

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

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

Mayor Jack F Chiovero called the City of New Berlin Common Council Meeting to order at 9:10 PM after Committee of the Whole and Privilege of the Floor.

ROLL CALL: Present were Aldermen Hopkins, Wysocki, Seidl, Harenda, Moore and Ament. Excused: Alderman Poshepny. Also present were: City Clerk Marilyn Gauger, City Attorney Mark Blum and City Engineer JP Walker.

Those present recited the Pledge of Allegiance and stood for a moment of silence.

REPORTS

City Clerk - none

Council President Harenda indicated Waukesha County is hosting a Public Information Meeting at City Hall within Council Chambers on the reconstruction of Racine and National Avenue. It is tentatively scheduled for 9-25-08.

Mayor Chiovero indicated he is getting married on July 19th and is cancelling the July 22nd Council meeting.

City Attorney - none

COMMUNICATIONS

None.

UTILITY COMMITTEE

Vacate An Old Force Main Easement On Spruce Road

Motion by Alderman Harenda to rescind the previous approval of terms and to sell the rights to the abandoned force main on Spruce Road and in its place recommend that the Force Main on Spruce Road be sold for \$1.00 along with a release as to the City's liability for the remaining abandoned in place force main. Seconded by Alderman Ament.

Amended motion by Alderman Ament from a sale of \$1 to a sale of \$28,397. Died lack of second.

Upon voting, the original motion carried with Alderman Ament voting no.

FIRE DEPARTMENT COMMITTEE

Hiring of eight (8) additional Fire Department Firefighter/Paramedic for 2008

Motion by Alderman Harenda to approve the Requested Action Statement with the Fire Department Committee recommendation to go forth with the hiring of eight (8) additional personnel (Fire Department Firefighter/Paramedic) as soon as possible and in conjunction with the letter from the Wisconsin Department of Health and Family Services and also deferral of hiring additional until consideration of the 2010 budget cycle. 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

No action taken.

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

Alderman Wysocki handed out a revised resolution for Council's review.

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

No action taken.

Ordinance No. 2380 Ordinance To Amend Section 11-22(C) And 11-22(E) Of The Municipal Code Of The City Of New Berlin Regarding Short-Term Disability And Vacation Benefits For Part-Time Employees - 3rd reading and TABLED 6-24-08

The following motion is from the 6-24-08 Council meeting;

Motion by Alderman Moore to adopt Ordinance No. 2380. Seconded by Alderman Poshepny.

Motion by Alderman Wysocki to remove from the table. Seconded by Alderman Hopkins and carried unanimously.

Motion by Alderman Hopkins to adopt Ordinance No. 2380. Seconded by Alderman Moore and carried with Mayor Chiovatero breaking a tie vote with Alderman Wysocki, Alderman Harenda and Alderman Ament voting no.

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CONSENT AGENDA

Motion by Alderman Wysocki to approve all of the following items listed on the Consent Agenda as amended. Seconded by Alderman Seidl and carried unanimously.

MINUTES - Common Council minutes from June 24, 2008

UTILITY AND FINANCE

- Water Utility claims in the amount of \$88,918.59, Sewer Utility claims in the amount of \$16,619.23, and Bi-weekly claims in the amount of \$825,197.39, all of which represents payment to vendors.

LICENSES & PERMITS

Bartenders

- Bartender License for the year 2008-2010 to Rebekah Capps, Phillip Clark, Tiffany Cleveland, Wendy Cwiklinski, Susan DeGeorge, Kevin Dougherty, Erik Mena, Sheri Nelson, Mark Oliver, Barbara Saladin, Brad Schroeder, Tammy Sieglaff, Margaret Spormann, Daniel Tappa, Nadine Trauth and Angie Zehm.

Extension of Premise – Class B Combos

- StoneFire Pizza Company at 5320 S Moorland Road for a 1 time event to be held on Friday, August 15, 2008 “Exotic Car Show” for the south parking lot with beer only. ***This item was tabled for more information.***
- Mustang Shelly’s Roadhouse, Ltd at 18540 W National Avenue for Saturday, August 2, 2008 for outdoor seating on the east side of the building approximately 25’ X 50’ from 11:00 a.m. until 2:00 a.m. ***(Amended to 12 midnight as the end time with conditions).***
- Mustang Shelly’s Roadhouse, Ltd at 18540 W National Avenue for Tuesday, August 26 to Sunday, August 31, 2008 for outdoor seating on the east side of the building approximately 25’ X 50’ from 11:00 a.m. to 12:00 midnight ***with conditions.***

MISCELLANEOUS

Public Hearing for July 7, 2008 at 6:00 PM to be held before the Plan Commission for rezoning

- Set a Public Hearing for July 7, 2008 at 6:00 PM to be held before the Plan Commission for Mr. Domenico Ferrant who has filed a petition to rezone the property located at approximately 16415 W. Beloit Rd. from R-4 to M-1. ***(This item is listed in error and removed from the agenda).***

Public Hearing for August 11, 2008 at 6:02 PM to be held before the Plan Commission for rezoning

- Set a Public Hearing for August 11, 2008 at 6:02 PM to be held before the Plan Commission for Ms. Kornak who has filed a petition to rezone the property located at approximately 13335 W. Eagle Trace from R-3 and C-2 to R-3 and C-2.

