

COMMON COUNCIL MEETING
Tuesday, July 27, 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, July 27, 2004 at the New Berlin City Hall at 8:20 P.M.

This meeting was noticed on July 22, 2004 in accordance with Open Meeting law.

ROLL CALL Mayor Wysocki, Aldermen Hopkins, Augustine, Gallagher, Harenda, Chiovatero and Ament. Excused: Alderman Hegeman. Also present: City Attorney Mark Blum, City Clerk Marilyn Gauger, City Engineer JP Walker, Director of Parks, Recreation and Forestry Mark Schroeder, Director of Community Development Greg Kessler, Director of Utilities and Streets Ray Grzys and Associate Planner Olofu Agbaji.

REPORTS

City Clerk - none

Council President

- Alderman Harenda indicated in June of this year Detective Sgt John Fischer was inducted into the Special Olympics Hall of Fame for his life long service to the Special Olympic program.

Mayor

- Mayor Wysocki indicated a revised Schedule of Department Presentations was emailed today attempting to meet the vacation schedules where possible. All presentations will be made available on DVD.

City Attorney - none

COMMUNICATIONS

Weston Antique Apple Orchard from Roy Meidenbauer, President of New Berlin Historical Society Board of Directors.

Approval of Assignment Contract for Brownfield Property/Barrett Landfill located Coffee Road.

COMMITTEE, COMMISSION AND BOARD RECOMMENDATIONS

PLAN COMMISSION

Resolution No. 04-41 A Resolution Approving the Preliminary Plat for Victoria Estates

Motion by Alderman Ament to adopt Resolution No. 04-41 A Resolution Approving the Preliminary Plat for Victoria Estates located at 5150 S Sunny Slope Road and accept the Plan Commission Report. Seconded by Alderman Hopkins and carried unanimously.

Certified Survey Map for the property located at 14695 W Beloit Road

Motion by Alderman Ament to approve the Certified Survey Map for the property located at 14695 W Beloit Road and accept the Plan Commission Report. Seconded by Alderman Hopkins and carried unanimously.

Public Hearing date before Plan Commission for August 2, 2004 at 6:01 PM on the rezoning of property at 6600 Crowbar Road

Motion by Alderman Ament to set a Public Hearing date before Plan Commission for August 2, 2004 at 6:01 PM on the rezoning of property at 6600 Crowbar Road from M-2 to Q-1. Seconded by Alderman Harenda and carried unanimously.

PARK, RECREATION AND FORESTRY COMMISSION

Cell Tower Lease Agreement with Verizon Wireless at Hickory Grove Center

Motion by Alderman Gallagher to approve the Cell Tower Lease Agreement with Verizon Wireless at Hickory Grove Center on 2600 S Sunny Slope Road. Seconded by Alderman Ament and carried unanimously.

BOARD OF PUBLIC WORKS

Resolution No. 04-33 Declaration of Public Necessity and Relocation Order to Reconstruct Cold Spring Road

Motion by Alderman Chiovatero to adopt Resolution No. 04-33. Seconded by Alderman Ament and carried unanimously.

Resolution No. 04-35 Declaration of Pubic Necessity and Relocation Order to Construct Wall Street

Motion by Alderman Chiovatero to adopt Resolution No. 04-35. Seconded by Alderman Gallagher and carried with Alderman Ament voting no.

STORMWATER COMMITTEE

Marquette Drive resident's 50/50 cost split for concrete inverts

Motion by Alderman Harenda to approve the Marquette Drive residents 50/50 cost split between City and residents according to the frontage at a cost not to exceed the current estimated cost of \$33.49 per foot for a concrete invert on Marquette Drive, in conjunction with using the rain garden. Payment schedule will be according to Existing Stormwater Policy, by allowing the residents to appeal the time if they can show just cause. Seconded by Alderman Hopkins and carried with Alderman Gallagher voting no.

UTILITY COMMITTEE

Resolution No. 04-31 A Preliminary Resolution Declaring Intent to Levy Special Assessments and Directing the City Engineer to Prepare a Report for Installed Sanitary Sewer and Watermain Systems Servicing properties along Lowell Place & east on Janesville Road in accordance with City Code

Motion by Alderman Gallagher to adopt Resolution No. 04-31 A Preliminary Resolution Declaring Intent to Levy Special Assessments and Directing the City Engineer to Prepare a Report for Installed Sanitary Sewer and Watermain Systems Servicing properties along Lowell Place & east on Janesville Road in accordance with City Code, conditioned upon the two (2) property owners returning their Acknowledgement of Fee in Lieu of Special Assessment form. Seconded by Alderman Harenda and carried unanimously.

Clerk Note: The two (2) property owners did not return their Acknowledgement of Fee in Lieu of Special Assessment form therefore the Special Assessment process is preceding.

Set Public Hearing Date per Resolution No. 04-31 and direct City Clerk to publish a Class I notice and send proposed assessment and map of assessment district to the two (2) affected property owners.

