

**CITY OF NEW BERLIN
PROCEEDINGS OF THE COMMON COUNCIL
Tuesday, April 8, 2008**

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

Mayor Jack F Chiovatero called the City of New Berlin Common Council Meeting to order at 8:46 PM after Committee of the Whole and Privilege of the Floor.

ROLL CALL: Present were Aldermen Hopkins, Augustine, Seidl, Harenda, Poshepny, Moore and Ament. Also present were: City Clerk Marilyn Gauger, City Attorney Mark Blum, City Engineer JP Walker, Human Resource Director Tami Potkay, Police Chief Joe Rieder and Parks Recreation & Forestry Director Mark Schroeder.

Those present recited the Pledge of Allegiance.

This meeting was noticed on Friday, April 4, 2008 and amended on Monday, April 7, 2008 in accordance with the Open Meeting Law.

REPORTS

City Clerk – April 1st Election results can be found at www.newberlin.org then click on Departments, City Clerk, Voting and Results.

Council President - none

Mayor – April 15 at 7PM is the installation of elected alderman meeting. Everyone is welcome to attend. Governor Doyle is coming tomorrow with Representative Scott Gunderson and State Senator Mark Miller regarding an announcement of the Great Lakes Compact.

City Attorney - none

COMMUNICATIONS

Mayor Chiovatero referred the following to City Attorney Blum:

- Sharon Voegtline Claim
- Barbara Davis Claim
- Notice of Claim from Honeyager/WED Development LLC
- Edmund Cutting Claim

PARKS RECREATION & FORESTRY COMMISSION

Professional Services Agreement with Planning & Design Institute (PDI)

Motion by Alderman Moore to approve the Professional Services Agreement with Planning & Design Institute (PDI) at an estimated cost of \$25,230 from Public Site and Open Space Account. Seconded by Alderman Hopkins.

Motion by Alderman Harenda to defer. Seconded by Alderman Poshepny and carried with Alderman Ament voting no.

CIVIL SERVICE COMMISSION

Request from Commission for revisions to Chapter 11 Civil Service Code.

Mayor Chiovatero indicated Chairman Virginia Moths and the Civil Service Commission has spent many months going through this making revisions, bringing it up to speed, making some minor revisions to the old code to make it more modern, to make it current. She has been working with the Human Resource Department and City Attorney in formulating this Chapter 11 Civil Service Code. This also has gone to employees for comments. Chairman Moths and Commission member Gary Gray were in attendance.

Mayor Chiovatero asked Attorney Blum if he would like to make any comments. Attorney Blum indicated there were changes that in fact Council had approved which removed several sections of the Code, the Civil Service Code, and when that was reviewed in terms of the process and procedure it was determined that that particular motion, to make those modifications, did not go through the full three readings process. So was left with the Code in its original state. One of the reasons that it had been modified at that time was a recommendation from Carlson Dettmann Consulting and in addition to that there was also some concern that had been expressed through an Arbitrators position specifically as to Section 11.19 c 1 that dealt with identifying individual Civil Service positions and then talked about the salary ranges that would be attributed to those. The Arbitrator having found that he felt it was inconsistent to have that information in the Code and didn't believe it squared

with the process. So I think those were some of the underlying circumstances. In addition, as Chairman Moth's indicated in the memo some concern about what policies and procedures were in the Code, which were for Administration Policies and so forth and the desire on the Commission's part and speaking from my own observations during their discussions that they were concerned about making sure that some of that was more clearly defined in the Code itself. So with that, what you have is the redlined version of Chapter 11 that includes those modifications. Also though there is the issue of the Decision Band Committee which is still in flux. The Commission is still working on that issue. I think they are going to take that up at their meeting on Friday again and so that is one piece of this that is still a work in progress. That is not ready to move forward but the balance of the Code is in a position for you to review.

Aldermen commended the Commission members for work well done. Discussion followed on approving all except for the Decision Band Committee section. Commission members and Human Resource Director Potkay felt approval could be deferred until the next meeting to give the Commission time to decide on what avenue they will go with regard the Decision Band Committee section. A peer review group format was suggested by City Attorney Blum.

Motion by Alderman Moore to defer. Seconded by Alderman Poshepny and carried with Alderman Ament voting no.

SPECIAL PROJECTS COMMISSION / SMALL GRANTS PROGRAM AWARDS

Approval of Small Grants Program Grant for 08-01 the New Berlin Historical Society in the amount of \$1,000.

Motion by Alderman Moore to approve the above grant. Seconded by Alderman Harena and carried unanimously.

Approval of Small Grants Program Grant for 08-02 the New Berlin Fourth of July Commission in the amount of \$10,000.

Motion by Alderman Augustine to approve the above grant. Seconded by Alderman Hopkins and carried unanimously.

