

**CITY OF NEW BERLIN
PROCEEDINGS OF THE COMMON COUNCIL MEETING
Tuesday, October 11, 2005**

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

Mayor Jack F Chiovaturo called the City of New Berlin Common Council Meeting to order at 8:41 PM after the Committee of the Whole and Privilege of the Floor.

This meeting was noticed on October 7, 2005 in accordance with the Open Meeting Law.

Mayor Chiovaturo led in the reciting of the Pledge of Allegiance.

ROLL CALL: Present were Aldermen Hopkins, Augustine, Gallagher, Harenda, Hegeman, Moore and Ament. Also present were: City Attorney Mark Blum and Deputy City Clerk Sherry Grant, Director of Community Development Greg Kessler, Planning Services Manger Nikki Jones, City Engineer JP Walker, Director of Parks, Recreation & Forestry Mark Schroeder, Park Supervisor David Jeske, and Director of Utilities & Streets Ray Grzys

REPORTS

City Clerk – County Executive Special Election

Council President - none

Mayor - none

City Attorney- none

COMMUNICATIONS

Margi Blaga Claim

Referred to City Attorney

Thomas Templin and Linda Templin Claim

Referred to City Attorney

COMMITTEE, COMMISSION AND BOARD RECOMMENDATIONS

Plan Commission

Motion by Alderman Ament to recommend to Common Council adoption of Ordinance #2286 that approves the rezoning of the Robert T. Fittshur property located at 21845 W Lochleven Lane from R-1/R-2 & C-2 to R-1/R-2 & C-2 and accept the Plan Commission Report.

Motion by Alderman Ament to table this item per the applicants request Seconded by Alderman Hopkins and carried unanimously.

Motion by Alderman Ament to recommend to Common Council adoption of Ordinance #2287 that approves the rezoning of the Wildwood Preserve located at 5611 S. Calhoun Road from A-2, R-1/R-2, R-3 and C-2 to A-2, R-1/R-2 and C-2 and accept the Plan Commission Report.

Motion by Alderman Ament to table this item per the applicant's request Seconded by Alderman Harenda and carried unanimously.

Motion by Alderman Ament to recommend to Common Council approval of Resolution #05-52 that approves Park Central final Plat Addition #1 property located at 3360 S. Sunny Slope Road and accept the Plan Commission report. Seconded by Alderman Hopkins and carried unanimously.

Motion by Alderman Ament to recommend to Common Council approval of Certified Survey Map for the property located at 14602, 14800 and 14980 W Beloit Road and accept the Plan Commission Report. Seconded by Alderman Hegeman and carried unanimously.

Motion by Alderman Ament to recommend to Common Council approval of Certified Survey Map for the property located at 16930 W Small Road and accept the Plan Commission Report. Seconded by Alderman Hegeman and carried unanimously.

Motion by Alderman Moore that the Plan Commission recommendation be amended to provide that if a building permit is not applied for that the accessory structure shall be removed or relocated and this is added as an additional condition to the Plan Commission recommendation. Seconded by Alderman Harenda and carried unanimously.

Upon voting on original motion, motion carried unanimously.

Motion by Alderman Ament to recommend to Common Council adoption of Resolution #05-53 that approves Biltmore Estates Final Plat located at 19205 W Lawnsdale Road and accept the Plan Commission Report. Seconded by Alderman Hopkins and carried unanimously.

Motion by Alderman Moore to amend no. 5 to state it shall be recorded on the face of the Final Plat that all property owners shall submit, at time of initial building permit a "stake-out" survey identifying the maximum extent to which they will be removing trees. No additional tree removal may occur on each lot without prior review and approval by the City of New Berlin. Seconded by Alderman Harenda and carried with Alderman Hegeman voting no.

Upon voting on original motion, motion carried unanimously.

Motion by Alderman Ament to recommend to the Common Council adoption of Resolution #05-54 and 05-56 that approves vacating and discontinuing Blom Street, which includes three segments and accept the Plan Commission Report.

City Attorney Blum explained the process of the road vacation and stated that this is just an introduction of the Resolution and no motion or action will be taken.

Alderman Ament withdrew the original motion. Plan Commission has recommended that this Resolution be introduced tonight.

Board of Public Works

Motion by Alderman Augustine to recommend to Common Council to approve the Development Agreement for Honeyager Fields Subdivision as amended and subject to final approval by the City Attorney. Seconded by Alderman Ament and carried unanimously.

Motion by Alderman Augustine to recommend to Common Council to approve the Development Agreement for Ronald Reagan Elementary School subject to final approval by the City Attorney. Seconded by Alderman Ament.