This item will appear on the agenda at a later date.

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

Alderman Harenda indicated 3 informational meetings were held with the developer and residents. Questions from the residents were submitted to staff. City Attorney Blum encouraged Council to move as expeditious as possible after the information is received from staff.

Park, Recreation and Forestry Commission

Recommendation to approve the Donation Agreement for the Weston Apple Orchard property located on National Avenue west of Racine Avenue/TABLED 7-13-04

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

Motion by Alderman Gallagher to table, motion died due to a lack of a second.

Mayor Wysocki indicated the motion on the floor for consideration tonight is the motion from the 7-13-04 meeting:

Motion by Alderman Gallagher to approve the recommendation to approve the Donation Agreement for the Weston Apple Orchard property located on National Avenue west of Racine Avenue. Seconded by Alderman Hopkins.

Upon voting on the original motion from the 7-13-04 meeting, the motion carried with Alderman Gallagher voting no.

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 13, 2004

CLAIMS

Approval of Water Utility Claims in the amount of \$360,328.75, Sewer Utility claims in the amount of \$360,328.75, and Bi-weekly claims in the amount of \$2,310,158.51 all of which represents payment to vendors.

LICENSES

Bartender Licenses

Approval of requests for Bartender Licenses for the year 2004-2006 to Tom P. Braley; Lisa M. Brooks and Samantha E. Fieweger.

MISCELLANEOUS

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

Approval of request for Parking Lot License Agreement for Police Department from Marcus Cinemas of Wisconsin LLC for emergency training

Approval of request for adoption of Resolution No. 04-42 A Resolution To Create a Small Grants Program Special Projects Commission per the June 10, 2003 Common Council approval to support said program.

The following 2 items were removed from the consent agenda and another vote was taken.

- Request for appeal of denial of Bartender's license from Erin Hibbard for the 2004-2006 Licensing Year.

Motion by Alderman Ament to recommend to Council approval of the request for appeal of denial of Bartender's license from Erin Hibbard for the 2004-2006 Licensing Year. Seconded by Alderman Hopkins with a 3 to 3 tie. Upon voting by Mayor Wysocki, the motion carried 4 to 3 with Aldermen Augustine, Gallagher and Chiovatero voting no.

- Request for adoption of Resolution No. 04-43 A Resolution Transferring Contingency Funds To Building Maintenance Division/Contracted Services To Hire Consultant To Conduct Needs Analysis For City's Old Library Building Located On Cleveland Avenue.

Motion by Alderman Augustine to recommend to Council approval of the request for adoption of Resolution No. 04-43 A Resolution Transferring Contingency Funds To Building Maintenance Division/Contracted Services To Hire Consultant To Conduct Needs Analysis For City's Old Library Building Located On Cleveland Avenue. Seconded by Alderman Chiovatero and carried with Alderman Ament voting no.

ORDINANCES/RESOLUTIONS

Ordinance No. 2237 Amending Sections 124-12(n)(2)(h), 124-12(n)(2) and 124-12(n)(6) and to create Section 124-12(n)(4)(e) of the City of New Berlin Municipal Code (1st reading)

Changes were made to this ordinance based on discussion from the 7-13-04 Committee of the Whole meeting; therefore the following motion was made:

Motion by Alderman Gallagher to rescind the previous ordinance. Seconded by Alderman Ament and carried unanimously.

Motion by Alderman Gallagher to adopt Ordinance No. 2237 as presented tonight with an effective date of 9-1-04. Seconded by Alderman Hopkins and carried with Alderman Ament voting no.

Motion by Alderman Gallagher to waive the 2nd and 3rd readings. Seconded by Alderman Hopkins and carried unanimously.

Resolution No. 04-30 Resolution To Establish Burning Permit Fees.

Motion by Alderman Gallagher to adopt Resolution No. 04-30 effective 9-1-04. Seconded by Alderman Hopkins and carried with Alderman Ament voting no.

Resolution No. 04-40 A Resolution Transferring Approved Funds for Professional Services for a Planning Department Consultant.

Motion by Alderman Harenda to adopt Resolution No. 04-40. Seconded by Alderman Gallagher 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; litigation update: St Constantine and Helen Greek Orthodox Church versus City of New Berlin

Motion by Alderman Augustine to go to Closed Session at 9:15 PM. Seconded by Alderman Ament and carried per roll call vote.

Motion by Alderman Ament to reconvene in Open Session at 10:09 PM. Seconded by Alderman Augustine and carried unanimously.

OPEN SESSION

Possible action – St Constantine and Helen Greek Orthodox Church

No action taken.

ADJOURN

Motion by Alderman Ament to adjourn at 10:10 PM. Seconded by Alderman Chiovatero and carried unanimously.

**Respectfully submitted as City Clerk
Marilyn Gauger, CMC**