

**CITY OF NEW BERLIN
PROCEEDINGS OF THE COMMON COUNCIL MEETING
Tuesday, July 26, 2005**

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

Mayor Jack F Chiovatero called the City of New Berlin Common Council Meeting to order at 8:30 PM after Privilege of the Floor and Committee of the Whole.

This meeting was noticed on July 21, 2005 in accordance with the Open Meeting Law.

Those present recited the Pledge of Allegiance.

ROLL CALL: Present were Aldermen Hopkins, Augustine, Gallagher, Harenda, Hegeman, Moore and Ament. Also present were City Attorney Mark Blum, City Clerk Marilyn Gauger, Director of Streets and Utilities Ray Grzys, Director of Parks, Recreation and Forestry Mark Schroeder, City Engineer JP Walker and Planning Services Manager Nikki Jones.

REPORTS

City Clerk - none

Council President – none

Mayor Chiovatero indicated all Department Heads have turned in their 2006 proposed budgets, and some revisions were turned in. He will distribute the budgets to Aldermen by the end of August, which is on schedule per the timeline.

City Attorney - none

COMMUNICATIONS

John R Schaefer Claim/Refer to City Attorney/Referred to City Attorney

Building Trades Union Pension Funds Summons/Referred to City Attorney

COMMITTEE, COMMISSION AND BOARD RECOMMENDATIONS

PLAN COMMISSION

Resolution #05-34 that approves the Poplar Creek Preliminary Plat

Motion by Alderman Ament to adopt Resolution #05-34 that approves the Poplar Creek Preliminary Plat for the property located at 3095 S. Calhoun Road and accept the Plan Commission Report. Seconded by Alderman Hopkins and carried unanimously.

Certified Survey Map for the property located at 2955 S. Country Lane

Motion by Alderman Ament to approve the Certified Survey Map for the property located at 2955 S. Country Lane and accept the Plan Commission Report. Seconded by Alderman Hopkins and carried unanimously.

Waiver request for all Planning, Engineering and Building Inspection permit and applications fees to be waived for the Ronald Reagan Elementary School

Motion by Alderman Ament to approve the waiver request for all Planning, Engineering and Building Inspection permit and applications fees to be waived for the Ronald Reagan Elementary School located at 4225 S. Calhoun Road based upon the status of the school as a public entity and accept the Plan Commission Report. Seconded by Alderman Harenda and carried with Alderman Gallagher voting no.

Certified Survey Map for the property located at 13203 W. Honey Lane

Motion by Alderman Ament to approve the Certified Survey Map for the property located at 13203 W. Honey Lane and accept the Plan Commission Report. Seconded by Alderman Hopkins and carried unanimously.

Certified Survey Map for the property located at 15525 W. Grange Avenue

Motion by Alderman Ament to approve the Certified Survey Map for the property located at 15525 W. Grange Avenue and accept the Plan Commission Report. Seconded by Alderman Hegeman and carried unanimously.

Rolling Oaks Extraterritorial Plat in the Town of Waukesha

Motion by Alderman Ament to have no objection to the Rolling Oaks Extraterritorial Plat in the Town of Waukesha and accept the Plan Commission Report. Seconded by Alderman Hegeman and carried with Alderman Harenda voting no.

Certified Survey Map for the property located at 14905 W. Library Lane

Motion by Alderman Ament to approve the Certified Survey Map for the property located at 14905 W. Library Lane and accept the Plan Commission Report. Seconded by Alderman Hopkins and carried unanimously.

BOARD OF PUBLIC WORKS

Change in name only of the Development from Deer Creek Homes

Motion by Alderman Ament to change in name only of the Development from Deer Creek Homes to City Center Condominiums. Seconded by Alderman Harenda and carried unanimously.

Award Construction Contract for 2005 Roadway Maintenance Program

Motion by Alderman Ament to award Construction Contract to the lowest responsive, responsible bidder, Payne & Dolan, Inc, in the amount of \$433,789.25 for Phase I of the 2005 Roadway Maintenance Program, adding in 5% for inspection services in the amount of \$21,689.75 and 10% for contingencies for \$44,521.00 for a total not to exceed \$500,000 with source of funds from Account #15110029 59040. Seconded by Alderman Hegeman and carried unanimously.