Motion by Alderman Ament to modify item E that the developer shall pay the City wastewater utility on a prorated share at Regal Manors West Sanitary Lift Station modification based on the incremental water flow from the development which would be based on the formula recommended by Ruekert Mielke and approved by the District and the City. Seconded by Alderman Harenda and carried unanimously.

Upon voting on original motion, motion carried unanimously.

Motion by Alderman Augustine to recommend to Common Council approval of Resolution #05-57 to approve the Name Change of Sally Drive to Highpointe Drive. Seconded by Alderman Harenda and carried unanimously.

Motion by Alderman Augustine to recommend to Common Council approval of Resolution #05-58 to approve the Name Change Tara Drive to Winterberry Way. Seconded by Alderman Ament and carried unanimously.

Park, Recreation & Forestry Commission

Motion by Alderman Gallagher to recommend approval of Addendum to Lease Agreement for Johnson Quarry Park. Seconded by Alderman Harenda.

Motion by Alderman Ament to make an amendment to remove the word scale from the last three WHEREAS and in 1 on the Addendum to the Lease Agreement. Seconded by Alderman Hopkins and carried unanimously.

Motion by Alderman Moore to approve the amendment as described by the City Attorney. Seconded by Alderman Hopkins and carried unanimously.

Motion by Alderman Hegeman to approve the lease agreement as amended. Seconded by Alderman Hopkins and carried with Alderman Ament voting no.

Motion by Alderman Gallagher to recommend to Common Council adoption of Resolution #05-55 Adopting the Urban Forestry Management Plan for the City. Seconded by Alderman Hegeman and carried unanimously.

Request by Alderman Moore for a two-minute recess at 10:20 p.m.

Utility Committee

Motion by Alderman Gallagher for approval to KASCO for additional compensation for Oversized & Thicker Wall Sanitary Sewer Pipes. Seconded by Alderman Hegeman and carried unanimously.

Motion by Alderman Gallagher for approval of Water Utility 2006 Operating and CIP Budget. Seconded by Alderman Ament and carried unanimously.

Motion by Alderman Gallagher for approval of Wastewater Utility 2006 Operating and CIP Budget. Seconded by Alderman Ament and carried unanimously.

Mayoral Appointments

Landmarks Commission

Motion by Alderman Ament to approve the appointment of Lawrence E. Mudek with a term expiring October 1, 2008. Seconded by Alderman Hopkins and carried unanimously.

Special Projects Commission

Motion by Alderman Ament to approve the appointment of Ronald M. Salke with a term expiring October 12, 2006. Seconded by Alderman Hegeman and carried unanimously.

Youth Advisory Board

Motion by Alderman Gallagher to approve the appointment of Allie Hensel with a term expiring May 31, 2007. Seconded by Alderman Ament and carried unanimously.

DEFERRALS, REFERRAL & TABLED ITEMS

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

No action taken

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

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

Motion by Alderman Ament to approve acceptance of public construction 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. Seconded by Alderman Moore and carried unanimously.

Resolution No. 05-40 Resolution Establishing A Policy for Public Deposits and Investments/DEFERRED 9-13-05/DEFERRED 9-27-05

Motion by Alderman Moore to approve Resolution No. 05-40 Resolution Establishing A Policy for Public Deposits and Investments. Seconded by Alderman Ament and carried unanimously.

Resolution No. 05-41 Resolution Designating Public Depositories and Approving Other Financial Institutions for Investments/DEFERRED 9-13-05/DEFERRED 9-27-05

Motion by Alderman Ament to approve Resolution No. 05-41 Resolution Designating Public Depositories and Approving Other Financial Institutions for Investments. Seconded by Alderman Hegeman and carried unanimously.

Recommendation by the Alternative Transportation Sub-Committee to finish segment #31 as identified in the original Alternative Transportation Plan and the overall plan /system for pedestrian safety for off road facilities with sidepaths on both sides of Moorland Road south to Mark Drive and north to Coffee Street and accept the Plan Commission Report/TABLED 9-27-05
No action taken.

Road Reservation between Spruce Road and Howard Avenue be removed from the Official City Map/REFERRED BACK TO PLAN COMMISSION 9-27-05
No action taken.

