

**PROCEEDINGS OF THE CITY OF NEW BERLIN
ETHICS BOARD
Thursday, January 22, 2009
3:00 PM
NEW BERLIN CITY HALL
Council Chambers**

Call Meeting to Order

Chairman Mike Neuens called the meeting to order at 3:02 PM.

Roll Call; Declaration of Quorum and Public Notice

Members present: Mike Neuens, Bruce Boehlen, William Jonas. Also present: City Clerk Marilyn Gauger, City Attorney Mark Blum, Alderman Ament and approximately 12 other persons.

New Business:

Consideration of request by Alderman David Ament for written advice from the Ethics Board pursuant to Wisconsin Statute Section 19.59(5) and New Berlin Municipal Code Chapter 28 regarding his ability to appear before the Common Council to discuss the merits of an ordinance dealing with the clearing of snow from city sidewalks which would affect a property owned by his sister.

Chairman Neuens asked Alderman Ament to explain the issue to Board members. Alderman Ament indicated he is asking for an advisory decision from the Board in the event this type of issue comes up again. He indicated he was called by the Mayor who in turn received a phone call from an unidentified citizen alleging there was a conflict of interest issue with Alderman Ament and the proposed ordinance revision dealing with the clearing of snow from sidewalks. The citizen apparently believed that Alderman Ament should recuse himself from the discussion and decision. This specific "clearing of snow" issue is resolved in that the Council has already acted on the issue however he is concerned with any future issues that could impact him and other Council members. He does not feel it is a conflict or violation under the Ethics Code. Alderman Ament provided a brief history of the issue as it relates to the Requested Action Statement he brought forth to Council.

Chapter 28-4 Definitions and Chapter 28-5 Conflicts of Interest of the Ethics Code were discussed. City Attorney Blum gave examples of what is and what is not a conflict and indicated it is difficult to write a code that covers all situations. He proceeded to read the Board's determination from July 2007 regarding the Calhoun Road issue. City Attorney Blum indicated this current issue covers about 150 properties in the city.

Board members did not feel they needed to go to Closed Session to discuss the issue and Alderman Ament waived his right to have the matter dealt with in closed session in a confidential manner. Discussion followed on: whether the ethics rules applied to everyone in a uniform manner; conflict that is unavoidable because the actions of the Council affect all residents of the City including aldermen; not being sure what the conflict of interest is; whether Alderman Ament's sister stood to gain from this ordinance disproportionately to other City residents and whether the impact on his sister would be a conflict for Alderman Ament. The Board concluded that because this issue impacted approximately 150 other city residents in a similar manner it did not appear that Alderman Ament's sister would benefit disproportionately from this decision. They further observed that a similar issue had been dealt with in the Calhoun Road matter.

Discussion and possible action for the issuance of an Ethics Board determination regarding the request for Ethics Board opinion as to whether Alderman David Ament may appear before the New Berlin Common Council to discuss an ordinance dealing with the clearing of snow from city sidewalks which would affect a property owned by his sibling.

Motion by Bruce Boehlen to direct the City Attorney to draft an opinion of this issue finding that Alderman Ament's actions in bringing forth this resolution and discussing and voting on it did not constitute a conflict of interest based upon the 8-1-2007 Ethics Board decision and the fact that the Alderman's sister is not an immediate member of his household. and further because this action does not benefit Alderman Ament and his family more than any others. Seconded by William Jonas and carried unanimously.

The Board further noted that while there may sometimes be an appearance of a conflict of interest it does not always mean that the definitions in the code or state statutes have been met.

Adjourn

Motion by William Jonas to adjourn at 3:43 PM. Seconded by Alderman Bruce Boehlen and carried unanimously.

Respectfully submitted:

Marilyn Gauger, MMC
City Clerk