Approval of Small Grants Program Grant for 08-03 the New Berlin Chamber of Commerce & Visitors Bureau in the amount of \$7,000.

Motion by Alderman Hopkins to approve the above grant. Seconded by Alderman Moore and carried unanimously.

Approval of Small Grants Program Grant for 08-07 the New Berlin School District in the amount of \$10,000.

Motion by Alderman Harena to approve the above grant. Seconded by Alderman Seidl and carried unanimously.

Approval of Small Grants Program Grant for 08-05 WAPA in the amount of \$8,500.

Motion by Alderman Harena to approve the above grant. Seconded by Alderman Seidl and carried unanimously.

WATER RESOURCE MANAGEMENT COMMITTEE

Motion by Alderman Harena to approve Resolution No. 08-10 A Resolution to Authorize Application for Urban Nonpoint Source And Storm Water Planning Grant for the "Keep Our Waters Clean" Public Education Program. Seconded by Alderman Hopkins and carried unanimously.

MAYORAL APPOINTMENTS

Comprehensive Plan Steering Subcommittee

Motion by Alderman Hopkins to approve J. Scott Mathie /MBA Representative with no Expiration Date. Seconded by Alderman Moore and carried unanimously.

Police & Fire Commission

Motion by Alderman Hopkins to approve the appointment of Richard T. Piontek/with term expiring 4-30-2013. Seconded by Alderman Moore.

Motion by Alderman Ament to defer. Seconded by Alderman Seidl and carried unanimously.

Safety Commission

Motion by Alderman Proshepnny to approve the appointment of Daniel M. Meister/with term expiring 4-30-2009. Seconded by Alderman Hopkins and carried unanimously.

DEFERRALS, REFERRAL & TABLED ITEMS

Sidepath and Trail Inspection and Maintenance Policy/TABLED 9-25-07/DEFERRED 10-9-07/TABLED 10-23-07/TABLED 2-12-08

This item remained on the table.

Resolution #07-29 to approve SEWRPC's Year 2035 Transportation Plan for the region and accept the Plan Commission Report/TABLED 11-13-07

This item remained on the table.

Ordinance No. 2367 Ordinance To Amend City of New Berlin Municipal Code Chapter 230 Streets and Sidewalks Section 230-2 Snow and Ice Removal - 3rd reading and TABLED 12-11-07

This item remained on the table.

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CONSENT AGENDA

Motion by Alderman Ament to approve all of the following items listed. Seconded by Alderman Moore and carried unanimously.

MINUTES - Common Council minutes from March 11, 2008

UTILITY AND FINANCE

- For March 26:

Water Utility claims in the amount of \$42,470.51, Sewer Utility claims in the amount of \$5,515,903.88, of that amount \$5,092,030.00 represents payment to MMSD and Bi-weekly claims in the amount of \$367,208.60, all of which represents payment to vendors.

- For April 9:

Water Utility claims in the amount of \$45,136.34, Sewer Utility claims in the amount of \$102,228.85, and Bi-weekly claims in the amount of \$746,140.76, all of which represents payment to vendors.

LICENSES & PERMITS

Bartenders

- Reconsideration of denial of the 2008-2009 Bartender's License for Julius Green/No action taken.
- Bartender Licenses for 2007-2009 to Danielle Burke, Diane Grund, Justin Haut, David Riedl, Amileigha Troutman, Maureen Donald, Kevin Nerat, Alyssa Martocci, Charles Miller, Shelley Carbine, James Chase, Cheryl Kusak, Joseph Rickaby and Carol Palaszewski.

Class B Combo Licenses

- **Extension of Premise**
Matt Anderson/Matty Gras on Friday, August 15 from 3PM to 1AM; Saturday, August 16 from 3PM to 1AM and Sunday, August 17 from 12PM to 11PM.
- **Outdoor Music/ Loudspeaker Permit Variance**
Matt Anderson/Matty Gras on Friday, August 15 from 8PM to 12AM; Saturday, August 16 from 3PM to 12AM; Sunday, August 17 from 12PM to 11PM.
- **Outdoor Music/Loudspeaker Permit Variance**
Holy Apostles Parish/16000 W National Avenue for the Family Festival to allow the band to play until 10:30 PM on Friday, June 20 and Saturday, June 21.

- **Extension of Premise**
Michele High/Mustang Shellys on Saturday, May 3 from 11AM to 10PM; Sunday, May 4 from 9AM to 9PM.