DEFERRED, REFERRED & TABLED ITEMS

- Common Council approves any pay or benefit increases before they go into affect. Instruct the City Attorney to draw up a resolution or ordinance (whichever is appropriate) to be approved at the next Common Council meeting/REFERRED TO FINANCE COMMITTEE 5-13-08 ***(No action taken).***

- Class A Combo (Beer & Liquor)
Wal-Mart Stores East LP at 15333 W National Avenue/Dennis San Felippo, Agent for 7-1-08 to 6-30-09/DEFERRED 6-24-08 (***This item was tabled for more information.***)
- Resolution No. 08-19 Resolution Establishing Salary Ranges for Civil Service Employees/DEFERRED 6-24-08

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ITEM/S REMOVED FROM CONSENT AGENDA

Extension of Premise – Class B Combo

Motion by Alderman Ament to approve the Extension of Premise for Texas Roadhouse at 15425 Rock Ridge Road for every Thursday from 5PM to 9PM from June to October 2008 to be held on the west side of the parking lot (north area) for “Anything on Two Wheels” event. Seconded by Alderman Hopkins and carried with Mayor Chiovero breaking the tie and Alderman Harena, Alderman Moore and Alderman Ament voting no.

Membership Profile Change to the Board of Public Works

Motion by Alderman Harena that a Citizen member be appointed by Mayor to replace City staff position on the Board of Public Works and direct the City Attorney to draft an ordinance to effectuate that action. Seconded by Alderman Wysocki and carried with Alderman Moore voting no.

Formation of a Personnel Committee

Motion by Alderman Ament to approve Reinstating the City Personnel Committee for issues related to pay and benefits for employees of the city with the change that at least one (1) of the members, not two (2), are appointed from the Finance Committee; adding the Mayor as an advisor and create an ordinance to that effect. Seconded by Alderman Seidl.

Amended motion by Alderman Ament that the Personnel Committee develop an ordinance for Personnel Committee and bring forth to Council. Seconded by Alderman Siedl and carried with Alderman Moore voting no.

Upon voting motion as amended, motion carried with Alderman Hopkins and Alderman Moore voting no.

Note: Per City Attorney Blum the Personnel Committee will deal with the Personnel Committee and with the Civil Service Commission code piece and balance of implementation of the code.

ORDINANCES/RESOLUTIONS

Ordinance No. 2384 Ordinance To Amend Section 152-5(G) Licenses And Permits Of The Municipal Code Of The City Of New Berlin Regarding The Permitted Hours Of Solicitation For Direct Sellers

Mayor Chiovero indicated this is the 2nd reading.

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.

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:

- William and Elaine Honeyager Claim
- Richard & Doris Gregory Claim
- Possible claim against Anchor Bank for violation of the terms of the letter of credit for Deer Creek Homes, Inc
- Yvette Paquin Claim

Motion by Alderman Seidl to go to Closed Session at 10:12 PM. Seconded by Alderman Ament and carried unanimously per roll call vote.

Motion by Alderman Wysocki to reconvene in Open Session at 10:38 PM. Seconded by Alderman Hopkins and carried unanimously.

RECONVENE TO OPEN SESSION

Discussion and possible action on the William and Elaine Honeyager Claim

No action taken.

Discussion and possible action on the Richard & Doris Gregory Claim

No action taken.

Discussion and possible action to direct the City Attorney to commence litigation against Anchor Bank

Motion by Alderman Siedl to direct the City Attorney to commence litigation against Anchor Bank regarding their refusal to honor the Letter of Credit issued for construction of Deer Creek Parkway in the City Center. Seconded by Alderman Wysocki and carried unanimously.

Discussion and possible action on the Yvette Paquin Claim

Motion by Alderman Hopkins to deny this claim. Seconded by Alderman Seidl and carried unanimously.

ADJOURN

Motion by Alderman Wysocki to adjourn at 10:42 PM. Seconded by Alderman Hopkins and carried unanimously.

Respectfully submitted:

Marilyn Gauger, MMC/WCMC
City Clerk