

PROCEEDINGS OF THE CITY OF NEW BERLIN  
ETHICS BOARD

Friday, September 14, 2007  
2:00 PM  
NEW BERLIN CITY HALL  
3805 S. Casper Drive  
Conference Room A-B

**Call Meeting to Order**

Chairman Mike Neuens called the meeting to order at 2:01 PM.

**Roll Call; Declaration of Quorum and Public Notice**

Present: Mike Neuens, Tom Horton, William Jonas and Mike Everson. Also present: City Attorney Mark Blum, City Clerk/Secretary Marilyn Gauger, Mayor Jack Chiovero, Mary Hiebl, John and S Bosmans, Vern and Peg Bentley, Ralph Heun, Dolores Karner and Lueder F .

*This meeting was noticed on Wednesday, September 5, 2007 in accordance with the Open Meeting Law.*

**Approval of Minutes from July 30, 2007 Meeting**

Motion by William Jonas to approve the July 30, 2007 minutes as printed. Seconded by Mike Everson and carried unanimously.

**New Business:**

**Discussion and possible action regarding the Conflict of Interest letter from Mary C Hiebl.**

Chairman Mike Neuens announced that this meeting is being held to consider whether there is a conflict of interest per the ethics complaint letter received from Mary Heibl against Mayor Jack Chiovero.

Minutes from the July 9, 2007 Plan Commission meeting were distributed at this time.

City Attorney Mark Blum explained the procedure for this meeting and how it relates to the City's Ethics Code - Chapter 28. The next two (2) steps are as follows:

1. The Board must determine if additional investigation is needed.
2. The Board must determine if there is probable cause based on the provision of Chapter 28.

Mary Hiebl read a prepared statement regarding actions by Mayor Chiovero as Chairman of the City of New Berlin Plan Commission. Her three (3) points were: 1. Mayor Chiovero asked the applicant/owner Thomas Zignego back to the podium after close of the public hearing and during time for discussion by the Plan Commissioners only to speak on the applicant's request of locating a temporary batch plant at Johnson Sand and Gravel on Crowbar Road; 2. Thomas Zignego, applicant/owner is a contributor to Mayor Chiovero's election campaign; 3. Jill Pesick is an employee of Johnson Sand and Gravel and a contributor to Mayor Chiovero's election campaign.

Board member Tom Horton asked why wasn't someone else asked to provide information besides the applicant/owner who was asked back to the podium?

Board Chairman Mike Neuens asked if this may be a rule of past practice of voice consent to allow the applicant/owner to return to the podium.

Mayor Chiovatero indicated he is the Chair of the Plan Commission and he asked the applicant/owner to return because the Plan Commissioners were asking questions that neither he nor staff could answer and he wanted to make sure the answers were heard and recorded appropriately. The Mayor then stated that his contributions are filed by his treasurer and within all guidelines of state election finance laws. . He indicated his decisions are not slanted from any campaign contribution and never are . The Mayor then explained that there were two motions that night with two separate discussions; one (1) to deny the temporary batch plant location and that motion failed and one (1) to approve the temporary batch plant location with conditions which passed by a 4-3 vote with Mayor Chiovatero voting to approve.

Board Chairman Mike Neuens asked when did this discussion take place?

Mayor Chiovatero indicated he doesn't ask permission from the Commissioners to have questions answered by applicant and that is normal. The Mayor then explained that the only time permission is asked to the Commission is when an applicant wants to make additional unsolicited comment. At this time permission is asked for and granted or denied.

Motion by William Jonas to review the DVD recording of the Plan Commission meeting of July 9, 2007. Seconded by Tom Horton and carried unanimously.

*At this time the Board members left Conference Room AB to view the DVD in Council Chambers. All persons present viewed the tape.*

After review of the DVD, it was determined that the Mayor did not ask Mr Zignego to the podium to speak. One individual came to the podium during discussion during Plan Commission and that was to answer a question for a commissioner.

After viewing the DVD, Chairman Neuens asked if Board members had additional questions of Mayor Chiovatero or Mary Heibl.

At this point, City Attorney Blum indicated if there is no additional investigation or information the Board needs, step 2 is to decide if there is probable cause with respect to the Ethics Code based on Mary Heibl's letter or statement she read today.

Board Chairman Neuens asked if additional information was needed by Board members and was there cause that was a violation of the Ethics Code?

**Hearing on Mary C Hiebl ethics complaint against Mayor Jack Chiovatero.**

Motion by Tom Horton that there is probable cause to go into Closed Session. Seconded by William Jonas and carried with Mike Everson voting no.

*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) (a) of the Wisconsin State Statutes, Consideration of request for confidential written advice from the Ethics Board under Section 19.46(2), or from any County or municipal Ethics Board under Section 19.59(5). More specifically, discussion on request for Ethics Board complaint from Mary C Hiebl.**

Motion by Tom Horton to go to Closed Session at 3:20 PM. Seconded by William Jonas and carried by roll call vote with Mike Everson voting no.

Motion by William Jonas to reconvene in Open Session at 3:46 PM. Seconded by Tom Horton and carried unanimously.

**Open Session**

**Discussion and possible action for the issuance of an Ethics Board determination regarding the request for Ethics Board complaint of Mary C Hiebl as to whether there is a conflict of interest with Mayor Jack Chiovatero and his vote to grant the siting of a temporary batch plant located at 6600 Crowbar Road in the Johnson Sand and Gravel Quarry and operated by Thomas Zignego, owner of Zignego Concrete Company which was an agenda item on the July 9, 2007 Planning Commission meeting.**

Motion by Mike Everson to deny the complaint and direct City Attorney Mark Blum to prepare the written decision. Seconded by William Jonas and carried unanimously.

**Adjourn**

Motion by Mike Everson to adjourn at 3:50 PM. Seconded by Tom Horton and carried unanimously.

Respectfully submitted:

Marilyn Gauger  
City Clerk