Ordinance No. 2285 An Ordinance Creating Chapter 185 of the City of New Berlin Municipal Code Establishing An Urban Forestry Ordinance (1st reading)

CONSENT AGENDA (One motion and second will approve all of the following items listed. Any item may be pulled from the list and handled separately)

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

MINUTES

Common Council Minutes of Meeting held September 27, 2005

UTILITY AND FINANCE

Recommend to Council approval of Water Utility claims in the amount of \$69,514.66, Sewer Utility claims in the amount of \$317,300.09, of that amount \$290,201.92 represents payment to MMSD and Bi-weekly claims in the amount of \$716,226.95, all of which represents payment to vendors.

LICENSES/PERMITS

Bartender Licenses

Bartender License for the year 2005-2007 to Krysta DeLaSantos, Philip J Glass, Donald C Hood, John E Land, Elizabeth Pierson, Micheline L Posbrig and Gina M Tenaglia.

MISCELLANEOUS

Request for Approval Resolution No. 05-49 Resolution Amending the 2005 Approved Operating Budget to Transfer Funds from the Contingency Account to the Street Department Gasoline Account

Request for Approval Resolution No. 05-51 Resolution Amending the 2005 City of New Berlin Operational Budget Relating to Wage and Benefits for the Mapping Coordinator Position

Request of Approval Service Agreement with HAWS (Humane Animal Welfare Society) from January 1, 2006 to December 31, 2006 for lost, injured and abandoned stray animals within the City.

Request for Approval of Ordinance No. 2285 Ordinance Amending Section 1-18(2)(a) of the City of New Berlin Municipal Code.

DEFERRED/TABLED ITEMS

- Sign/Signal Truck in the amount of \$80,000 within the Streets CIP Budget/DEFERRED 9-21-05/DEFERRED 9-27-05
- Recommendation from Carlson/Dettman concerning amendment to Civil Service Code Section 11-12./TABLED 7-26-05

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ITEM/S REMOVED FROM CONSENT AGENDA

Motion by Alderman Harenda to recommend to Council Request for Approval Resolution No. 05-50 Resolution To Increase License and Permit Fees Within The Office of the City Clerk. Seconded by Alderman Moore and carried with Alderman Ament voting no.

Original motion with rubbish remaining the same carries with Alderman Ament voting no.

The motion regarding the Approval to execute a two year agreement with City Attorney Mark Blum and City Prosecutor Thomas Schmitzer was not on the Consent Agenda. The City Attorney requested that this be placed under miscellaneous on the Committee of the Whole.

ORDINANCES/RESOLUTIONS

Ordinance No. 2278 - Ordinance To Amend Chapter 11 Civil Service Section 11-12 Of The Municipal Code Of The City Of New Berlin Concerning Procedures For Suspension, Demotion And Dismissal

Motion by Alderman Gallagher to waive the second and third readings. Seconded by Alderman Hegeman with Alderman Moore and Ament voting no.

Motion by Alderman Gallagher to approve Ordinance No. 2278 – Ordinance to Amend Chapter Civil Service Section 11-12 of the Municipal Code of the City of New Berlin Concerning Procedures for Suspension, Demotion and Dismissal. Seconded by Alderman Hegeman and carried with Alderman Ament voting no.

Ordinance No. 2288 – Ordinance Amending Section 11-5 of the City of New Berlin Municipal Code Renaming the Position of Associate Planner/Mapping Coordinator to Mapping Coordinator

Motion by Alderman Hegeman to waive the second and third readings. Seconded by Alderman Hopkins and carried with Alderman Moore and Ament voting no.

Motion by Alderman Hegeman to adopt Ordinance No. 2288 – Ordinance Amending Section 11-5 of the City of New Berlin Municipal Code Renaming the Position of Associate Planner/Mapping Coordinator to Mapping Coordinator. Seconded by Alderman Hopkins and carried unanimously.

Deputy City Clerk Grant 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.

- (g) 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
State of Wisconsin Sewer Overflow Notice of Claim
David Anderson Claim
John R. Schaefer Claim

Motion by Alderman Augustine to go into closed session at 11:09 pm. Seconded by Alderman Ament and carried unanimously.

OPEN SESSION

Motion by Alderman Augustine to go into open session at 12:05 am. Seconded by Alderman Hegeman and carried unanimously.

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
Discussion and possible action on State of Wisconsin Sewer Overflow Notice of Claim
Discussion and possible action on David Anderson Claim
Discussion and possible action on John R. Schaefer Claim

Motion by Alderman Hopkins to deny the claim of David Anderson. Seconded by Alderman Ament and carried unanimously.

ADJOURN

Motion by Alderman Augustine to adjourn at 12:06PM. Seconded by Alderman Moore and carried unanimously.

Respectfully submitted

Sherry Grant, CMC
Deputy City Clerk