

**CITY OF NEW BERLIN
PROCEEDINGS OF THE COMMON COUNCIL
Tuesday, April 13, 2010**

Approved 4/27/10

Mayor Jack F. Chiovatero called the City of New Berlin Common Council Meeting to order at 7:19p.m. after Committee of the Whole and Privilege of the Floor.

ROLL CALL: Present were Aldermen Hopkins, Wysocki, Seidl, Harenda, Poshepny, Moore and Ament. Also present were: City Clerk Kari Morgan, City Attorney Mark Blum, City Engineer J.P. Walker, Parks, Recreation & Forestry Director Mark Schroeder and Department of Community Development Director Greg Kessler and Nicole Hewitt.

Those present recited the Pledge of Allegiance and stood for a moment of silence following an Induction that was given by Alderman Wysocki.

This meeting was noticed on April 8, 2010 in accordance with the Open Meeting Law.

REPORTS

City Clerk – No report.

Council President – Alderman Harenda announced that the Prospect Hill Lions Club is having their annual shrimp/steak dinner at the VFW on April 30th.

Mayor - Mayor Chiovatero reminded everyone there are only 4 days left for the census. NB is doing very well with an 89% rate of return.

City Attorney – No report

COMMUNICATIONS

Progressive Claim for Zeffer – Referred to City Attorney.

PLAN COMMISSION

- **Ordinance #2429 that approves the rezoning of the property known as Maureen Radtke located at 4506 S. Moorland Road from R-3 and R4.5 to R-3, R4.5 and C-2 to field delineate the wetlands.**
Motion by Alderman Ament to recommend to Common Council adoption of Ordinance #2429 that approves the rezoning of property known as Maureen Radtke located at 4506 S. Moorland Road from R-3 and R-4.5 to R-3, R-4.5, and C-2 to field delineate the wetlands. Seconded by Alderman Wysocki and carried unanimously.
- **Ordinance #2430 that approves the rezoning of property known as Philip G. Conrardy located at 19550 W. College Avenue from B-2 and C-2 to B-2 and C-2 to Field Delineate the Wetlands.**
Motion by Alderman Ament to recommend to Common Council adoption of Ordinance #2430 that approves the rezoning of property known as Philip G. Conrardy located at 19550 W. College Avenue from B-2 and C-2 to B-2 and C-2 to Field Delineate the Wetlands. Seconded by Alderman Harenda and carried unanimously.
- **Approval of Resolution approving the proposed amendments to the City's Comprehensive Plan incorporating Addendum #1 to the City's Storm Water Management Master Plan and a new Park and Open Space Plan and forward to the Common Council for their review and approval by Ordinance #2427.**
Motion by Alderman Ament to recommend approval of a resolution approving the proposed amendments to the City's comprehensive Plan incorporating Addendum #1 to the City's Storm Water Management Master Plan and a new Park and Open Space Plan and for their review and approval by Ordinance #2427. Seconded by Alderman Moore.

Discussion was held regarding the information that was used to devise this plan as well as the cost of doing some of the things included in it and concerns regarding the requirements to do these things if they are included in the comprehensive plan.

Motion to approve carried unanimously.

- **Ordinance #2417 that approves the amendments to Section 275-41.A(2)-Keeping & Raising of Animals and 275-70 (Definitions) of the City's Zoning Code as written including the removal of the last sentence within the definition of the livestock, small.**

Motion by Alderman Ament to recommend to Common Council the adoption of Ordinance #2417 that approves the amendments to Section 275-41.A(2) (Keeping and Raising of Animals) and 275-70 (Definitions) of the City's Zoning Code as written including the removal of the last sentence within the definition of the livestock, small. Seconded by Alderman Hopkins.

Discussion was held regarding the controls in place to deal with issues related to density versus number of animals when they arise.

Motion to approve Ordinance #2417 carried unanimously.

BOARD OF PUBLIC WORKS

(BPW 04-10) Approval of Paving Contract for the 2010 Roadway Rehabilitation Program to the lowest responsive, responsible bidder, Capital Pavers, Inc.

Motion by Alderman Ament to award the Construction Contract to the lowest responsive, responsible bidder, Capital Pavers, Inc. for the 2010 Roadway Rehabilitation Paving Project in an amount of \$1,395,445.70; with inspection and contingencies not to exceed the total project cost of \$1,927,555. Seconded by Alderman Seidl.

This issue was held over from the last council meeting due to the City attorney's concern as to whether aspect of contract needed to be put out for public bid.

Alderman Ament withdrew the existing motion on the floor. Alderman Seidl withdrew his second.

Motion by Alderman Ament to award the Construction Contract to the lowest responsive, responsible bidder, Capital Pavers, Inc. for the 2010 Roadway Rehabilitation Project in an amount of \$1,395,445.70 with inspection and contingencies and not to exceed total project cost of \$1,635,642. Seconded by Alderman Seidl.

The aprons will now be on a separate contract.

Motion to approve carried unanimously.

PARKS, RECREATION & FORESTRY

- **Resolution 10-13 Authorizing Staff to Submit a Stewardship Fund Grant Application to the WDNR for Calhoun Park.**

Motion by Alderman Moore to approve Resolution 10-13 authorizing staff to submit a Stewardship Fund Grant Application to the WDNR for Calhoun Park. Seconded by Alderman Hopkins.

There was discussion as to what the term "may perform force account work" meant that was written into the resolution.

Alderman Moore amended his motion above to include approval subject to City Attorney and Staff reviewing the term as stated above in the resolution. Seconded by Alderman Hopkins and carried unanimously.

