

**CITY OF NEW BERLIN
PROCEEDINGS OF THE COMMON COUNCIL MEETING
Tuesday, December 13, 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 9:17 PM after the Blom Street Public Hearing, Committee of the Whole and Privilege of the Floor.

This meeting was noticed on December 8, 2005 in accordance with the Open Meeting Law.

Those present recited the Pledge of Allegiance and held a moment of silence for our troops overseas.

ROLL CALL: Present were Aldermen Hopkins, Augustine, Gallagher, Harenda, Hegeman, Moore and Ament. Also present were: City Attorney Mark Blum and City Clerk Marilyn Gauger, Director of Community Development Greg Kessler, Planning Services Manager Nikki Jones, Division Engineer Eric Nitschke, Parks, Recreation and Forestry Director Mark Schroeder, Director of Utilities and Streets Ray Grzys, City Engineer JP Walker and Associate Planner Olofu Agbaji.

REPORTS

City Clerk - thanked the ladies in the City Clerk's office for their expertise and extra work and other department staff that helped out during my absence.

City Clerk read the following statement from the Treasurer's Office: The 2005 Tax bills have been printed and mailed. Some property owners started receiving the tax bills on Saturday, December 10. If property owners have not received their 2005 Tax bill by the end of the week, they should contact the Treasurer's Office at 262-797-2448. Tax payers are encouraged to use the attached "**COUPONS**" when paying their taxes. There is a bar code on the coupons that greatly speeds up the processing of the tax payment. Also, if paying in person, please have your check prepared and be sure to endorse your escrow check if it requires your signature

Council President – none

Mayor – Wished all a Merry Christmas and Happy Holidays from his home to yours.

City Attorney - none

COMMUNICATIONS

Richard A. & Doris A. Gregory Claim
Referred to City Attorney

Petition regarding Bobwood Acres subdivision

Mayor Chiovaturo indicated the petition was received.

Petition regarding Crossroads Community Church rezoning

Mayor Chiovaturo indicated this item is on the agenda under Plan Commission.

COMMITTEE, COMMISSION AND BOARD RECOMMENDATIONS

PLAN COMMISSION

Ordinance #2293 that approves the rezoning of property known as Crossroads Community Church located at 4315 S Moorland Rd from R-3 to I-1 and accept the Plan Commission Report

City Attorney Mark Blum indicated a protest petition was received in objection to the rezoning of the church. Community Development staff and City Attorney Blum deemed the petition to be valid after verifying the signatures of the surrounding property owners and that 20% or more of the residents within a specific distance of the subject church property had signed said petition. A valid petition requires a $\frac{3}{4}$ (super majority) vote of Council. Therefore 6 of the 7 Aldermen would need to vote in the affirmative to approve the rezoning.

Attorney Blum read the criteria from the City's Zoning Code by which the City reviews the rezoning request.

Motion by Alderman Ament to adopt Ordinance #2293 that approves the rezoning of property known as Crossroads Community Church located at 4315 S Moorland Rd from R-3 to I-1 and accept the Plan Commission Report. Seconded by Alderman Hopkins.

Motion by Alderman Moore to defer. Seconded by Alderman Harenda and carried with Alderman Gallagher and Alderman Ament voting no.

Installation of a temporary cul-de-sac on W Small Road and accept the Plan Commission Report

Motion by Alderman Ament to approve the recommendation from the Board of Public Works and Plan Commission to install a temporary cul-de-sac on W Small Road and accept the Plan Commission Report. Seconded by Alderman Harenda.

Motion by Alderman Moore to defer. Seconded by Alderman Harenda and failed with Alderman Harenda and Alderman Moore voting yes.

Upon voting, original motion carried with Alderman Gallagher and Alderman Moore voting no.

Alderman Hegeman left the meeting at this time, 10 PM.

Introduction of Resolution #05-61 to vacate and discontinue the temporary emergency access easement for Karrington Woods Subdivision and accept the Plan Commission Report

City Attorney Blum indicated this is the introduction of Resolution No. 05-61 and the 1st step in procedures specific in the State Statutes for vacating.

Certified Survey Map for the property located at 14511 W Dianne Drive and accept the Plan Commission Report

Motion by Alderman Ament to approve the Certified Survey Map for the property located at 14511 W Dianne Drive and accept the Plan Commission Report. Seconded by Alderman Augustine and carried unanimously.

