & Helen Greek Orthodox Church and possible litigation involving Well #11.

Motion by Alderman Augustine to go to Closed Session at 8:46 PM. Seconded by Alderman Hopkins and carried unanimously per roll call vote.

Motion by Alderman Augustine to reconvene in Open Session at 10:55 PM. Seconded by Alderman Hegeman and carried unanimously.

OPEN SESSION

Refer back to DEFERRALS, REFERRAL & TABLED ITEMS

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

Discussion and possible action on Sts Constantine & Helen Greek Orthodox Church

No action taken.

Refer back to UTILITY COMMITTEE

- Payment of \$17,500 to Water Well Solutions as pursuant to Common Council Resolution 04-24 of May 11th 2004 and to then submit said billing for reimbursement to Ruckert & Mielke as per our agreement with them

Discussion and possible action regarding possible litigation involving Well #11

Motion by Alderman Gallagher to make Payment of \$17,500 to Water Well Solutions as pursuant to Common Council Resolution 04-24 of May 11th 2004 and to then submit said billing for reimbursement to Ruckert & Mielke as per our agreement with them. Seconded by Alderman Hegeman and carried unanimously.

ADJOURN

Motion by Alderman Hopkins to adjourn at 11:00 PM. Seconded by Alderman Augustine and carried unanimously.

Respectfully submitted

Marilyn Gauger, CMC
City Clerk