Change in name only of the Developer for Hickory Hills Condominiums from Bouraxis Properties, LLC (New Berlin)

Motion by Alderman Ament to approve the change in name only of the Developer for Hickory Hills Condominiums from Bouraxis Properties, LLC (New Berlin) to Bouraxis Properties (New Berlin Project), LLC. Seconded by Alderman Augustine and carried unanimously.

Change in name of the Developer from City Center, LLC

Motion by Alderman Ament to approve the change in name of the Developer from City Center, LLC to Library Lofts, LLC. Seconded by Alderman Moore and carried unanimously.

Development Agreement for Pizza Buffet and Family Entertainment Center

Motion by Alderman Ament to approve the Development Agreement for Pizza Buffet and Family Entertainment Center subject to final approval by the City Attorney. Seconded by Alderman Hegeman and carried with Alderman Moore voting no.

COMMUNITY DEVELOPMENT AUTHORITY

Accept the 2005 CDBG Competitive and Set-Aside Grants

Motion by Alderman Harenda to accept the 2005 CDBG Competitive and Set-Aside Grants and to amend the DCD – Planning Services Division 2005 Operating Budget accordingly. Seconded by Alderman Augustine and carried with Aldermen Hegeman and Ament voting no.

Set a public hearing at the CDA Meeting on Thursday, September 1, 2005 at 7:30 AM to discuss the New Berlin Industrial Park Redevelopment Plan

Motion by Alderman Harenda to set a public hearing at the CDA Meeting on Thursday, September 1, 2005 at 7:30 AM to discuss the New Berlin Industrial Park Redevelopment Plan. Seconded by Alderman Ament and carried unanimously.

PARK, RECREATION AND FORESTRY COMMISSION

Cell Tower Lease Agreement with US Cellular for Hickory Grove Center

Motion by Alderman Gallagher to approve the Cell Tower Lease Agreement with US Cellular for Hickory Grove Center, 2600 S Sunny Slope Road. Seconded by Alderman Hopkins and carried unanimously.

Deposit revenues from the Hickory Grove Center Cell Tower Lease Agreement into the Public Site & Open Space Account

Motion by Alderman Gallagher to deposit revenues from the Hickory Grove Center Cell Tower Lease Agreement into the Public Site & Open Space Account. Seconded by Alderman Hegeman and carried unanimously.

Award contract for the Buena Park Tennis/Basketball Court Reconstruction Project

Motion by Alderman Gallagher to award contract in the amount of \$97,952 for the Buena Park Tennis/Basketball Court Reconstruction Project to Munson, Inc – source of funds from CIP Account #04059100-61107. Seconded by Alderman Hegeman and carried unanimously.

UTILITY COMMITTEE

Award the Construction Contract for Moorland Road Water Main and Sanitary Sewer

Motion by Alderman Gallagher to award the Construction Contract for Moorland Road Water Main and Sanitary Sewer construction to the lowest responsive, responsible bidder, Mainline Sewer & Water, Inc., Pewaukee, WI, in the amount of \$997,520.25 and to waive any irregularities, with a total project cost not to exceed \$1,465,050. Funded from Impact Fees and Special Assessments, conditioned upon Council adoption of Final Special Assessment Levy Resolution No. 05-36 for this project assessment district. Charge to Sewer Utility Acct #80-173410 and Water Utility Acct #90-173432 included in the Approved Year 2004 CIP Budgets, Source of funds is Impact Fee accounts #274-003 and Contribution in aid of construction via Special Assessments. Seconded by Alderman Harenda and carried with Alderman Ament voting no.

Professional Services Agreement for the Year 2020 Upgrade Study for Regal Manor West Lift Station.

The item was tabled at the Utility Committee meeting held this evening.

Waiver to the developer of the requirements of City of New Berlin Municipal Code 267.10.

This item was deferred at the Utility Committee meeting held this evening.

WisDOT form DT-1660, Conveyance of Land Rights

A representative from the State DOT was present and gave an explanation of the request.