Certified Survey Map for the property located at 19925 W Pinecrest Lane and accept the Plan Commission Report.

Motion by Alderman Ament to approve Certified Survey Map for the property located at 19925 W Pinecrest Lane and accept the Plan Commission Report. Seconded by Alderman Harenda and carried unanimously.

Model Floodplain Ordinance #2296 with actions #1, and #2 under Actions Required

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

Resolution #05-63 that approves The Conservancy of New Berlin Subdivision Final Plat for the property located at 13150 W. Janesville Road and accept the Plan Commission Report.

Motion by Alderman Ament to approve Resolution No. 05-63 approving The Conservancy of New Berlin Subdivision Final Plat for the property located at 13150 W. Janesville Road and authorize staff to approve the Pedestrian Walking Path Agreement and accept the Plan Commission Report. Seconded by Alderman Harenda and carried unanimously.

Ordinance #2295 that approves the rezoning of property known as Sunny Slope Retail located at 3333 S. Sunny Slope Road from Rm-1 to B-2 and accept the Plan Commission Report

Motion by Alderman Ament to adopt Ordinance #2295 that approves the rezoning of property known as Sunny Slope Retail located at 3333 S. Sunny Slope Road from Rm-1 to B-2 and accept the Plan Commission Report. Seconded by Alderman Augustine and carried with Alderman Ament voting no.

Certified Survey Map for the property located at 13700 Park Central Blvd. and accept the Plan Commission Report

Motion by Alderman Ament to approve Certified Survey Map for the property located at 13700 Park Central Blvd. and accept the Plan Commission Report. Seconded by Alderman Hopkins and carried unanimously.

Certified Survey Map for the property located at 2075 S. Moorland Road and accept the Plan Commission Report

Motion by Alderman Ament to approve Certified Survey Map for the property located at 2075 S. Moorland Road and accept the Plan Commission Report. Seconded by Alderman Harenda and carried unanimously.

Resolution #05-64 that approves the Woodland Meadows Final Plat for the property located at 3335 S. Catamount Drive and accept the Plan Commission Report

Motion by Alderman Ament to approve Resolution No. 05-64 that approves the Woodland Meadows Final Plat for the property located at 3335 S. Catamount Drive and accept the Plan Commission Report. Seconded by Alderman Augustine and carried unanimously.

Resolution #05-65 that approves the Rogers Glen Final Plat for the property located at 5265 S. Racine Avenue and accept the Plan Commission Report

Motion by Alderman Ament to approve Resolution No. 05-65 that approves the Rogers Glen Final Plat for the property located at 5265 S. Racine Avenue and accept the Plan Commission Report. Seconded by Alderman Augustine and carried unanimously.

Resolution #05-66 to amend the "Official City Map" of New Berlin with respect to Spruce Road "Parcel D" to include a new 60 foot Sanitary Sewer, Water Main, and Pedestrian Easement as described in "Exhibit B" (attached) between the existing Spruce Road and Howard Avenue and accept the Plan Commission Report

Motion by Alderman Ament to approve Resolution No. 05-66 to amend the "Official City Map" of City of New Berlin with respect to Spruce Road "Parcel D" to include a new 60 foot Sanitary Sewer, Water Main, and Pedestrian Easement as described in "Exhibit B" (attached) between the existing Spruce Road and Howard Avenue and accept the Plan Commission Report. Seconded by Alderman Augustine.

Amendment by Alderman Ament to request that future Councils never approve a road through this area. Seconded by Alderman Augustine and carried with Alderman Gallagher voting no.

Upon voting, original motion carried unanimously as amended.

Waiver for the City's right of first refusal to purchase the tract of land at 16000 W. Cleveland Avenue and accept the Plan Commission Report

Motion by Alderman Ament to approve the waiver for the City's right of first refusal to purchase the tract of land at 16000 W. Cleveland Avenue and accept the Plan Commission Report. Seconded by Alderman Harenda and carried unanimously.

COMMUNITY DEVELOPMENT AUTHORITY

Ordinance #2294 to approve the New Berlin Industrial Park Redevelopment Plan and to approve the creation of a Special Plan Overlay Zoning District

Motion by Alderman Harenda to adopt Ordinance #2294 to approve the New Berlin Industrial Park Redevelopment Plan and to approve the creation of a Special Plan Overlay Zoning District. Seconded by Alderman Augustine.

