

**COMMON COUNCIL MEETING**  
**Tuesday, August 10, 2004**

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

Minutes of a Regular Meeting of the Common Council of the City of New Berlin, Waukesha County, Wisconsin, held on Tuesday, August 10, 2004 at the New Berlin City Hall at 10:05 P.M.

***This meeting was noticed on August 5, 2004 in accordance with Open Meeting law.***

**ROLL CALL** Mayor Wysocki, Aldermen Hopkins, Augustine, Gallagher, Harenda, Hegeman, Chiovatero and Ament. Also present: City Attorney Mark Blum, Deputy City Clerk Rachel Eisert, Election and License Technician Sherri Schulpus, Director of Parks, Recreation and Forestry Mark Schroeder, Director of Utilities and Streets Ray Grzys, Director of Community Development Greg Kessler and Planning Services Manager David Haines

**REPORTS**

City Clerk - none  
Council President - none  
Mayor - none  
City Attorney - none

**COMMUNICATIONS**

Wisconsin Corporate Central Credit Union Claim – refer to City Attorney

**COMMITTEE, COMMISSION AND BOARD RECOMMENDATIONS**

**PLAN COMMISSION**

**Three (3) year extension from the date of the expiration of the first extension for Deer Creek Inn & Conference Center PUD Overlay District, Ordinance #2128**

Motion by Alderman Ament to approve the three (3) year extension from the date of the expiration of the first extension for Deer Creek Inn & Conference Center PUD Overlay District, Ordinance #2128, located at 1401 S. Moorland Road and accept the Plan Commission Report. Seconded by Alderman Hopkins and carried with Aldermen Gallagher and Ament voting “no”.

**Set a public hearing at the September 13<sup>th</sup> Plan Commission meeting at 6:00 P.M. for consideration of amending Chapter 275 Zoning, regarding the issuance of Administrative Permits**

Motion by Alderman Ament to set a public hearing at the September 13<sup>th</sup> Plan Commission meeting at 6:00 P.M. for consideration of amending Chapter 275 Zoning, regarding the issuance of Administrative Permits. Seconded by Alderman Hopkins and carried unanimously.

**Ordinance # 2241 that denies the rezoning of property known as Joseph Ziegler located at 19485 W. Coffee Road**

Motion by Alderman Ament to adopt Ordinance # 2241 that denies the rezoning of property known as Joseph Ziegler located at 19485 W. Coffee Road from R-1/R-2 to R-3 and accept the Plan Commission Report. Seconded by Alderman Augustine and carried unanimously.

**Denial without prejudice of the Certified Survey Map for the property located at 2791 S. 152<sup>nd</sup> Street**

Motion by Alderman Ament to approve the denial without prejudice of the Certified Survey Map for the property located at 2791 S. 152<sup>nd</sup> Street and accept the Plan Commission Report. Seconded by Alderman Augustine and carried unanimously.

**Certified Survey Map for the property located at 13750 W. National Avenue**

Motion by Alderman Ament to approve the Certified Survey Map for the property located at 13750 W. National Avenue and accept the Plan Commission Report. Seconded by Alderman Augustine and carried unanimously.

**Set a Public Hearing at the September 13, 2004, Plan Commission meeting at 6:02 P.M. regarding the petition to rezone the property located at 2240 Foxglove Court**

Motion by Alderman Ament to set a Public Hearing at the September 13, 2004, Plan Commission meeting at 6:02 P.M. regarding the petition to rezone the property located at 2240 Foxglove Court from R-4 and C-2 to delineate the boundaries of R-4 and C-2 on the site. Seconded by Alderman Harenda and carried unanimously.

**No Objection to the Town of Vernon Extraterritorial Plat/Rolling Meadows**

Motion by Alderman Ament to approve No Objection to the Town of Vernon Extraterritorial Plat known as Rolling Meadows and accept the Plan Commission Report. Seconded by Alderman Hopkins and carried unanimously.

**Set a Public Hearing at the September 13, 2004, Plan Commission meeting at 6:01 P.M. for consideration of amending Chapter 275 Zoning, regarding parking setback in the M-1 and M-2 Zoning Districts**

Motion by Alderman Ament to set a Public Hearing at the September 13, 2004, Plan Commission meeting at 6:01 P.M. for consideration of amending Chapter 275 Zoning, regarding parking lot setback in the M-1 and M-2 Zoning Districts. Seconded by Alderman Harenda and carried unanimously.

Motion by Alderman Harenda to rescind original motion regarding **Three (3) year extension from the date of the expiration of the first extension for Deer Creek Inn & Conference Center PUD Overlay District, Ordinance #2128**. Seconded by Alderman Ament and carried unanimously.

Motion to Alderman Harenda to amend original motion to change the extension from three (3) year to one (1) year and to have a report done by the developer on the progress with the DNR. Seconded by Alderman Gallagher and failed with Aldermen Hopkins, Augustine, Chiovatero and Ament voting "no".

Upon voting on the original motion, the motion carried with Alderman Gallagher, Harenda and Ament voting "no".

*Clerk's Note: Deer Creek Inn & Conference Center PUD Overlay District has a Three (3) year extension from the date of the expiration of the first extension.*

**PARK, RECREATION AND FORESTRY COMMISSION**

**Deposit of revenues from Hickory Grove Center Cell Tower Lease**

Motion by Alderman Gallagher to approve the deposit of revenues from Hickory Grove Center Cell Tower Lease to the Public Site and Open Space Account #2111-0000-45020. Seconded by Alderman Harenda and carried unanimously.