A recommendation did not come forth from the Utility Committee therefore Alderman Gallagher made the following motion:

Motion by Alderman Gallagher to approve the execution of WisDOT form DT-1660, Conveyance of Land Rights, associated with existing utility easement over acquired right-of way on parcel at 17975 W. Greenfield Avenue (aka NBC-1165-958) to avoid delay in the roadway reconstruction project schedule. Motion failed lack of a second.

STORM WATER COMMITTEE

Stormwater Utility Policy 23-04-005 Culvert Replacement

Motion by Alderman Harenda to approve the Stormwater Utility Policy 23-04-005 Culvert Replacement. Source of funds is Stormwater Utility Account 70710710.52130 Admin Charge Streets. Seconded by Alderman Ament and carried unanimously.

MAYORAL APPOINTMENTS

Board of Review – David Schultz - term expiring 5-31-09

Mayor Chiovaturo asked that this appointment be deferred.

Civil Service Commission – Bernard Kramer – reappointment - term expiring 6-30-10

Motion by Alderman Harenda to approve the re-appointment of Bernard Kramer. Seconded by Alderman Hegeman and carried with Alderman Ament voting no.

Ethics Board – Mike Everson - term expiring 7-26-08

Motion by Alderman Hopkins to approve the appointment of Mike Everson. Seconded by Alderman Hegeman and carried with Alderman Ament voting no.

Fourth of July Commission

Nancy C Bertsch – reappointment - term expiring 8-1-09

Anida Rose – reappointment - term expiring 8-1-06

Motion by Alderman Ament to approve the re-appointments of Nancy C Bertsch and Anida Rose. Seconded by Alderman Hopkins and carried unanimously.

Safety Commission

Frederick E Witty - term expiring 4-30-07

Motion by Alderman Hegeman to approve the appointment of Frederick E Witty. Seconded by Alderman Hopkins and carried unanimously.

Youth Advisory Board

Erica Wagner – D#2 – term expiring 5-31-07

Megan Hugdahl – D#5 – term expiring 5-31-07

Shane Arman – D#6 – term expiring 5-31-07

Alex Pray – D#6 – term expiring 5-31-06

Motion by Alderman Moore to approve all 4 of the above Youth Advisory Board appointments. Seconded by Alderman Augustine 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

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

Motion by Alderman Hegeman to drop from agenda. Seconded by Alderman Hopkins and carried unanimously.

NOTE: Ordinance No. 2257 is not adopted.

Acceptance of public constructed in Jacobs Ridge Multi-Family Area, accept the dedication of the public infrastructure by Bodner Property Management, LLC and authorize the release of the Surety Instrument/TABLED 5-10-05

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 Augustine and carried unanimously.

MINUTES

Common Council Minutes of Meeting held June 28, 2005

UTILITY AND FINANCE

Claims

July 12:

Approval of Water Utility claims in the amount of \$32,619.12, Sewer Utility claims in the amount of \$16,814.87 and Bi-weekly claims in the amount of \$530,127.82, all of which represents payment to vendors.

July 26:

Approval of Water Utility claims in the amount of \$113,067.14, Sewer Utility claims in the amount of \$4,134.85 and Bi-weekly claims in the amount of \$839,313.92, all of which represents payment to vendors

LICENSES

Bartenders

Denial of Bartender License for the year 2005-2007 to Nayland R. Gonzalez.

Approval of Bartender Licenses for the year 2005-2007 to Mallory R. Baumann, Bobbi Jo Butler, Todd J. Caze, Lisa H. Le and Elizabeth L. Weede.

Retail Liquor License

Approval of a Class "B" Retail Liquor License for Andrew Tenaglia/dba Lagniappe Brasserie LLC (formerly known as Antonino's Ristorante Siciliano) at 17001 W Greenfield Avenue.

MISCELLANEOUS

Approval Resolution No. 05-35 A Resolution Amending the 2005 City of New Berlin Operational Budget Relating to Wage and Benefit Adjustments.

Approval of Settlement of Theodore Jackovich claim in the amount of \$200.00.

Set a Public Hearing before Plan Commission on Monday, September 12, 2005 at 6:00 PM to rezone the property located at 5611 S. Calhoun Avenue from A-2, R-1/R-2, R-3 and C-2 to A-2, R-1/R-2 and C-2.