Amendment by Alderman Harenda to add: "Overhead doors and docks of additions and new facilities are recommended not to face the public right of way". Seconded by Alderman Augustine and carried unanimously.

Upon voting, original motion carried unanimously as amended.

Mayor Chiovatero asked to take the following out of order.

PARK, RECREATION AND FORESTRY

Establishment of New Berlin Hills Golf Course Greens Fees for 2006 per recommendation by the Golf Course Committee

Motion by Alderman Gallagher to approve the Golf Course Committee recommendation for the 2006 Greens fees as presented. Seconded by Alderman Hopkins and carried unanimously.

DEFERRALS, REFERRAL & TABLED ITEMS

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 TABLED 10-11-05

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

Motion by Alderman Hopkins to approve 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. Seconded by Alderman Ament.

Motion by Alderman Moore to defer. Seconded by Alderman Harenda and failed with Alderman Harenda and Alderman Moore voting yes.

Upon voting, original motion carried with Alderman Harenda voting no.

BOARD OF PUBLIC WORKS

Request for Additional Funds for the Design and Extension of Contract Completion Date for the design of Alternative Transportation Facilities

Motion by Alderman Augustine to approve Amendment No. 1 to the contract with Bonestroo, Rosene, Anderlik & Associates for the design of Alternative Transportation Facilities. Amendment No. 1 requests \$4,600 in additional funding for services requested by the City related to providing additional surveying services and staking to allow clearing undergrowth by the City in a densely wooded area associated with the proposed Kelly Lakes Trail Segment and to extend the contract completion date to April 16, 2006. Seconded by Alderman Moore and carried unanimously.

STORMWATER COMMITTEE

Reallocation of Funds for Design of Underwood Creek Stormwater Improvements

Motion by Alderman Harenda to approve the reallocation of \$1,125,608.00 from Stormwater Utility funds remaining in the Tess Corners Creek CIP Account #04251171-61710 C2003 to Stormwater Utility Account #04251171-61714 C2003 for the Underwood Creek Stormwater Improvement Project. Seconded by Alderman Moore and carried with Alderman Ament voting no.

Award of a Contract for Design of Underwood Creek Drainage Improvements SWMMP Underwood 1 and 2A.

Motion by Alderman Harenda to award the contract for the Design of Underwood Creek Drainage Improvements to Crispell Snyder Inc in the amount of \$294,651. Source of funds: Stormwater Utility Account #04251171-61714 C2003. Seconded by Alderman Hopkins and carried with Alderman Ament voting no.

MAYORAL APPOINTMENTS

Emergency Government Director

R Scott Schulpius (reappointment) with term expiring 12-31-08

Motion by Alderman Ament to approve the reappointment of R Scott Schulpius. Seconded by Alderman Hopkins and carried unanimously.

Communications Committee

David F Broker (reappointment) with term expiring 12-31-06

Motion by Alderman Ament to approve the reappointment of David F Broker. Seconded by Alderman Harenda and carried unanimously.

Special Projects Commission

Lori J Schinker with term expiring 12-13-06

Motion by Alderman Gallagher to appoint Lori J Schinker. Seconded by Alderman Moore and carried with Alderman Ament voting as being present.

DEFERRALS, REFERRAL & TABLED ITEMS

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

No action taken.

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 TABLED 10-11-05

See action above.

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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 October 11, 2005 and November 8, 2005

UTILITY AND FINANCE

11-22-05

Water Utility claims in the amount of \$53,197.18 Sewer Utility claims in the amount of \$23,320.39, and Bi-weekly claims in the amount of \$571,514.90 all of which represents payment to vendors.

12-13-05

Water Utility claims in the amount of \$104,643.95 Sewer Utility claims in the amount of \$35,807.72, and Bi-weekly claims in the amount of \$672,074.65 all of which represents payment to vendors.

LICENSES/PERMITS

Bartender Licenses

Bartender License for the year 2005-2007 to Walter D. Bingenheimer, Patrick J. Heinemann, Stephanie M. Mercado, Kelley G. Quakkelaar, Christine S. Michels, Charles L. Staffaroni, Jenny St.George, Renee M. Larson, Karrie A. Crumpton, James B McMahon and Lynn M. Bertoni.

Rubbish Collection

Rubbish License for Waste Management of Franklin; Onyx Waste Services of Muskego; and Onyx Waste Services of Hartland.