MISCELLANEOUS

- 2008 Preserve America Historic Preservation Fund Grants/Resolution to come back.
- Initial Resolution No. 08-09 Resolution Regarding Industrial Development Revenue Bond Financing for GS Enterprises NA, LLC. Information with respect to the job impact of the project will be available at the time of consideration of the Initial Resolution.
- Set a Public Hearing for May 5, 2008 (changed to June 2) at 6:00 PM to be held before the Plan Commission for the City of New Berlin Fire Department who have filed a petition to rezone the property located at approximately 5120 S Racine Avenue from R-1/R-2 to I-1.
- Set a Public Hearing for May 5, 2008 at 6:01 PM to be held before the Plan Commission for Mr. Bultman who has filed a petition to rezone the property located at approximately 3275 Wehr Rd. (known as Settler's Ridge Subdivision) from R-1/R-2 to R-1/R-2 and C-2 to field delineate the wetlands on the property.
- Set a Public Hearing for May 5, 2008 at 6:02 PM to be held before the Plan Commission for Mr. Redding who has filed a petition to rezone the property located at approximately 1700 S Moorland Road from I-1 to I-1 and C-2 to field delineate the wetlands on the property.
- Set a Public Hearing from Monday, May 5, 2008 at 6:03 PM to be held before the Plan Commission for Mr. Sciano who has filed a petition to rezone the property located at approximately 4901 S Moorland Road from M-1 and B-4 to B-2, C-2 and FWO Floodway.
- Special Grant Program - increase the allocation to \$36,500. An increase of \$6,500.
- Firefighter/Paramedic/Inspector Pay Schedule

DEFERRED, REFERRED & TABLED ITEMS

- Resolution No. 06-42 A Preliminary Resolution Declaring Intent to Levy Special Assessments and Directing the City Engineer to Prepare a Report for the Installation of Sanitary Sewer System to Service Areas on the North Side of Howard Avenue (west of Sunny Slope Road)/TABLED 11-14-06/TABLED 3-11-08
- Updated Bartender License Guidelines and Application/TABLED 2-12-08 (Removed from the table and approved)
- Resolution 08-08 Adopting the Salary Range Assignments for Civil Service and Non-Represented Positions/TABLED 3-11-08

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ITEM/S REMOVED FROM CONSENT AGENDA

Bartenders

Motion by Alderman Moore to deny the Bartender License for 2007-2009 to Timothy Hume. Seconded by Alderman Poshepny and carried with Alderman Seidl voting no.

Class B and Class C Licenses – Change of Premise Description for Krause Funeral Home

Motion by Alderman Harenda to approve the Change of Premise Description for Krause Funeral Home and Cremation Services, Inc at 12401 W National Avenue/Agent Mark J Krause. Seconded by Alderman Hopkins and carried with Alderman Moore voting no.

ORDINANCES/RESOLUTIONS

Ordinance No. 2373 An Ordinance to Amend The Parking Restrictions in the City of New Berlin Adding

Section 261-4(C), Alternate side parking.

Mayor Chiovaturo indicated this is the 1st reading.

Motion by Alderman Moore to refer to Safety Commission. Seconded by Alderman Ament and carried with Alderman Augustine voting no.

Resolution No. 08-11 A Resolution Amending the 2008 Approved Operating Budget To Transfer Funds From The Contingency Account to the Street Department Account for Snowplow Overtime.

Motion by Alderman Ament to approve Resolution No. 08-11. Seconded by Alderman Hopkins 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.

(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:

- Honeyager/WED Development LLC
- Todd Economy/Allstate Insurance Claim
- George Ruedt Claim
- Sharon Voegtline Claim
- Barbara Davis Claim
- Kenneth Brull Claim

Motion by Alderman Seidl to go to Closed Session at 10:15 PM. Seconded by Alderman Moore and carried unanimously per roll call vote.

RECONVENE TO OPEN SESSION

Motion by Alderman Moore to reconvene in Open Session at 11:10 PM. Seconded by Alderman Seidl and carried unanimously.

Discussion and possible action on the Todd Economy/Allstate Insurance Claim

Motion by Alderman Seidl to settle the claim with Todd Economy and Allstate Insurance for \$5,500.00. Seconded by Alderman Augustine and carried unanimously.

Discussion and possible action on the George Ruedt Claim

Motion by Alderman Hopkins to approve payment to George Ruedt in the amount of \$2,800.00 in full settlement of this claim. Seconded by Alderman Moore and carried unanimously.

Discussion and possible action on the Sharon Voegtline Claim & WPS

Motion by Alderman Hopkins to deny the Sharon Voegtline Claim. Seconded by Alderman Moore and carried unanimously.

Discussion and possible action on the Barbara Davis Claim

Motion by Alderman Seidl to deny the Barbara Davis Claim. Seconded by Alderman Harenda and carried unanimously.

Discussion and possible action on the Kenneth Brull Claim

Motion by Alderman Moore to deny the Kenneth Brull Claim. Seconded by Alderman Hopkins and carried unanimously.

ADJOURN

Motion by Alderman Augustine to adjourn at 11:13 PM. Seconded by Alderman Seidl and carried unanimously.

Respectfully submitted:

Marilyn Gauger, MMC/WCMC
City Clerk