- **Resolution 10-14 Authorizing Staff to Submit a Stewardship Fund Grant Application to the WDNR for Quarry park.**

Motion by Alderman Moore to proceed with submittal of a Wisconsin Department of Natural Resources Grant Application of funding assistance for Phase I Development of Quarry Park. Seconded by Alderman Hopkins.

Discussion was held regarding the availability of funds for this project as well as the cost to maintain the grounds once the project was complete.

Motion by Alderman Harenda to defer this issue to the next council meeting so he can sit down with staff to review the specifics of this plan. Seconded by Alderman Seidl.

Further discussion was held regarding potential budget impacts if this project went forward as well as the cost to the City for drawing up various plans for this project.

Motion to defer carried with Alderman Moore opposing.

DEFERRED, REFERRED & TABLED ITEMS

Ordinance No. 2417 that approves the amendments to Section 275-41.A (2) (Keeping and Raising of Animals) and 275-70 (Definitions) of the City's Zoning Code and accept the Plan Commission report. TABLED 9-8-09/REFERRED TO AD HOC COMMITTEE 9-22-09, 12-8-09 NO ACTION 1-12-10 NO ACTION 1/26/10 REFERRED TO PLAN COMMISSION: Motion by Alderman Ament to remove this item from the agenda. Seconded by Alderman Seidl and carried unanimously.

Ordinance No. 2413 Ordinance to Amend Section 152-10 Regarding the Regulation and Licensing of Dogs (3rd reading) 11-19-09 TABLED No action.

(BPW 04-10) Approval of Paving Contract for the 2010 Roadway Rehabilitation Program to the lowest responsive, responsible bidder, Capital Pavers, Inc. DEFERRED 3/23/10 to Next Council Meeting: Motion by Alderman Ament to remove this item from the agenda. Seconded by Alderman Seidl and carried unanimously.

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CONSENT AGENDA Motion by Alderman Ament to approve the consent agenda. Seconded by Alderman Wysocki.

Alderman Ament requested the Common Council minutes be taken off the consent agenda for discussion.

Motion to approve the consent agenda without the Common Council minutes carried unanimously.

UTILITY AND FINANCE

Claims

For: April 14, 2010

- **Recommend to Council approval of Water Utility claims in the amount of \$150,502.96, Sewer Utility claims in the amount of \$481,865.19, and Bi-weekly claims in the amount of \$742,009.31**

LICENSES & PERMITS

Bartenders

- **Bartender Licenses for the year 2009-2011 to Rebecca Dawson, David Fischbach, Tracy Kraft-Sewell, Linda Schinner and Erik Trabert.**

COMMUNITY DEVELOPMENT

- **Recommend approval of Small Grants Program Grant for 10-01 the New Berlin Jr. Woman's Club in the amount of \$10,000.**
- **Recommend approval of a Small Grants Program Grant for 10-02 the New Berlin AFS Chapter in the amount of \$10,000.**

- **Recommend approval of a Small Grants Program Grant for 10-03 the New Berlin Mayor's Office in the amount of \$10,000.**
- **Recommend approval of a Small Grants Program Grant for 10-04 the New Berlin Fourth of July Commission in the amount of \$10,000.**

DEFERRED, REFERRED & TABLED ITEMS

- **Direct the City Attorney to create an ordinance that authorizes the City Clerk to allow public forums to be held in the Council Chambers at City Hall as long as a city function has not been previously scheduled and which includes the provisions presented. REFERRED TO COMMUNICATIONS COMMITTEE 2/9/10**

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ITEM/S REMOVED FROM CONSENT AGENDA:

MINUTES – Common Council Minutes from March 23, 2010

Motion by Alderman Ament to approve the March 23 Common Council minutes without Alderman Moore's amendment added on March 24, 2010 under the well permitting issue. Seconded by Alderman Seidl.

Atty. Blum suggested once minutes are submitted any concerns should be addressed by a motion to amend at the time it comes to the council as opposed to Aldermen contacting the clerk requesting revisions prior to the meeting.

Motion by Alderman Moore to amend the motion allowing the first part of the motion to remain to approve the minutes but to eliminate the second section about deleting his statement. Seconded by Alderman Poshepny.

Alderman Harenda moved to have the City Clerk do the section on well permitting verbatim as done in the past.

Atty. Blum interjected since there is already a motion on the table to amend the original motion to include Alderman Moore's amendment in the minutes.

Motion by Alderman Harenda to table the issue and have the City Clerk prepare verbatim minutes on the section pertaining to well permitting. Seconded by Alderman Wysocki.

Atty. Blum reminded the council that the minutes are a summary of the proceedings and not a summary of each person's position.

Motion to table carried with Aldermen Moore and Ament opposing.

ORDINANCES & RESOLUTIONS

- **Ordinance No. 2428 titled "An Ordinance to Create Section 33-8 of the Municipal Code of the City of New Berlin Regarding A Purchasing Policy for Automobiles & Light Trucks" (1st Reading):**

Mayor Chiovatero requested a revision to section (c). The council would like to review this revision prior to any further decisions. The Mayor will forward information to council.

CLOSED SESSION

City Clerk Morgan read the following:

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. Motion by Alderman Hopkins to moved to closed session at 9:10p.m. Seconded by Alderman Seidl and carried unanimously.

- (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:

- **Rosenthal Claim**

RECONVENE TO OPEN SESSION – Motion by Alderman Seidl to reconvene to open session at 9:20p.m. Seconded by Alderman Wysocki and carried unanimously.

- **Rosenthal Claim** – Motion by Alderman Hopkins to deny the claim. Seconded by Alderman Poshepny and carried unanimously.

ADJOURN

Motion by Alderman Wysocki to adjourn at 9:21PM. Seconded by Alderman Seidl and carried unanimously.

Respectfully submitted:
Kari Morgan
City Clerk