Set a Public Hearing before Plan Commission on Monday, September 12, 2005 at 6:01 PM to rezone the property located at 13900 Brook Hollow Court from R-3/C-1/C-2 to R-3/C-1/C-2.

Set a Public Hearing before Plan Commission on Monday, September 12, 2005 at 6:02 PM to rezone the property located at 18695 W. Cleveland Avenue from I-1 to I-1 and C-2.

Set a Public Hearing before Plan Commission on Monday, September 12, 2005 at 6:03 PM to rezone the property located at 18715 & 15635 W. Greenfield Avenue from R-1/R-2/C-2 to R-1/R-2/C-2.

Approval of payment of attorney fees for legal representation of Officer Helm following line of duty motor vehicle accident.

Table recommendation from Carlson/Dettman concerning amendment to Civil Service Code Section 11-12.

TABLED/DEFERRED ITEMS

Request for Approval Resolution No. 05-27 A Resolution Authorizing Participation of the City of New Berlin in the Greenfield Avenue Reconstruction Project. /DEFERRED 6-14-05/TABLED 6-28-05

No action taken.

ITEM/S REMOVED FROM CONSENT AGENDA

Request for Approval of Bartender License for the year 2005-2007 to Laurie A Heinen.

Motion by Alderman Gallagher to recommend to Council denial of Bartender License for the year 2005-2007 to Laurie A Heinen. Seconded by Alderman Harenda and carried with Alderman Moore voting no.

Request for Approval Resolution No. 05-32 A Resolution Amending the 2005 City of New Berlin Operational Budget for the Mayor's Wage and Benefit Adjustment.

Motion by Alderman Hopkins to recommend to Council approval Resolution No. 05-32 A Resolution Amending the 2005 City of New Berlin Operational Budget for the Mayor's Wage and Benefit Adjustment. Seconded by Alderman Moore and carried with Alderman Ament voting no.

Request for Approval Resolution No. 05-33 A Resolution Amending the 2005 City of New Berlin Operational Budget Relating to Information Technology Wage and Benefit Adjustments.

Motion by Alderman Harenda to recommend to Council approval Resolution No. 05-33 A Resolution Amending the 2005 City of New Berlin Operational Budget Relating to Information Technology Wage and Benefit Adjustments. Seconded by Alderman Hopkins, motion failed with Aldermen Gallagher and Moore voting yes.

Recommendation from Carlson/Dettman concerning amendment to Civil Service Code Section 11-12.

Motion by Alderman Augustine to table for Carlson Report, seconded by Alderman Harenda, carried with Aldermen Gallagher and Ament voting no.

ORDINANCES/RESOLUTIONS

Ordinance #2273, Ordinance To Amend Chapter 11 Civil Service Section 11-7 of the City of New Berlin Municipal Code Adding Director of Facilities Management (3rd reading)

Motion by Alderman Hopkins to adopt Ordinance No. 2273. Seconded by Alderman Gallagher and carried with Aldermen Augustine and Ament voting no.

Ordinance #2274, Ordinance To Amend Chapter 11 Civil Service Section 11-5 of the City of New Berlin Municipal Code renaming the Administrative Secretary-Fire To Administrative Coordinator-Fire and Renaming The Building Maintenance Manager To Director of Facility Management and Adding Deputy Assessor (3rd reading)

Motion by Alderman Moore to adopt Ordinance No. 2274. Seconded by Alderman Hopkins and carried with Aldermen Augustine and Ament voting no.

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 the State of Wisconsin Sewer Overflow Notice of Claim.

Motion by Alderman Ament to go to Closed Session at 9:50 PM. Seconded by Alderman Moore and carried unanimously per roll call vote.

Motion by Alderman Ament to reconvene to Open Session at 10:35 PM. Seconded by Alderman Augustine 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.

Discussion and possible action on State of Wisconsin Sewer Overflow Notice of Claim

No action taken.

ADJOURN

Motion by Alderman Augustine to adjourn at 10:36 PM. Seconded by Alderman Hopkins and carried unanimously.

Respectfully submitted:

Marilyn Gauger, CMC
City Clerk