

Amended Per Council Motion on 2/8/11

**CITY OF NEW BERLIN
PROCEEDINGS OF THE COMMON COUNCIL
Tuesday, January 25, 2011**

Council President Ken Harenda called the City of New Berlin Common Council Meeting to order at 8:50PM after Committee of the Whole and Privilege of the Floor and a recess.

ROLL CALL: Present were Aldermen Hopkins, Wysocki, Harenda, Liska, Moore and Ament. Mayor Chiovatero and Alderman Seidl had excused absences. Also present were: City Clerk Kari Morgan, City Attorney Mark Blum, Recreation Director Mark Schroeder, Director of Community Development Greg Kessler, City Engineer J.P. Walker, Police Chief Joe Rieder and Finance Director Ralph Chipman.

Those present recited the Pledge of Allegiance.

This meeting was noticed on Thursday, January 20, 2011 in accordance with the Open Meeting Law.

REPORTS

City Clerk – City Clerk Morgan announced that all residents must vote at the New Berlin City Hall for the February 15, 2011 Spring Primary Election. There will not be any other voting locations for this election. The voting times will be from 7a.m. to 8p.m.

Council President – No report.

Mayor – No report.

City Attorney – No report.

COMMUNICATIONS – Both listed were referred to the City Attorney.

- Shannon Schaffer Claim
- PD Squad Incident involving deer

****Agenda was taken out of order at this point with Board of Public Works items being initially addressed and Plan Commission items following.***

BOARD OF PUBLIC WORKS

- **(BPW 02-11) Approval of Resolution 11-02 to amend the 124th street Relocation Order**
Motion by Alderman Ament to approve the 124th Street Relocation Order via Resolution No. 11-02. Seconded by Alderman Wysocki and carried unanimously.
- **(BPW 03-11) Approval of Amended and Restated Development Agreement for City Center Condominiums, formerly known as Deer Creek Parkway Condominiums**
Motion by Alderman Ament to approve the Amended and Restated Development Agreement for City Center Condominiums formerly known as Deer Creek Parkway Condominiums. Seconded By Alderman Moore.

Discussion on original plan approval in 2004 including original developer's agreement, concern of residents being affected and concerns of council.

Further input from Aldermen regarding reasons for supporting or opposing issue as well as changing position since Board of Public Works meeting.

Motion failed with Aldermen Hopkins, Wysocki, Harenda, Liska and Ament opposing.

- **(BPW 06-11) Review, Discussion and Possible Action on the Finance Committee Recommendations for 2011 Roadway CUIP Budget Adjustments**
Motion by Alderman Ament to approve the adjusted 2011 Roadway CIP Budget as recommended by the Finance Committee. Seconded by Alderman Hopkins.

Discussion ensued regarding Martin Road project and issues.

Motion carried unanimously.

- **(BPW 07-11) Approval of the Ryerson Road Relocation Order**
Motion by Alderman Ament to approve the Ryerson Road Relocation Order as described in Resolution No. 11-03. Seconded by Alderman Wysocki and carried unanimously.

PLAN COMMISSION

- **LD-10-15 Derek Boyce – 17445 W. Observatory – Two-Lot Land Division – Ne ¼ Sec. 21**
Motion by Alderman Ament to approve the Certified Survey Map for the property located at 17445 W. Observatory Road and accept the Plan Commission Report. Seconded by Alderman Hopkins and carried unanimously.
- **RZ-10-13 Laura Fuchs – 2955 S. Johnson Rd. – Rezone from R-1/R-2 and C-2 to R-1/R-2 and C-2 to field delineate the wetlands**
Motion by Alderman Ament to adopt Ordinance No. 2445 that approves the rezoning of property known as Laura Fuchs located at 2955 S. Johnson Road from R-1/R-2 and C-2 to R-1/R-2 and C-2 to field delineate the wetlands and accept the Plan Commission Report. Seconded by Alderman Moore and carried unanimously.
- **LD-10-17 Laura Fuchs – 2955 S. Johnson Rd. – Four-Lot Land Division – SE ¼ Sec. 7**
Motion by Alderman Ament to approve the Certified Survey Map for the property located at 2955 S. Johnson Road and accept the Plan Commission Report. Seconded by Alderwoman Liska.

Discussion on lot 4 size and assurance that it is a buildable lot.

Motion carried unanimously.

- **RZ-10-14 Timothy Lynch – 15755 W. Beloit Road – rezone from M-1, B-2, FWO and C-2 to M-1, C-2, B-2 and FWO**
Motion by Alderman Ament to adopt Ordinance No. 2446 that approves the rezoning of properties known as Timothy Lynch located at 15755 W. Beloit Road and 4901 S. Moorland Road from M-1, B-2, FWO and C-2 to M-1, C-2, B-2 and FWO to accurately reflect the revised floodplain boundary and accept the Plan Commission Report. Seconded by Alderman Hopkins and carried unanimously.
- **LD-10-18 Timothy Lynch – 4901 S. Moorland Road – Two-Lot Land Division – NE ¼ Sec. 27**
Motion by Alderman Ament to approve the Certified Survey Map for the property located at 4901 S. Moorland Road and accept the Plan Commission Report. Seconded by Alderwoman Liska and carried unanimously.
- **RZ-10-15 Michael DeMichele – 5915 S. Moorland Road – Rezone from M-1 and C-2 to M-1 and C-2 to remove a portion of the wetlands**
Motion by Alderman Ament to adopt Ordinance No. 2447 that approves the rezoning of property known as Michael DeMichele located at 5915 S. Moorland Road from M-1 and C-2 to M-1 and C-2 to remove a portion of the wetlands and accept the Plan Commission Report. Seconded by Alderman Wysocki and carried unanimously.
- **RZ-10-12 Joyce Keene – 1710 S. Craftsman Drive – Rezone from R-4 and C-2 to R-4 and C-2 to field delineate the wetlands**
Motion by Alderman Ament to adopt Ordinance No. 2448 that approves the rezoning of property known as Joyce Keene located at 1710 S. Craftsman Drive from R-4 and C-2 to R-4 and C-2 to field delineate the wetlands and accept the Plan Commission Report. Seconded by Alderman Moore and carried unanimously.