**UTILITY COMMITTEE**

**Intermunicipal Agreement between the City of New Berlin and the Town of Brookfield Sanitary District #4**

Motion by Alderman Gallagher to approve the Intermunicipal Agreement between the City of New Berlin and the Town of Brookfield Sanitary District #4 relative to the Copenhill Drive properties. Seconded by Alderman Ament and carried unanimously.

**MAYORAL APPOINTMENTS**

**Fourth of July Coordinator**

Motion by Alderman Harenda to approve the re-appointment of Cheryl Schober with the term ending 8-1-2008. Seconded by Alderman Ament and carried unanimously.

#### **Fourth of July Commission**

Motion by Alderman Ament to approve the re-appointment of Anida Rose with the term ending 8-1-2005. Seconded by Alderman Hegeman and carried unanimously.

Motion by Alderman Ament to approve the re-appointment of Cheryl Schober with the term ending 8-1-2008. Seconded by Alderman Harenda and carried unanimously.

Motion by Alderman Ament to approve the re-appointment of Nancy Perkins with the term ending 8-1-2008. Seconded by Alderman Hegeman and carried unanimously.

#### **DEFERRALS, REFERRAL & TABLED ITEMS**

##### **Board of Public Works**

**City Street Light Agreement with WE Energies for Night Aura street lighting to include maintenance and energy charge/TABLED 4-13-04**

No action taken.

##### **Plan Commission**

**Adopt Ordinance No. 2236 An Ordinance To Rezone Wildwood Preserve from A-2, R-1/R-2, and C-2 to A-2, R-1/R-2, R-3, and C-2. /DEFERRED 5-11-04/TABLED 5-25-04**

No action taken.

#### **CONSENT AGENDA**

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

##### **MINUTES**

Approval of Common Council Minutes from Meeting held on July 27, 2004

##### **CLAIMS**

Approval of Amendment to reduce the 7-27-04 Claims amount to reflect the actual expenditure from \$360,328.75 to \$40,100.89 for Water Utility claims.

Approval of Water Utility Claims in the amount of \$65,875.44, Sewer Utility claims in the amount of \$14,716.51, and Bi-weekly claims in the amount of \$774,923.50 all of which represents payment to vendors.

##### **LICENSES**

###### **Bartender Licenses**

Approval of request for Bartender License for the year 2004-2006 to Cynthia A. Kirchner.

Approval of requests for Renewal Bartender Licenses for the year 2004-2006 to Barbara A. Blaeske; Nora L. Gustafson and Nadine J. Trauth.

##### **MISCELLANEOUS**

Denial of request for appeal of denial of Direct Sellers Permit to Anthony G Jandrowski/Disc Golf Products. (Approval of appeal)

Approval of request from New Berlin Historical Society to close National Avenue from Barton Road west to West Side Pub on Sunday, September 12, 2004 from 11:00 AM to 5:00 PM.

Approval of request from New Berlin Public School District to hold regular monthly, and any related special meetings, of the Board of Education from 12-20-04 to 12-19-05.

Introduction of Resolution No. 04-17 "A Resolution Vacating and Discontinuing A Portion Of the Service Drive on the South Side of Cleveland Avenue from 167<sup>th</sup> Street To 245 feet West of 167<sup>th</sup> Street in the City of New Berlin"

Introduction of Resolution No. 04- 18 “A Resolution Vacating a Portion Of 166<sup>th</sup> Street in the City of New Berlin”

Introduction of Resolution No. 04-19 “A Resolution Vacating and Discontinuing A Portion Of 168<sup>th</sup> Street in the City of New Berlin”

Introduction of Resolution No. 04-20 “A Resolution Vacating and Discontinuing A Portion Of 170<sup>th</sup> Street in the City of New Berlin”

Approval to set Public Hearing date of September 28, 2004 at 7:00 PM in Council Chambers for Resolution Nos. 04-17; 04-18; 04-19 and 04-20.

Schedule for August and September Committee of the Whole and Common Council meetings.

***The following item was removed from the consent agenda and another vote was taken.***

**Approval of request to adopt Resolution No. 04-44 “A Resolution To Establish a 45 Day Suspension On Land Divisions and Subdivisions Within The City of New Berlin”/Alderman Harenda.**

Motion by Alderman Harenda to recommend to Council to adopt Resolution No. 04-44 “A Resolution To Establish a 45 Day Suspension On Land Divisions and Subdivisions Within The City of New Berlin” introduced by Alderman Harenda. Seconded by Alderman Augustine and carried with Aldermen Gallagher and Chiovatero voting “no”.

#### **ORDINANCES/RESOLUTIONS**

**Ordinance No. 2242 “An Ordinance to Amend the General Ordinances of the City of New Berlin, Wisconsin”**

Motion by Alderman Ament to adopt Ordinance No. 2242. Seconded by Alderman Hegeman and carried unanimously.

Deputy City Clerk Eisert 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; Marilyn Harris Claim and Notice of Violation/Notice of Claim Against the City of New Berlin from DNR

Motion by Alderman Ament to go into Closed Session at 10:55 PM. Seconded by Alderman Augustine and carried unanimously per roll call vote.

Motion by Alderman Ament to go into Open Session at 11:25 PM. Seconded by Alderman Chiovatero and carried unanimously.

#### **OPEN SESSION**

##### **Possible action on Marilyn Harris Claim**

Motion by Alderman Hegeman to approve the payment of \$72.52 to Marilyn Harris. Seconded by Alderman Hopkins and carried unanimously.

##### **Possible action on Notice of Violation/Notice of Claim Against the City of New Berlin from DNR**

No action taken.

#### **ADJOURN**

Motion by Alderman Ament to adjourn at 11:27 PM. Seconded by Alderman Chiovatero and carried unanimously.

**Respectfully submitted as Deputy City Clerk**

**Rachel Eisert**