MISCELLANEOUS

Cancellation of the December 27, 2005 Committee of the Whole and Council meetings at discretion of Mayor.

Authorization to Finance Director Mike Holzinger to make payment of invoices through 12-31-05.

Approval of Resolution No. 05-54 RESOLUTION VACATING AND DISCONTINUING BLOM STREET IN THE CITY OF NEW BERLIN.

Set a public hearing date for January 9, 2006 at 6:00 p.m. to be held before the Plan Commission for Richard D. Gazdecki in cooperation with SEWRPC.

Set a public hearing date for January 9, 2006 at 6:01 p.m. to be held before the Plan Commission for Kevin Zokan for Biltmore Estates in cooperation with SEWRPC.

Set a public hearing date for January 9, 2006 at 6:04 p.m. to be held before the Plan Commission for Briohn Building Corporation in cooperation with the City of New Berlin and Wisconsin Department of Natural Resources.

Set a public hearing date for January 9, 2006 at 6:05 p.m. to be held before the Plan Commission for David Meyer for Living Word Church.

Set a public hearing date for January 9, 2006 at 6:06 p.m. to be held before the Plan Commission for David Meyer for Living Word Church.

Set a public hearing date for January 9, 2006 at 6:07 p.m. to be held before the Plan Commission Gene Eggert.

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/TABLED 10-11-05

Removed from the table and motion withdrawn during Committee of the Whole meeting.

ITEM/S REMOVED FROM CONSENT AGENDA

BARTENDERS LICENSES

Motion by Alderman Harenda to recommend to Council approval of Bartender License for the year 2005-2007 to Lawrence E Starks, Jr. Seconded by Alderman Hopkins and carried unanimously.

Motion by Alderman Harenda to recommend to Council denial of Bartender License for the year 2005-2007 to Steven C. Moser. Seconded by Alderman Moore and carried with Alderman Ament voting no.

Resolution No. 05-67 A RESOLUTION AMENDING THE 2005 APPROVED OPERATING BUDGET TO TRANSFER FUNDS FROM THE CONTINGENCY FUND TO THE COMMON COUNCIL PROFESSIONAL FEES ACCOUNT

Motion by Alderman Harenda to approve Resolution No. 05-67 and award the contract. Seconded by Alderman Hopkins and carried with Alderman Ament voting no.

DISCUSSION AND ACTION ON THE CIP BUDGET

Motion by Alderman Hopkins to approve the 2006 CIP Budget for \$6,180,685. Seconded by Alderman Moore and carried with Alderman Ament voting no.

ORDINANCES/RESOLUTIONS

Ordinance No. 2291 Ordinance to Amend Section 152-15(B)(2) Alarm Systems – Permit Fee

Mayor Chiovaturo indicated this is the 2nd reading.

Ordinance No. 2292 Ordinance to Amend Section 267-10(A)(1) and (2) Utility Service Standards of the Municipal Code of the City of New Berlin

Mayor Chiovaturo indicated this is the 2nd reading.

Ordinance No. 2290 Ordinance to Amend the General Ordinances of the City of New Berlin (1st reading)

Motion by Alderman Harenda to waive the 2nd and 3rd reading. Seconded by Alderman Augustine and carried unanimously.

Motion by Alderman Harenda to adopt Ordinance No. 2290. Seconded by Alderman Augustine 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; Sts Constantine & Helen Greek Orthodox Church and State of Wisconsin Sewer Overflow Notice of Claim.

Motion by Alderman Augustine to go to Closed Session at 12:15 AM. Seconded by Alderman Moore and carried with Alderman Ament voting no.

Motion by Alderman Ament to reconvene to Open Session at 1:25 AM. Seconded by Alderman Moore 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 Resolution (05-62) approving Settlement Agreement for State of Wisconsin Sewer Overflow Agreement

Motion by Alderman Ament to approve Resolution No. 05-62 RESOLUTION APPROVING SETTLEMENT OF A LAWSUIT TO BE FILED BY THE STATE OF WISCONSIN RELATIVE TO COMPLIANCE WITH CERTAIN WATER POLLUTION CONTROL LAWS. Seconded by Alderman Hopkins and carried unanimously.

ADJOURN

Motion by Alderman Hopkins to adjourn at 1:26 AM. Seconded by Alderman Augustine and carried unanimously.

Respectfully submitted
Marilyn Gauger, CMC
City Clerk