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- **LD-10-19 Dean Magner – 19470 W. Lincoln Ave. – Two-Lot Land Division – SE ¼ Sec. 5**
Motion by Alderman Ament to approve the Certified Survey Map for the property located at 19470 W. Lincoln Avenue and accept the Plan Commission Report. Seconded by Alderman Hopkins and carried unanimously.
 - **RZ-10-16 John & Angie Gillmore – 6055 S. Martin Road – Rezone from R-3 and C-2 to R-3**
Motion by Alderman Ament to adopt Ordinance No. 2449 that approves the rezoning of property known as John & Angie Gillmore located at 6055 S. Martin Road from R-3 and C-2 to R-3 to remove the wetlands based on the field delineation and accept the Plan Commission Report. Seconded by Alderwoman Liska and carried unanimously.

UTILITY COMMISSION

- **Review & Possible Action on Sprint Lease Extension Agreement**
Motion by Alderman Hopkins to approve the Sprint Lease Extension Agreement. Seconded by Alderman Ament and carried unanimously.

FINANCE COMMITTEE

- **Authorization of the Director of Finance to sign the Declaration of Official Intent for the 2011 CIP Debt Issue**
This issue was addressed following the CIP Budget approval listed under “deferred, referred and tabled items.”

Motion by Alderman Wysocki to authorize the Director of Finance to sign the Declaration of Official Intent for the 2011 CIP Debt Issue in the amount of \$7,000,000. Seconded by Alderman Moore and carried unanimously.

DEFERRED, REFERRED & TABLED ITEMS

- **Mayoral Appointment of Sally Bryan to the Police & Fire Commission with a term expiring 4/30/2014.** TABLED 6/22/10 W/MOTION LEFT ON TABLE
- **Discussion & Action on 2011 CIP Budget**
Motion by Alderman Wysocki to approve the amended 2011 CIP Budget in the amount of \$7,475,050. Seconded by Alderman Moore.

Discussion on capital improvement projects including adjustments made to budget.

Motion carried unanimously.

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CONSENT AGENDA: Motion by Alderman Ament to approve the consent agenda. Seconded by Alderman Moore and carried unanimously.

APPROVAL OF MINUTES – Common Council Minutes from January 11, 2011

UTILITY AND FINANCE

Claims

For: January 26, 2011

- Recommend to Council approval of Water Utility claims, Sewer Utility claims and Bi-weekly claims.

LICENSES & PERMITS

Bartenders

- Bartender License for the year 2010-2012 to Jessica Rink, Michael Mertin, Tyler Bushell, April Barber, Gregg Butler and Franklin Williams.

MISCELLANEOUS

- Presentation from Chief Bertram Updated on Fire Department Operations

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ITEM/S REMOVED FROM CONSENT AGENDA, if any: None.

ORDINANCE & RESOLUTIONS

- **Ordinance No. 2444 titled "An Ordinance to Amend Section 11-21 Fringe Benefits for Full-Time Employees of the Municipal Code of the City of New Berlin with Respect to Employee Health Insurance Contributions (2nd Reading)**

- **Ordinance No. 2413 Ordinance To Amend Section 152-10 Regarding The Regulation And Licensing Of Dogs (3rd reading)**

Alderman Liska read the corrections to be made as listed below:

F(1) – should state "dog fancier's license."

H(1)(a) & (b) – "Committee of the Whole" should be changed to read "Common Council"

H(1)(a) – Last sentence should be struck.

H(1) – The second "b" should state "c" instead.

Motion by Alderwoman Liska to amend the existing ordinance with the changes stated above. Seconded by Alderman Hopkins.

Friendly amendment by Alderwoman Liska that under subsection (g) "Public Nuisances" it should state "A or B." Seconded by Alderman Hopkins.

Further discussion on "Animal Control" section.

Motion to approve amendments carried unanimously.

Motion by Alderman Moore to defer this reading to the next meeting. Seconded by Alderman Harenda and carried unanimously.

CLOSED SESSION

City Clerk Morgan read the following:

The basis for the items to be discussed in Closed Session is 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:

- City Center Multi-Family Development

Motion by Alderman Hopkins to move to closed session at 10:07PM. Seconded by Alderman Wysocki and carried unanimously.

RECONVENE TO OPEN SESSION

Motion by Alderman Wysocki to reconvene to open session at 10:17PM. Seconded by Alderman Hopkins and carried unanimously.

No action taken in Open Session on any items discussed in Closed Session.

ADJOURN

Motion by Alderwoman Liska to adjourn at 10:18PM. Seconded by Alderman Moore and carried unanimously.

Respectfully submitted:

Kari Morgan
City Clerk